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## **REPORT No. 98/25**

### **CASE 13.600**

#### **REPORT ON FRIENDLY SETTLEMENT**

**B.A.B.M., O.G.A.J. AND R.C.M.P.  
GUATEMALA**

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**REPORT No. 98/25**  
**CASE 13.600**  
**FRIENDLY SETTLEMENT**  
**B.A.B.M., O.G.A.J. AND R.C.M.P.<sup>1</sup>**  
**GUATEMALA<sup>2</sup>**  
**JUNE 19, 2025**

**I. SUMMARY AND RELEVANT PROCEEDINGS OF THE FRIENDLY SETTLEMENT PROCESS**

1. On September 24, 2012, the Inter-American Commission on Human Rights (hereinafter "the Inter-American Commission", "the Commission", or "the IACHR") received a petition filed by B.A.B.M. (hereinafter "the petitioner", "the petitioning party", or "the alleged victim"), alleging the international responsibility of the Republic of Guatemala (hereinafter "State" or "Guatemalan State" or "Guatemala"), for violation of the human rights set forth in Articles 1.1 (obligation to respect rights), 5 (humane treatment), 7 (personal liberty), 8 (judicial guarantees), 10 (compensation), 11 (protection of honor and dignity), 25 (judicial protection), and 27 (suspension of guarantees) of the American Convention on Human Rights, (hereinafter "Convention" or "American Convention") and Articles 1 (obligation to prevent and punish torture), 6 (obligation to adopt effective measures of prevention and punishment), and 8 (obligation to guarantee denunciation) of the Inter-American Convention to Prevent and Punish Torture, for the arbitrary detention and torture of Mr. B.A.B.M. by members of the Criminal Investigation Service of the National Police on June 20, 2001, as well as for the lack of investigation and punishment of those responsible, the lack of reparation for the damages suffered, and the consequent moral damages caused to his family members.

2. On June 13, 2018, the Commission notified the parties of the decision to defer the consideration of the admissibility of the case until its merits stage, in accordance with Article 36 (3) of its Rules of Procedure and Resolution 1/16 on measures to reduce the procedural backlog.

3. On July 8, 2021, the petitioning party expressed interest in initiating a friendly settlement process. On September 17, 2021, the State indicated its willingness to move forward with the negotiation.

4. On February 3, 2022, the Commission notified the parties of the initiation of the friendly settlement process, which led to the signing of a friendly settlement agreement (hereinafter "FSA" or "agreement") on January 22, 2025, in Guatemala City. Afterwards, on January 29 and February 10, 2025, respectively, the State and the petitioning party requested the approval of said agreement.

5. This friendly settlement report, in accordance with Article 49 of the Convention and Article 40(5) of the Commission's Rules of Procedure, provides an overview of the facts alleged by the petitioning party and includes the friendly settlement agreement signed on February 22, 2025, by the petitioning party and the Guatemalan State. Also, the Commission hereby approves the agreement signed by the parties and decides to publish this report in its Annual Report to the General Assembly of the Organization of American States.

**II. THE FACTS ALLEGED**

6. The petitioning party reported the alleged arbitrary detention of Mr. B.A.B.M. on June 20, 2001, by security personnel of the Criminal Investigation Service (SIC) of the National Civil Police of Guatemala, while he was driving his vehicle on the second street and first avenue of Zone one of the City of Guatemala. This occurred in the context of a state of emergency in effect as a result of a Decree issued on June 18, 2001.

7. According to the petition, three SIC agents crossed the official police vehicle and got into the alleged victim's vehicle, displacing him from the steering wheel and pointing a gun at him, without identifying themselves or indicating the reason for the arrest. Subsequently, Mr. B.A.B.M. was allegedly taken to a place

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<sup>1</sup>The Commission withholds the identity of the victims at the request of the petitioning party.

<sup>2</sup>Pursuant to Article 17(2)(a) of the Rules of Procedure of the IACHR, Commissioner Edgar Stuardo Ralón Orellana, a Guatemalan national, did not participate in the discussion or decision on this case.

near the United Nations Park in Guatemala City, where he was tortured for more than four hours, and then fraudulently charged with drug trafficking. The charge alleged that B.A.B.M. had been caught with a nylon bag containing 22 bags of marijuana in his vehicle, to justify his imprisonment. During this detention, the alleged victim was reportedly held incommunicado and without access to a legal representative.

8. On June 21, 2001, the wife of B.A.B.M., Mrs. O.G.A.J., filed a writ of habeas corpus before the Second Criminal Peace Court of Tumo (Folder 156-2001). Simultaneously, the Office of the Human Rights Prosecutor filed a writ of habeas corpus in favor of Mr. B.A.B.M. according to the ORD. GUA 179- 2001/DI file of said institution.

9. Following the habeas corpus applications, the Seventh Justice of the Peace went to the Detention Center for Men in Zone 18, on June 21, 2001, where he personally observed the physical condition of Mr. B.A.B.M., and noted on record "the blood stains on his neck and on the pants clearly torn at the zipper", and the blows he suffered to the abdomen, thorax, and back, and immediately ordered a forensic medical examination be performed.

10. The forensic medical report was conducted by Dr. Griselda Lucrecia Gálvez Orozco, on the same day, who evaluated the injuries suffered by the alleged victim, all compatible with the torture described by him. In her report, the doctor describes among other aspects: "Scorch marks with blood crust distributed as follows: two linear scabs on the posterior external face of the right wrist of two and four centimeters; twenty in the lumbar and lower dorsal region of three to five centimeters. Reddish-violet ecchymosis: in the posterior and external region of the right wrist."

11. Therefore, on June 25, 2001, the First Court of Criminal Judgment, Drug Trafficking, and Crimes against the Environment, acting as a Constitutional Appeal Court (*tribunal de amparo*), issued an order ruling the habeas corpus.

12. The petitioning party alleged that the false accusation made by the police officers was dismissed for lack of merit. However, the alleged victim had to wait six days to be heard by a competent judge, regarding the false accusation of drug trafficking and was not informed of the reason for his arrest during the first days, but only after the granting of habeas corpus.

13. Finally, it was indicated in the petition that these facts were not properly investigated by the authorities nor were those responsible punished, and that the alleged victim was not compensated. In addition, it was explained that B.A.B.M. still suffers from the aftereffects of the torture suffered and that the drug trafficking charge has affected his employment status. Because of the latter, he alleged a violation of his right to work and to decent living conditions, since the police record constitutes an unjustified impediment to obtaining employment and he has had to accept lower paying jobs for security reasons. In addition, the wife of the alleged victim, O.G.A.J., as a result of the stress experienced during the days that her husband disappeared and then illegally detained, suffers from post-traumatic stress syndrome and has developed chronic hypertension. Similarly, the mother of Mr. B.A.B.M., Mrs. R.C.M.P. suffers from episodes of anguish, traumatic reminiscences of the events, and post-traumatic stress syndrome.

### III. FRIENDLY SETTLEMENT

14. On January 22, 2025, in Guatemala City, the parties signed a friendly settlement agreement, which reads as follows:

**FRIENDLY SETTLEMENT AGREEMENT  
CASO 13.600  
B.A.B.M. O.G.A.J. AND R.C.M.P. v. GUATEMALA<sup>3</sup>**

In the city of Guatemala, on the twenty-second day of January of the year two thousand and twenty-five, we declare:

**I. ON THE PARTICIPATION AND WILLINGNESS OF THE PARTIES**

1. The State of Guatemala, represented by **Carlos Federico Amézquita Galindo**, aged fifty-seven, single, Guatemalan, sociologist, domiciled in the department of Guatemala, who identifies himself with the Personal Identification Document with Unique Identification Code [...], issued by the National Registry of Personnel of the Republic of Guatemala, acts in his capacity as EXECUTIVE DIRECTOR OF THE PRESIDENTIAL COMMISSION FOR PEACE AND HUMAN RIGHTS (COPADEH), which he accredits with the following documentation: **a)** Copy of the Governmental Agreement number one hundred thirty-eight (138) dated September eighteenth, of the year two thousand twenty-four, signed by the President of the Republic and; **b)** Copy of the minutes of taking possession of position number one hundred thirty-nine dash two thousand twenty-four (139-2024) dated September nineteenth, two thousand twenty-four, contained in the Minutes Book of the Department of Human Resources of the Presidential Commission for Peace and Human Rights, authorized by the Office of the Comptroller General of Accounts of Guatemala. Mr. Carlos Amézquita, Executive Director, appears on behalf of the State of Guatemala, in accordance with the powers granted to him by Article 2 paragraph j) of Governmental Agreement number 100-200 of the President of the Republic and its amendments and the instruction issued by the President of the Republic, Bernardo Arévalo, through official letter number four dated January seventeenth, two thousand and twenty-five, sent by the General Secretariat of the Presidency.

2. On behalf of the representatives and the victims the following persons appear: **(a) Ana Karina Méndez Vielman**, aged forty-three, single, Guatemalan, a lawyer and notary, of this domicile, who identifies herself with the Personal Identification Document with Unique Identification Code [...] issued by the National Registry of Personnel of the Republic of Guatemala, acts in her capacity as President of the Board of Directors and Legal Representative of the Association Institute for Comparative Studies in Criminal Sciences of Guatemala "ICCPG", an entity that represents the victims in the present case, as evidenced by the Notarial Certificate of Appointment dated November twenty-ninth, two thousand twenty-four, authorized in Guatemala City by Notary David Ernesto Sánchez Recinos, and listed in the Registry of Legal Entities under item number one hundred and fifty-six (156), page one hundred and fifty-six (156) of book one hundred and twenty-four (124) of Appointments; **b) B.A.B.M.**, in his capacity as victim, aged sixty, married, Guatemalan, professor of English, of this domicile, with Personal Identification Document with Unique Identification Code [...] issued by the National Registry of Persons of the Republic of Guatemala; **c) O.G.A.J.** in her capacity as victim, wife of Mr. B.A.B.M., aged fifty-four, married, Guatemalan, housewife, of this domicile, identified with the Personal Identification Document with Unique Identification Code [...], issued by the National Registry of Persons of the Republic of Guatemala and; **d) R.C.M.P.**, in her capacity as victim, mother of Mr. B.A.B.M., aged eighty-one, single, Guatemalan, housewife, of this domicile, identified with the Personal Identification Document (DPI) and Unique Identification Code (CUI) [...] of the National Registry of Persons of the Republic of Guatemala, all of whom act personally and not through an intermediary, appear in person to ratify and sign this Friendly Settlement Agreement.

3. It is hereby noted that the Inter-American Commission on Human Rights (hereinafter "IACHR" or "Commission"), received on August 12, 2012, a petition from Mr. B.A.B.M., O.G.A.J., and R.C.M.P against the State of Guatemala, alleging the international responsibility of the State for violation of the rights to humane treatment, personal liberty, judicial guarantees, right to compensation for arbitrary imprisonment, protection of honor and dignity, and judicial protection, established in Articles 1.1, 5, 7, 8, 10, 11, 25, and 27 of the American Convention on Human Rights and the Inter-American Convention to Prevent and Punish Torture.

4. On June 12, 2018, the Commission decided to apply Article 36.6 of its Rules of Procedure, in accordance with its Resolution 1/6 on Measures to Reduce Procedural Backlog, establishing that, in due course, it will decide on both the admissibility and merits of the case, and assigning case number 13,600 to the

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<sup>3</sup> The Commission withholds the personal data of the victims due to the agreement between the parties in clause IV.C. ii, regarding disclosure of the friendly settlement agreement

petition. In light of the above, the State of Guatemala and the representation of Mr. B.A.B.M. considered it appropriate to sign a Friendly Settlement Agreement, in order to advance in the fulfillment of the legal duty to redress the human rights violations indicated and thus comply with the international obligations of the State of Guatemala.

5. In this regard, on January 25, 2022, the IACHR communicated to the State of Guatemala, as follows: "[...] *Based on the willingness expressed by both parties, the friendly settlement process has been initiated, and the petitioning party has been requested to indicate, within one month from the date of this communication, its intentions for an eventual agreement*".

6. For this reason, as of the aforementioned date, the parties, with the intervention of the IACHR as an impartial third party, have held several meetings and have agreed on the measures of reparation in favor of the victims in this case, under the following terms:

## **II. ON THE ACKNOWLEDGMENT OF THE STATE'S RESPONSIBILITY AND ACCEPTANCE OF THE FACTS**

7. Within the framework of this friendly settlement agreement, the State acknowledges the following facts:

### **A. Regarding the illegal detention of Mr. B.A.B.M.:**

8. On June 20, 2001, Mr. B.A.B.M. was detained by security personnel of the Criminal Investigation Service (SIC) of the National Civil Police of Guatemala at around 2.30 p.m., when he was driving in his red Honda vehicle, license plate [XXX] on the second street and first avenue of zone one of Guatemala City, without a warrant from a competent judge or a flagrant crime (*in delicto flagrante*), therefore his detention was illegal and arbitrary.

### **B. Regarding the acts of torture against Mr. B.A.B.M.:**

9. Mr. B.A.B.M. was taken to a place near the United Nations Park, approximately 24 kilometers from the city on the road to the Pacific, taking advantage of the fact that it is an isolated area. There, he was interrogated about alleged criminal acts. Not knowing anything about the facts, Mr. B.A.B.M. could not answer the questions. Then one of the policemen turned to him and said, "since you don't want to talk, we are going to make you talk". They took off the strap of his shoes and beat him, pulled down his pants, then tied the straps to his testicles, and proceeded to pull them while they interrogated him; they also put a plastic bag over his face to asphyxiate him. The suffering made him faint. The policemen revived him to question him and put the nylon bag back on his face. Twice more he fainted. By that time, he could see that it was already dark, it was about 6.30 p.m. The tall policeman told him: "We know where your mom, your wife, and your son live, we are going to bring them here." At that point, the policeman phoned and told another policeman: "When they leave the house, you grab them and bring them here." Then they told him: "We are going to bring them in, and we are going to do a lot of things to them, or we are going to kill them in front of you." Then, since he would not give information, the policemen went and brought a gallon of gasoline, removed the bag over his face, and started playing a ranchera song, "When the song ends, we are going to spray gasoline on you and burn you". They spoke on the phone with other policemen, apparently their superiors, who told him to look for a scar on his left hand. When they saw that he had no scar, they said that he was not the person they were looking for, but that he had to be killed anyway. Then they began to argue about whether to kill him or not. The discussion lasted several minutes, and the policemen laughed at him and about the ways in which they were going to kill him. Their boss finally told them that they were not going to kill him.

10. In total, the torture inflicted on Mr. B.A.B.M. lasted more than four hours, during which he was beaten in the stomach, face, back, and using the insecticide bag to cause asphyxiation. The torturers also threatened that they could kill him at any moment, and that no one would find his body. They told him that there were no guarantees because of the state of siege, so they could do with him whatever they wanted, because they were not obliged to present him before a competent judge.

### **C. Regarding the false accusation:**

11. He was then taken to the National Civil Police Palace located in zone one of Guatemala City (SIC headquarters). Later he was transferred to the Preventive Detention Center for Men in zone eighteen,

around 10.30 p.m. In order to commit him to prison, the agents of the Criminal Investigation Service issued official letter No. 507-2001, by Deputy Commissioner Edgar Leonel Crispín Jiménez, in which the place and time of his false arrest were stated and he was charged with drug trafficking, alleging that he had been detained in his vehicle with a nylon bag containing 22 bags of marijuana; all of this, with a view to justifying his arbitrary and illegal deprivation of liberty.

**D. Regarding torture during admission to the Zone 18 preventive detention center:**

12. Mr. B.A.B.M. was transferred to the Preventive Detention Center for Men in zone eighteen at around 10.30 p.m. At the jail, a saleswoman from a booth lent him a quetzal, with which he was able to call home, where he communicated with his wife O.G.A.J. By that time, the policemen had stolen his wallet with three hundred quetzales, his cell phone, his watch, and all his papers, except for his identity card. They took him to the prison offices, without giving him any information, where he remained for an hour and then they took him to have his picture taken. Then Mr. B.A.B.M. asked, "WHY DO YOU HAVE ME HERE" and the prison officers just laughed and said, "JUST PUT UP WITH THE FACT THAT YOU DON'T KNOW WHY YOU ARE HERE" ("AGUANTA QUE NO SABE POR QUE ESTA AQUÍ") and did not give him any other information.

**E. Regarding the habeas corpus petitions in favor of Mr. B.A.B.M.:**

13. When Mr. B.A.B.M. (her husband) did not show up at her house at 4 p.m., Mrs. O.G.A.J. filed a complaint with the Human Rights Prosecutors' Office (*PROCURADURIA DE LOS DERECHOS HUMANOS*) for the violation of human rights, and also personally filed a habeas corpus petition in favor of Mr. B.A.B.M., which was processed by the Second Criminal Peace Court (*Juzgado Segundo de Paz Penal de Turno*) (Habeas Corpus No. 156-2001).

14. On June 25, 2001, the First Court of Criminal Sentencing, Drug Trafficking, and Crimes against the Environment (acting as a constitutional appeal court), issued a habeas corpus order in which it declared:

*The habeas corpus petition in favor of B.A.B.M. is ADMISSIBLE because "from the detailed analysis of the proceedings and based on the reports rendered before this court by the Forensic Doctor, the Public Prosecutors' Office, the General Director of the National Civil Police, and the Seventh Criminal Peace Court, it is determined that the detainee B.A.B.M. was subjected to humiliation by National Civil Police officers, for which reason it is appropriate to issue the certifications required so that a criminal investigation may be initiated to determine their responsibility for any crimes and misdemeanors they may have committed."*

**F. Regarding the judicial declaration of illegal detention of Mr. B.A.B.M.:**

15. On June 26, 2001, the Sixth Judge of First Criminal Instance, Drug Trafficking, and Crimes against the Environment in case No. 7449-2001, issued a resolution declaring that the detention of Mr. B.A.B.M. was illegal, and that at no time were any drugs seized from him. The court also analyzed the habeas corpus declared in favor of Mr. B.A.B.M., and with this, established the lack of elements of veracity of the police report, decreed the lack of merit of the case, and ordered the immediate release of Mr. B.A.B.M.

16. At midnight on that day he was released. Before leaving, the Chief of Sector III of the prison charged him another four hundred Quetzals for "accommodation" expenses.

17. In total, Mr. B.A.B.M. was unjustly deprived of his liberty from June 20 to June 26, 2001.

**G. Investigation of acts of torture:**

18. From the date on which the acts of torture were perpetrated against Mr. B.A.B.M. and up to the present date, an investigation into the facts was initiated, but he has not been informed of the results of the investigation ordered by the habeas corpus ruling.

19. During the days following the beginning of the investigation, Mr. B.A.B.M. and his family were subject to surveillance, monitoring, and harassment, both at their residence, workplaces, and on public roads. All of this was a form of intimidation to instill fear in him so that he would not continue with the complaint against those responsible for the acts of torture.



20. In fact, he was summoned to the Office of the Public Prosecutor at the same time as his torturers, whom he saw leaving the office of the prosecutor in charge of the case. The prosecutor informed him that she could not give him protection from the defendants, which prevented him from continuing with the investigations against those responsible for torture.

#### **H. After-effects of the illegal detention and torture of Mr. B.A.B.M.**

21. From the day of Mr. B.A.B.M.'s illegal detention, his family experienced serious feelings of anguish, pain, fear, and fear of reprisals.

22. Being subjected to death threats and having a gun placed to his head directly confronted him with his potential death, which leaves indelible psychological effects. Consequently, Mr. B.A.B.M. has suffered from insomnia and high blood pressure since that time, and from post-traumatic stress syndrome. Mr. B.A.B.M. also developed diabetes mellitus, which was a disease produced due to the traumatic experiences he lived through during his detention, and which were later aggravated by the fact that he was subject to surveillance and control by security forces.

23. Due to the monitoring and constant harassment that occurred after his release, Mr. B.A.B.M. had to resign from his jobs as a university professor at the Mariano Galvez University, as an English teacher at the Village College, and at Lopez Foods, a subsidiary of McDonalds, due to the fear of being subjected to surveillance. In addition, he was forced to sell his vehicle.

24. In addition, to pay the defense attorney's legal fees, he had to borrow money at a high interest rate. In addition, the false accusation that he was involved in the crime of drug trafficking has caused him to have a police record. As a result, his employers, when they learn of this circumstance, have forced him to resign or deny him access to work. For this reason, his right to work and to decent living conditions has been violated, since his police record constitutes an unjustified impediment to obtaining employment and he has had to accept lower paying jobs for security reasons.

25. In addition, the wife of Mr. B.A.B.M., Mrs. O.G.A.J., as a result of the stress experienced during the days that her husband disappeared and then illegally detained, suffers from post-traumatic stress syndrome, and has developed chronic hypertension.

26. Mr. B.A.B.M.'s mother, Mrs. R.C.M.P. suffers from episodes of anguish, traumatic reminiscences of the events, and post-traumatic stress syndrome.

### **III. ON THE RECOGNITION OF INTERNATIONAL RESPONSIBILITY FOR VIOLATION OF THE RIGHTS THAT THE STATE EXPRESSLY ACKNOWLEDGES TO HAVE BEEN VIOLATED IN THIS AGREEMENT**

27. On instructions of the Constitutional President of the Republic, the Presidential Commission for Peace and Human Rights, on behalf of the State of Guatemala and before the Commission, acknowledges the international responsibility of the State, without prejudice to the individual criminal responsibilities that may be deduced, for the violations of the following rights of Mr. B.A.B.M.: the right to personal integrity, right to personal liberty, right to judicial guarantees and judicial protection, right to compensation for arbitrary imprisonment, right to protection of honor and dignity, and the duty to protect and guarantee those rights enshrined in Articles 1(1), 5, 7, 8, 10, 11, 25, and 27 of the American Convention on Human Rights; and for violation of the Inter-American Convention to Prevent and Punish Torture. Likewise, the right to personal integrity of Mrs. O.G.A.J. and Mrs. R.C.M.P., contained in Article 5 of the American Convention on Human Rights; and the right to a family of Mr. B.A.B.M., Mr. O.G.A.J. and Mr. R.C.M.P., contained in Article 17 of the American Convention on Human Rights.

### **IV. ON THE AGREED REPARATIONS**

28. This Friendly Settlement Agreement is entered into under the principle of comprehensive reparation upheld by the bodies of the Inter-American Human Rights System, which involves aspects of both material and non-material reparation, as well as other related forms of reparation.

**A. Compensation measures:**

29. Compensation to victims of serious human rights violations includes compensation for material and non-material or moral damages.

30. Material damages include the loss or impairment of victims' income, expenses incurred as a result of the facts, and the consequences of a pecuniary nature that have a causal link to the facts of the case.

31. Non-pecuniary damages include distress and suffering caused directly to victims or their family, disregard for core values, and disruptions of a non-pecuniary nature to the everyday life of victims or of their family. Damages of this kind should be compensated through economic reparation measures in accordance with international human rights standards on reparation. It is also appropriate to infer moral damages suffered by victims of human rights violations and their families.

32. Thus, for material and non-material damages, based on the economic analysis carried out in this regard, the State of Guatemala undertakes to pay B.A.B.M., O.G.A.J., and R.C.M.P. as follows:

[...]⁴

50. The parties agree that the payment of the compensation measures must be made within a period of no more than one year from the signing of this agreement and that with the presentation to the Inter-American Commission on Human Rights of the Single Registration Receipt-CUR- of each of the payments made, there will be "total compliance" with respect to the economic compensation measures described in section IV.A of this Agreement and, consequently, the supervision of the IACHR with respect to its execution will cease.

**B. Obligation to investigate human rights violations and sanction those responsible:**

51. The State, through the Office of the Public Prosecutors, shall carry out the investigation contained in file M0001-2001-877, on the facts of the present case, in order to determine what happened.

52. In the event that the investigation yields sufficient evidence, the Office of the Public Prosecutors undertakes to prosecute and, if applicable, punish the person or persons responsible for the facts, both material and intellectual, as well as any possible accessories.

53. In any case, the parties agree that a meeting will be held every six months in order for the office of the prosecutor to report on the progress of the investigations and establish that with the holding of three six-monthly meetings there will be "total compliance" with this clause and, consequently, the supervision of the IACHR with respect to its execution will cease. The above does not preclude the Office of the Public Prosecutors continuing with the corresponding investigations and proceedings.

**C. Satisfaction measures:**

**i. Public apologies**

54. The State undertakes to make public its acknowledgment of international responsibility for the violations of the victims' human rights, and to make a public apology to the victims and their families in a public act to be held in Guatemala City at a location proposed by the Petitioners.

55. The State shall be represented by the Executive Director of the Presidential Commission for Peace and Human Rights, who may be accompanied by the Minister of the Interior.

56. The parties agree that the Public Act shall be held within one year from the date of execution of this agreement.

57. The parties undertake to reach an agreement on the place, date, and time of the Public Act.

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⁴The Commission chooses not to disclose the economic amounts established in the friendly settlement agreement due to the provisions of clause IV.C. ii. Regarding disclosure.



58. The State undertakes to publicly display the Public Act through COPADEH's official social media channels and the corresponding media.

**ii. Disclosure of the friendly settlement agreement:**

59. The friendly settlement agreement signed will be confidential, with respect to the personal data and economic amounts established therein, in order to guarantee the safety of the victims and their families.

**D. Restitution measures:**

**i. Actions for the elimination of police and criminal records:**

60. The State, through the Presidential Commission for Peace and Human Rights, will take steps before the corresponding entities to have Mr. B.A.B.M.'s criminal and police record expunged, requesting the support of Mr. B.A.B.M.'s representative(s) and Mr. B.A.B.M. himself for the preparation of the corresponding files. The parties agree that, upon presentation to the IACHR of evidence that these steps have been taken, there shall be "full compliance" with this clause and, consequently, the IACHR's supervision of its execution shall cease.

**E. Guarantees of non-repetition:**

**i. Institutional Commission for the reform of penitentiary law in Guatemala**

61. A reform of the penitentiary system is necessary so that the violations committed against Mr. B.A.B.M. do not happen again. In particular, to ensure that detention centers are free of illegal exactions and violence against detainees.

62. To this end, as a way of advancing the process, an institutional commission will be created to analyze the reform of prison law in Guatemala, with the aim of analyzing the specific situation and issuing recommendations for the administration of prisons and security systems. The parties agree that, with the presentation to the IACHR of the meeting reports and attendance lists accrediting at least 3 meetings of the commission, there will be "total compliance" with this clause and, consequently, the supervision of the IACHR with respect to its execution will cease, solely for the purposes of this agreement and without prejudice to seeking other legal mechanisms for such reform.

**F. Rehabilitation Measures**

**i. Scholarship<sup>5</sup>**

63. The Victims request a scholarship for their daughter, M.J.B.A.<sup>6</sup> Accordingly, the State undertakes to grant a scholarship at the junior high school and high school level for the minor M.J.B.A., through the corresponding public institutions, taking into consideration the availability of scholarships at that time.

64. The parties agree that, upon notification of the registration of the minor M.J.B.A. in the corresponding grade, there shall be "full compliance" with this clause and, consequently, the supervision of the IACHR with respect to its execution shall cease.

**ii. Medical, psychological, and psychosocial care<sup>7</sup>**

65. The State of Guatemala, through the corresponding public institutions, shall implement health rehabilitation measures constituting medical, psychological, and psychosocial care for Mrs. R.C.M.P.

66. Adequate, timely, and priority treatment requested by her will be guaranteed, and for as long as necessary. For access to comprehensive health care, timely access to high-quality medicine and treatments required is guaranteed.

<sup>5</sup> The Commission noted a numbering error with respect to this clause, which has been corrected *motu proprio* in order to facilitate its follow-up.

<sup>6</sup> The IACHR withholds the name of the beneficiary of the measure as she is a child at the time of the adoption of this report.

<sup>7</sup> The Commission noted a numbering error with respect to this clause, which is therefore corrected *motu proprio* in order to facilitate its follow-up.

67. To this end, a comprehensive health management channel will be guaranteed through the Presidential Commission for Peace and Human Rights and the corresponding health institutions. The parties agree that, with the presentation to the IACHR of the medical and/or psychological care certificates in favor of Mrs. R.C.M.P. over a period of 1 year, there will be "total compliance" with this clause and, consequently, the supervision of the IACHR with respect to its execution will cease. The above does not preclude Mrs. R.C.M.P.'s treatment continuing its ordinary course.

#### **V. REGARDING THE APPROVAL CLAUSE:**

68. The parties shall request the Inter-American Commission on Human Rights to approve the friendly settlement agreement and publication of the friendly settlement report following the signing of the agreement, respecting the confidentiality of the sections agreed upon by the parties to this Agreement. The State undertakes to provide information every six months on the status of compliance with reparation measures.

Three originals of this Friendly Settlement Agreement are hereby signed: one for the representative(s), one for the victims, and the last one to be kept in the custody of this Presidential Commission.

#### **IV. DETERMINATION OF COMPATIBILITY AND COMPLIANCE**

15. The IACHR reiterates that in accordance with Articles 48(1)(f) and 49 of the American Convention, the purpose of this procedure is to "reach a friendly settlement of the matter based on respect for the human rights recognized in the Convention." The acceptance to pursue this process expresses the good faith of the State to comply with the purposes and objectives of the Convention pursuant to the principle of *pacta sunt servanda*, by which States must comply with the obligations assumed in the treaties in good faith.<sup>8</sup> It also wishes to highlight that the friendly settlement procedure set forth in the Convention allows for conclusion of individual cases in a non-contentious manner, and has proven, in cases involving a variety of countries, to provide an important vehicle for resolution that can be used by both parties.

16. The Inter-American Commission has closely monitored the progress of the friendly settlement reached in the instant case and appreciates the efforts made by both parties during negotiations to reach this friendly settlement, which is compatible with the object and purpose of the Convention.

17. In accordance with the provisions of clause five of the agreement signed by the parties, whereby they requested the Commission to approve the friendly settlement agreement contemplated in Article 49 of the American Convention, and taking into consideration the requests on January 29 and February 10, 2025 from the State and the petitioning party, respectively, for approval of said agreement, it is appropriate at this time to assess compliance with the commitments established in this instrument.

18. The Inter-American Commission considers that clauses I (participation and willingness of the parties), II (recognition of the responsibility of the State and acceptance of the facts), III (recognition of international responsibility), and V (approval and publication of the FSA) of the agreement are of a declaratory nature, and therefore it is not necessary to supervise their compliance. In this regard, the Commission appreciates Declaratory Clause III, in which the Guatemalan State recognizes its international responsibility for the violation of the rights recognized in articles 1.1 (obligation to respect rights), 5 (humane treatment), 7 (personal liberty), 8 (judicial guarantees), 10 (compensation), 11 (protection of honor and dignity), 25 (judicial protection), and 27 (suspension of guarantees) established in the American Convention on Human Rights and for violation of the Inter-American Convention to Prevent and Punish Torture to the detriment of Mr. B.A.B.M. Likewise, for the violation of the right enshrined in Article 5 (humane treatment) of the ACHR to the detriment of O.G.A.J. and R.C.M.P., and of Article 17 (right to a family) of the ACHR to the detriment of B.A.B.M., O.G.A.J., and R.C.M.P.

19. With regards to the provisions of paragraphs A (compensation measures), B (investigation and sanction of those responsible), C.i. (public apology), C.ii. (publicizing of the FSA), D.i. (actions taken to

<sup>8</sup> Vienna Convention on the Law of Treaties, United Nations. Doc A/CONF.39/27 (1969), Article 26: "**Pacta sunt servanda**" Every treaty in force is binding upon the parties to it and must be performed by them in good faith.

ensure the elimination of police and criminal records), E.i. (creation of the Institutional Commission for the reform of penitentiary law in Guatemala), F.i. (scholarship), and F.ii. (medical, psychological, and psychosocial care) of clause four, given the specifications contained in clause five, and pursuant to the joint request of the parties to move forward with the approval of the agreement prior to its execution, the Commission observes that said measures must be fulfilled after the approval and publication of the FSA by the IACHR. Therefore, the Commission considers, and hereby declares, that compliance with them is still pending. In light of the above, the Commission awaits updated information from the parties on their implementation subsequent to the approval of this report.

20. Therefore, the Commission concludes, and hereby declares, that compliance with paragraphs A (compensation measures), B (investigation and punishment of those responsible), C.i. (public apology), C.ii. (publicizing of the FSA), D.i. (actions taken to ensure the elimination of police and criminal records), E.i. (creation of the Institutional Commission for the reform of penitentiary law in Guatemala), F.i. (scholarship), F.ii. (medical, psychological and psychosocial care) of the fourth clause of the friendly settlement agreement is still pending.

21. Finally, the Commission reiterates that the rest of the content of the agreement is declarative and therefore not subject to its supervision. Consequently, the Commission considers that compliance with the friendly settlement agreement is still pending, and it will continue to supervise implementation of the aforementioned clauses until total compliance has been achieved.

## **V. CONCLUSIONS**

22. Based on the foregoing and in keeping with the procedure provided for in Articles 48(1)(f) and 49 of the American Convention, the Commission would like to reiterate its profound appreciation of the efforts made by the parties and its satisfaction that a friendly settlement has been arrived at in the present case on the basis of respect for human rights and consistent with the object and purpose of the American Convention.

23. Based on the reasons and conclusions contained in this report,

## **THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS**

### **DECIDES:**

1. To approve the terms of the friendly settlement agreement that the parties signed on January 22, 2025.
2. To declare, based on the analysis contained in this report, that compliance is still pending with respect to items A (compensation measures), B (investigation and punishment of those responsible), C.i. (public apology), C.ii. (publicizing of the FSA), D.i. (actions taken to ensure the elimination of police and criminal records), E.i. (creation of the Institutional Commission for the reform of penitentiary law in Guatemala), F.i. (scholarship), and F.ii. (medical, psychological, and psychosocial care) under clause 4 of the friendly settlement agreement.
3. To declare that compliance with the friendly settlement agreement is still pending, based on the analysis contained in this report.
4. To continue with the supervision of the commitments assumed in paragraphs A (compensation measures), B (investigation and punishment of those responsible), C.i. (public apology), C.ii. (publicizing of the FSA), D.i. (actions taken to ensure the elimination of police and criminal records), E.i. (creation of the Institutional Commission for the reform of penitentiary law in Guatemala), F.i. (scholarship), and F.ii. (medical, psychological, and psychosocial care) of the fourth clause, as well as the fifth clause (approval) of the friendly settlement agreement, until full compliance is achieved, based on the analysis

contained in this report. To that end, to remind the parties of their commitment to keep the IACHR regularly informed regarding compliance.

5. To publish the present report and include it in its Annual Report to the General Assembly of the OAS.

Approved by the Inter-American Commission on Human Rights on the 19<sup>th</sup> day of the month of June, 2025. (Signed): José Luis Caballero Ochoa, President; Andrea Pochak, First Vice President; Arif Bulkan, Second Vice President, Gloria Monique de Mees, Carlos Bernal Pulido and Roberta Clarke, Commissioners.