

Doctor Mauro Chacón Corado  
President Magistrate  
Constitutional Court of Guatemala  
mrchacon@cc.gob.gt

17 January 2012

Dear Mr President,

We write on behalf of the Solicitors' International Human Rights Group (SIHRG). SIHRG is an organisation of lawyers in England and Wales which promotes awareness of international human rights within the legal profession in this country and seeks to take effective action in support of those rights. The Group supports human rights lawyers all over the world by conducting related missions, research, campaigns, training and writing letters to draw the attention of Governments and their Ministers to breaches of Human Rights committed against Lawyers and Human Rights Defenders.

SIHRG is gravely concerned about the writ of amparo 1278-2011 lodged by Héctor Mario López Fuentes as part of the Maya Ixil genocide case. Analysis of the facts suggest that it was part of a greater series of atrocities which were clearly organised. The genocide of the Maya Ixil was part of concerted actions which were both widespread and systematic in scale and magnitude, as well as in its organisation and occurrence as part of a broader pattern of atrocities. Estimates exist that put the number people who disappeared at between 40,000 and 50,000 and up to 200,000 were killed or are missing<sup>1</sup>. Thus in the context the genocide was both widespread and systematic (though the test is disjunctive and either one would suffice). Indeed, the Inter-American Commission on Human Rights referred to the Las Dos Erres massacre as occurring as part of a widespread attack against the civilian population. The Inter-Court of Human Rights likewise concluded that there was "a pattern of selective extrajudicial executions promoted by the State, which was directed to those individuals considered 'internal enemies'<sup>2</sup>." These facts force one to the unequivocal conclusion, as advanced by the Guatemalan Supreme Court in the Las Dos Erres case, that the atrocities were crimes against humanity.

We note that Article 8 of the 1996 Law of National Reconciliation (LNR)<sup>3</sup>, providing amnesty for political crimes committed in the course of the armed conflict, limits the scope of the amnesty thus:

La extinción de la responsabilidad penal a que se refiere esta ley, no será aplicable a los delitos de genocidio, tortura y desaparición forzada, así como aquellos delitos que sean

---

<sup>1</sup> <http://www.usip.org/publications/truth-commission-guatemala>

<sup>2</sup> Dos Erres Massacre v. Guatemala, Inter-Am. Ct. H.R. (ser. C) No. 211, ¶¶ 130-131 (Nov. 24, 2009)

<sup>3</sup> Ley de Reconciliación Nacional [National Reconciliation Act], 18 de diciembre de 1996, Decreto núm. 145-96 del Congreso de la República, Art. 8 (Guat.)

imprescriptibles o que no admitan la extinción de responsabilidad penal, de conformidad con el derecho interno o los tratados internacionales ratificados por Guatemala.

The Law of Guatemala is consistent with international law, in that it excludes amnesty for those who have committed crimes that are “imprescriptible” or in respect of which responsibility cannot be “extinguished” under international law—that is, international crimes.

For the reasons advanced in the brief of international law experts as amici curiae on the impermissibility of amnesty in relation to serious violations of human rights and crimes against humanity, genocide and war crimes we hope that the forthcoming decision by the Constitutional Court in response to the amparo will affirm the inadmissibility of amnesty or any other legal obstacle that prevents the investigation, prosecution, and punishment of grave human rights violations committed during the internal armed conflict in Guatemala.

We do not doubt that members of the Constitutional Court handling the amparo, and those in relation to Gen Rios Montt and Gen Rodriguez Sánchez, have at their disposal the relevant national and international jurisprudence related to the inadmissibility of amnesty in serious crimes against humanity such as genocide, and that the ruling will ultimately allow for the prosecution without delay of those responsible.

We urge the distinguished members of the Constitutional Court to continue their important work in upholding the highest standards of human rights jurisprudence.

Yours sincerely,



David Palmer  
Americas Group Co-ordinator  
SOLICITORS' INTERNATIONAL HUMAN RIGHTS GROUP  
americas@sihrg.org

cc. General Otto Fernando Pérez Molina, President of the Republic of Guatemala  
Doctor Gabriel Antonio Medrano Valenzuela, President of the Supreme Court of Guatemala  
Alberto Brunori, UNHCHR Director in Guatemala  
Ambassador Sarah Dickson, UK Ambassador to Guatemala  
Héctor Hugo Pérez Aguilera, Magistrate Constitutional Court of Guatemala  
Gloria Patricia Porras Escobar, Magistrate Constitutional Court of Guatemala  
Alejandro Maldonado Aguirre, Magistrate Constitutional Court of Guatemala