

SIHRG

Uniting Lawyers Around the World for Human Rights



BAR HUMAN RIGHTS
COMMITTEE OF
ENGLAND AND WALES

SOLICITORS' INTERNATIONAL HUMAN RIGHTS GROUP

Doctor Héctor Hugo Pérez Aguilera,
President Magistrate
Constitutional Court of Guatemala
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26 April, 2013

Dear Mr President,

We write on behalf of the Solicitors' International Human Rights Group ("SIHRG") and the Bar Human Rights Committee of England and Wales ("BHRC") with reference to the current decision to annul the criminal proceedings in which General Efraín Ríos Montt and Mauricio Rodríguez Sánchez, the former chief of Military Intelligence, are being tried on charges of genocide and crimes against humanity.

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 and their obligations to conduct themselves in accordance with their international Human Rights obligations and in accordance with the Rule of Law. The BHRC is the international human rights arm of the Bar of England and Wales. It is an independent body concerned with promoting internationally recognised legal standards pertaining to the right to a fair trial, defending the rule of law and protecting the rights of advocates and judges around the world.

SIHRG and BHRC are very concerned about the potential move to annul these trial proceedings. This is a landmark case relating to the massacre of 1,771 Indigenous Ixil Mayan as well as the forced displacement of tens of thousands of mostly indigenous people from Guatemala's southern region carried out by Guatemalan troops and paramilitary forces during General Ríos Montt's rule from March 1982, to August, 1983.

Following a decision by the Constitutional Court of Guatemala which reinstated the jurisdiction of Judge Patricia Flores, who had been ordered recused following a defence petition on procedural grounds in November 2012, Judge Flores then granted a further defence petition on April 18th 2013 which, abruptly nullified all steps in the proceedings since November 2011. Notwithstanding that the trial was approaching its closing stages and indeed final verdict may have been imminent, the result of Judge Flores' decision is to reverse the proceedings back into their pre-trial phase. The trial has been suspended pending

constitutional review. The Attorney General, Claudia Paz y Paz has questioned the legality of judge Flores's ruling, and a number of international organisations have expressed concern at the implications of this legal setback, including the loss of a number of testimonies offered by indigenous people who have courageously come forward as witness to grave human rights violations. Further, *the Special Adviser of the Secretary-General on the Prevention of Genocide, Mr Adama Dien, has also called for the trial to be completed.*

SIHRG recalls that it wrote to you on the matter of this trial on 17 January 2013. We attach a copy of that letter.

Any failure now to complete this trial, which was approaching its final stages and in which more than 100 witnesses and experts have already given their evidence will represent a very serious setback for tackling impunity for those crimes as well as potentially weakening the rule of law. It would have also a damaging impact on the immediate integrity of the country's justice system. Any potential annulment places undue weight on those victims and witnesses who already have bravely stepped forward to recall their personal loss and tragedy by requiring them to give testimony again in an uncertain trial process.

SHRG and BHRC respect the significant transitional justice process underway in Guatemala and recognise the legitimate aspiration to end impunity for a period in the country's history in which devastating atrocities took place. Having regard to that process and the legitimate desire for justice and redress amongst the Guatemalan population, over thirty years after the events in question, SIHRG and BHRC wish to draw your attention to Guatemala's international obligations both to protect the independence of the judiciary as well as to ensure accountability for human rights atrocities committed in the past. Both organisations call upon you to ensure that the trial is duly, fairly and properly completed and that there is no undue or improper obstruction in the justice system which would prevent this watershed trial, the implications of which spread far beyond Guatemala's own borders, from being concluded in accordance with due process .

Yours sincerely,

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Kirsty Brimelow QC
Chairwomen, Bar Human Rights Committee (BHRC)

- 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
Mauro Chacón Corado, Magistrate Constitutional Court of Guatemala
Gloria Patricia Porras Escobar, Magistrate Constitutional Court of Guatemala
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