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July 13, 2010

Licenciada María Encarnación Mejía García de Contreras

Fiscal General Interina de la República y Jefe del Ministerio Público

Ministerio Público

Ciudad de Guatemala, Guatemala

Via Facsimile

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Re: Protection of Human Rights Defenders Alejandro Rodriguez Barillas, Jennifer Kristina Harbury, José Rodolfo López Barillas, and Manuel Giovanni Vásquez Vicente

Dear Ms. Fiscal General:

Since 1974, the Society of American Law Teachers ("SALT") has been an independent organization of law teachers, deans, law librarians, and legal education professionals working to make the profession more inclusive, to enhance the quality of legal education, and to extend the power of legal representation to under-represented individuals and communities. We are writing because we are concerned about the safety of human rights defenders involved in your country's important and laudable efforts toward war crimes accountability. Specifically, we are gravely concerned with what is occurring with four of these brave defenders: Alejandro Rodriguez Barillas, Jennifer Harbury, José Rodolfo López Barilla, and Manuel Vásquez Vicente. As an organization of lawyers, we are committed to the rule of law and to the protection of civil rights and liberties, here and abroad. We feel compelled to intervene when the ability of attorneys and judges to defend and uphold

human rights is threatened.

Ms. Harbury, the recipient of the 2008 SALT M. Shanara Gilbert Human Rights Award, and her attorney Edgar Perez Archila are currently working with Guatemalan officials, including Secretario de Política Criminal del Ministerio Público Alejandro Rodríguez, Fiscal Manuel Vásquez and Auxiliar Fiscal José López, to resolve the case of Mr. Efraín Bámaca Velásquez's forced disappearance, torture and execution, and other "paradigmatic" war crimes cases. The recent intimidation tactics against these individuals are in direct response to those efforts. As you know, in 1992, the Guatemalan military kidnapped and secretly detained Mr. Bámaca, an indigenous leader of the resistance during the Internal Conflict. After three years of torturing Mr. Bámaca, government officials executed him. His wife, Ms. Harbury, carried out three hunger strikes in an effort to save his life; the longest of these lasted 32 days. She was able to obtain substantial evidence regarding the fate of her husband and the identities of his military torturers. The case was highlighted in the UN Truth Commission report, "Memory of Silence," and the Inter-American Commission held Guatemala responsible for Mr. Bámaca's death. Almost 10 years ago, the Inter-American Court of Human Rights recognized Ms. Harbury's standing as the legal wife of Efraín Bámaca Velásquez and ruled that the Guatemalan military was responsible for his disappearance, torture, and extrajudicial execution. It also found military officials guilty of obstruction of justice (*Bámaca Velásquez v. Guatemala*).

Nonetheless, the perpetrators of Mr. Bámaca's torture and execution have not been brought to justice, despite ongoing efforts. As the first cases have moved to resolution, the four named defenders and others are all experiencing harassment in various forms. Mr. Vásquez and Mr. López have reported similar types of trucks parked outside each of their residences. Unknown individuals are asking Mr. Vásquez' neighbors for his whereabouts, and recently, Secretary Rodríguez, shortly after a meeting with the representatives and family members of victims of the massacre of Las Dos Erres, found a dead rat placed on the windshield of his government car. Moreover, anonymous demands are being made that these government officials discontinue their work on the forced disappearance cases. As of late June 2010, the Oficina de Protección del Ministerio Público has refused Mr. Vásquez' and Mr. López' requests for protection, stating that protective measures will be taken only if they agree to suspend their

work on these cases.

In recent months, the uncle (and co-counsel) of Ms. Harbury's lawyer, Edgar Perez Archila, was murdered by gunshot for no apparent reason other than his collaboration with his nephew's human rights practice. Meanwhile, according to Ms. Harbury, the family and representatives connected to other forced disappearance cases have experienced an escalation in the level of threats they receive regarding their involvement in these cases. All of these events are particularly disturbing in the context of the recent murders of Guatemalan human rights defenders.¹

In addition, one of the suspects in the torture of Mr. Bámaca has filed a complaint against Fiscal Vásquez and Jennifer Harbury, calling for their criminal prosecution on grounds that, according to experts on Guatemalan law, are so frivolous as to be irresponsible.² The government should take all legal measures to ensure that these pretextual lawsuits are quashed, recognizing them for what they are – another element in a pattern of harassment against people who are working for justice.

We are aware that all of these actions are taking place in a difficult context for the Guatemalan justice system. At the same time, as reaffirmed in the UN Human Rights Council's recent resolution (A/HRC/RES/13/13, 25 March 2010), the protection of human rights defenders must remain a high priority, whatever political pressures may exist. Given the long history of attacks against Ms. Harbury and others for their work defending human rights in Guatemala, the current threats must be taken extremely seriously. Therefore, we write to respectfully urge that the Guatemalan government offer the fullest measure of protection possible to Fiscal Vásquez and Auxiliar Fiscal López, while permitting them to continue with their important work.

¹ See Report of the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya (A/HRC/13/22, 30 December 2009, esp. paragraphs 77-78); Inter-American Commission on Human Rights Press Release No. 21-10, 25 February 2010, "IACHR Deplores Murders of Human Rights Defenders in Guatemala". Further, we note that the IACHR has expressed concern that the "impunity index" reaches 98% in Guatemala (Annex to Press Release 78/09 on the 137th Regular Period of Sessions of the IACHR).

² The gravamen of the two legal complaints is that these human rights defenders should be prosecuted for their efforts to enforce the Inter-American Court mandate that Guatemala investigate the disappearances, specifically when directing these investigations against himself, because he had already been vindicated in an earlier domestic court ruling. The complaint against Ms. Harbury also accused her of perjury for claiming to be Mr. Bámaca's widow, despite the fact that the Inter-American Court has credited the marriage, based on evidence provided by an officer of the court where the ceremony took place and the witnesses to the ceremony itself.

To preserve the integrity of the rule of law in Guatemala, SALT also urges government officials to ensure that Fiscal Manuel Vasquez and Ms. Harbury are not improperly charged with criminal conduct.

Sincerely yours,



Raquel Aldana
Co-President



Steven Bender
Co-President

cc:

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