

via fax: 202.647.2597
Courtney Turner, Guatemala Desk Officer
U.S. Department of State

February 25, 2005

Dear Ms Turner:

We are deeply concerned that the Constitutional Court of Guatemala has annulled nearly all actions to date in the Dos Erres case, in which **sixteen army soldiers are accused of massacring approximately 300 people in the town of Dos Erres, Libertad, Peten, in December 1982.** In a ruling made public in early February, the court declared null (on a technicality) all the procedures carried out in the past nine years in the case.

The Constitutional Court found that the judge in charge of the investigation of the massacre should have suspended all the proceedings the moment that the Guatemalan Congress approved the law of National Reconciliation in 1996. The Law of Reconciliation stipulates that crimes carried out during the armed conflict must be studied by the Court of Appeals before being submitted to normal judicial procedures. The Court of Appeals must decide whether the case can be tried or is eligible for amnesty.

The Dos Erres case was unprecedented. No other case from the civil war had such strong testimony that included the names of the perpetrators. Now it is clear that impunity for military officials persists at the levels of the highest courts.

We are very concerned that US Embassy and State Department officials have declared themselves "very pleased" with the Berger administration and with the army. It is also very disturbing that the State Department is pressing for the resumption of military aid next year.

Justice and reconciliation are guaranteed under the 1996 Peace Accords. As the Guatemalan government's partner during the war (sharing the joint goal of defeating the guerrillas) and as one of the six countries designated Friends of the Peace Accords, the US has a responsibility to ensure that the government fully complies with the Peace Accords, including the right to justice.

We hope that the US government will condemn the Guatemalan Government's actions in the Dos Erres case. The US must also press the Guatemalan government to cooperate fully when the case goes before the Inter-American Court of the Organization of American States (OAS), and to faithfully carry out all the court's findings.

We look forward to your response.

Sincerely,

Brian J. Stefan Szittai,
Coordinator

Copies: Lic. Oscar Berger Perdomo, President of Guatemala ~ via fax 011-5-2-2-223-4423
Alfonso Carrillo, President, Supreme Court of Justice ~ via fax 011-502-2-232-6626
Juan Luis Florido, Attorney General of Guatemala ~ via fax 011-502-2-251-2218
Cipriano Soto Tobar, President, Constitutional Court of Guatemala ~ via fax 011502-2-251-8215
Ambassador José Guillermo Castillo ~ via fax: 1 202 745 1908
Ambassador John Hamilton ~ via fax: 011 502 334 8477
Senator George Voinovich, US Senate ~ via email: Daniel_knezevic@voinovich.senate.gov
U.S. Representatives Kaptur, Kucinich, LaTourette, Ryan, Tubbs Jones ~ via fax, email
Guatemala Human Rights Commission-USA ~ via fax: 1-202-526-4611

GHRC_Dos Erres_Guatemala

The following people hereby urge that you take action on this matter as indicated in this letter:

VIA FACSIMILE: 011 502-2-223-4423 Licenciado Oscar Berger Perdomo President of the Republic of Guatemala	VIA FACSIMILE: 011-502-2-232-6626 Alfonso Carrillo Presidente de la Corte Suprema de Justicia
VIA FACSIMILE: 011 502 2-251-2218 Juan Luis Florido Fiscal General / Attorney General of Guatemala	VIA FACSIMILE: 011-502-2-251-8215 Cipriano Soto Tobar Presidente de la Corte de Constitucionalidad

February 25, 2005

Dear Sirs:

We are deeply concerned about the status of the **Dos Erres case, in which sixteen army soldiers are accused of massacring 300 people in the town of Dos Erres, Libertad, Peten in December 1982.** In a ruling made public in early February, the court declared null (on a technicality) all the procedures carried out in the case over the past nine years.

This should not be the last word on the Dos Erres case. An Appeals Court had studied the case and concluded that the perpetrators of the Dos Erres massacre case did not qualify for amnesty under the 1996 Law of National Reconciliation. Through testimony from survivors and two of the perpetrators, the Public Prosecutor's office has collected the names of the sixteen soldiers who participated in the massacre.

The Guatemalan government's violation of the right to justice and reconciliation in the Dos Erres case is extremely troubling. The Constitutional Court's ruling has these effects

- strengthens impunity
- weakens the rule of law
- re-victimizes people already suffering the effects of years of government-sponsored massacres
- demonstrates the government's lack of commitment to the Peace Accords
- violates the amicable solution the Guatemalan government reached in 2000 with FAMDEGUA (Families of the Detained-Disappeared in Guatemala) before the OAS Inter-American Court: the government took responsibility for the massacre and pledged to prosecute the responsible soldiers

As a consequence of your high position in Guatemala, you have the authority and the responsibility to **see that the Dos Erres case goes forward and that those responsible are punished.**

Sincerely,

Brian J. Stefan Szittai,
 Coordinator

Copies: Ambassador José Guillermo Castillo ~ via fax: 1 202 745 1908
 Ambassador John Hamilton ~ via fax: 011 502 334 8477
 Courtney Turner, Guatemala Desk ~ via fax: 1 202 647 2597
 Senator George Voinovich, US Senate ~ via email: Daniel_knezevic@voinovich.senate.gov
 U.S. Representatives Kaptur, Kucinich, LaTourette, Ryan, Tubbs Jones ~ via fax, email
 Guatemala Human Rights Commission – USA ~ via fax: 1-202-526-4611

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