

July 6, 2011

ALLEGATION LETTER

To: Mr. Juan Mendez  
Special Rapporteur on Torture  
c/o Office of the High Commission of Human Rights  
United Nations office at Geneva  
CH-1211 Geneva 10  
Switzerland

Re: Guatemala and General Otto Perez Molina

Dear Mr. Mendez,

We would like to begin this letter by thanking you for your many decades of crucial human rights work. We are writing today to express our growing concern about the torture record of General Otto Perez Molina of Guatemala. As you know, he is currently a Presidential candidate for the September 2011 elections. However, there is very strong evidence that he was in a command position in the Ixil triangle in 1982, when acts of torture, terror and genocide were daily events in that region. Moreover, the evidence shows that he was the key intellectual author of the forced disappearance and long term torture of Efraim Bamaca Velasquez in the 1990s. He is implicated in a number of other serious war crimes as well. For many years he was able to conceal his past through the use of false names, the destruction of records, and of course, intimidation. However, the evidence has slowly but surely come to light.

At this time, General Perez Molina claims to be a reformist and a leader for peace. He has completely silenced the press as well as his opponents in Guatemala. The Mayan survivors in the Ixil area remember Perez Molina only too well, but cannot speak without placing their families in jeopardy. Moreover, a large percentage of the Mayan survivors cannot vote. Worse yet, as discussed below, his military allies have heavily obstructed the prosecutions of the emblematic war crimes cases, a special program which began in late 2009.

Each of us has long been involved in human rights work in Guatemala, and we have observed the accelerating chaos and violence during the last year with growing alarm. We believe that the lack of official recognition of Perez Molina's and other military leaders' serious involvement in crimes against humanity is contributing heavily to the current crisis. The unlawful impunity which has so long shielded the military is now threatening the civilian institutions, the rule of law and the fragile transition to democracy.

We of course do not ask you to become involved in the electoral process in any way. We do however, ask that quite apart from the elections, and whatever their results, your offices investigate and help to break the long standing silence regarding Perez Molina's substantial involvement in torture and genocide in Guatemala.

#### Background:

As you know, the United Nations sponsored Truth Commission issued a very thorough report on the war crimes which had occurred in Guatemala during the more than 35 years of internal conflict.<sup>1</sup> Specifically, the Commission found that the government security forces were responsible for a campaign of genocide against Guatemala's Mayan citizens, and had routinely engaged in acts of torture and terror. Some 660 massacres had been carried out, and 200,000 persons had been extra-judicially executed or forcibly "disappeared". The military was found responsible for 93% of those human rights violations, with 4% undetermined and 3% the responsibility of the URNG forces. The army intelligence division received special criticism for its role in the devastation.

Most high level military leaders have managed to retain their impunity for the war crimes, as a result of their continuing use of violence and terror against all lawyers, witnesses, judges and prosecutors who attempt to bring them to justice.

#### Evidence Against General Otto Perez Molina:

1. In 1982 Perez Molina held the rank of Major, and was in a command position in the Ixil triangle. As the Truth Commission documents, half of all the massacres occurred during this period and in this region. Between 70 and 90% of the villages were raised. Acts of torture, murder and mutilation were daily events. The survivors in the region recognize and remember him only too well. Moreover, a documentary film from the year 1982 shows Allan Nairn interviewing him in that region in 1982. Nearby lay the terribly battered corpses of four prisoners. Although Perez Molina uses the false name of Tito Arias, he can be easily recognized both by his voice as well as his facial features.

Annie Bird, of Rights Action, sends you the attached video<sup>2</sup> for your review. Ms. Bird is also very familiar with the survivor community in the Ixil area, as well the proceedings in the genocide case in Spain. Although the survivors cannot speak publicly without endangering their children, Ms. Bird can certainly help you access any needed information and witnesses. We note moreover that a recently disclosed U.S. embassy cable also confirms that Perez Molina was in a position of command in the Quiche department during this time period.

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<sup>1</sup> Comisión de Esclarecimiento Histórico de Guatemala, or CEHG, "Memoria de Silencio" report.

<sup>2</sup>

[http://www.youtube.com/verify\\_age?next\\_url=http%3A//www.youtube.com/watch%3Fv%3DIEN9OBmLdcE](http://www.youtube.com/verify_age?next_url=http%3A//www.youtube.com/watch%3Fv%3DIEN9OBmLdcE)

2. In 1992 Otto Perez Molina was the national director of the military intelligence division (known as G-2 locally and D-2 nationally), and was the intellectual author of the long term torture and eventual forced disappearance of prisoner of war Efrain Bamaca Velasquez, a Mayan URNG commander, also known as Comandante Everardo. His wife, Jennifer Harbury, is including an annotated explanation of the case, together with a memo specifying the evidence of his involvement.

Suffice it to repeat here that Mr. Bamaca was captured alive on March 12, 1992 and secretly submitted to a special intelligence program for the long term torture of high value prisoners. He survived for more than two years, was moved from base to base around the country, always in the hands of intelligence officers, was transported in intelligence helicopters, and was concealed in intelligence compounds. Intelligence “especialistas” carried out his torture. He was twice held in the capitol by the official intelligence death squad called the Comando, located in the notorious “La Isla”. All of the involved intelligence officials would have been acting under the supervision and orders of Otto Perez Molina. Moreover, General Perez Molina participated in the March 12, 1992 intelligence meeting at the Santa Ana Berlin base during which it was decided to conceal Mr. Bamaca’s capture by falsely announcing that he died in combat.

These facts had long been confirmed not only by eye witness accounts, military documents, and forensic reports, but also by declassified U.S. documents, which confirm his capture and the D-2’s systematic policy, pattern and practice of torturing prisoners of war, then either executing them or forcing them to work as intelligence collaborators.<sup>3</sup> In 1994, moreover, the U.S. issued a formal demarche to the Guatemalan government, confirming that Bamaca had been captured alive in March 1992, and was lightly but not seriously wounded. In 2000, the Inter American Court issued a lengthy ruling in the case, finding the government of Guatemala responsible for Bamaca’s torture and forced disappearance. Ms. Harbury will be happy to supply you with copies of any of these documents.

3. As we also indicated, General Perez Molina is implicated in a number of other very serious human rights violations. Most of these we are not yet authorized to discuss, but we can connect you with appropriate intermediaries. We also direct your attention to the disturbing information presented by Francisco Goldman in his book “The Art of Political Murder”, chronicling the investigation of the assassination of Bishop Gerardi.

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<sup>3</sup> One CIA document reports a 1993 conversation with high level military officers, who confirmed that there were more than 300 such secret prisoners in custody for example. Other U.S. documents report them being held in water pits, thrown from helicopters, summarily executed and thrown into unmarked graves, or in some cases retained as special long term prisoners of the intelligence division.

As you know, the Peace Accords ended the armed conflict but did not bring peace to Guatemala. We are especially concerned with the ongoing crisis in the judicial system. When the government first moved to advance the prosecutions of a number of key emblematic cases, organized crime networks strongly tied to influential military figures responded by trying to position one of their allies into the position of Attorney General. This resulted in the resignation of Carlos Castresana, Director of the CICIG, in the spring of 2010. After he disclosed the candidate's close ties to networks of corruption and abuse, the recently appointed Attorney General was forced to resign. Apparently in response, human heads appeared in strategic locations in the capitol, one on the doorstep of the Congress. Thanks to the sacrifices of Lic. Castresana, at the end of 2010, after almost six months of intense work by human rights organizations, Claudia Paz, a jurist recognized for her long struggle to reform the justice system in Guatemala, was named as Attorney General.

The military then focused its attention on the courts and judges. In the beginning of 2010, the Constitutional Court, apparently bowing to heavy pressure, began to issue remarkable rulings, defying international law and direct orders from the Inter American Court. In the Bamaca case two amparos were granted which directly contradicted the Corte IDH resolutions. In the case of the Rio Negro massacre, the same court asked for reconsideration of the obediencia debida defense, despite the clear holdings of Nuremberg. Meanwhile, the magistrates of the Supreme Court are intent on complying with international norms, but fear for their lives. In a historical advance, on June 20 a General was formally accused of participation in acts of genocide. However, all advances will be lost under a military administration which will doubtless move to swiftly change the Fiscal General. In short, the entire transition to the rule of law is in jeopardy.

Accordingly, we are asking your offices to carry out an investigation of the long term involvement of General Otto Perez Molina in torture throughout the war, including but not limited to the systematic use of torture in the Ixil triangle and other areas in the 1980s, as well as the systematic torture of all prisoners of war, especially as National Director of the intelligence division in 1992. Once again, we will be happy to connect you to key witnesses, but have omitted their names here in order to protect them and their families.

Please let us know if we can offer your further information or documentation. We await your response, and thank you once again for your lifelong commitment to the defense of human rights.

Sincerely,

Annie Bird, Co- Director, Rights Action, [annie@rightsaction.org](mailto:annie@rightsaction.org)

Jennifer K. Harbury, Human Rights Attorney, [jharbury@gmail.com](mailto:jharbury@gmail.com)

Kelsey A. Jones, Director, Guatemala Human Rights Commission-USA, [kajones@ghrc-usa.org](mailto:kajones@ghrc-usa.org)

