



human rights *first*

**30<sup>th</sup>**  
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June 25, 2009

President José Roberto Alejos Cámara  
Congress of the Republic of Guatemala  
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Guatemala City, Guatemala

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Dear President Roberto Alejos:

### **Approve Reforms to the Injunctive Relief (*Amparo*) Law**

I am writing to you on behalf of Human Rights First, a non-profit international human rights organization without political affiliations, based in New York and Washington D.C. Human Rights First has a long history of human rights advocacy in Guatemala.

Human Rights First respectfully urges the Guatemalan Congress to approve bill number 3319 amending the *Ley de Amparo, Exhibición Personal y de Constitucionalidad* as soon as possible. The bill currently before Congress was proposed in 2005 and has been under consideration for four years. It has now been approved by two Congressional commissions, the Extraordinary Commission on Reforms to the Judicial System and the Commission on Legislation and Constitutional Issues, as well as being approved by the Guatemalan Supreme Court of Justice and the Guatemalan Constitutional Court.

The *amparo*, an extraordinary constitutional remedy seeking injunctive relief, which is designed to guarantee civil rights, has been frequently and vexatiously used by defendants accused of serious human rights violations to paralyze criminal proceedings. In many cases, the defendants initiate *amparo* proceedings multiple times, the vast majority of which are found to be inadmissible and not granted. This abusive use of the *amparo* remedy has turned it into a mechanism for endlessly delaying justice for victims of serious human rights violations.

Several international justice experts have recognized the need to reform the *Ley de Amparo*. After a trip to Guatemala in January 2009, the UN Special Rapporteur for the independence of judges and lawyers emphasized the importance of establishing effective mechanisms and adopting several laws to counter widespread impunity. In particular he highlighted the urgent need to adopt the proposed reforms to the *Ley de Amparo*.<sup>1</sup>

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<sup>1</sup> Office of the High Commissioner of Human Rights. *Press Release: United Nations Special Rapporteur on the Independence of Judges and Lawyers concludes a visit to Guatemala* (30 January 2009).

The Inter-American Commission on Human Rights also supports the reform bill before Congress, noting after a recent visit to Guatemala that reforming the *Ley de Amparo* would bring the law into conformity with legal standards throughout the region.<sup>2</sup>

We express our support for the reforms proposed in the current bill, which would provide important tools for avoiding delays in criminal proceedings and would thereby promote the ability of victims to seek justice through the courts. The approval and implementation of these reforms would strengthen mechanisms within the judicial system to provide for more efficient, timely and decisive resolutions of criminal proceedings.

In addition to approving bill number 3319, we urge the Guatemalan Congress to adopt additional reforms to the *Ley de Amparo* proposed by the International Commission against Impunity in Guatemala (CICIG). CICIG was established in 2006 by the United Nations and the Guatemalan government to investigate and promote the prosecution of illegal security organizations and is empowered to recommend public policies and legal reforms to carry out its mandate. The reforms requested by CICIG in 2008 relate to deficiencies in the *Ley de Amparo* which are not addressed by the current reform bill. We agree with the Congressional Commission for Judicial Sector Reform (*la Comisión de Reforma al Sector Justicia*), which noted that the current reform bill would be improved by the addition of CICIG's proposals. Furthermore, we also urge Congress to adopt an additional reform to article 19 of the *Ley de Amparo* to ensure that the *amparo* is only used as an extraordinary remedy in situations where ordinary judicial and administrative remedies are not available.<sup>3</sup>

Finally, we urge the Guatemalan Congress not only to promptly approve reforms to the *Ley de Amparo* but also to approve other legal reforms proposed by CICIG, including reforms to the Law on Pre-Trial Procedures (*Ley en Materia de Antejudio*), to the Rules of Congressional Decree No. 70-96, and legal reforms related to human trafficking and disciplinary measures within the public prosecutor's office, the national police and the judicial system.

Thank you for your attention in this urgent matter. These reforms will not only improve legal procedures in criminal cases but will also strengthen the rule of law and the protection of human rights in Guatemala.

Sincerely,



Andrew Hudson  
Senior Associate  
Human Rights Defenders Program  
Human Rights First

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<sup>2</sup> Inter-American Commission on Human Rights, Organization of American States, *Press Release: IACHR Conducted Visit to Guatemala*, No 37/09 (12 June 2009), available at <http://www.cidh.oas.org/Comunicados/English/2009/37-09eng.htm>.

<sup>3</sup> The Myrna Mack Foundation, *Fundación Myrna Mack propone aplicar el principio de la definitividad para evitar abuso en la utilización del amparo* (7 April 2008), available at <http://servidor.myrnamack.org.gt/archivos/Comunicados/FMM-AmicusCuriae-Amparo-0408.pdf>.