

The logo for the New York City Bar, featuring the text "NEW YORK CITY BAR" in a bold, serif font, centered between two horizontal blue bars.

NEW YORK  
CITY BAR

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October 29, 2014

The Honorable Aristedes Baldomero Crespo Villegas  
President of the Congress of Guatemala

The Honorable Roberto Molina Barreto  
President of the Constitutional Court of Guatemala

Gentlemen:

We are writing to reaffirm our growing concern over the current process of appointing judges to the appellate and supreme courts in Guatemala and to offer our assistance in reforming this process in the interest of strengthening the rule of law in Guatemala.

The City Bar, founded in 1870, is an independent non-governmental organization with more than 23,000 members in over 50 countries. Its mission is to harness the expertise of the legal profession to identify and address legal and public policy issues in ways that promote law reform, ethics and the fair and effective administration of justice, and respect for the rule of law at home and abroad. The City Bar has a long history of dedication to strengthening the rule of law, including through The Cyrus R. Vance Center for International Justice, which advances global justice by engaging lawyers across borders to support civil society and an ethically active legal profession.

The Vance Center recently organized a second delegation of prominent lawyers from Latin American countries and the United States to evaluate the development of the rule of law in Guatemala. The 2014 delegation focused its attention on the judiciary: the processes in place for selecting and training of judges; maintaining their professionalism and ethics; and otherwise adhering to generally-accepted standards of integrity and impartiality. A copy of the delegation's report is attached, and can also be found here:

<http://www2.nycbar.org/pdf/report/uploads/GuatemalaReportEnglishFinal100714.pdf>.

Like all other observers, our delegation found a broad consensus in Guatemala that the process of judicial appointments suffered from major defects; that the process could not reliably appoint independent, able jurists; and that there was great risk that the process would be hijacked by interests dedicated to the destruction, rather than the enhancement, of an impartial rule of law. Our delegation reported that there is "a sense of crisis in the judiciary that strongly challenges the rule of law in Guatemala and compels engagement by neighbors and colleagues." Our

delegation recommended a number of changes in the process to insulate it from malign influences and to improve the quality and professionalism of the Guatemalan judiciary.

Recent events, we believe, have confirmed the delegation's findings, and have compounded the "sense of crisis." The resignation of Judge Claudia Escobar Mejia on the basis of her clearly-articulated and significant criticisms of the appointments process immediately preceded the Constitutional Court's issuance of an *amparo* that has suspended, and may entirely invalidate, the current judicial appointments process.

In meeting with a broad array of constituencies, including representatives of commerce and industry, as well as of the legal and judicial professions, our delegation found unanimity in support of substantial and immediate reform. Although the exact nature of such reform may involve some modest level of disagreement, we have no doubt that a reasonable and effective package of reforms, along the lines set forth in the delegation's recommendations, could and should be forged.

We view recent developments as an opportunity for decisive action to reform the structural defects that have contributed to the failure to deliver a competent and ethical judiciary. We respectfully suggest that you appoint an impartial commission comprised of universally-respected national leaders to develop a new judicial appointments process consistent with the consensus recommendations that have emerged from a wide variety of informed observers, including our delegation. We recognize that amending the Guatemalan constitution may be required, but urge consideration of this important measure.

The City Bar and the Vance Center are prepared to offer assistance in any way you believe would be helpful to such a reform-oriented process. We can marshal expertise among our 23,000 members on any legal issue of relevance to this effort. In addition, we collaborate actively with bar associations and other lawyers' organizations throughout the Americas and in Europe. By sending two delegations to Guatemala over the past two years, we have shown our commitment to securing the rule of law and an improved investment climate in your country. We hope that you receive our offer of assistance in this spirit of goodwill and shared principles.

We thank you for your consideration of these views, and urge that you taken action at this opportune time.

Respectfully,

A handwritten signature in black ink, appearing to read "Debra R. Raskin". The signature is fluid and cursive, with the first name "Debra" being the most prominent part.

Debra R. Raskin