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January 23, 2020

NATIONAL LAWYERS GUILD INTERNATIONAL COMMITTEE STATEMENT REGARDING THE STATE OF HUMAN RIGHTS IN THE UNIVERSIDAD DEL ATLANTICO IN BARRANQUILLA, COLOMBIA

Through the International Committee, our organization – one of the largest and oldest legal organizations in the United States focused on the struggle and defense of human rights – joins the students of the Universidad del Atlántico (a public, state university in Barranquilla, Colombia) in solidarity in demanding the right to education – one of dignity and quality, democratic representation and participation in choosing the directives at the helm of the University, as well as adequate infrastructure for higher learning, the exchange of knowledge and culture, and most importantly, dialogue between the University administration and students.

In particular, in light of escalating tensions and violence since January 20, 2020, we call upon the Mr. Jorge Restrepo, Rector of the University, Ms. Elsa Noguera, the Governor of the Department of the Atlantic, and other authorities at the University and in Colombia, to provide the necessary guarantees for the continued safety and human rights of the students. Any resulting violence upon protesting students – condoned or otherwise, will be a clear reflection of the lack of interest on the administration's part, in fostering dialogue in a peaceful manner.

We reject the violence that has already ensued as a product of the University administration's decision to unilaterally declare an "end to the student strike" that has been ongoing since October 25, 2019 – despite a student agreement to continue the strike during an assembly held on January 16, 2020. In threatening to use armed forces and/or Anti-Protest Mobile Squadron ("ESMAD") to quell protesting students and remove students on strike from the University grounds, with full knowledge that prior use of the ESMAD against students at the University has resulted in violence, injury, and even death, the University administration has irresponsibly extended an invitation for violence, and authoritarian decisions such as these hearken back to a time when the University knew terror firsthand in the context of the armed conflict.

After visiting the Universidad del Atlántico (UA) in the city of Barranquilla and speaking with students, alumni, and parents, we manifest our profound concern for the different events that have marked the last few years, months, days and hours in the history of the University. We highlight and reject the lack of guarantees, lack of respect for human rights (violation of the right to an education, the right to protest, and the right to life itself), the lack of space apt for learning, and the inadequacy of the University administration's response to the call from the student body for dialogue regarding the ongoing protests at the University. It is necessary and urgent that the respective authorities act and fulfill their duties to respond to the just demands of the University student body, so they can return to classes and meet their personal academic and professional goals, but ensuring that first, through dialogue, all voices are heard and demands are clearly understood and a resulting plan of action based on that dialogue is put in motion.

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The Right to Education, Freedom of Expression and Assembly, and the Right to Life

Once described by Nelson Mandela as “*the most powerful weapon in changing the world,*” the importance of education needs barely any explanation. Nevertheless, it is clear that the State that invests in education only strengthens itself. The correlation between education and economic, social and political growth of a country has been widely recognized in economic, political, and historical literature.¹ The World Bank recognizes education as “*a powerful driver of development and one of the strongest instruments for reducing poverty and improving health, gender equality, peace, and stability.*”²

The right to education has been widely recognized in the constitutional norms of Colombia and international human rights norms³, incorporated into Colombian law through Article 93 of the Colombian Constitution.

Article 67 of the Colombian Constitution guarantees that: “Education is an individual right and a public service that has a social function. Through education individuals seek access to knowledge, science, technology, and the other benefits and values of knowledge.” This right was developed further through Law 115 of 1994 (General Law of Education) and Law 30 of 1992, relating to higher education.

Alongside education, the right to protest through freedom of expression and assembly, as well as safeguards for personal safety – enshrined in the respect for and the right to life, are vital to ensuring respect for human rights.

Article 20 of the Colombian Constitution states: “Every individual is guaranteed the freedom to express and diffuse his/her thoughts and opinions...” and **Article 37** guarantees freedom of assembly: “Any group of individuals may gather and demonstrate publicly and peacefully.” Likewise, **Article 11** recognizes the fundamental right to life as “inviolate...”

¹ See, for instance, Hanushek, Eric A.; Woessmann, Ludger. 2007. *The Role of Education Quality for Economic Growth.* Policy Research Working Paper; No. 4122. World Bank, Washington, DC. © World Bank. <https://openknowledge.worldbank.org/handle/10986/7154> License: CC BY 3.0 IGO (explaining the need for structural changes in academic institutions for the economic growth of a country).

² The World Bank, “Understanding Poverty: Education.” (“Education is a powerful driver of development and one of the strongest instruments for reducing poverty and improving health, gender equality, peace, and stability.”) <https://www.worldbank.org/en/topic/education> (Jan. 16, 2020).

³ Article 26 of the Universal Declaration of Human Rights, adopted in 1948, which proclaims: “Every person has a right to an education.” Since then, the right to education has been ratified in a myriad of international instruments, including, but not limited to: the UNESCO Convention against Discrimination in Education (1960), International Convention on the Elimination of All Forms of Racial Discrimination (1965), International Covenant on Civil and Political Rights (1966), International Covenant on Economic, Social and Cultural Rights (1966), Convention on the Elimination of all Forms of Discrimination Against Women (1979), Convention on the Rights of the Child (1989).

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Despite these norms, the implementation and respect for human rights in practice has been deplorable in Colombia, and now, the University is not an exception. We call for adequate guarantees and immediate, democratic measures for the respect and development of these fundamental rights.

The State of Human Rights in the Universidad del Atlántico

It goes without saying that the Universidad del Atlántico is one of the most important institutions of higher education in the Colombian Caribbean region. As such, it must fulfill its own institutional mission as a public university, to ensure the formation of professionals with “*social responsibility*” and provide “*academic excellence to promote human development, participatory democracy, environmental sustainability, and the advancement of the sciences, technology, innovation and the arts in the Caribbean region of the country.*”

Additionally, the School of Fine Arts, with more than 70 years in existence, has contributed to the great cultural richness of the entire Caribbean region. Nevertheless, after the ceilings of several historical structures in the headquarters of Fine Arts caved in in June of 2017, and after hundreds of students had no choice but take classes in other locations, the problem is still without remedy. Although said structure represent part of the historical and cultural patrimony of the city, neither the University nor the public or governmental institutions have taken a serious interest in solving a situation that only worsens day-by-day.

Despite the importance of education, the students of the University live in a constant state of instability and uncertainty about their academic future. Since October 25, 2019 to date, the students remain on indefinite strike due to the multiple demands that still have not been met.

The state of physical disrepair in the School of Fine Arts campus is only a living metaphor for the state in which the University in general finds itself. Among the rubble of the republican architecture, lies the bust of the man that donated the land for the construction of the Fine Arts Campus, a solitary host condemned to an eternal vigil while the world around him remains in chaos, and while the dream of the philosopher Julio Enrique Blanco, of building a lighthouse to illuminate this region of Colombia with its beacon, extinguishes slowly.

This state of chaos is not new. The University already lived through difficult times and through **Resolution No. 2015-156962⁴** rendered on July 22, 2015, of the Unit for the Attention and

⁴ Resolución No. 2015-156962 emitido el 22 de julio de 2015. Original text: “*De acuerdo con la narración de los hechos declarados por el Representante Legal de la Universidad del Atlántico, diversos grupos armados ilegales interesados en un modelo diferente de país al proyectado... han generado afectaciones a los derechos fundamentales de los miembros de la dicha comunidad... Del mismo modo, identifico las siguientes afectaciones individuales a sus miembros: Desaparición Forzada, Homicidio, Masacre, Lesiones Personales, Tortura, Detención Arbitraria, Secuestro, Allanamientos, Amenazas, Desplazamiento Forzado, Discriminación y Estigmatización.*”

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Reparation to Victims (*Unidad Para la Atención y Reparación Integral a Las Víctimas*), the University was recorded in the Registry for Victims as Subject of Collective Reparation for harms generated by the armed conflict. Among other things, the Resolution recognizes that due to actions by illegal armed groups in direct confrontation to professors, directors, and students at the University, the right to Organizational Autonomy was violated: "*According to the narration of facts declared by the Legal Representative of the Universidad del Atlántico, different illegal armed groups interested in a different model of the country to the one projected... affected fundamental rights of the members of said community...* Likewise, [the Legal Representative] identified the following individual harms to members of the [University] community: *Forced Disappearance, Homicide, Massacre, Personal Injury, Torture, Arbitrary Arrest, Kidnapping, Searches, Threats, Forced Displacement, Discrimination and Stigmatization.*" Among those violations, the Legal Representative specified the death of four leaders of the Alma Mater, Alfredo Castro, Luis Mesa Almanza, Freyter Romero and Reynaldo Serna.

On March 31, 2016, the University received said Resolution. During the event that was held in the Fine Arts campus auditorium (now closed due to fears that at any moment, the ceiling may collapse), which included the participation of the Governor, the Rector of the University (Rafaela Vos Obeso), the National Director of the Unit of Victims, the Territorial Director of the Atlantic, victim representatives, representatives of the student community, the Human Rights Committee of the University, syndicates, and alumni, Rector Rafaela Vos Obeso stated: "*This recognition represents, first, justice for the victims, in a country with more than 60 years of violence... it symbolizes the recovery of memory, it signifies understanding the importance and value that each and every one of these men and women had for our Institution and for society in general; this will allow us to construct Truth, see justice done and guarantee Non-Repetition.*"⁵

Despite the statements by the Rector of the University at the reception for the Resolution recognizing the University as subject to Collective Reparation, the guarantees of Non-Repetition have remained as mere words. The University, that was victim of human rights violations in the context of armed conflict, now becomes a victimizer while violating the right to education and by responding to the demands of students in an authoritarian manner with threats of armed forces, ESMAD, and thereby opening the University doors to violence. Those that seek profound changes in the University, those that demand democracy, transparent use of resources, and adequate investment in improving necessary changes to the physical campus, should not be

<http://hacemosmemoria.org/wp-content/uploads/2018/05/Resolucion%CC%81n-Universidad-del-Atla%CC%81ntico.pdf> (Jan. 19, 2020).

⁵ *Universidad del Atlántico*, Noticias, "Uniatlántico recibió Resolución que la Reconoce Como Sujeto de Reparación Colectiva por la Unidad de Víctimas." Actualizado Agosto 18, 2016. Original text: "*Este reconocimiento representa, primero, justicia para las víctimas, en un país con más de 60 años de violencia... así mismo, recuperar la memoria, que significa reconocer el valor y la importancia que tenían cada uno de estos hombres y mujeres para nuestra Institución y para la sociedad en general; lo cual nos permitirá construir Verdad, hacer justicia y garantizar la No Repetición.*" <https://www.uniatlantico.edu.co/uatlantico/noticia/uniatl-ntico-recibio-resolucion-como-sujeto-de-reparacion-colectiva-por-la-unidad-de-victimas> (Jan. 19, 2020).

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subject to persecution or stigmatization. Dialogue is needed to create a unified vision of all the proposals therein.

In general, in the Universidad del Atlántico, we find:

- Students on indefinite strike;
- Lack of guarantees for the safety of students;
- Academic uncertainty for the continuation of studies and conclusion of the same;
- Actions and threats of violence against the students and faculty;
- Signaling (and singling-out) of students that have denounced administrative and financial irregularities;
- Authorization for the entrance of the Anti-Protest Mobile Squadron (ESMAD) to the Institution, who, using unnecessary and excessive force, injured students in 2019 and again in 2020.

School of Fine Arts:

- The structures of the great majority of buildings that make up the campus, are in a deplorable state of abandonment – in ruins since 2017, they represent a great danger to students that still receive classes there;
- There is no real political willingness to remedy a situation that has only gotten worse since 2017 and that requires urgent and immediate actions;
- An encampment of students on lockout (called “squatters” by the University) with the purpose of non-violent protest in light of the lack of attention to their ongoing requests;
- Students of Fine Arts have been publicly singled-out for speaking out against the lack of guarantees in the University and the sad situation of the School of Fine Arts.⁶

CONCLUSIONS

While the administration and the Governor worry about recovering and reclaiming the public space of the protesting students, those same students worry about trying to recover and reclaim the “public” character of the University space. Those two visions of what constitutes a University require dialogue and actions based on dialogue – not on the imposition of the administration’s will upon the students through the use of force. It is clear that one cannot “recover” a public space by authorizing and condoning the use of force and conflict in a place that has already seen so much and been through so much tragedy.

We reiterate our solidarity with the demands made by the students of the UA:

- Academic Guarantees and Guarantees of Non-Repetition for the students of the UA;

⁶ Such is the case of Junior Villarreal of the School of Fine Arts, that was publicly singled-out and stigmatized due to his criticism regarding the state of the School and mishandling of administrative resources. Mr. Villarreal was publicly identified in media statements and has received negative attention and even legal proceedings instituted against him as a result of his non-violent speech.

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- Protection of human rights of students;
- Approval of statutory reforms;
- Departure of the Delta vigilance group;
- Complete rejection and cessation of the use of the ESMAD and/or armed forces against the student body;
- Creation and assignment of complete budgets for the restoration of the campus of the School of Fine Arts;
- Construction of a new building for the School of Fine Arts and a dignified space where students can learn without fear of structural damages nor violations of other rights;
- To the Attorney General’s Office and Institute of Legal Medicine and Forensic Sciences, attention and acceleration of the investigation in the case of the mysterious death of the student Madelayne Ortega and the incidents surrounding her death at the “sede 43” location;
- Student representation on the Academic Council of the University;
- Dialogues between the student body and the university and state authorities.

The problem of the Universidad del Atlántico, is a problem of humanity, of hope, and of the future. Our call from this part of the world, from the deep recesses of our hearts, is that together with your students, professors, workers, alumni and community in general, a University can be created that reflects what it already is in dreams; this is only possible via dialogue.

The great Colombian writer, Gabriel García Márquez, who held a deep love for the Caribbean region of Colombia and the city of Barranquilla, believed that a University accessible to everyone, is possible:

“An education, from the cradle to the tomb, unsettled and reflexive, that inspires in us a new way of thinking and incites us to discover who we are in a society that strives to love itself more. One that takes advantage of that interminable creativity and conceives of an ethic – and perhaps an aesthetic – for our boundless and legitimate concern for personal development... One that channels towards life the immense creative energy that for centuries we’ve thrown away in depredation and in violence, and one that opens, at last, a second opportunity on earth that the condemned seed of coronel Aureliano Buendia never had. For the prosperous and just country that we all dream of...”⁷

⁷ Discourse, “Por un país al alcance de los niños,” Gabriel García Márquez, July 24, 1994. Ceremonia de la Misión de Ciencia, Educación y Desarrollo. Original text: *Una educación, desde la cuna hasta la tumba, inconforme y reflexiva, que nos inspire un nuevo modo de pensar y nos incite a descubrir quienes somos en una sociedad que se quiera más a sí misma. Que aprovecha al máximo nuestra creatividad inagotable y conciba una ética-y tal vez una estética-para nuestro afán desaforado y legitimo de superación personal... Que canalice hacia la vida la inmensa energía creadora que durante siglos hemos despilfarrado en la depredación y la violencia, y nos abra al fin la segunda oportunidad sobre la tierra que no tuvo la estirpe desgraciada del coronel Aureliano Buendía. Por el país*

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The Universidad del Atlántico has all of the elements it needs within itself to become the University it always envisioned of, the one it proposed, and the one that its students still dream of – a space of higher education with doors open to life, peace, academia, academic debate, and dialogue.

prospero y justo que soñamos..." <https://fundaciongabo.org/es/recursos/discursos/por-un-pais-al-alcance-de-los-ninos-discurso-de-gabo-en-ceremonia-de-la-mision-de> (Jan. 19, 2020).

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