

TO: Members and Foreign Policy Aides, US Congressional Black Caucus

FROM: Gimena Sanchez, WOLA; Kelly Nicholls, USOC; Charo Mina Rojas and Marino Cordoba, AFRODES USA; Ajamu Dillahunt, NASGACC; Carlos Quesada, Global Rights; Nicole Lee, TranAfrica Forum; Arturo Escobar, UNC; Roland Roebuck, NASGACC and James Vondracek, Chicago Religious Leadership Network (CRLN).

RE: Developments re: case of illegal usurpation of lands by paramilitaries and oil palm companies in the Afro-Colombian territories of Curvaradó and Jiguamiandó (Chocó, Colombia)

Date: May 25, 2010

We write to you today to share two positive developments in the Afro-Colombian region of Curvaradó and Jiguamiandó (Chocó) in Northwest Colombia, express our concern regarding new threats against Afro-Colombian and mestizo internally displaced leaders (IDP) leaders and the human rights organizations who support these communities, and to make recommendations for ways that you can further help protect and support Afro-Colombian territorial rights in this case.

As evidenced by the attached translated press releases from the Camelia Community in Curvaradó and the Association of Community Councils and Organizations of the Bajo Atrato (ASCOBA), an individual by the name of German Marmolejo was elected as the new legal representative of the Curvaradó River Basin Community Council under *questionable circumstances* in September of 2009. Despite the protests of community residents who live in those territories and their supporters, Colombia's Ministry of Justice and the Interior recognized German Marmolejo as the legitimately-elected representative of the Council, and was set to return 25,000 hectares of land violently and illegally usurped by paramilitaries to Mr. Marmolejo on May 19th (last week).

To the relief of the communities of Curvaradó and the Colombian NGO Justicia y Paz, ***Colombia's Constitutional Court issued a ruling on 18 May, preventing the Ministry of the Interior from returning any lands in the Curvaradó/Jiguamiandó region*** pending a census to determine ancestral residents of the lands and new elections for the Community Council in August 2010.

In another related and very positive development, ***Colombia's Attorney General's office issued arrest warrants for 24 palm oil businessmen*** for charges of illegal appropriation of lands, forced displacement, conspiracy to commit crimes, falsification of public documents, violating environmental regulations, and related cases of threats against persons who work on these cases.

The US Network in Support of Afro-Colombian Grassroots Communities (NASGACC) is very grateful to the US Embassy's prompt response on these and other recent emergencies and for their ongoing support for the rights of internally displaced communities in Curvaradó and Jiguamiandó.

While we view these events as very positive and helpful in securing immediate protection for residents of Curvaradó and Jiguamiandó, we continue to be extremely concerned for community members' personal safety and the safety of Colombian NGOs who work with them in particular the NGO Justicia y Paz. Given its long history of denouncing corruption within the oil palm companies operating in the region, and their alleged ties to paramilitary groups, Justicia y Paz rightly believes that these recent developments will make them and the communities they accompany an event

greater target for potential physical and legal attacks. Enrique Petro, a community leader of the Curvaradó region, who last visited the US in December 2006 to participate in a briefing organized by Rep. Donald Payne (NJ), is an IDP leader who is currently in grave danger. Justicia y Paz received information that assassins have been paid to kill him because of his close working relationship with national and international human rights organizations in the area. According to May 17 urgent action by Amnesty International *“The informant said the paramilitaries have accused Enrique Petro of promoting the visit of national and international human rights organizations to the region to monitor the human rights violations linked to the massive development of African palm plantations in the area.”*¹ Mr. Petro has been instrumental in helping displaced communities return to their ancestral lands, as well as in the development of self-protection mechanisms such as Humanitarian and Biodiversity Zones to help protect these people as they return to their land in the midst of conflict.

We are also concerned that disturbing tactics are being put in place to discredit the legitimate owners of these territories and the human rights defenders who support their efforts. A group called *La Diaspora* has begun a global campaign to discredit them, including by distributing internationally potentially life-threatening information falsely accusing members of communities and Justicia y Paz of having ties to the FARC and falsely accusing the independent accompaniment organization Peace Brigades International of drug trafficking. *La Diaspora*’s representative German Marmolejo provided WOLA with documents and videos that re-iterate these false claims. On March 26, 2010 WOLA, USOC, LAWG and other US NGOs hosted an event on impunity in the Chocó where Danilo Rueda presented. Prior to this event on March 21, *La Diaspora* sent an email out in Colombia and the US stating that members of Justicia y Paz are the political, communication and legal representatives of FARC terrorists. Also in May, graffiti stating “Justicia y Paz are terrorists” and calling for national action against “Marxist Priest” Father Javier Giraldo were found in different parts of Bogotá. Such activity and pronouncements amount to death threats against members of Justicia y Paz and the organizations that accompany them.

We have three recommendations for US policymakers given the current situation:

- 1) Kindly communicate to the Colombian government the importance of ensuring the physical safety of the communities and organizations affected by the May 18 Constitutional Court decision on Curvaradó, and in the wake of the arrest warrants issued for 24 oil palm businessmen;
- 2) Express your public support for the Constitutional Court’s decision to temporarily block land return and to call for an accurate census and new elections for the Community Council.
- 3) Ask that the Colombian authorities take bold steps in dismantling the operational structures (military, economic and social) of paramilitary criminal networks (Aguilas Negras and Auto-Defensas Gaitanistas) that are operating the Bajo Atrato River region.

For further information on this case please contact Gimena Sanchez, WOLA at gsanchez@wola.org or (202) 797-2171.

¹ <http://www.amnestyusa.org/actioncenter/actions/uaa11610.pdf>

Curvaradó River Basin, Camelia Community 11 May 2010

Public Statement

1. We, twelve communities of the Curvaradó River Basin, elected Raul Palacios Salas as our legal representative on 25 April 2010, during an assembly held in the Guamo Community. We did not, as it has been reported, elect Germán Marmolejo as our representative in September 2009. This person is backed by business interests, is recognized by the government and, as was recently announced by Interior Minister Fabio Valencia Cossio, will be awarded our lands by the government.

2. We were recently invited to a meeting scheduled to take place on 14 and 15 May in the town of Carmen del Darién between a group of lawyers and Minister Fabio Valencia Cossio. We understand that the purpose of this meeting is to conduct training and to discuss land restitution, and that all communities are invited to attend. With this communiqué, we hereby state that we will not attend that meeting. As can be seen in proceeding points, it is clear to us that this is nothing more than an attempt to legitimize this self-imposed legal representative, and the beginning of a phony process of land return that will, in the end, only serve to benefit current illegal occupants who appropriated our lands with blood and fire in order to grow African palm, to establish extensive cattle ranches, and to grow bananas and plantains.

3. Despite our request on 26 April, the mayoralty of Carmen del Darién has not registered the community council that we elected, despite the expiration of legal terms established by Decree 1745, Chapter 2, Article 9, Paragraph 1°, which states: “the Minutes of the Community Council Election will be presented before the mayor of the municipality in which the majority of the territory is located, who shall sign and register in a book provided for such a purpose, within a period of no more than five (5) days. Said act will constitute a sufficient document to show legal representation.”

4. Currently, the Municipal Mayoralty and the Interior Ministry’s Director of Ethnic Groups, Rosa Carlina Garcia, are supporting the creation of a roundtable for work and negotiations. Within this roundtable, they have formed an Advisory Committee tasked with adjudication, processing, assignment, and applications regarding land issues; handling land disputes that arise within the territory; and acting as intermediary with the Government.

We, the communities, do not recognize this committee as it carries out functions that correspond to the Community Council as stipulated in Law 70 of 1993.

5. We, the communities, came to an agreement with former Interior Vice-Minister María Isabel Nieto and other government entities, regarding the manner in which land return was to take place: conducting a census among the elder persons of the valley to determine who are the ancestral inhabitants of the land; recognizing what is established by Article 10 of the regulatory decree which gives recognition to *mestizos* who have inhabited the land and have had a cultural tie to it for more than 10 years; and returning the land to the smaller Community Councils once the government has relocated individuals who have since repopulated the land, guaranteeing rights and protection for these individuals. We continue to believe that this is the most adequate way to return the territory, and current interventions go against those agreements.

6. In an edition of the newspaper *Heraldo* published during the third week of April 2010 on page 8 in the Agriculture section, FEDEPALMA affirms the presence of banana, cattle, and palm businesses in the region; that these businesses wish to restart palm cultivation; and that they have discovered 5000 to 6000 hectares that would be apt for farming. We, the communities, reject the illegal presence of these businesses, as they were admitted and approved by Germán Marmolejo without consulting

the communities and we reiterate our decision not to accept any type of project until the lands have been returned to their true, ancestral owners.

7. On 3 May, Vice-President Francisco Santos, in the third point of his communiqué regarding the appearance of threatening graffiti in Bogotá, makes reference to a “division” in the Curvaradó communities. In response to these words, we would like to state that said division does not exist. Our families are comprised of black, *mestizo*, and indigenous peoples who have coexisted for many years. We believe that this is not a problem of ethnicity; rather it is due to the lack of political will to return the land to its legitimate owners. The Interior Ministry is supporting a council formed by businesses, and wishes blame the problems of the valley on the same national and international organizations that these businesses wish to force out of the territory.

8. In a public statement given by Interior Minister Fabio Valencia Cossio in Bogotá, he states that serious problems exist regarding the actions of some NGOs in Curvaradó and has asked the DAS and the Army to intervene. We wish to state that the presence of the national and international organizations that accompany us are here at our request, due to the fact that we continue to receive threats, paramilitary structures persist, and businesses maintain illegal possession of our territories. Without national and international accompaniment, it would have been very difficult to return to our lands and continue struggling for our right to life and to our territory.

9. We call upon all our friends in Colombia and around the World to contact Interior Minister Fabio Valencia Cossio and, in your own words, express your concern for the irregularities of this process for which he is a spokesperson, and underscore the serious problem of returning the land to Germán Marmolejo whom we do not recognize and who is at the service of palm, cattle, banana, and plantain companies. This is being done outside of the agreements we came to previously with the former Interior Vice-Minister María Isabel Nieto. The phone number for the Ministry’s Office is 57 1 4443100 and the number for the Secretary General is 0057 1 2439552.

Sincerely,

The Board of Directors of the Curvaradó River Valley Community Council, elected 25 April 2010, by 12 communities.



ASCOBA

Asociación de Consejos Comunitarios y Organizaciones del Bajo Atrato
POR LA DEFENSA DE LA VIDA Y EL TERRITORIO
Nit. 818.002.380-0

DEFENDING OUR TERRITORY: OUR PRINCIPAL BATTLE CRY AND OUR ULTIMATE PURPOSE

Due to the current difficult situation in the Community Council of the Curbaradó river valley caused by land and economic interest, we, the communities that inhabit these territories, would like to make known our position on the issue and present our proposals. It is our firm intention that these proposals be taken on by institutions of the National Government and we solicit the support of non-governmental, social, regional, ethno-territorial, national and international organizations.

We reiterate our affiliation and participation, and feel represented by, the Association of Community Councils and Organizations of the Bajo Atrato (ASCOBA) and we would like to express our position regarding the problems of land and legal representation within the Board of Directors of the Community Council of the basin. We want to express our position given the current legal framework outlined by the sentence 0073 of October 2009 of the Tribunal Contencioso del Chocó, which orders that the land be returned to the Curbaradó Community Council:

In the first place, we wish to recall that in April 2008 the assembly to elect the Board of Directors of the Curbaradó Community Council was held in the community of Despensa Media, in which 22 communities located in the area participated. The following individuals were in attendance at this meeting: then-Vice-Minister of the Interior María Isabel Nieto, representatives of the office of the Director for Ethnic Groups of the Ministry of Justice and the Interior, delegates from the Ministry of Agriculture and Rural Development, the Ministry of the Environment, Housing, and Territorial Development, representatives of the Vice President's Office on Human Rights, the Spokesperson and Secretary of the Municipal Government of Carmen del Darién, military authorities from Uraba and the Chocó, and national and international organisms that accompany social organizing processes in the Bajo Atrato.

This assembly and the board election that was held followed all legal procedures regarding community representation, with the representatives of the National and Municipal Governments and national and international organisms acting as witnesses and guarantors of said process.

Due to the fact that this board did not represent the interests of businesses and some leaders, another assembly was held in 2009 in violation of legal parameters, legitimacy, and community participation. This assembly was registered by the mayoralty of the Municipality of Carmen del Darién, who subsequently failed to process challenges made by the communities in protest of the flagrant violation of due process.

Despite the fact that the board that was legitimately elected by the communities had legal recognition and was truly representative, the Minister of Justice and the Interior, Fabio Valencia Cossío, did not recognize it. This past March, in the Municipality of Carmen del Darién, he announced that legal representation was actually in the hands of another Board of Directors, named in an assembly held in September 2009 in the urban center of Carmen del Darién, with the participation of just three local Community Councils, with the goal of denying territorial and



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political rights to the mestizo population who are also ancestral inhabitants of the Curbaradó territories, and who have assumed traditional cultural practices, as stated in Law 70 of 1993.

The confusion surrounding the organization and recognition of legal representation of the Community Council with a Board of Directors that is not recognized by the communities, led another group of communities organized into Humanitarian Zones, to hold a new assembly in which they named a new Board of Directors and declared themselves the true legal representatives of the Community Council. In conclusion, we currently have three Boards of Directors of the Community Council: one fully recognized by all the communities since 2008 and within its valid period of governance; another, recognized by the National Government as legal but deemed illegitimate by the communities; and a third that was just named this past April by a group of communities with the intention of demonstrating the urgent need to define legal representation in of the Community Council and begin a broad, free, and democratic restructuring process.

We are convinced that the territories have been occupied illegally, and should be returned to the communities who are the rightful and legitimate owners. This will serve to alleviate internal divisions that in many occasions have been generated by the National and Local Government and oil palm companies, which has served as an excuse to indefinitely delay this process. In order for these lands to be returned adequately, they should be totally reorganized and emptied of the presence of illegal occupants that today are not only oil palm companies, but also persons who have arrived from other departments, especially Córdoba, and who have never been in possession of these lands, and who are generating a process of repopulating the territory that, if proper measures are not taken, will create new conflicts in the river basin.

During the process of resolving the dispute regarding legal representation, we point out that the maximum authority of the Community Council is the General Assembly, and should therefore be the entity that executes the process of land return as stipulated by the Tribunal's sentence. It is the Assembly that should determine the future of the territory and authorize any contracts or projects that the legal representative, who is recognized only by the Government, continues to push forward behind the backs of the communities.

Regarding the material return of land, we remind those entities cited in the Tribunal's sentence (the Ministry of Justice and the Interior, the Ministry of Agriculture and Rural Development, INCODER, the Ministry of Defense, the National Police and Military, the National Human Rights Ombudsman, Acción Social, the Governor of the Chocó and the Mayor of the municipality of Carmen del Darién) that the territory should be vacated by oil palm companies and cattle ranchers cited in the sentence, as well as by squatters who have arrived more recently, some of them former workers of the oil palm companies, and some of them placed there by these same companies in order to delay their eventual eviction from the territory. Finally, we strongly request that the Ministry of Justice and the Interior and the Director of Ethnic Groups within the Ministry continue the census to determine inhabitants of the river basin previous to the 1997



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displacement, who are the families that maintain the right to this territory and to be part of the Community Council, with full rights to participate in and be elected by the General Assembly. While the process begun in 2009 is reviewed and the Assembly defines its internal regulations, any process involving negotiations or decisions about the territory and its resources should be suspended. We will not validate any type of contract, agreement, or project signed by the legal representative that the government recognizes as this person is illegitimate and does not represent our interests.

As communities of the Curbaradó river basin, it is our intention to resolve our internal problems within the framework of the law, customs, and our internal norms.

We request the support of all social, ethno-territorial, and non-governmental organizations, as well as the country's organisms of control, to follow this problem closely, to make public pronouncements to the effect, and to support our actions.

Carmen del Darién, 17 May 2010

Sincerely,

Association of Community Councils and Organizations of the Bajo Atrato

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