

Bogotá, September 20, 2011

Your Excellency
Peter Michael McKinley
United States Ambassador to Colombia
Street 24, No. 48-50
BOGOTÁ, D.C.

Dear Sir:

A few days ago the media reported your government's decision to certify that the Colombian government has performed acceptably in the area of human rights, thus releasing \$20 million dollars in military aid to Colombia.

I respectfully call your attention to the response that the decision generated amongst the majority of the unprotected, vulnerable and violated persons in this country and the organizations, groups and movements committed to defending the basic rights of human beings.

It is logical to assume that you have played a crucial role in that decision, since historically the diplomatic role that you now hold has a decisive influence, not only within the parameters of the U.S. policy towards Colombia, but also in many other countries. Therefore, at the same time that you permit me to point out to you many realities of which you may not be familiar, I also earnestly request that you transmit to President Obama our shock and our urgent plea that the decision be reconsidered.

I myself think first of the effect that the decision and the new military aid will have on the Peace Community of San José de Apartadó. As you well know, that community has been subjected to over a thousand crimes against humanity since its formation in 1997. This year these criminal actions have increased. Paramilitary structures that operate closely with the Army and the Police are seeking to violently expel those who possess land in the area where there are plans to build a second hydroelectric dam, Urrá 2. This year [the paramilitaries] have killed more than 12 farmers in the San José area and have repeatedly, in the immediate vicinity of military and police checkpoints, publicly displayed lists of names of more to be killed. At the same time, they violate many other civil rights of the population, and have announced the complete extermination of the community, without President Santos responding or taking measures to answer the anguished cries that we have filed in his office. You well know, your Excellency, that the official requests for information and the Peace Community records continue to be a "cry in the wilderness" without response. Several high-ranking paramilitary leaders have confessed that they always acted with the approval and collaboration of all the commanders of the 17th Brigade, which has enjoyed decades of U.S. military aid, but none of them have been punished. The current commanders share the same immunity and impunity, and the support of their government has only strengthened their criminal actions.

I also think of many other dramatic situations in which the suffering of vulnerable populations has greatly increased:

The communities of the Bajo Atrato (Chocó), particularly Curvaradó and Jiguamiandó, have been victims of new strategies of dispossession and extermination. It is true that the Constitutional Court and the Prosecutor General have issued rulings in order to return their collective territories, but how effective is that when the businessman and paramilitary that so violently displaced them can today count on support from the government's security forces to invade their territory and subject them to terror? It is a fact that the Constitutional Court has used all the possible legal measures of protection for these communities, but the government does not abide by nor respect them; rather, through the security forces, it joins with the criminals to again dispossess them of their land. Do you not think, Your Excellency, that the new military aid from your government will empower the security forces and validate their policies of dispossession?

Those of us who work in the field of human rights understand clearly that the discourse about a deactivation of paramilitarism does not correspond with reality. Attempts are made to portray the currently active paramilitary structures as groups of common criminals, without political objectives and unrelated to the public forces, nor with other branches of government nor the political class. But why is it, Your Excellency, that these structures, with new names, continually send threatening messages to community leaders and human rights defenders, in a language that supports official policy? Have you not noticed, Ambassador McKinley, how many of these threats are relentlessly carried out through disappearances and extrajudicial killings, displacement and exile, and, as always, with those responsible for such crimes in the shadows?

It deeply distresses me, Your Excellency, that the new military aid from your government will strengthen and provide new resources to the Army and Policy to violate, as they have done, the rules of the International Humanitarian Law in the departments of Cauca, Nariño and Putumayo, especially in indigenous and rural areas, ignoring civilian spaces; involving them in the war against their will; placing them as shields against military enemies; causing damage to their homes and crops as well as falsely presenting innocent victims as combatants. All of this without counting the violation of the rights of ethnic groups to consultation on projects that affect them and destroy their habitat, resources, autonomy and their very lives.

Both the certification and military aid favors a government that has, in the last decade, perpetrated one of the most heinous crimes, in a systematic and continual manner, from the highest State institutions: what is called "false positives." In other words, executions of innocent citizens, the majority of whom are poor, by disguising them as killed combatants in order to give the image of a military victory over armed or criminal groups, paying large sums of money and other rewards for such false results. You know very well, Your Excellency, that this strategy has not been eradicated; that these cases are continually denounced, that the General Prosecutor has recorded more than 3,500 victims and the justice system has not reached even 1% of the perpetrators; that many of them remain in high positions, or if they have retired, they enjoy enormous privileges; that, as the United Nations Special Rapporteur for Extrajudicial Killings has denounced, this strategy has not appeared in "isolated cases" but has involved nearly all the departments of the country and all the military brigades. Do you think, Your Excellency, that it is unreasonable to think that many of the "battle victories" that the government has reported as

“successes” that deserve to be rewarded with new military aid, are, in fact, crimes against humanity, of those that the Colombian public forces have perpetrated by the thousands, with the consent or the tolerance of the other state institutions? Do you not think, Ambassador McKinley, that the new military assistance will strengthen the criminality so ingrained in the public forces, given that there are thousands of cleared up or unsolved crimes, allowing such crimes to continue?

I imagine, Your Excellency, that you are aware of the paramilitary strategy that was recommended by the United States Government in the Yarborough Mission of February of 1962, in order to set up mixed civilian and military structures to carry out terrorist attacks that would not tarnish the image of the government but would destroy communist supporters, as the secret report about the Mission lays out. Do you not think, Mr. Ambassador, that this same strategy is being implemented to refer to the BACRIM in the mass media? Why is it, Your Excellence, that the Ministry of Defense has repeatedly refused to hand over a copy of the EJC 3-10 document, approved by Resolution 05 of 1969 of the Armed Forces Command, which includes the “Self-defense” paramilitary groups in the official organizational chart, claiming in court that that document is still being utilized, despite the fact that thirty years have passed, the legal maximum limit in Colombia for which a document can be withheld?

I am also deeply concerned, Your Excellency, that the military assistance of your government, that which the Colombian Government wants to use on a priority basis for “Consolidation Zones,” will go to strengthen those areas where there are miles of unmarked graves, as in the municipality of La Macarena, the department of Meta, where to date several hundred unmarked graves alongside military bases have been identified, bodies that, according to villagers, have been buried in violation of all laws that require identification of the deceased and delivery of the remains to their families, including those of combatants. Do you think, Your Excellency, that it is right to certify as a guarantor of human rights a government that keeps thousands of unmarked graves throughout national territory, which are revealing the extent of the systematic crime of forced disappearance, which according to national and international agencies currently affects more than 50,000 families?

In releasing the military aid and issuing the aforementioned certification, your government mentioned the Victims Law as a sign of improvement with respect for human rights. Why not wait until the Law has been translated into concrete facts, lest it lead to another failure such as the “Justice and Peace Law,” which has only produced one sentence in six years despite the denunciation of over more than 100,000 crimes? You know very well, Your Excellency, that the one thing the “Victims Law” has produced until now is the violent death of many peasants who wanted to recover their land, since the law has not been accompanied in any real manner by an effort to eliminate the paramilitaries and their close relationship with the police. Do you not think, Your Excellency, that sometimes attempts are made to exorcise such terrifying realities as the Colombian one with the issuance of laws that cannot actually work in a real context? Ambassador McKinley, do you sincerely believe that a law such as the “Victims Law” can function without a peace process and a deep purging of the massive corruption that plagues our institutions? For example, do you think, Your Excellency, that the administrative courts of the departments, those which have produced so many corrupt rulings over the decades, will now

“justly” order the return of stolen land (as envisioned by the Victims Law) without being deeply purged?

But the aforementioned certification and release of military aid comes at a time when the economic policies of this government are giving strong signs of disregard for fundamental rights of the most vulnerable populations. Mining licenses granted to many corporations have greatly enabled paramilitarism and armed conflict and are leaving enormous poor populations without land or resources. The destruction of the environment and the destruction of indigenous, peasant and Afro-descendant communities that these projects are producing, lead to resistance of all types and make the security of these companies and their destructive projects viable only with the protection of large contingents of paramilitaries secretly coopted by the armed forces and the security agencies of the State, which do not hesitate to murder leaders of this resistance. The murder of Father Reinel Restrepo, pastor from Marmato in the department of Caldas, this past September 2, 2011 is a pathetic demonstration of this. So is the ongoing genocide being perpetrated in Buenaventura, where the neighborhoods and the community councils surrounding the port were invaded by paramilitary groups, supported or tolerated by the police, who cut up and threw into the sea with frightening cruelty the bodies of those who dare to resist the new mega-port, which involves the removal of the most impoverished the expropriation of land of those who, in the midst of their misery, have lived on top of landfills for decades in order to survive.

In order for a government to be evaluated under the most basic parameters of respect for human rights, and certified in that field, justice is a fundamental. However, as you very well know, your Excellency, in Colombia it is not possible to expect justice for crimes against humanity that have been perpetrated against those who don't subscribe to the dominant political structures and ideologies. While there have been few exemplary sentences in the recent months, what does that mean compared to the millions of cases that have sat idle for many years, sheltered by impunity and systemic corruption? Does the “Victims Law” have, by chance, some mechanism to correct the structures of impunity and judicial corruption, to protect the right to justice for even a significant portion of the 99% of victims affected by the existing impunity? But equally serious is the systematization of the frightening practice of baseless prosecutions. The number of innocent people who are charged and sentenced is enormous, due in large part to the unconstitutional interference in the legal system by the executive branch (“judicial false positives”), and in part from policy choices and special interests of judicial officials of all ranks. Recently, a Deputy Attorney General estimated that 5,000 illegal arrests occur each year. Advocacy groups estimate that more than 7,000 prisoners have been imprisoned arbitrarily because of how they think or for their democratic activities. Do you believe, Your Excellency, that a government that maintains this disastrous landscape of justice and violations of freedoms deserves human rights certification?

You cannot ignore, Mr. Ambassador McKinley, that even the little that has been uncovered recently in the media is sufficient to evaluate government practices that have been in place for many years, in which the current President participated, which reveal a radical disregard for civil rights. Such practices include the espionage of political opponents, of human rights defenders, and journalists; the terrifying corruption that has characterized the electoral system and

particularly the constitutional amendment for re-election; the direction of the intelligence agencies within the parameters of true criminality; the corrupt cooptation of Parliament; the control of elections by paramilitaries and drug traffickers; the agreements between paramilitaries and politicians to reform and control the state according to their interests; as well as many other forms of corruption that have been used by the State to serve the wealthier classes and criminals, a situation that continues in the sense that the political class has not fundamentally changed their mechanisms of state control.

It is very worrisome, Your Excellency, that you ignore so many things upon advising your government to issues certifications and military aid that can only result in greater violations of human rights. Perhaps you, Ambassador McKinley, are guided by what the Colombian media, or the same political class that has tolerated so many atrocities, report. When have you found, for example, that the atrocities perpetrated against the Peace Community of San José de Apartadó are reported in a newspaper or in mass media? Maybe some have been mentioned in the newspaper *El Colombiano*, when one of their skillfully untruthful columnists finds it useful in an attempt to slander the Community. The right to objective information and the right to the truth are not just unrecognized rights; when not respected they are key to maintaining situations that contradict all and every principle of ethics and humanity. I therefore advise you, Your Excellency, to carefully discern your sources of information.

Finally, I reiterate my formal request to forward my ethical rejection of President Obama's decision and my urgent request for his reconsideration.

Respectfully,

Javier Giraldo Moreno, S.J.