



The Honorable Kay Granger
Chair, House of Representatives Committee on Appropriations State, Foreign Operations, and Related Programs Subcommittee

The Honorable Nita Lowey
Ranking Member, House of Representatives Committee on Appropriations State, Foreign Operations, and Related Programs Subcommittee

November 15, 2012

Dear Representative Granger and Representative Lowey,

As you and your staff prepare for conference committee on an omnibus appropriations bill that includes FY13 Foreign Operations Appropriations funding and language, we write to urge you to retain the human rights conditions pertaining to security assistance for Colombia, Mexico, Guatemala, and Honduras that were included in the Senate Appropriations Committee version of the FY13 Foreign Operations Appropriations bill, which was approved by the committee on May 24, 2012.

We trust you share our conviction that U.S. foreign policy goals and ongoing regional efforts to fight transnational criminal organizations can be achieved most effectively when partner governments and security forces respect and uphold international human rights standards, accountability efforts, and the rule of law. Human rights conditions included in appropriations bills are an essential tool for the U.S. government and the international community to ensure this outcome. Experience has shown that the conditions have not been a hindrance to the U.S. government, but rather have helped ensure that foreign assistance is utilized for its explicitly intended goals. Further, conditions attached to U.S. assistance provide an invaluable instrument for Congress to conduct essential oversight of executive branch programs and policies. Finally, the conditions are essential for the administration to ensure it receives necessary information to wield the necessary leverage to ensure that U.S. assistance does not contribute to the commission of human rights violations.

The Inter-American Commission on Human Rights recently completed its semi-annual schedule of hearings on human rights issues in the Western Hemisphere. In connection with those hearings, our organizations had the opportunity to engage with governmental and non-governmental actors, including human rights defenders and activists from across the hemisphere. These conversations and the personal stories we heard remind us that there are ongoing and serious human rights challenges throughout our hemisphere. These defenders also reminded us that including human rights conditions in U.S. assistance programs in countries with serious and widespread human rights abuses sends an important and positive message about the priority that the United States government attaches to seeing specific progress on strengthening human rights protections and the rule of law.

The conditions related to **Colombia** have long had bipartisan support and have been an integral component of U.S. assistance to Colombia since 2000. These conditions identify specific human rights concerns and link progress on those concerns to a modest percentage of military assistance. These conditions have been essential in limiting human rights violations committed by Colombian security forces. More than a decade ago, human rights groups began to report on a pattern of deliberate killings by the army. These extrajudicial executions, which became known as “false positives,” typically involved groups of soldiers detaining a civilian, who later turns up dead, dressed in guerrilla clothing and claimed by the army as killed in combat. When the Soacha killings were exposed in October 2008, the Colombian government was forced to acknowledge this growing practice, which was apparently motivated by efforts to increase body counts. The Human Rights Unit of Colombia’s Attorney General’s Office is currently investigating more than 1,700 cases involving nearly 3,000 victims of alleged extrajudicial executions attributed to state agents.

Human rights groups, including ours, presented the State Department with evidence of this pattern of killings. Encouraged by congressional oversight committees invoking the conditions, the State Department, starting in early 2007, raised this issue with the Colombian government, which took steps to limit these abuses. New cases of extrajudicial executions began diminishing in 2009. If the conditions had not been included in U.S. law at the time, congressional oversight of this serious human rights issue would have been significantly weaker, running the risk of extrajudicial executions continuing unchecked at the same, if not even more, horrifying levels. In addition, the human rights conditions have helped advance respect by Colombia’s Armed Forces for indigenous and Afro-Colombian communities’ land rights, have helped prevent displacement of communities, and have helped to protect and foster the integral work of human rights defenders.

Today, though peace talks have begun between various parties to the conflict in Colombia, there is no truce, and hostilities continue. Although reduced in number, extrajudicial executions and other gross human rights violations are still being committed by members of the security forces. Moreover, the Colombian Congress is considering a constitutional amendment that would result in cases of serious human rights abuses committed by the military—including extrajudicial executions, rape, and torture—being investigated and tried by the military justice system, which has systematically failed to bring such abuses to justice. Along with giving military courts jurisdiction over any human rights abuses committed in the future by the military, it is our understanding that the amendment could also affect current, ongoing investigations into past abuses, including the extrajudicial executions known as “false positives.” Civilian prosecutors have made progress in obtaining convictions for some of these crimes, but the vast majority of cases remain unsolved. The transfer of investigations from civilian jurisdiction to military jurisdiction would eliminate any actionable opportunity of obtaining justice for these abuses.

In relation to **Mexico**, the conditions reflect bipartisan-approved language from previous years. The conditions would withhold 15% of select police and military assistance slated for Mexico until the State Department certifies Mexico’s progress in reforming the military justice system so that military and police personnel who are credibly alleged to have violated human rights are investigated and prosecuted in the civilian justice system; that the government of Mexico is enforcing prohibitions against torture and the use of testimony obtained through torture; and that the Mexican military and police are immediately transferring detainees to the custody of civilian judicial authorities and are cooperating with such authorities in such cases.

These are not draconian conditions but affirmations of internationally recognized human rights standards regarding torture and the treatment of prisoners to ensure that allegations of human rights violations are investigated and prosecuted by impartial civilian authorities. The need for more targeted encouragement in the area of human rights in Mexico is clear, as impunity for rampant human rights violations committed by security forces remains the norm. Not a single one of the 7,337 complaints of human rights violations filed against the military during the Calderon administration—including cases of torture, rape, extrajudicial executions, arbitrary detention, and forced disappearance—has led to a conviction in civilian court.

Likewise, while the Mexican government has invested greater resources in training the newly reconstituted federal police, violations documented by the State Department and Mexico's National Human Rights Commission (CNDH) raise serious concerns. In 2011, the CNDH received 767 complaints of human rights violations by the federal police, up from 595 complaints in 2010 and 141 complaints in 2009. The CNDH has conducted in-depth investigations that determined federal police officers were responsible for serious crimes, including shooting unarmed protestors and arbitrarily detaining, torturing, and killing civilians. We are not aware of any case in which a federal police agent has been found guilty by a civilian judge for a human rights violation.

Recent reports by Mexican and international human rights organizations, including Amnesty International, presented before the UN Committee against Torture also demonstrate that the use of torture to obtain confessions continues to be a widespread and systematic practice throughout Mexico. Mexico's security forces' reliance on torture to extract information and confessions has persisted, and indeed increased, in part because of public security policies that put a greater emphasis on the number of detentions and the ability to obtain confessions than the quality of investigations of crimes. Indeed, complaints of torture and cruel treatment presented to the CNDH have increased over 400% in the past six years. According to official data from the Federal Attorney General's Office (PGR), in the last 18 years, only two federal agents have been held accountable for torture.

The human rights requirements included in previous U.S. appropriations bills have provided a key tool for measuring Mexico's progress toward improving the human rights performance of its security forces by encouraging the Mexican government to curb violations committed by these forces and strengthen accountability mechanisms for human rights crimes. With ambitious plans announced by Mexican president-elect Enrique Peña Nieto to scale up the federal police forces, along with the ongoing shortcomings of state and local police departments, these conditions are as important as ever. They can play a critical role in improving both respect for human rights and the effectiveness of Mexican security forces, especially in light of the change in administration in Mexico.

Similar human rights conditions attached in previous years to U.S. anti-crime assistance to **Central America** also send an important signal and provide useful leverage on police reform, modernization, and respect for human rights. Given that the human rights situation throughout Central America has not markedly improved, we recommend including the same human rights conditions this year.

Further, we urge you to include the conditions (contained in the Senate Appropriations Committee version of the FY13 Foreign Operations Appropriations bill) withholding 25% of assistance to police and military forces in **Honduras** until the State Department certifies to the Committees on Appropriations that the government of Honduras is implementing policies to: protect freedom of

expression, association, and assembly and due process of law; is investigating and prosecuting cases of alleged abuse committed by state security agents in the civilian justice system in accordance with Honduran and international law; and that the Honduran military and police are cooperating with civilian judicial authorities in such cases.

Honduras is facing a major human rights crisis, and the Honduran government needs to exercise strong leadership to re-establish the rule of law and fully protect human rights. U.S. conditions on security assistance provide a valuable tool to help encourage the government to do so. In the last month alone, two prominent human rights lawyers were killed, three land rights activists in the conflict-ridden Aguan Valley were murdered, and the former head of internal affairs of the police and current candidate for mayor of Tegucigalpa reported a threatening incident directed at her involving armed men wearing police vests. In the past year, police officers charged with involvement in the murder of the son of the Rector of the National University of Honduras were released from custody and subsequently could not be located before trial. Over the last three years, scores of human rights activists, journalists, and others have been assassinated or threatened solely for speaking out. All of these incidents suggest that perpetrators of human rights abuses, including some police and security officials, act with and enjoy total impunity, facing no consequences for their actions. U.S. assistance should not only provide technical assistance to address these problems—including building the capacity of domestic judicial mechanisms to handle cases of alleged human rights abuses—but also to provide the political incentives to address them.

Finally, we encourage you to maintain the explicit ban on regular IMET assistance and restrictions on FMF to the armed forces of **Guatemala**. Guatemala's military has not yet faced up to its own history of massive human rights abuses, nor has the military cooperated fully in the investigations of those abuses. To date, the Defense Ministry has failed to fully comply with the rulings of the Constitutional Court to disclose military documents that could be useful in identifying the chain of command for ordering the massacres and human rights abuses perpetrated by the armed forces for decades. A recent incident in which troops fired on and killed six civilian demonstrators in Totonicapan also illustrates the risks of militarizing the response to public protests. It is necessary to conduct a full and impartial investigation into the incident, including into why the military became so involved in the response to the protest in the first place, and to bring those responsible for excessive use of force to justice. Guatemala ought to be able to address this problem, and the language laid out in the Senate Appropriations Committee version of the FY13 Foreign Operations Appropriations bill is helpfully specific about what the Guatemalan military would need to do to be eligible to receive IMET and FMF assistance.

We believe that members of the Appropriations Committee find it of paramount importance that U.S. funding be administered in an effective and responsible manner that strengthens respect for internationally recognized human rights standards in recipient countries as well as promotes accountability and the rule of law. All of the human rights conditions we discuss above help to achieve this goal. Now, it is as important as ever for the United States to be working in collaboration with countries throughout the Western Hemisphere to promote and protect internationally recognized human rights. The United States should set an example both at home and with partners abroad by fully respecting and promoting human rights and demanding the same of states to which the U.S. provides financial support.

Thank you for considering this important request.

Sincerely,

Amnesty International USA
Center for International Policy (CIP)
Latin America Working Group (LAWG)
Washington Office on Latin America (WOLA)

CC: Senator Patrick Leahy, Chair—Senate Committee on Appropriations State, Foreign Operations and Related Programs Subcommittee

Senator Lindsey Graham, Ranking Member— Senate Committee on Appropriations State, Foreign Operations and Related Programs Subcommittee