



Colombian and U.S. Human Rights Groups Call on the United States to Condition Aid and Support the Rule of Law

As Colombian and U.S. human rights and nongovernmental groups, we call on the U.S. government not to certify that Colombia is meeting the human rights conditions for receipt of U.S. military assistance. To do so would violate the law governing U.S. foreign assistance, because not only has Colombia failed to meet the conditions, it has taken a significant step backward during the last year-long certification period, particularly in failing to bring human rights crimes by security forces to justice. Certifying under these conditions would tell Colombia's new administration that the United States will not hold it accountable for abuses. By withholding certification, which is a judgment on the past administration's record, the United States would help support the rule of law in Colombia. It would send a firm message that the U.S. government expects the new administration to distinguish itself from its predecessor by upholding human rights.

We urge the State Department to withhold certification until marked results are seen in advancing human rights cases and combating Colombia's rampant impunity.

Many grave human rights violations have been committed since September 2009, date in which the last certification was issued, that clearly breaches the conditions to the military aid given to Colombia. These violations are outlined below.

Failure to comply with, indeed backsliding, on the condition to investigate and prosecute violations committed by Colombian security forces. Despite U.S. pressure to investigate and prosecute members of the armed forces responsible for extrajudicial executions or "false positives," there has been almost *no progress on this front*.

The military justice system has slowed down the transfer of human rights cases to civilian judges after a period of improvement. After the previous military justice executive director was forced to resign in May 2009, the transfer of cases has slowed dramatically from an average of 34.5 cases per month in 2008 to 3 cases per month in the last trimester of 2009.¹

¹ "Condicionamientos de la ayuda militar de Estados Unidos a Colombia incumplimientos y retrocesos" Documentos Temáticos N0 5, Observatorio de Derechos Humanos y Derechos Humanitario, Coordinacion Colombia Europa Estados Unidos, June 24 2010.

The civilian justice system is now investigating cases involving nearly 3,000 victims of alleged extrajudicial executions since 2002, yet results are slow. Of the approximately 30 high-level military officials who were dismissed from their posts in reaction to the extrajudicial execution scandal, not a single one has been charged for those crimes, and some reportedly continue their service.²

Even in two of the most high-profile cases, impunity still prevails. In the notorious Soacha case, there are no convictions after two and a half years and the judicial process is advancing at a snail's pace. Of the 62 members of the military who have been linked to the case, 54 have been released due to time limits being exceeded, with only military members implicated in other cases remaining in custody. On their release, the Army organized for them a lavish party, including massages, gifts, a spa and days of leave. Furthermore, the Inspector General's office has not taken disciplinary action against those officers allegedly involved in this case. Meanwhile, the victims' families receive threats.

Ten soldiers linked to the gruesome massacre of 4 adults and three children in the peace community of San José de Apartadó in 2005 were acquitted of all responsibility in the massacre by a judge in Antioquia. This judgment maintained that joint army-paramilitary patrolling was inadequate evidence of army culpability in planning the crimes, and dismissed as inadequate the confession of an army captain, currently the one soldier serving time for the crime, regarding army officers' involvement with paramilitaries in planning and implementing the massacre. The trial was marked by obstacles such as lack of cooperation from the Colombian Prison Institute (INPEC) in bringing the detained paramilitaries, key witnesses in the investigation, to the hearings without any explanation, and a lack of access by victims' families to the hearings.³

Of the nearly 150 members of the military mentioned by paramilitary leaders in the Justice and Peace hearings as collaborators of crimes committed by the paramilitaries, very few of these have been formally charged, and only one has been convicted. At least ten generals were denounced for creating paramilitary groups, carrying out joint actions with paramilitary groups, or being associated with their crimes, but no formal investigations have been initiated.

Pronounced lack of compliance during this period with provisions requiring progress on dismantling paramilitary networks and new illegal armed groups. Far from being dismantled, paramilitaries and emerging criminal groups have expanded their presence in the last two years. They operate in at least 600 of 1090⁴ municipalities and many groups are led by men who were leaders of the AUC. There continues to be evidence of military-paramilitary collaboration which takes place in at least 10 departments of the country. One example is Argelia, where since 2006 to the present, crimes committed by paramilitary structures have often taken place near military and police checkpoints, or when there are mobilizations of troops around the perimeter of villages while paramilitaries operate within. The incidence of massacres and targeted assassinations in many areas of the country is increasing again, as was clearly seen in the wave of paramilitary death threats across the country in April and May, with hundreds of individuals and nongovernmental groups targeted.

² “*Fuimos Carne de Buitre*”. EL Espectador, March 2nd 2009 <http://www.elespectador.com/impreso/tema-del-dia/articuloimpreso123316-fuimos-carne-de-buitre>

³ “No habrá vencimiento de términos en juicio por masacre en San José de Apartado” Verdad Abierta <http://www.verdadabierta.com/nunca-mas/40-masacres/2184-no-habra-vencimiento-de-terminos-en-juicio-por-masacre-de-san-jose-de-apartado> , February 2010.

⁴ Ibidem.

Lack of compliance with the requirement to respect the rights of human rights defenders, and trade unionists, indigenous and Afro-Colombian communities. Since September 2009, 26 defenders and community leaders have been killed. In May 2010 alone, 9 leaders were killed. Many of those who were killed participated in the National Working Group on Guarantees (a government-nongovernmental group to discuss guarantees for human rights defenders to do their work); at least 8 people who participated were killed in the last three months. One defender was killed two days after human rights groups met with the Minister of Interior to discuss their concern for his safety. In 2010 so far, 31 union leaders have been killed, 7 community leaders and an indigenous leader.

There has also been an exponential increase in threats against defenders via email since April 2010. Despite innumerable national and international alerts, the Colombian government does not appear to have taken action. Some 110 Colombian human rights defenders, IDP leaders, Afro-Colombian and community groups received threats via email, flyers, text messages and phone calls. The U.S. nongovernmental organization WOLA also received threats. To date, no investigation into these threats has yielded results.

The Colombian Attorney General's office is investigating allegations that at least four senior presidential advisors were aware of, and indeed may have directed, the Department of Administrative Security (DAS) illegal surveillance operations against Supreme Court magistrates, members of the political opposition, journalists and human rights defenders. DAS documents⁵ released by the Attorney General's office show that these operations went further than just wiretapping, but rather were a campaign of "political warfare" against those deemed to be in opposition to the government. This was achieved through a range of dirty tricks, including: inclusion in a fabricated FARC video, requesting the suspension of a journalist's visa (possibly to the United States), falsifying links to illegally armed groups, sabotage (stealing passports, ID cards), false public accusations, threats and blackmail.⁶ While some of these actions occurred from 2004-2006, others took place in 2007-2009, and we are still not confident that illegal surveillance has ended. The Attorney General's office is investigating, but the legislature has failed to act to pass legislation to disband and replace the DAS.

These extraordinary actions by the Colombian state against some of the most well-respected human rights defenders, journalists and judges, breach the full gamut of human rights and freedom of association and expression. They are the very antithesis of the certification conditions requirement to "respect the rights of human rights defenders." Furthermore, the DAS files have not been purged of inappropriate records yet, nor has the DAS been dismantled.

These examples demonstrate how the Colombian government has failed to comply with the conditions in U.S. law and in many of these key issues there has been a marked deterioration. Certifying in the light of these rampant human rights violations and persistent impunity would be violating and undermining the law. We call on the State Department to withhold certification and promote a real and sustained improvement in human rights standards in Colombia.

⁵ Fiscalía Once Delegada ante la Corte Suprema de Justicia. *Evidencia caja No.5 copia AZ63 – 2005*, January, 2010.

⁶ Fiscalía Once Delegada ante la Corte Suprema de Justicia. *Evidencia caja No.5 copia AZ63 – 2005*, January, 2010.