

November 1, 2011

The Honorable Secretary of State Hillary Clinton
U.S. State Department
2201 C Street NW
Washington, DC 20520

Dear Secretary Clinton,

We are encouraged by the Colombian government's initiative to provide reparations for victims of that nation's brutal conflict and to restore land to some of the more than 5 million people who have lost their lands through violence. However, we are greatly concerned that this initiative is unfolding without adequate attention to protecting the lives of land rights activists and communities who have already returned or who are planning to return to their stolen lands. Without serious attention to protection and to dismantling the paramilitary and other illegal groups behind the violence, people will return only to meet their deaths or be displaced again.

We urge you to ensure that U.S. diplomacy and aid vigorously promote protection of the rural population and carefully support safe, sustainable and voluntary returns in accordance with the UN Guiding Principles on Internal Displacement. Effective implementation of land reparations could contribute to creating a climate for resolution of Colombia's longstanding conflict. A failure to effectively protect returning communities, however, will only perpetuate the conflict.

Since the Santos Administration took office in August 2010, 20 land rights activists and leaders of displaced communities have been killed. In a number of these cases, Colombian authorities had been urged to provide protection for these leaders before they were killed, but adequate protection was not granted. Colombia's Agriculture Ministry has acknowledged the expansion of threats, violence and situations of risk for land rights activists and returning communities over the last few months. While it has attempted to galvanize an intergovernmental response, the response to date has been far from effective.

We urge the State Department to link U.S. support for this initiative to the development and implementation by the Colombian government of a workable, comprehensive, and adequately budgeted plan, led by Colombia's civilian government agencies, to provide protection. Such a plan must be developed in close consultation with the communities it benefits. Our Colombian civil society partners are united and emphatic in insisting that protection is not created by a primarily military presence that indeed often places civilian populations at greater risk. **We ask that the highest level USG officials publicly and privately emphasize protection for returning and returned communities, and that Embassy, USAID and State Department officials work consistently to urge the constellation of policies and actions that will build effective protection.** Key elements of this complex effort must include the following:

Creating a climate in which communities can safely return

- ⤴ The Colombian government should **ramp up its efforts to investigate, prosecute and capture paramilitary successor group members and their financial and political backers.** It should suspend, investigate and prosecute security force members who have been found to collaborate with or tolerate their abuses, making a particular effort to do so in areas with high paramilitary successor group presence. Convicted security force members must serve their time in regular jails. The USG should make clear that progress towards this urgent goal will be a key factor in considering the continuation or suspension of military assistance.
- ⤴ The Colombian government must **prioritize extension of civilian agencies** of the government into conflict zones. While the Consolidation Action program (CCAI), which USG funds support, has this

stated purpose, it must place civilian agencies in the lead, or it will continue to fail to create a viable civilian government presence that can protect communities. This enhanced civilian presence should include a significant expansion of the *Defensores Comunitarios* program and *personeros*, local representatives of the Ombudsman's and Inspector General's offices.

- ⤴ The army must be directed to **act more vigorously to capture and dismantle paramilitary successor groups**. However, in order to protect rural communities, over the long term police should be expanded to replace the military in rural law enforcement roles. Where needed, temporary deployments of specialized, non-local police aimed at dismantling paramilitary successor groups could help to avoid cooptation by local illegal armed actors.
- ⤴ **Fair, transparent and efficient land titling is essential**, ensuring that those who stole land through violence or third parties linked to them (*testaferros*) do not benefit. Lack of clarity about land titles invites violence and leaves small farmers vulnerable. Collective lands belonging to indigenous and Afro-Colombian communities must receive their proper final titles.
- ⤴ The Colombian government should devote resources and guide agricultural and trade policy to build sustainable rural livelihoods for small farmers, recognizing that this is an essential underpinning for sustainable returns and citizen security. Adequate access to credit and extension services and farm-to-market infrastructure are essential. Land and property from which communities were displaced may have been damaged and must be improved for returns to be viable. Returns should not be contingent upon returning communities being forced to accept development plans different from those they propose.
- ⤴ The Colombian government should **support the proposed decree law devised by the Mesa de Organizaciones Afrocolombianas**. This proposal came about due to the very inadequate consultation strategy employed for Afro-Colombian communities regarding the victims' law. Limited consultation after the law had already been approved with a "high-level consultative group" that is not recognized by many Afro-Colombian communities and organizations does not constitute free, prior and informed consent under ILO convention 169. This proposed decree law elaborated by the Mesa containing input from a broad sector of the Colombian territorial and grassroots communities guarantees that the victims' law respects the rights of Afro-Colombian communities.

Providing a workable plan for protection

- ⤴ The Ministry of Interior **should develop a plan to protect communities in full consultation with broad representation of internally displaced persons associations, small farmers' associations, representatives of indigenous and Afro-Colombian communities, human rights groups and with civil society participants of the Mesas de Garantías, the ongoing working groups on land issues**. The plan should include a differential approach to the needs of beneficiaries. The Ministry of Interior should work with the UN High Commissioner on Human Rights and UNHCR offices, as well as with the Ministry of Agriculture, the Ombudsman's office, and the Ministry of Defense in designing this plan. Ultimately, however, only more local plans designed with full community participation, described below, will provide real protection.
- ⤴ As part of this protection plan, **the Ministry of Interior should design, in consultation with beneficiaries, an emergency reaction protocol in order to engage civilian government authorities, police and military authorities and hold them accountable for their obligations to provide 24-hour, urgent protection to returned and returning communities and land rights leaders**. The existing Early Warning System should be strengthened by allowing the Ombudsman's office or Ministry of the Interior to issue an early warning directly, rather than waiting for approval from the Ministry of Defense; by ensuring that the system's risk reports are made public and that disciplinary sanctions are issued

when warnings are disregarded by local authorities or military officials, as per recommendations from past USAID evaluations.

- ⤴ Although a functioning national plan provides the framework, the local level is where the rubber meets the road. Regional protection commissions under the leadership of the Ministry of the Interior, should bring together civilian government agencies, civil society and international actors to guide restitution processes and generate institutional commitment to protection. **Local and regional governmental authorities must work with returned and returning communities to develop protection plans geared to their specific needs.** They should evaluate the security situation on the ground in accordance with indicators established by the Colombian Constitutional Court and the Inter-Agency Standing Committee's Framework on Durable Solutions to Internal Displacement. National human rights groups, international humanitarian agencies, the Ombudsman's office and the UNHCR and UNHCHR should provide accompaniment, monitoring and evaluation of these local protection agreements and the security situation.
- ⤴ Protection plans may identify a mix of needs and solutions, including investigations into threats and attacks, army patrolling around the perimeters of the community in a manner which does not prejudice the principle of distinction under international humanitarian law, secure communications, investing in community based rural development projects, a fixed bridge or road to provide easier access, electrification, greater presence of a local ombudsman, removing a corrupt local official, and properly legalizing land titles.
- ⤴ The protection program should ensure that civil society's own collective protection programs that distance the civilian population from the conflict should be respected and protected. These include humanitarian zones of refuge, *planes de salvaguardia*, and *planes de vida*, **The Ministry of Defense and Ministry of Interior should instruct the army and police to respect, rather than undercut, these initiatives.**
- ⤴ The majority of IDPs are women and children, and their specific needs must be taken into account in both economic development and protection programs. This must include adequate access to land titling for women. Programs and policies to address the very high rate of conflict-related and domestic gender-based violence must be incorporated. Women's leadership in returning communities should be acknowledged and promoted.
- ⤴ In addition to protection plans for communities, protection for land rights leaders is essential and must be strengthened. **The Ministry of the Interior should revise the existing protection program for land rights leaders at risk.** This process must be carried out in close consultation with the beneficiaries of protection measures, be adapted appropriately for ethnic minorities and women, and meet the recommendations provided by the Constitutional Court order 200 of 2007.
- ⤴ **The Attorney General's office should prioritize prompt and effective investigations and prosecutions in cases involving attacks and threats against land rights leaders from January 2010 to the present,** as well as prioritizing investigation of some exemplary cases of forced displacement. Effective prosecution of these cases is one of the most effective means of protection.

We appreciate that USAID is developing a series of programs to support land restitution. We would urge USAID to prioritize the following programs and actions:

- ⤴ **Encourage and fund development and protection initiatives chosen by returning communities.** In USAID's overall portfolio, prioritize sustainable productive projects in communities newly returned to their lands. Measure the success of this project, among other indicators, upon ability of communities to remain on their land and successfully implement their chosen development plans.

- ⤴ **Support and provide funding for the processes of consultation, accompaniment and evaluation** needed to build the protection programs for returning communities.
- ⤴ Fund expansion of Ministry of Interior and Ministry of Agriculture staff devoted to ensuring safe returns, *Defensores Comunitarios* and *personeros* in conflict areas and areas of return, while encouraging the Colombian government to budget the resources to sustain this in the long term.
- ⤴ Continue to **fund the Colombian Commission to Monitor Public Policy on Displacement**, a civil society-governmental initiative to monitor implementation of Constitutional Court rulings on governmental responsibilities on displacement.
- ⤴ Continue USAID programs to **support land titling** (carefully screened to ensure titling does not benefit occupants who stole or improperly benefited from stolen land).
- ⤴ Help protect beneficiaries of USAID's own programs. USAID should report human rights violations directed against program participants to the US Embassy's human rights officer, who should raise their cases with Colombian government counterparts.

We would greatly appreciate a briefing and discussion with participation of both DOS and USAID regarding protection for land activists and returns.

Close attention to building the climate for safe returns and effective mechanisms for protection are imperative if the cycle of displacement and violence is to ever be broken and the promises of this important land restitution process are to be fulfilled.

Sincerely,

Latin America Working Group Education Fund
 US Office on Colombia
 Washington Office on Latin America
 Lutheran World Relief
 Jesuit Refugee Service/USA
 Refugees International
 Afrodes USA
 American Jewish World Service
 Proceso de Comunidades Negras International
 Center for International Policy
 Presbyterian Church (U.S.A.), Office of Public Witness
 Presbyterian Peace Fellowship USA
 Colombian mission, Presbyterian Church (USA)
 Mennonite Central Committee, U.S. Washington Office
 General Board of Church and Society, United Methodist Church
 Church World Service
 Joan B. Kroc Institute for Peace & Justice, University of San Diego.
 Fellowship of Reconciliation USA
 Witness for Peace
 Justice and Witness Ministries, United Church of Christ
 Social and International Ministries, Jesuit Conference

Cc: Dan Restrepo, Special Assistant to the President and Director for Western Hemisphere Affairs
 William J. Burns, Deputy Secretary of State

Maria Otero, Under Secretary for Democracy and Global Affairs
Roberta Jacobson, Assistant Secretary of State for Western Hemisphere Affairs
Michael H. Posner, Assistant Secretary of State for Democracy, Human Rights and Labor
Kathleen FitzPatrick, Deputy Assistant Secretary of State for Democracy, Human Rights and Labor
David Robinson, Acting Assistant Secretary of State for Population, Refugees and Migration
Ambassador Michael McKinley, U.S. Ambassador to Colombia
Dr. Rajiv Shah, Administrator, USAID
Mark Feierstein, Assistant Administrator for Latin America and Caribbean, USAID
Nadereh Lee, USAID Mission Director, Colombia
Senator Patrick Leahy, Chair, Senate Foreign Operations Subcommittee
Senator Lindsay Graham, Ranking Member, Senate Foreign Operations Subcommittee
Representative Kay Granger, Chair, House Foreign Operations Subcommittee
Representative Nita Lowey, Ranking Member, House Foreign Operations Subcommittee