

Letter from Fr. Javier Giraldo to U.S. Ambassador Peter McKinley

Translated by CSN volunteer translator, Eunice Gibson

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Your Excellency

PETER MICHAEL MCKINLEY

Ambassador of the United States of America in Colombia

Calle 24 Bis No. 48-50

BOGOTÁ, D.C.

With all due respect,

A few days ago the major news media reported the decision of your government to certify the practices of the government of Colombia as acceptable in the field of human rights, thus releasing military assistance for Colombia in the amount of 20 million dollars.

I would respectfully call your attention to the feelings that this decision arouses in the majorities who are unprotected, vulnerable, and victimized in this country, as well as in the organizations, groups and movements that are committed to the defense of the elementary rights of human beings.

It is logical to suppose that you have played a major role in this decision, since historically the diplomatic representation that you now exercise has had a determining effect, not just in the parameters of United States policy toward Colombia, but also in policies toward many other countries. Because of that, at this time permit me to point out many realities that perhaps you may be unaware of, and I also ask you earnestly that you inform President Obama of our shock and of our urgent petition that you reconsider this decision.

First of all, I think, personally, of the effect that this decision and that new military aid will have in the Peace Community of San José de Apartadó. As you know very well, that Community has been the victim of more than a thousand crimes against humanity since it was created in 1997. This year, those criminal actions have increased. Paramilitary organizations, acting in close harmony with the Army and the Police, are using violence to expel those who own land in the area where the construction of a second dam, Urrá 2, is planned.

This year they have murdered more than 12 campesinos from the San José area and they continually go around exhibiting lists of more people to be murdered. They do this right next to military and police checkpoints, at the same time that they violate many other civil rights of the people and they advertise the total extermination of the Community. Yet President Santos does not trouble himself to respond at all, nor does he take any

urgent measures in answer to the distressed outcries that we continually direct to his office.

You are well aware, your Excellency, that the constitutional petitions and the certified records from the Peace Community continue to be “voices crying in the wilderness”, without any answer. A number of high-ranking paramilitary leaders have confessed that they always acted with the approval and collaboration of all of the commanders of the 17th Brigade, which had enjoyed decades of United States military assistance, but none of them have been punished. The current commanders take part in the same immunity and impunity and the assistance from your government only reinforces their criminal activity.

I am also aware of many other dramatic situations in the most vulnerable areas, where suffering has increased enormously.

The communities of lower Atrato (Chocó Province), particularly those from Curvaradó and the Jiguamiandó, have been the victims of new strategies of dispossession and destruction. It is true that the Constitutional Court and the Attorney General’s Office have made juridical decisions to return their collective properties to them, but what effect does that have when the businessmen and paramilitaries who displaced them violently now count on the support of the government and its armed forces to invade their lands again and submit them to terrorism? It is a fact that the Constitutional Court has exhausted every juridical protection measure for these communities, but the government does not comply and shows no respect for them; instead, through its armed forces, it joins with the criminals to plunder them again. Don’t you believe, your Excellency, that the new military assistance from your government will make the armed forces feel strengthened and validated in their policies of support for the new confiscation?

Those of us who try to work in the field of human rights can clearly see that the speeches about the de-activation of paramilitaries do not coincide with the truth. They want us to think that the paramilitary organizations that are very active these days are just gangs of common criminals, without any political objectives and with no relation to the armed forces or any other government agency or any members of the political class. But, your Excellency, why would it be that those organizations, with new names, are constantly sending threatening messages to social leaders and to defenders of human rights, using language that supports official policies? Have you not noticed, Mr. Ambassador McKinley, how many of those threats have been fulfilled implacably, with disappearances and extrajudicial executions, displacements and exiles, while, as always, the identity of the perpetrators of such crimes remains a mystery?

It concerns me profoundly, your Excellency, that the new military assistance from your government strengthens and provides new resources to the Army and the Police so that they can transgress, as they have been doing, the rules of international humanitarian law in the provinces of Cauca, Nariño, and Putumayo, especially in the campesino and indigenous areas. They refuse to recognize the areas of civilian population, involving people in the war against their will, using them as shields against their militant enemies, producing destruction of their crops and their houses and victimizing innocent people that

they then try to pass off as combatants. All of this does not even count the violation of the rights of ethnic groups to be consulted about projects that affect them and destroy their habitat, their resources, their autonomy, and their very lives.

Not only the certification but also the military aid favors a government that in recent decades has perpetrated, systematically and continuously, from the highest government institutions, in one of the most horrendous crimes, those that have been known as “false positives”, or rather, execution of innocent citizens, most of them very poor, so as to dress them up as killed in combat and thus present an image of military triumph against armed or criminal organizations. They were paid large sums of money and received other rewards for those phony “results”.

You know very well, your Excellency, that this strategy has not been eradicated, that there are continual complaints of new cases, that even though the Attorney General’s Office has accounted for more than 3,500 victims, not one of the killers has yet met justice. You know that many of them remain in high command posts or, if they have retired, they enjoy enormous privileges. You know that this strategy has not turned out to be “isolated cases”, as the United Nations Investigator for Extrajudicial Executions criticized, but rather it involved almost all of the provinces in the country and all of the military brigades. Don’t you believe, Mr. Ambassador McKinley, that the renewed military assistance will fortify the criminality that is so deeply rooted in the armed forces, since there are thousands of these crimes not yet solved nor punished, giving free range to those who keep on committing them.

I suppose, your Excellency, that you did not know that the paramilitary strategy was recommended by the government of the United States in the Yarborough mission in February of 1962. The goal was to create mixed structures made up of both civilians and soldiers to carry out terrorist attacks that would not hurt the image of the government but which would destroy communist sympathizers. The Mission’s report establishes that. Don’t you believe, Mr. Ambassador, that that same strategy is being applied to identify the “BACRIM” in the media? Why, your Excellency, would the Ministry of Defense repeatedly refuse to turn over a copy of document EJC – 3-10, approved by Resolution 05 of the 1969 Armed Forces Command. The paramilitary groups known as “Self-Defense Forces” figure in that document, in the official organization chart. The Armed Forces have alleged in court proceedings that this document is still in effect, in spite of its being much more than 30 years old, which is the maximum legal limit for maintaining secret documents in Colombia.

I am also deeply worried, your Excellency, that the military assistance from your government, aid that the Colombian government wants to use in its own way in the so-called “Consolidation Areas”, will fortify those areas where there are thousands of unidentified graves, such as in the municipality of La Macarena in Meta Province. Up to now they have identified several hundred burials marked NN (unidentified) next to a military base. The bodies, according to the residents, have been buried in violation of all the legal regulations that require that the dead be identified and their remains turned over to their families, even those of combatants. Do you think, your Excellency, that it is

fitting to certify, as a guarantor of human rights compliance, a government that maintains thousands of anonymous graves all over the country? Those graves reveal the magnitude of the systematic crime of forced disappearance of persons, which according to national and international agencies now affects more than 50,000 families.

By releasing the military assistance, and issuing the aforementioned certification, your government has mentioned the Victims' Law as a sign of improvement with respect to human rights. Why not wait until that law is translated into concrete acts, and does not result in a new failure like the "Justice and Peace Law"? That only produced one real sentence in six years, while there have been more than a hundred thousand complaints of crimes. You know very well, your Excellency, that the only thing that the "Victims' Law" has produced so far is the violent death of a lot of campesinos who have wanted to recover their land, since the law has not come up with any strategy for real eradication of paramilitarism and its close connection with the armed forces. Don't you think, your Excellency, that sometimes people try to exorcize realities as terrifying as those in Colombia by passing laws that cannot possibly function in our real context? Do you sincerely believe, Mr. Ambassador McKinley, that a law like the "Victims' Law" can function without a concomitant peace process and without a complete cleansing of the enormous corruption that affects our institutions? Do you believe, for example, your Excellency, that the administrative courts in the provinces, which have produced so many corrupt sentences over decades, are now going to oversee "with justice" the return of stolen land (as the Victims' Law contemplates) without being purged fundamentally?

But the aforementioned certification and release of military assistance funds takes place in a moment in which the economic policy of this government is showing alarming signs of failure to recognize the most fundamental collective rights of the most vulnerable populations. The permits issued for mining exploitation to numerous transnational businesses have activated paramilitaries and armed conflict tremendously. They are leaving huge populations of poor people without any land or resources. The destruction of the environment and the destruction of indigenous, campesino and Afro-Colombian communities by these projects are leading to every kind of resistance. This means that the security of these companies and of their destructive projects is only effective with the protection of enormous contingents of paramilitaries secretly co-opted by the armed forces and by the government security agencies, which do not hesitate to murder the leaders of this resistance.

The murder of Father Reinel Restrepo, parish priest in Marmato, in Caldas Province last September 2 (2011) is one pathetic example of this. There is also the permanent genocide that is being carried out in Buenaventura, where the neighborhoods and the Community Councils around the port are being invaded by paramilitaries supported or tolerated by the armed forces. They cut people in pieces with horrifying cruelty throwing the body parts into the sea, if any of them dare to resist the megaproject for the new port. This included the expulsion of people living in the poorest areas and it includes the expropriation of the plots in the garbage dumps where these people, in the midst of their misery, have over decades tried to survive.

In order that a government can be evaluated in the light of the most elemental parameters of respect for human rights, and certified in that area, one fundamental point is justice. Nevertheless, as you know very well, your Excellency, in Colombia at present it is not possible to expect justice with respect to the crimes against humanity that have been perpetrated against people who are not part of the dominant political organizations or ideologies. Even though there have been a few exemplary sentences in recent months, what does that signify in the face of the millions of cases gathering dust for many years, sheltered by the systematic corruption and impunity? Does the “Victims’ Law”, by any chance, have some mechanism to correct the systems of corruption and impunity in the justice system, to protect the right to justice, even one meaningful part for the 99% of the victims affected by the proverbial impunity still in effect?

But equally serious is the terrifying systematization that judicial frame-ups have gained. The number of innocent people who are prosecuted and condemned is enormous, largely owing to the unconstitutional injection of the executive power into the justice system (“false judicial positives”) and, also in part to the political choices or interests of every kind on the part of judicial officials at every level. Just recently an Assistant Attorney General calculated that there are 5000 illegal arrests every year. Lawyers’ groups calculate the prisoners who have been deprived of their liberty arbitrarily at 7000. Do you believe, your Excellency, that a government that maintains that disastrous panorama of justice and attacks against liberty deserves a certification in human rights?

You will not be unaware, Mr. Ambassador McKinley, that the little that some communications media have exposed recently is enough to evaluate some governmental practices that have been going on for many years, and in which the then-President himself participated. These reveal a radical lack of recognition of the rights of the citizens. They include spying on political opponents, on the very judicial officials who were troublesome, on defenders of human rights and on journalists who had not been co-opted; the terrifying corruption that has characterized the electoral system and particularly the constitutional amendment allowing presidential re-election; the orientation of the intelligence agencies within parameters of real criminality; the corrupt cooptation of the Parliament; the control of elections by paramilitaries and drug traffickers; the deals between paramilitaries and politicians to change and control the government to advance their own interests, such as many other kinds of corruption that have put the government in the service of the most powerful and the most criminal, a situation that remains effective as long as the political class has not essentially changed its mechanisms for controlling the government.

It is very worrying, your Excellency, that you are unaware of so many things in advising your government to issue certifications and military assistance that can only result in greater violations of human rights. Perhaps you, Mr. Ambassador McKinley, are guided by what the mass communications media in Colombia report or what the very members of the political class are saying, they who have so lazily tolerated so many atrocities.

When did you verify, for example, that the atrocities perpetrated against the Peace Community of San José de Apartadó were denounced in any newspaper or mass media?

Perhaps some have been reviewed in the daily *El Colombiano* , which occasionally slanders the Community by means of some of their columnists who are accustomed to lying. The right to objective information and the right to the truth, are not just rights that are not recognized, but that failure is the key to maintaining situations that are contrary to all morality and every principle of humanity. That is why I advise you, your Excellency, to be very careful about your sources of information.

Finally, I repeat my formal petition that you transmit to President Obama my moral rejection of his decision and my urgent request that he reconsider.

Respectfully,

Javier Giraldo Moreno, S.J.