

December 3, 2009

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Dear Assistant Secretary Valenzuela,

We write to express our concern that units of the Colombian security forces have been vetted by the State Department as being eligible for US assistance and training despite evidence of serious human rights violations. Specifically, we are concerned that the 6<sup>th</sup> and 7th Regional Military Intelligence Units (RIMEs) that were vetted and received US assistance in 2006, 2007, and continued to be successfully vetted in 2008 and 2009, are responsible for specious intelligence gathering, arbitrary detention and trumped-up criminal charges against human rights defenders. We urge you to act to suspend US assistance to these RIMEs, given these serious human rights violations, and take the other steps listed below to ensure that the United States is not facilitating the violations.

In early May 2009, a military intelligence report was discovered in the department of Caquetá. The report was prepared by the 6<sup>th</sup> RIME in Florencia (No MD-EJC-CIME-RIME6-53.1, February 12, 2008), a unit vetted by the State Department. The report listed 97 individuals – including several human rights defenders and civil society leaders - as members of the support network for the Amazon Front of the FARC rebel group. The report was written by Lieutenant Colonel Rafael Eduardo Gutierrez Hortua, at the time director of the 6<sup>th</sup> RIME but since transferred to direct the Army School of Intelligence and Counterintelligence. Included among the human rights lawyers, university professors, and community leaders accused in the report was Domingo Emilio Perez Cuellar, president of the Caquetá chapter of the respected National Movement of Victims of State Crimes (MOVICE). The report stated that a criminal process was underway against these defenders, yet provided absolutely no information linking them to the FARC. Many of the human rights defenders included in the report planned to participate in a Truth Hearing in Caquetá just a few days after the report came to light. The hearing was designed to air testimony about extrajudicial killings and other human rights violations allegedly committed by the army.

In May 2009, Human Rights First wrote to the Colombian Defense Ministry asking them to confirm the authenticity of the report, but as of this writing no response has been received.<sup>1</sup> We understand that at least ten people included in the specious military intelligence report have subsequently been arrested in military raids.

In Medellin, various intelligence reports have come to light apparently prepared by Technical Investigation Unit's (CTI) 74th prosecutor in Antioquia, in collaboration with the 7<sup>th</sup> RIME and the 4th Army Brigade. The reports state that a range of non-governmental organizations and human rights defenders are part of the FARC guerrilla group. Human Rights First has reviewed some of these reports,<sup>2</sup> which list Winston Gallego as FARC guerrilla supporter. Gallego works for the well-respected human rights organization Sumapaz Foundation and he has apparently been detained on the basis of that report since June 10, 2009.<sup>3</sup> Also mentioned in these reports are the Judicial Freedom Organization (CJL) and its lawyers Elkin Ramirez and Bayron Gongora, renowned human rights defenders who have been subject to previous baseless prosecutions. We are also alarmed by the existence of a falsified document in the name of CJL, dated May 4, 2009, that seeks to link various human rights defenders with the FARC guerilla group. The CJL categorically denies the authenticity of this document and its appearance at the same time as the intelligence reports suggests a disturbing connection that should be investigated.

In July 2008, the State Department provided the Fellowship of Reconciliation with a list of all Colombian military units that were vetted and received U.S. assistance from 2000 through 2007. This list showed that the 6<sup>th</sup> and 7<sup>th</sup> RIMEs were vetted and received US assistance in 2006-07 and 2007-08. A list of units vetted and approved for assistance in 2008-09 and 2009-10, provided by the State Department last month, shows these two RIMEs continue to be approved for US assistance.

In February 2009, Human Rights First published *In the Dock and Under the Gun: Baseless Prosecutions of Human Rights Defenders* which documented the extensive use of trumped-up criminal charges to silence human rights defenders in Colombia. The report also explained the illegal and widespread use of falsified military intelligence reports as a basis to bring spurious investigations against defenders. This report and concerns about the role of RIMEs were previously communicated to the State Department during certification consultations with NGOs.

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<sup>1</sup> Human Rights First, *Letter to Colombian Defense Ministry, Interior and Justice Ministry and Public Prosecutor's Office*, May 27, 2009, available <http://www.humanrightsfirst.org/pdf/090527-HRD-dan-ltr-eng-no-sig.pdf>

<sup>2</sup> No. FGN. DS CTI. F.74 Nro. 645, May 15, 2008; No. OT 00181, S-0408/F-74, February, 27, 2009.

<sup>3</sup> Human Rights First, *Letter to Colombian Prosecutor General*, June 10, 2009 available at: <http://www.humanrightsfirst.org/pdf/090701-HRD-gallego-ltr-to-atty-gen.pdf>

We are concerned that the actions by the vetted 6<sup>th</sup> and 7<sup>th</sup> RIMes are an attempt to silence human rights defenders who continue to expose human rights violations despite the risks. U.S. law and policy correctly limits the provision of US assistance to security forces responsible for human rights violations. The Leahy Amendment prohibits assistance to any security forces unit if the State Department has “credible evidence that such unit has committed gross violations of human rights.” Even if the behavior of the 6<sup>th</sup> and 7<sup>th</sup> RIMes does not rise to the level of a “gross violation of human rights”, we believe that U.S. funding is not well spent on units with such a record.

Targeting human rights defenders in military intelligence reports as justification for criminal investigations and detention without providing any evidence of their links to the FARC is a clear breach of internationally recognized rights to privacy, liberty, fair trial and due process, as well as protection against arbitrary detention. The United States should neither facilitate nor reward units responsible for such violations by granting assistance to them.

In light of this information, we urge you to take the following measures:

1. Act to suspend US assistance to the 6<sup>th</sup> and 7<sup>th</sup> RIMes in light of these serious human rights violations and the potential breach of Colombian law (see below).
2. Review the process for vetting military assistance, in light of the credible evidence provided to the State Department during certification consultations by various NGOs of violations by these units, to determine whether sufficient resources are dedicated to reviewing reports of abuses by security units and whether criteria employed in that process are adequately implementing Leahy law.
3. Urge the Colombian Ministry of Defense to either provide evidence that the human rights defenders listed are in fact members of the FARC or publicly clear their names and initiate an investigation and disciplinary proceedings against the intelligence officials that prepared the documents.
4. Encourage the Prosecutor General’s office to review the detentions of people listed in the intelligence reports mentioned above to see if the new *Intelligence and Counter-Intelligence Law* has been breached. That law prohibits intelligence reports from being used as evidence in criminal investigations.
5. Urge the Prosecutor General’s office to review why these investigations are being conducted under the old criminal procedural code (law 6000 of 2000) when the events that are being investigated reportedly occurred after the date when the new code entered in force (law 906 of 2004). The new code provides increased protections to the accused.

We look forward to your response to this significant problem.

Sincerely,

Andrew Hudson  
Manager  
Human Rights Defenders Program  
Human Rights First

John Lindsay-Poland  
Director  
Task Force on Latin America and the Caribbean  
Fellowship of Reconciliation

Cc

- Michael Posner, Assistant Secretary for Democracy, Rights and Labor
- Chris McMullen, Deputy Assistant Secretary, Bureau of Western Hemisphere Affairs
- William Brownfield, Ambassador, Embassy of the United States, Colombia
- Harold Hongju Koh, Legal Adviser
- Dan Restrepo, Special Assistant to the President and Senior Director, Western Hemisphere Affairs, National Security Council