

Letter to Senator John McCain

Human Rights Watch
June 27, 2008

Senator John McCain
241 Russell Senate Office Building
Washington, DC 20510

Dear Senator McCain,

It is a pleasure to be in communication with you once again. Over the years you have been a defender of human rights and democratic freedoms on many occasions— whether by standing against torture in the United States, or against political repression from Burma to Uzbekistan to Russia. We appreciate the work you have done on these issues and have been pleased to work with you on many of them.

I write this time to bring to your attention several serious concerns about the human rights situation in Colombia, a country we have monitored for over two decades, and which I understand you may be visiting soon. I hope that during your visit you take the opportunity to publicly express your concern over these problems and the importance of respecting human rights, just as you have in so many other parts of the world.

Unlike the totalitarian government of Cuba—which today stands alone in Latin America in repressing nearly all forms of political dissent—Colombia is formally a democracy. However, it is a weak democracy that remains mired in a brutal and long-running armed conflict involving left-wing guerrillas, paramilitary groups, and the Colombian military. Accountability for serious crimes is almost non-existent and the rule of law has yet to take hold in much of the country.

Today, Colombia's fragile democratic institutions are facing enormous threats and challenges. Some of these come from the guerrillas of the Revolutionary Armed Forces of Colombia (FARC), who have, as you know, a long record of terrorizing Colombian civilians. But perhaps a deeper challenge comes from the drug-running paramilitaries, who, like the guerrillas, are on the US list of Foreign Terrorist Organizations, but who threaten Colombian democracy from the inside, by corrupting and infiltrating the Colombian state.

In fact, key institutions like the Colombian Congress are now undergoing a major crisis of legitimacy—one that is unprecedented not only in Colombia but in all of Latin America—as more than 20% of Congress has come under investigation for collaborating with the paramilitaries. The country's institutions of justice, and particularly its Supreme Court, have stood almost alone in bravely facing down the paramilitary threat, but they have to constantly struggle to defend their independence.

We urge you to make protecting and defending Colombian democratic institutions, and

particularly its institutions of justice, from these threats a top priority in your meetings.

Unfortunately, you probably won't hear much about what are known as the "parapolitics" scandals from the administration of Colombian president Alvaro Uribe. Nor are you likely to hear much about the full scope of Colombia's grave human rights and humanitarian crisis from the president. On the contrary, the Colombian government and its lobbyists in Washington often cite impressive-sounding statistics and make claims about their policies that might lead you to conclude that Colombia is on the right track when it comes to human rights and accountability. A quick visit to high-end neighborhoods in Bogota and Medellin might seem to confirm that conclusion. I urge you not to allow yourself to be taken in by the barrage of deceptive information you will likely receive. Behind the spin and carefully crafted tours, the facts on the ground are deeply troubling.

The government has confronted the abusive guerrillas of the left, and the retreat of the FARC and ELN guerrillas from several regions has led to a substantial reduction in various types of atrocities that they commonly commit, such as kidnappings. Nonetheless, the guerrillas continue to hold dozens of civilians hostage, often for years on end. They regularly recruit children as combatants, including children under the age of 15, and in recent years there has been a substantial increase in the number of casualties from antipersonnel landmines, which are overwhelmingly used by the guerrillas.

At the same time, after a period of rapid and bloody expansion marked by widespread massacres of peasants through 2002, the paramilitaries have consolidated their control and political influence regionally and even, as has recently been discovered, on a national level. Today, we no longer see the same scale of massacres as in the past, but the paramilitaries enforce their control through targeted killings, enforced disappearances and threats, and they exert influence at some of the highest levels of government.

The Army, too, has increasingly been committing extrajudicial executions of civilians, who they later claim as combatants killed in action. Internal displacement of civilians remains massive and widespread.

The following are some of the most serious problems facing human rights and democracy in Colombia today. You would do a valuable service to the cause of human rights and human rights victims in Colombia by publicly raising concerns about these issues during your visit.

Failure to Dismantle Paramilitary Groups

The Uribe administration will probably tell you that paramilitaries no longer exist, thanks to a "demobilization" process it has implemented in the last few years. But that process is largely hype. While more than 30,000 individuals supposedly demobilized, Colombian prosecutors have turned up evidence that many of them were not paramilitaries at all, but civilians recruited to pose as paramilitaries. Law enforcement authorities never investigated most of them.

In the last year, thanks to Colombia's Constitutional Court, which required that those responsible for serious crimes confess in exchange for reduced sentences, a few—primarily a handful of top leaders—began talking about their crimes and links with high-ranking Colombian military and government officials. However, most of the process of confessions came to a screeching halt in May when President Uribe extradited nearly all the top paramilitary leadership to the United States to face drug charges.

While it is positive that these commanders will no longer be able to continue committing crimes, now that they are in the United States they have little incentive to continue cooperating with the Colombian investigations. And while the extraditions clearly have had an impact on the groups' command structures, new commanders have in many cases already taken the helm.

To effectively dismantle paramilitaries' complex networks the Uribe administration should be unambiguously supporting and promoting efforts to investigate and hold accountable not only the most visible paramilitary commanders, but also their accomplices in the political system and military, as well as their financial backers and the front men who are holding or laundering their ill-acquired assets. Unfortunately, the Uribe administration has shown itself to be unwilling to take the necessary steps in this regard—particularly when it comes to dealing with Uribe's appointees and supporters in Congress, many of whom are under investigation for their links to paramilitaries.

Paramilitary Influence in the Political System

More than 60 members of President Uribe's coalition in Congress—including his cousin and closest political ally, Senator Mario Uribe, who used to be President of Congress—have come under criminal investigation for rigging elections and collaborating with paramilitaries, and more than 30 of them are already under arrest. Uribe's former head of National Intelligence is also under investigation for colluding with paramilitaries; the evidence against him is strong enough that the United States has revoked his visa.

The investigations into paramilitary infiltration of Congress are largely the result of an initiative by the Colombian Supreme Court, which has shown remarkable independence and courage. Unfortunately, instead of fully supporting this effort to strengthen the rule of law, President Uribe has often taken steps that could undermine the investigations. He has paid lip service to the need for justice and has assigned funding to the court, but he has repeatedly launched aggressive public attacks against individual justices, even calling them personally to inquire about cases. At one point, he also floated a proposal to let the politicians avoid prison, which he tabled once it became evident that it would become an obstacle to ratification of the US-Colombia Free Trade Agreement (FTA).

In addition, President Uribe recently blocked a bill that would have helped to restore the Colombian Congress's legitimacy by barring political parties linked to paramilitaries from holding onto the seats of those members who are convicted of paramilitary collaboration. Uribe administration officials have justified the decision to block the initiative by arguing that if it were implemented Uribe would lose his majority in Congress—even though that majority is currently tainted by the influence of groups

responsible for systematic crimes including at times horrific atrocities.

Violence by New Paramilitary Groups

Meanwhile, new paramilitary groups led by mid-level commanders have cropped up all over the country. The Organization of American States (OAS) Mission verifying the demobilizations has identified 22 such groups composed of thousands of members. The groups are actively recruiting new troops, and are committing widespread abuses, including extortion, threats, killings and forced displacement. Even in Bogota itself, the Office of the Ombudsman has expressed concerns over the growth of these groups, noting in a recent report that they have a presence in ten of the city's twenty neighborhoods. In the city of Medellin, after a steady decline in official indicators of violence, this year there has been a sudden and disturbing surge in homicides, apparently committed by these groups.

In recent months, eight foreign embassies in Bogotá and the OAS have reported receiving threats from these groups. Scores of human rights defenders and trade unionists involved in a March 2008 demonstration against paramilitary violence have reported being threatened and attacked. As reported by the United Nations High Commissioner for Human Rights, around the time of the march there were even some killings of organizers and participants. Several priests working on peace and development projects in the Middle Magdalena region were forced to temporarily flee the region due to the threats they were receiving from the new paramilitary groups.

Victims who have sought to press claims related to land grabs or other abuses by the paramilitaries have been killed; for example, Yolanda Izquierdo, a mother of five who represented a group of displaced farmers seeking the return of the land paramilitaries stole from them, was shot with her husband in front of their house last year. A government program supposedly designed to protect victims provides few options to most victims who need assistance, beyond general monitoring by local police—who victims often do not trust due to the well-known influence of paramilitary groups in many sectors of the state. In recent weeks, witnesses against paramilitary groups or their accomplices have also been reportedly killed and threatened. The Washington Post, for example, has reported on one plot by assassins to travel to Canada to kill an important witness against politicians linked to paramilitaries. The Canadian Embassy itself was recently threatened for a second time by the “Black Eagles” group, reportedly because it offered asylum to an important witness.

Trade unionist killings

For years, Colombia has led the world in killings of trade unionists, with more than 2,600 reported killings since 1986, according to the National Labor School, Colombia's leading non-governmental organization monitoring labor rights. Though the number of yearly killings has dropped from its peak in the 1990s, when the paramilitaries were in the midst of their violent expansion, more than 400 trade unionists have been killed during the government of current President Alvaro Uribe—39 last year alone. Impunity in these cases is widespread; in about 97% of the killings, there has been no conviction and the killers remain free.

The persistent violence against unionists is particularly significant because of Colombia's pending FTA with the United States. While Human Rights Watch has no position on free trade per se, we do believe that trade should be premised on fundamental respect for human rights, and particularly the rights of the workers producing the goods to be traded.

While withholding FTA approval may be an exceptional measure, Colombia is an exceptional case due to the extremely high rate of violence against trade unionists, the near-total impunity for that violence, and the government's failure to effectively dismantle the paramilitary groups primarily responsible for it. In our view, the United States should not grant permanent duty-free access to goods that are, in many cases, produced by workers who cannot exercise their rights without fear of being killed.

Proponents of the FTA have claimed that it is safer to be "in a union than to be an ordinary citizen" noting that the rate of unionist killings is lower than the national homicide rate. But this irresponsible claim compares apples and oranges: the "ordinary citizen" includes many people in combat zones or otherwise at unusually high risk of being killed. Moreover, trade unionists are not random victims who are being killed accidentally or in crossfire. While some of the killings are attributable to the military, guerrillas, or common crime, by far the largest share of the killings perpetrators—based on the information compiled by the Colombian Office of the Attorney General (the Fiscalía) as well as analyses by the National Labor School—is attributable to paramilitaries, who view labor organizing as a threat to their interests, and who stigmatize unionists as guerrilla collaborators. The New York Times recently described how a unionist was forcibly "disappeared," burned with acid and killed after he participated in protests against paramilitary violence in March of this year. Such targeted killings—unlike common crime—have a profound chilling effect on workers' ability to exercise their rights.

Unionist killings have increased once again this year, with 26 killings through May 30—a 70% increase compared to last year, according to the National Labor School, the main nongovernmental organization in Colombia tracking labor rights.

With US funding, the Uribe government established a program to provide protection for threatened union leaders. But through most of its tenure, it did little to prevent the violence and threats to begin with by prosecuting the killers and effectively dismantling the paramilitary organizations to which many of them belong.

The rate of convictions for unionist killings under Uribe has been consistently low: there were only 9 convictions in 2003, 11 in 2004, 9 in 2005 and 11 in 2006. In 2007, the number of convictions jumped to 43. This sudden increase is primarily due to pressure from the United States Congress in connection with the US-Colombia FTA, which led to the establishment of a specialized sub-unit of prosecutors in the Colombian the Attorney General's office to accelerate investigations of assassinations of trade unionists, a positive development. The increase in convictions is a sign that when the government

wants to produce results, it can. But to make sure that last year's increase in convictions is not merely a one-year phenomenon that later fades, it is crucial that the United States sustain the pressure until the Colombian government shows a meaningful change in the pattern of impunity over a reasonable period of time.

Some FTA proponents have asserted that the FTA would actually further the cause of human rights by stimulating job growth and creating opportunities for Colombia's poor. Whether the FTA creates jobs or not, there is no reason to think that it would magically reduce the violence against unionists and other Colombian citizens or lead to more convictions. The paramilitaries who are responsible for much of the anti-union violence are not engaging in it because they are poor or unemployed—on the contrary, due to their drug trafficking, takings of land and other criminal activities, they are extremely wealthy (and the wages for any new jobs created by an FTA cannot compete with the wealth available through crime in Colombia).

Another argument often made by the FTA's proponents is the claim that delaying ratification will somehow send a negative signal to the region, suggesting the United States is an unreliable ally. This claim is absurd given that the United States already provides hundreds of millions of dollars in assistance to Colombia every year—trade is not the only way to engage with that country or help its people. Moreover, that the Uribe administration has often sided with the United States on regional issues is no justification for turning a blind eye to the Colombian government's serious human rights record.

Achieving even some initial progress on the issues of anti-union violence and impunity has been extraordinarily difficult; we therefore continue to believe that the leverage of the FTA is best used by delaying ratification until Colombia shows concrete and sustained results in addressing them.

Extrajudicial Executions by the Army

Colombian government officials often point to the substantial decline in overall homicides in recent years. Indeed, the overall number of violent deaths in Colombia has dropped as the patterns of violence have changed. But the UN High Commissioner for Human Rights (UNHCHR) has reported that the number of killings of civilians committed directly by state forces has actually been increasing sharply. According to the database of the Colombian Commission of Jurists (CCJ), one of Colombia's most highly respected human rights organizations, there were 236 reports of extrajudicial executions between June 2006 and June 2007, a substantial increase over the 127 reports between June 2002 and June 2003, at the start of the Uribe administration. Overall, CCJ has recorded 955 such executions by state agents between June 2002 and June 2007, as well as 235 enforced disappearances attributable to state agents.

According to the Washington Post, prosecutors are actively investigating more than 500 cases since 2002, and have another 500 yet to be opened; meanwhile, the Office of the Inspector General of Colombia is currently reviewing more than 650 cases from 2003 to mid-2007 that could involve as many as 1,000 victims of executions.

Many of the cases follow a similar pattern, in which army members apparently take civilians from their homes or workplaces, kill them, and then dress them up to claim them as combatants killed in action. According to UNHCHR, investigations have revealed that “the underlying motives... may be related to pressure on the military to show results.”

In response to the concerns expressed by the US Congress (including a partial freeze of military assistance), the Colombian Secretary of Defense has issued directives clarifying that such killings are forbidden, and the Colombian Attorney General’s office has created a special group to investigate some of the killings. However, these positive measures have simultaneously been undermined by statements from President Uribe himself, who has repeatedly and publicly denied the existence of the problem, even going so far as to charge—at events both in Colombia and Washington—that the human rights defenders who report them are tools of the guerrillas and that the reports are all part of an orchestrated campaign to discredit the military.

Rising Internal Displacement

At over 3 million, the number of persons who have been forced to flee their homes and become internally displaced in Colombia is the largest in the world after that of Sudan, and it is larger than that of Iraq, according to the UN High Commissioner for Refugees. Colombia’s displaced persons overwhelmingly belong to some of the most vulnerable sectors in society, including Afro-Colombians, indigenous persons, women and children in rural areas. Once displaced, they are then forced to live in precarious conditions, often with few means of support and difficult access to assistance.

Paramilitary groups, who have had close links to the public security forces, are reportedly responsible for more displacement than any other single party—37% according to a recent study done as part of the Colombian Constitutional Court’s monitoring of the plight of displaced persons.

Moreover, the rate of internal displacement has been steadily rising since 2004. According to official statistics, nearly a quarter of a million persons reported that they were forced to leave their homes last year. Last year the International Committee of the Red Cross reported a nearly 40 percent increase in the number of persons who the organization had to assist with relocation due to threats they had received. In the remote southern state of Nariño, where new paramilitary groups have been rapidly growing and the conflict rages on ferociously, over 22,000 persons were officially reported as newly displaced in 2007 alone. And just this week, 94 persons were reportedly displaced in the impoverished region of Chocó, apparently due to violence by the new “Black Eagles” and “Rastrojos” groups.

* * *

I hope that you find the opportunity to raise the above issues during your meetings and appearances in Colombia. As noted above, doing so would send a clear message to victims and the broader Colombian public that these issues are important, that the truth

matters, and that principled statesmanship includes speaking plainly to allies and foes alike.

I also recommend that while in Colombia you seek to meet with leaders who can offer you insights on these issues that you likely will not hear from many Uribe administration officials. Such leaders include Supreme Court justices, the attorney general (the Fiscal General), the inspector general (the Procurador General), as well as human rights defenders and trade unionists. I would be happy to provide you with specific names and contact information if it would be of use to you.

Once again, I urge you not to take at face value the Colombian government's efforts to suggest that the FARC provides the only significant challenge to human rights and democracy in Colombia. The FARC is a significant threat. But so too is the continued sway of paramilitaries in large parts of the country and in key institutions. The Uribe administration's failure to address this cancer more forcefully, rhetoric and initial reforms notwithstanding, warrants your attention.

Many thanks for your interest and concern.

Sincerely,

/s/

Kenneth Roth
Executive Director