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COMMITTEE ON EDUCATION AND LABOR

U.S. HOUSE OF REPRESENTATIVES

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January 25, 2008

President Álvaro Uribe Vélez
Presidency of the Republic of Colombia
Palacio de Nariño
Bogotá, Colombia

Dear Mr. President:

As Chairman of the Committee on Education and Labor in the United States House of Representatives, I write to express my serious concern over the recent decision by the Colombian *Consejo Superior de la Judicatura* to remove Judge José Nirio Sánchez from his position as one of three Colombian judges handling the significant backlog of criminal cases stemming from the thousands of assassinations of labor union leaders and members.

During my recent trip to Colombia, I met with all three of the specialized Colombian labor judges who handle the criminal trials for the alleged assassins. At the time of this meeting, all three judges had been suspended and did not know whether they would be allowed to return to their positions. I also met with the prosecutors in the Human Rights Division of the Colombian Office of the Attorney General. I was very impressed by those meetings and was left feeling hopeful that this legal process – which began only six months ago and is thus still in its infancy – has the potential to eventually help Colombia address its serious problem of impunity for human rights and labor rights abuses and to strengthen civil society.

However, I am deeply concerned that the legal process is being undermined by the sudden removal of Judge Sánchez just days after I met with him. His removal came in the middle of a significant number of labor assassination cases currently pending before him and with no explanation as to the criteria used for his replacement. I am also troubled by Colombia's decision to only extend the tenure of the other specialized labor judges for a mere six months, when numerous expert observers have said that it will take many years to adjudicate the assassination cases.

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As a result of my concerns, I have directed my Committee staff to continue investigating issues related to the safety and labor rights of Colombian workers and union leaders. In that regard, I have a number of important questions to which I respectfully request your response.

- *Why did the Colombian government allow the judicial positions for the three specialized labor judges to expire in December 2007? And, will the government allow the same interruption of the judicial process to occur again six months from now?*

As you know, the Colombian government entered into an agreement with the International Labor Organization in June 2006 that created a permanent I.L.O. office in Bogotá. Stemming from this agreement with the I.L.O., the Colombian Office of the Attorney General also created a special unit of prosecutors to develop expertise in the criminal prosecution of the alleged assassins of labor union leaders. In addition, the Colombian government signed *Acuerdo No. 4082* in the summer of 2007, which established the judicial positions for the three specialized labor judges to handle the large backlog of such criminal cases. Finally, in late 2007, the United States Congress, in recognition of the potential importance of this fledgling legal process in Colombia, appropriated millions of dollars in aid to the Colombian government specifically for use in further developing the system of justice pertaining to cases involving labor assassinations.

However, this promising legal process came to an abrupt and surprising halt in the final days of last year. On December 26, 2007, Colombia's leading daily newspaper, *El Tiempo*, reported that the Colombian government had dismissed all three of the specialized labor judges from their positions as of December 31, 2007. By the time I met with the three judges in Bogotá on January 12, 2008, they had been out of work for two weeks, had been forced to cancel important January hearings for pending criminal trials, and they had no idea whether they would be reappointed to their positions.

Several officials in your Administration have attempted to explain the judges' suspension as a typical January "judicial vacation," but this claim is unpersuasive given that the three judges had no idea on January 12 whether or not they would eventually be allowed to return to work as specialized labor judges. In addition, the judges told me they had previously scheduled several hearings for early January, which suggests this period of time was not intended to be their vacation. Indeed, when I met with the judges, they were not even certain whether the Colombian government planned to retain those three particular judicial positions at all.

I raised these serious concerns with several high-level Colombian government officials – including the Vice President and Attorney General – and I was assured that the three judicial positions would be renewed at some point this month. In addition, it was suggested to me that the renewal of the judicial positions would be for a full-year term. Thus, I was surprised

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when, the day after I returned from my trip, the Colombian Government published *Acuerdo No. 4443*, which officially extended the three judicial positions for only six months.

I was particularly surprised to learn of the short-term extension of the judicial process because not a single representative of the Colombian government with whom I spoke offered the opinion that the significant backlog of labor cases could conceivably be adjudicated by July 2008. If it is the intention of the *Consejo Superior* to continually extend this judicial process every six months for new six month intervals, I am concerned that such a plan will create unnecessary uncertainties and delays in the adjudication of these cases.

My colleagues in the United States Congress and I are particularly concerned as to whether or not the Colombian government has created a sustainable process for finally ending the impunity enjoyed by those who have killed or harassed labor leaders in Colombia. The recent disruptions to the legal process for adjudicating these labor cases raise serious questions as to whether this effort is in fact serious and sustainable.

- *In what ways were the criminal cases pending before the two specialized labor judges who were ultimately retained by the Consejo Superior nevertheless prejudiced by the fact that these judges were temporarily suspended beginning on December 31, 2007?*

It is my understanding that due to the Colombian government's failure to renew the three judicial positions in a timely fashion in December 2007, their positions were officially vacant for a period of several weeks. I further understand that as a result, certain hearings and trials – including a hearing for a politically-influential former Colombian Senator who is now a defendant in an assassination case – have been postponed to at least February 2008.

Thus, I request that you provide me with a list of all the hearing dates that were scheduled for January 2008, including the name of the defendant or defendants in each hearing, and also provide the date in February or March 2008 to which each hearing has been rescheduled. I am concerned that any witnesses who had planned to give testimony – possibly at risk of his or her own security – at hearings in January may be scared away from the process due to the change of dates and resulting uncertainty.

Furthermore, I request that you explain what steps you intend to take to ensure that similar delays do not occur in July 2008 – and presumably January 2009 – given the apparent decision to renew the three judicial positions for only six month intervals. It would be very troubling if the Colombian judiciary began a pattern of canceling important hearings and trials every six months while government officials determine whether or not to continue this important legal process.

Again, the concern that I and my colleagues have is for the integrity and sustainability of the effort to prosecute those who have killed or harassed labor leaders and union members in Colombia. I believe that this judicial process must be fair, efficient, and uninterrupted in order to send forth the message that such heinous crimes will no longer be tolerated by the government of Colombia.

- *What were the specific criteria used by the Consejo Superior de la Judicatura when it decided to retain two of the specialized labor judges, but to replace Judge José Nirio Sánchez?*

As I already explained, I spent almost two hours meeting with all three of Colombia's specialized labor judges on January 12, and I came away from that meeting impressed by each of the judges. I was certainly impressed by Judge Sánchez and his more than twenty years of experience as a Colombian judge. Indeed, during my numerous meetings, several government attorneys and high-level government officials expressed their opinion that all three of the specialized labor judges were performing their judicial duties with the prudence and excellence warranted by such an important legal process. Moreover, one of the Colombian human rights attorneys with whom I met during my trip wrote to me as soon as he heard that Judge Sánchez had lost his position as a specialized labor judge to express his opinion that Judge Sánchez had done "excellent work" during the first six months of the I.L.O. legal process in Colombia.

This same Colombian human rights attorney speculated in his letter to me that the Colombian government may have replaced Judge Sánchez in retaliation for his rulings that found guilty several high-profile assassin defendants, or perhaps in retaliation for the fact that Judge Sánchez had coordinated the meeting between me and the three specialized labor judges during my visit. In that same vein, another human rights observer has noted that Judge Sánchez complained last year that the Colombian government had initially provided no security to protect from possible attempts on his life, and that Judge Sánchez's firing might possibly be in retaliation for this complaint.

I do not have any specific evidence that would substantiate these concerns. However, in order to avoid even the appearance that the Colombian government inappropriately inserted political considerations into the firing of Judge Sánchez, I hope that you will specifically detail the criteria used by the *Consejo Superior de la Judicatura* when it decided to replace him. You might consider, for example, releasing the notes of the meeting at which the *Consejo Superior* either decided or voted to replace Judge Sánchez. It strikes me that it is important to make public such criteria because that information will affect the extent to which the current three specialized labor judges may act independently, knowing that they will in essence be reviewed – and potentially replaced – at the end of each six month period depending on whether they meet the currently secret criteria.

- *In what ways will the criminal cases formerly pending before Judge Sánchez be prejudiced by the fact that they will now be handled by a new judge who has no specific knowledge of these particular cases?*

I understand that the *Consejo Superior* has recently appointed a new judge to replace Judge Sánchez, and that this new judge will soon begin her duties on the specialized labor court, if she has not begun already. I have no reason to doubt that this new judge will carry out her judicial responsibilities in an appropriate manner, but I do worry that she will – quite understandably – need time to learn the facts and law with which Judge Sánchez was already very familiar. I understand that several cases were already underway, with certain pre-trial hearings already held by Judge Sánchez in late 2007, and no new judge could reasonably be expected to continue such legal proceedings without first taking considerable time to study the prior record in each case. Moreover, I am concerned that if the specialized labor judges are in fact replaced every six months, no judge will be able to gain the type of expertise that should be applied to efficiently and effectively deal with the enormous backlog of pending labor assassination cases in Colombia.

- *Finally, given the backlog of assassination cases awaiting adjudication in the specialized labor court system, has the Colombian government considered increasing the number of specialized labor judges?*

Several Colombian attorneys with whom I met – including those from the non-profit sector and from the Office of the Colombian Attorney General – expressed their opinion that the current backlog of labor cases requires as many as six specialized labor judges, which is twice as many as currently exist. I do not write at this time to express any particular opinion on the exact number of specialized judges that would be appropriate given the number of un-investigated and un-tried cases. Instead, I encourage you to conduct such an analysis, perhaps in cooperation with the I.L.O, to determine the best number of judges for this important mission.

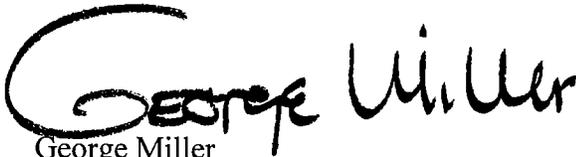
As I requested above, I hope that you and Dr. Hernando Torres Corredor, Administrative Director of the *Consejo Superior de la Judicatura*, will provide me with detailed answers to the critical questions I have raised. I have written to you with these extensive questions because of my sincere hope of seeing your country succeed in finally ending its long history of impunity for human rights abuses. I am proud that I helped lead the U.S. House of Representatives to appropriate money to the Colombian government for the purpose of bolstering the Colombian judicial system for prosecuting labor assassination cases, and I would be open to supporting additional funds for Colombia in the next budget. However, I believe Colombia must first do more to ensure that its judicial system functions in the

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strongest possible manner and avoids even the appearance of impropriety in the handling of these important cases.

I appreciate your attention to my concerns and I look forward to your prompt reply. In addition, I appreciate the many courtesies that my colleagues and I were afforded on our recent trip to your country.

Sincerely,

A handwritten signature in black ink that reads "George Miller". The signature is written in a cursive style with a large, sweeping initial "G" that loops around the first part of the name.

George Miller
Chairman
Committee on Education and Labor

cc: The Honorable Mario Germán Iguarán Arana, Attorney General of Colombia
The Honorable Hernando Torres Corredor, Consejo Superior de la Judicatura
The Honorable Carolina Barco, Colombian Ambassador to the United States
The Honorable William Brownfield, U.S. Ambassador to Colombia
The Honorable Marcelo Castro Fox, I.L.O. Representative to Colombia