

April 5, 2010

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

Dear Secretary Clinton:

I am writing to express my profound concern over United States Agency for International Development (USAID) funding for the Office of the Attorney General of Colombia (Procurador General de la Nación). We anticipate, given the current situation, that the funds may be used to support efforts by Colombia's current Attorney General to undermine recent important advances in women's reproductive rights and health in Colombia, and we request that the State Department take certain key steps to assure that U.S. dollars are not misused for such a purpose.

The mandate of the Colombian Attorney General is "to enforce the Constitution and the law [and] to promote the protection of fundamental rights."ⁱ In April 2009, USAID pledged a grant of \$2.9 million to the Attorney General's programmatic work, as part of the U.S. Government's "effort to promote, defend and respect human rights in Colombia."ⁱⁱ Lamentably, however, rather than using his powerful position to promote human rights, Colombia's current Attorney General, Alejandro Ordóñez Maldonado, is instead taking steps to undermine recent and significant gains for women's rights in the country.

This is a clear step backwards for Colombia. Over the past several years, Colombia's government has shown an increased commitment to the promotion and protection of women's rights. On May 10, 2006, the Colombian Constitutional Court held that a blanket ban on abortion was unconstitutional, recognizing that "women's sexual and reproductive rights have finally been recognized as human rights, and, as such, they have become a part of constitutional rights, which are the fundamental basis of all democratic states."ⁱⁱⁱ The Court mandated that abortion be legally accessible, at a minimum, when continuation of the pregnancy poses a risk to the life, physical or mental health of the woman, when the pregnancy is the result of a non-consensual or illegal act, or when the fetus is not viable due to fetal abnormality.^{iv}

Following the Constitutional Court's landmark decision, the Minister of Social Protection issued regulations to ensure the implementation of the Court's decision in a manner consistent with

international standards recommended by the World Health Organization.^v In response to a series of cases challenging the validity of the decision, the Constitutional Court has developed a rich jurisprudence affirming this right and defining its scope and content, including clarifying the rights of adolescents and disabled women to consent to abortion and prohibiting discrimination against women who are unable to pay for legal abortion services.^{vi}

Rather than respecting and protecting these advancements for women's rights, as his post requires, Attorney General Ordóñez actively seeks to dismantle them. In a memorandum about implementation of the Court's ruling in May 2006, Mr. Ordóñez outlined requirements for medical institutions "to ensure the fundamental rights of the unborn human beings" even in those instances where abortion is legal,^{vii} notwithstanding the fact that the Constitutional Court explicitly held that the fundamental right to life that human beings enjoy under the Colombian Constitution does not extend to fetuses.^{viii} Moreover, in response to a recent decision by the Constitutional Court affirming both the right to abortion in some circumstances and that assertions of conscientious objection are limited to medical practitioners,^{ix} Mr. Ordóñez announced that he would seek a nullification of the ruling.^x

In addition, Mr. Ordóñez appointed Ylva Myriam Hoyos, one of the most outspoken opponents of the Constitutional Court's decision on abortion, as the Delegated Attorney for the Defense of the Human Rights of Children, Adolescents and the Family.^{xi} Ms. Hoyos has used her position to limit women's access to legal abortion services, most recently by announcing an investigation into the creation of a women's health clinic in Medellín, which ultimately led the Mayor of Medellín to declare that legal abortions would not be performed at the clinic.^{xii} Ms. Hoyos is also the founder of Red Futuro Colombia, an organization whose efforts to nullify the Minister of Social Protection's norm implementing the Court's decision on abortion has led to a temporary suspension of this norm, impeding women's access to this constitutionally protected procedure.^{xiii}

I value your personal commitment to women's reproductive rights and this Administration's recognition that "there is a direct line between a woman's reproductive health and her ability to lead a productive, fulfilling life."^{xiv} I am therefore deeply concerned that USAID has allocated significant financial support to an institution that is actively seeking to undermine women's reproductive rights. I urge you to ensure that U.S. funding of foreign human rights institutions is consistent with the State Department commitments to promote and protect women's reproductive rights, in particular by:

- Establishing clear guidelines and oversight mechanisms to ensure that U.S. funding earmarked for, or disbursed to, the Office of the Attorney General is not being used to undermine or challenge these rights; and
- Ensuring that future USAID funding earmarked for Plan Colombia does not support Attorney General Ordóñez's programmatic work on issues related to reproductive health.

As President of the Center for Reproductive Rights, an organization that works in the U.S. and internationally to protect the reproductive rights and health of women around the world, I

appreciate your attention to this troubling matter. Please do not hesitate to contact our office with any questions or if you would like additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Nancy Northup". The signature is fluid and cursive, with the first name "Nancy" being more prominent and the last name "Northup" following in a similar style.

Nancy Northup, President
Center for Reproductive Rights

Endnotes

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- ⁱ Procuraduría General de la Nación: *Misión y visión*, http://www.procuraduria.gov.co/html/infoinstitucional/infoinst_misionv.htm.
- ⁱⁱ U.S. Embassy in Bogotá, *U.S. Supports Strengthening of Prosecutor General Office's Human Rights Program* (Apr. 3, 2009), http://bogota.usembassy.gov/pr_27_030409.html.
- ⁱⁱⁱ Corte Constitucional de Colombia, 10/5/2006, "C-355/2006 / Acción de Constitucionalidad" (Colom.), in Women's Link Worldwide, *Colombian Constitutional Court C-355/2006: Excerpts of the Constitutional Court's Ruling that Liberalized Abortion in Colombia* 31 (2007)[hereinafter Excerpts of Colombian Constitutional Court's Decision], available at: http://www.womenslinkworldwide.org/pdf_pubs/pub_c3552006.pdf.
- ^{iv} Excerpts of Colombian Constitutional Court's Decision, *supra* note iii.
- ^v Ministro de Protección Social (Ministry of Social Protection), Decreto 4444, Diario Oficial de Colombia (Dec. 13, 2006).
- ^{vi} Mónica Roa, IPAS NEWSROOM, *Reproductive rights in Colombia under attack* (Feb. 16, 2010), http://www.ipas.org/Library/News/News_Items/Reproductive_rights_in_Colombia_under_attack.aspx.
- ^{vii} Procuraduría de la Nación, Circular Número No. 30 (May 13, 2009).
- ^{viii} Excerpts of Colombian Constitutional Court's Decision, *supra* note iii.
- ^{ix} Corte Constitucional de Colombia, 28/5/2009, "T-388/09 / Acción de Tutela" (Colom.).
- ^x Ángela Castellanos Aranguren, *Colombia: Altas Cortes chocan sobre despenalización del aborto*, DIARIO ROTATIVO (Oct. 28, 2009), available at http://rotativo.com.mx/globales/colombia_altas_cortes_chocan_sobre_despenalizacion_del_aborto/724.4.21504.html.
- ^{xi} Roa, *supra* note vi.
- ^{xii} Juanita León, *La Procuradora Delegada para la Mujer: ¿juez y parte en el caso de la Clínica de la Mujer en Medellín?*, LA SILLA VACIA (Sept. 30, 2009), available at: <http://www.lasillavacia.com/historia/4529#>.
- ^{xiii} Roa, *supra* note vi.
- ^{xiv} Hillary Rodham Clinton, STATE DEPT., *Remarks on the 15th Anniversary of the International Conference on Population and Development* (Jan. 8, 2010), <http://www.state.gov/secretary/rm/2010/01/135001.htm>.