

Congress of the United States
Washington, DC 20515

January 18, 2017

The Honorable Jeh Johnson
Secretary of Homeland Security
U.S. Department of Homeland Security
Nebraska Avenue Complex
3801 Nebraska Avenue, NW
Washington, DC 20528

Dear Secretary Johnson:

The United States recently celebrated Colombia's historic peace agreement between the government and the FARC rebel group, which passed unanimously in the Colombian House of Representatives on November 30th. In a meeting with President Juan Manuel Santos on December 1st, Vice President Biden reiterated our commitment to assist in the implementation of the peace accords, including the "protection of victims' rights, and application of the transitional justice framework in a transparent manner with the full engagement of civil society." Secretary Kerry similarly confirmed U.S. support in order to "help achieve a just and lasting peace for all" by advancing Colombia's "institutional development" and "aiding conflict victims."¹

A robust process of truth, justice and reparations is a precondition to peace in a country divided by half a century of armed conflict. For this reason, we would like to bring to your attention an outstanding obstacle to strengthening Colombia's justice system and ensuring accountability for victims of the war.

At present, more than three dozen former paramilitary leaders of Colombian nationality are reported to be in the U.S. corrections system. They have been granted relatively lenient sentences for drug-trafficking-related charges—on average seven and a half years—yet many are still wanted in Colombia to be held to account for far more serious, conflict-related offences, including crimes against humanity.² Death-squad commander Salvatore Mancuso, for example, will be held in U.S. prison for little over 12 years for cocaine manufacture and shipment despite having been found responsible by Colombian courts for the death or disappearance of more than 1,000 people.³

¹ Readout of Vice President Biden's Meeting with President Juan Manuel Santos of Colombia," Office of the Vice President, 12/2/16; "Revised Colombia Peace Accord Approved," Department of State, 12/1/16.

² Deborah Sontag, "The Secret History of Colombia's Paramilitaries and the US War on Drugs," *New York Times*, 9/10/16.

³ Simon Romero, "Imprisoned Colombian warlord is a frightening reminder of a bloody conflict," *New York Times*, 7/27/17.

Two other paramilitary leaders, Juan Carlos Sierra and Carlos Mario Aguilar, have been released from U.S. prisons after serving five- and seven-year prison terms, respectively.⁴ They were granted haven in the United States through Convention Against Torture protections, although both are believed to have been involved in murder in their home country, and have pending Colombian warrants for their arrest. An investigation by *The New York Times* found that they currently live freely in the United States with their families, who were granted asylum as well. Three other paramilitary associates are in the process of obtaining Convention Against Torture protections, with more paramilitary detainees expected to do the same.⁵

As you know, the Department of Homeland Security applies the Convention Against Torture protection to defer the removal of a noncitizen to “the country where he or she is more likely than not to be tortured.” This status is “subject to review and termination” if subsequently determined that “it is not likely that the alien would be tortured.”⁶

U.S. conferral of Convention Against Torture protections to Colombian paramilitary leaders has been decried by both human rights groups and Colombian authorities. Former Vice Minister of Justice Miguel Samper Strouss considered the paramilitary defendants’ claims that they would most likely face torture were they returned to Colombia “unbelievable,” and cited the Inter-American Human Rights Commission’s recognition of the country’s individual protection program as among the world’s “finest.”⁷

Today, in light of the Colombian parliament’s ratification of President Santos’ peace agreement, the likelihood of the Colombian government to torture paramilitary suspects upon their return to the country is even more implausible. We believe it is crucial that U.S.-residing paramilitaries be returned to Colombia—not only to be judged for wide-ranging and grave abuses, but to actively participate in a society-wide reckoning of the decades of violence. Given that paramilitary groups were found culpable for 58.9 percent of all known massacres in Colombia from 1980-2012, their testimonies would play a pivotal role in furthering Colombia’s groundbreaking legal framework to ensure that justice, accountability, and the rights of victims are the bedrock upon which a lasting peace for all citizens is built.⁸

For this reason, we strongly urge you to direct legal counsel at U.S. Citizenship and Immigration Services with jurisdiction over Mr. Sierra’s and Mr. Aguilar’s cases to file motions with Immigration Courts to schedule hearings on their status. Immigration judges should now consider whether the suspects’ deferral of removal under the Convention Against Torture should be terminated in light of Colombia’s newly ratified peace accord.

⁴ “Rogelio, capo de la oficina de Envigado, a un paso de su libertad,” *El Tiempo*, 5/15/15.

⁵ Sontag, “Secret History,” *New York Times*, 9/10/16.

⁶ “§ 208.12 Deferral of removal under the Convention Against Torture,” Regulations Concerning the Convention Against Torture [64 FR 8478] [FR 9-99], Federal Register Publications (CIS, ICE, CBP) 1999

⁷ Sontag, “Secret History,” *New York Times*, 9/10/16.

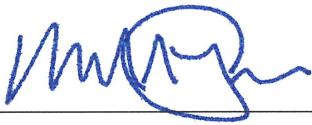
⁸ Historical Memory Group, “Basta Ya! Colombia: Memories of War and Dignity,” National Commission for Reparation and Reconciliation, 2016.

The precise number of Colombian paramilitary detainees in the United States is not publicly known due to the Department of Justice's decision to seal sensitive documents, hide basic information and, at times, erase such suspects from the public docket, according to the *Times*.

We therefore also ask the Department of Homeland Security to publicly recognize Colombia's strong legal protections, significant U.S. investments in Colombia's judiciary, and the U.S. commitment to Colombia's peace process in relation to the cases of all Colombian paramilitaries that may be in U.S. custody.

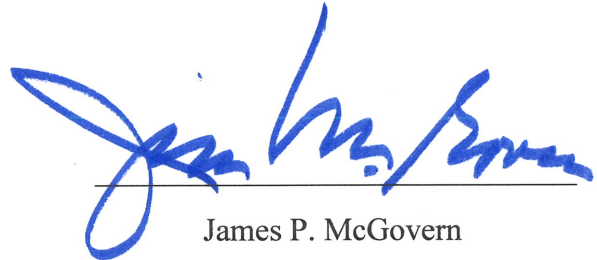
We respectfully encourage the Department of Homeland Security to acknowledge the severity of the crimes perpetrated by Colombian paramilitary suspects residing in the United States and recognize that crimes against humanity take precedence over drug crimes. By facilitating these suspects' compliance with their outstanding legal obligations in their home country, your agency will contribute more effectively to the longstanding U.S. hemispheric priority of achieving peace in Colombia, and strengthening our partnership with our strongest ally in the region.

Sincerely,



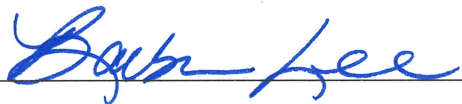
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Member of Congress



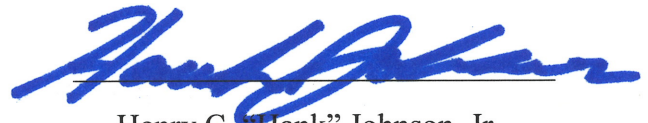
James P. McGovern

Member of Congress



Barbara Lee

Member of Congress



Henry C. "Hank" Johnson, Jr.

Member of Congress

CC: Secretary of State John Kerry; Attorney General Loretta Lynch