

Sra. Magistrada Diana Fajardo Rivera
President of the Constitutional Court Colombia
Palace of Justice, Bogotá

Sr. Magistrado José Fernando Reyes Cuartas
Vice-President of the Constitutional Court Colombia
Palace of Justice, Bogotá

January 20, 2024

Dear Distinguished Magistrates of the Court:

We are disappointed to learn that on December 11, 2023, the Constitutional Court (CC) of Colombia decided to annul President Gustavo Petro's Decree 1272 which sought to address the humanitarian crisis in La Guajira Department, specifically to give aid to pregnant women and children of the Wayúu Indigenous community who are in a state or risk of malnutrition.

Under the president's decree, the government had begun disbursing 500,000 pesos (about US\$125) to families in food-severe conditions. We understand that the CC declared the president's decree "unenforceable" and therefore ruled that payments that had not been made to date must be cancelled. We are glad to learn, however, that money transfers that were made before the ruling do not have to be returned to the government.

La Guajira is plagued by a lack of basic services, extreme poverty, and malnutrition. Although located on the Atlantic coast, much of the region is experiencing desert conditions due to climate change. President Petro signed a State of Emergency (Decree 1085) on July 2, 2023, giving the Executive Branch broad powers to mitigate the effects of extreme climate phenomena, such as regularizing the supply of drinking water as a means of battling disease. On October 2, 2023, the CC declared "inapplicable" the State of Emergency. The court ruled that it would do an individual analysis of each of the thirteen decrees that were part of the State of Emergency. It is disheartening that the CC has already repealed ten such initiatives, and more rulings are pending.

It is reported that La Guajira is the department with the highest prevalence of food insecurity. Of 1,762 cases of severe and moderate malnutrition among children under the age of five years (documented by local health authorities Jan 1-Sep 2, 2023), 1,342 came from Indigenous communities. Some of the most affected municipalities (Maicao, Manaure, and Uribia) are in the Alta Guajira region, home to the Wayúu people, the largest Indigenous community in Colombia. The "El Niño" weather phenomenon started in June 2023 and is forecasted to last until at least March 2024. It has been causing droughts and heatwaves, affecting yields of food staples such as rice and corn. Exacerbating the situation is migration from Venezuela and the presence of armed groups. In August 2023, the Office of the Human Rights Ombudsman published an Early Alert saying La Guajira was experiencing a humanitarian crisis due to the presence of armed groups and the potential for massive displacements related to territorial disputes.

We strongly urge that you work with the Executive and Legislative Branches of the government to find constitutionally sound measures to address the humanitarian crisis in La Guajira.

Sincerely,



Brian J. Stefan Szittai
Co-Coordinator



Christine Stonebraker-Martinez

copies: Excmo. Sr. Presidente Gustavo Petro Urrego, Presidente de la República ~ via email
Francisco Barbosa Delgado, Fiscal General/Attorney General of Colombia ~ via email
Luis Gilberto Murillo, Ambassador of Colombia to the US ~ via email, US mail
José Luis Caballero Ochoa, Rapporteur for Colombia, Inter-American Commission on Human Rights (IACHR) ~ via email, US mail
UN: Juliette De Rivero, Representative in Colombia of the United Nations High Commissioner for Human Rights ~ via email
US Embassy: Francisco Palmieri (Chargé d'Affaires, ad interim); Adam Levy (human rights) ~ via email
US State Department: Desk Officer for Colombia ~ via email
US Senators from Ohio: Brown & Vance ~ via email
US Representatives from Ohio: Beatty, Brown, Jordan, Joyce, Kaptur, Latta, Miller, Sykes ~ via email

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The following people hereby urge you to take action on this matter as indicated in this letter: