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URGENT ACTION

Nicaragua: Legal concern/Impunity, USA

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EXTRA 34/03 Legal concern/Impunity

NICARAGUA Impunity for aid: USA and international justice

Urgent Actions
Amnesty International's global Urgent Action network provides an effective and rapid means of preventing some of the most life-threatening human rights violations against individuals. Join the Urgent Action network

In the next few days, the National Assembly of Nicaragua is due to discuss the ratification of a bilateral agreement with the USA. This agreement would provide impunity for US nationals accused by the International Criminal Court (ICC) of genocide, crimes against humanity and war crimes, including crimes committed on Nicaraguan territory.

By demanding immunity for such crimes, the USA is effectively declaring itself to be above international law and outside the international system of justice.

Nicaragua has not signed or ratified the 1998 Rome Statute, which provided for the establishment of a permanent ICC to investigate and prosecute cases of genocide, crimes against humanity and war crimes. However, last week, Nicaragua reportedly signed an agreement with the USA pledging not to extradite US soldiers for prosecution by the ICC. Final approval for the agreement has to be given by the Nicaraguan National Assembly within 15 days of the agreement being signed. There is only around a week of this 15-day period remaining.

To date, some 38 states have reportedly signed similar agreements and four states have ratified them, most under intense pressure from the US. The majority of states have however refused to do so. The US has set a deadline for all agreements to be signed by 1 July, after which countries not agreeing to the pacts will lose US military aid, unless the US President issues a waiver on grounds of national security.

BACKGROUND INFORMATION

Amnesty International has been working towards the establishment of the ICC for nearly 10 years, believing that it is an essential mechanism to end impunity for the worst crimes known to humanity. No one should have impunity for such crimes.

Amnesty International, together with the majority of the international community, believes that the US government's concerns that the ICC will be used to bring politically motivated prosecutions against US nationals are wholly unfounded. The substantial safeguards and fair trial guarantees in the Rome Statute would ensure that such a situation would never arise. Amnesty International is confident that the ICC, with 18 of the highest qualified and respected judges in the international community and a highly qualified and experienced Prosecutor, will allay the US government's concerns, leading the government to change its position in due course.

There may be fears that the USA could take retaliatory measures against any state that has refused to sign such agreements. However, the American Service Members' Protection Act of 2002, which authorises the withdrawal of military assistance, also states that the President may waive it at any time for reasons of 'national interest'. There is therefore no obligation on the US to cease military aid if an impunity agreement is not signed.