



DAY OF THE ENDANGERED LAWYER



AVOCATS EUROPEENS DEMOCRATES
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ELDH European Association of
Lawyers for Democracy and
World Human Rights

Day of the Endangered Lawyer 2014

BASIC TEXT LAWYERS IN COLOMBIA

Lawyers in Colombia

Colombia is an extremely dangerous country to be a lawyer, and to uphold the right to access justice. According to information from the Attorney General's Office in 2012, there were **over 4,400 incidents against lawyers between 2002 and 2012**¹, and according to the Colombian Caravana UK Lawyers' Group, **over 400 lawyers have been killed in Colombia since 1991**. This means that **on average one lawyer is killed every month in Colombia**. In the first eight months of 2013, 11 lawyers were killed in the region of Valle del Cauca alone².

A small minority of the over 200,000 lawyers in Colombia are **human rights lawyers**; dedicated to representing the most vulnerable populations most affected by human rights violations, including extrajudicial killings and forced disappearances, and by violations related to the armed conflict. These marginalised sectors include small-scale rural producers, poor urban communities, internally displaced persons, indigenous peoples and Afro-Colombian communities whose ancestral lands are often in natural resource rich regions or otherwise strategic due to their location³. These **human rights lawyers, part of a community of human rights defenders in Colombia**, represent and provide a voice for these individuals and groups who suffer the effects of the dramatic, violent and relentless threats to their means of survival, their way of life and their very existence. In essence, these lawyers play a fundamental role in trying to guarantee access to justice and uphold the rule of law in the country.

Because of this vital role in exposing and fighting against injustice, **human rights lawyers themselves are often targets of intimidation, arrest and physical violence, and some have been murdered**. On September 11, 2013, lawyer **Edison Alberto Molina** was killed in Puerto Berrío, Antioquia department⁴. He was shot by unknown assailants as he was riding home on his motorcycle with his wife, who suffered minor injuries. He had just finished presenting his radio program, Legal Clinic. In his program, Molina frequently made allegations of corruption in local government departments.

A substantial number of threats against human rights lawyers originate from illegal paramilitary groups which, although officially demobilised, in reality continue to operate throughout Colombia. These threats often accuse human rights lawyers of being involved with the guerrilla armed groups, thereby leaving them open to attack. According to the Movement for Victims of State Crimes (MOVICE), their lawyer **Jeison Pava** has been threatened by paramilitary groups five times, the most recent incident occurred in July

¹ Information given to the Colombian Caravana – International Caravan of Jurists, and presented to the Head of the Human Rights Division in the Deputy Attorney General's Office in August 2012.

² See Colombian Caravana UK Lawyers' Group, letter of concern, August 18, 2013: <http://www.colombiancaravana.org.uk/wp-content/uploads/2013/04/Juan-Carlos-Canizalez-Ocampo.pdf>

³ http://www.asfcanada.ca/uploads/publications/uploaded_rapport-2013-03-colombie-ang-v2-lq-pdf-45.pdf

⁴ <http://www.oas.org/en/iachr/expression/showarticle.asp?artID=932&IID=1>

2013, when he received a threatening email accusing him of being a member of the guerrilla⁵. The high level of killings of human rights defenders means that these threats against them must be taken very seriously. According to data published by the We Are Defenders Program (*Programa Somos Defensores*) murders of human rights defenders increased by 27% in the first half of 2013 (from 29 cases in 2012 to 37 in 2013)⁶.

Recent threats from illegal armed groups have also accused lawyers and other human rights defenders of hampering the work of multinational companies. On August 4, 2013, the paramilitary group “*Los Rastrojos - National Urban Commandos*” circulated a pamphlet declaring a number of trade unionists and human rights organisations, including the **José Alvear Restrepo Lawyers’ Collective (CAJAR) and lawyer José Humberto Torres from the Committee for Solidarity with Political Prisoners (CSPP)**, as military targets⁷, and accusing them of “*attacking the good and noble intentions of the high government of Dr. Juan Manuel Santos for peace and democratic prosperity, and stopping the progress of multinational companies such as Glencore, Drummond, Pacific Rubiales, AngloGold Ashanti*”. This is of serious concern, as threats such as this one appear to be aimed at discouraging human rights lawyers from making legal complaints against the activities of multinational companies. It also raises the question of how multinational companies can ensure they are not directly or indirectly benefitting from this kind of threat against the legitimate defence of human rights.

Indeed, **human rights lawyers who work on cases of human rights violations in rural areas where small-scale producers are attempting to return to lands illegally expropriated from them, and where development projects are being implemented, often face extra pressures**. The Pitalito community⁸ in the Cesar Department of Colombia, were victims of forced displacement starting on the 24th of June 2010, due to violent acts against them by members of the National Army, the ESMAD riot police, and a group of private armed guards (‘los Guajiros’) acting on behalf of Señor Juan Manuel Fernández de Castro, a palm oil plantation owner who heads Orlandesca and is affiliated with the National Federation of Palm Oil Farmers (Fedepalma). The community began returning to their lands on 21st of May 2013, and they and their accompanying lawyers from the ‘Pueblos’ Legal Team and the Foundation Committee of Solidarity with Political Prisoners, members of the Directing Committee of the National Movement of Victims of State Crimes (MOVICE), have encountered numerous difficulties since their departure. In July 2013, Señor Fernández de Castro has recently filed criminal complaints against members of the returning community and the accompanying lawyers. These complaints amount to an escalation of the false accusations that have been made against the lawyers since the beginning of their return, which seek to delegitimize their return and threaten their lives, personal integrity and freedom. In September 2013, lawyers **Rommel Duran and Leonardo Jaimes Marín from the**

⁵ <http://www.colombiancaravana.org.uk/wp-content/uploads/2013/05/Pava-and-Martinez-14072013-FINAL-Eng.pdf>

⁶ <http://www.somosdefensores.org/index.php/extensions/ultimas-noticias/417-informe-semestral-2013-siaddhh-heroes-anonimos>

⁷ See Colombian Caravana UK Lawyers’ Group, letter of concern, August 15, 2013:

<http://www.colombiancaravana.org.uk/wp-content/uploads/2013/04/Death-threats-CAJAR-Aug-15-Eng-Final.pdf>

⁸ See various letters from Caravana on this case, the latest in July 2013: <http://www.colombiancaravana.org.uk/intervention-letters/>

'Pueblos' Legal Team were arbitrarily detained by Police who made verbal accusations that they were members of the guerrilla, as they made their way to the Pitalito community⁹.

In another such case, on 1 August 2013, **Manuel Garzón, a lawyer from the Inter-Church Justice and Peace Commission (CIJP)** was followed as he left his office in Bogotá, and told him to, "*Stay quiet with what you are doing*" (quédense quietos con lo que están haciendo). Paramilitaries are understood to be keeping members of the NGO, who work with the communities of the Curvaradó and Jiguamiandó River Basin, under surveillance. Paramilitaries have kept human rights defenders under surveillance before attempting to kill them. A judge had ruled on 30 July that two businessmen linked to the African palm industry were responsible for the forced displacement of the communities of the Curvaradó and Jiguamiandó River Basin, aggravated conspiracy to commit a crime, and invasion of land of special ecological importance, and sentenced them to 125 months in prison. They had been acting together with paramilitaries. Manuel Garzón has been representing the communities. A witness had told the NGO on 25 June that the businessmen were neither prepared to go to prison nor to return the land, and that there would be a massacre if they were convicted. They would kill not only the leaders of the communities of the Curvaradó and Jiguamiandó River Basin, but also the members of the NGO¹⁰.

Over recent years, in addition to threats from illegal armed groups, human **rights lawyers also faced a campaign involving the gathering and use of intelligence against them** at the hands of the state intelligence agency, the DAS. This body was found to have held personal information on prominent human rights defenders, including lawyers and judges, such as personal information about themselves and their families. In one notorious case, a bloodied doll was sent to prominent CAJAR lawyer, Soraya Gutierrez, with a note telling her to look after her daughter. Threats against women human rights lawyers can include sexual content or involve their families. According to the annual report of the UN High Commissioner for Human Rights in 2010, the DAS was involved in this threat to Soraya Gutierrez¹¹. Although the DAS was later disbanded and replaced by the National Directorate of Intelligence (DNI), and high-level prosecutions have been made, a number of human rights organisations have expressed concerns that intelligence files containing information about them have not been completely purged, and some returned their official protection schemes in 2011¹².

Colombian human rights defenders, including lawyers, have called for public pronouncements from the State in support of their work, in recognition that the rights of victims to access justice is legitimate and necessary to the proper functioning of a democratic society, however, **State authorities have stigmatised the work of human rights lawyers**. In 2010 when President Santos was elected there was initial optimism that there would be an improvement in the way human rights lawyers and judges were treated. However, statements from the highest authorities questioning judicial decisions in different

⁹ <http://www.movimientodevictimas.org/pronunciamientos.html>

¹⁰ [Amnesty International, Urgent action, Paramilitaries threaten to kill defenders, August 7, 2013](http://www.amnesty.org/en/urgent-action/paramilitaries-threaten-to-kill-defenders-august-7-2013)

¹¹ http://www.hchr.org.co/documentoseinformes/informes/altocomisionado/Informe2009_eng.pdf

¹² <http://www.justiceforcolombia.org/news/article/945/das-involvement-in-threats-forces-lawyers-to-reject-security-detail>

cases have continued to affect the independence of the judiciary and increase the risks for people who contribute to justice. Of particular concern were statements made in 2011 by the State authorities, including President Santos, stigmatising the work of human rights lawyers from Cajar who were investigating the Mapiripan massacre, for which the Inter-American Court of Human Rights issued a sentence in 2005, whereby the State was found to bear responsibility for the 1997 massacre of 49 civilians whose bodies were dismembered by chainsaws and thrown into the nearby river by paramilitaries who had colluded with the Armed Forces¹³. Several senior officials suggested that human rights organizations representing victims have fraudulent objectives when reporting cases to international and regional human rights mechanisms, claiming that a “legal war” was being staged by the judiciary against the military¹⁴.

This is an extremely important moment for justice in Colombia. The current peace dialogue between the government and the FARC guerrilla is a positive sign that Colombia could be on the way to achieving an end to its armed conflict. Nevertheless, peace will not be achieved by the mere signing of an agreement; there are a series of judicial, political and social measures which need to be taken in order to achieve lasting peace, with guarantees of non-repetition. Colombian human rights lawyers are calling for a national debate on the model of transitional justice which will guarantee the end of armed conflict while respecting the Victims’ rights to Truth, Justice and Reparation under international law. There are serious concerns, meanwhile, that legislation such as the Legal Framework for Peace proposed by the State and the expansion of Military Criminal jurisdiction which has already been approved could lead to widespread amnesties and impunity.

It is fundamental that the international community shows its support for lawyers in Colombia at this time, especially human rights lawyers, as they strive in extremely difficult circumstances and during uncertain times for the justice system itself, to guarantee the rights of the victims, amidst attacks and killings against them, and stigmatisation of their important and legitimate work.

Given the extremely difficult situation they face, Colombian lawyers continue to ask for support from the international community, and have called upon the International Caravana of Jurists to visit Colombia again in 2014 to monitor their continuing risk situation.

¹³ ACNUDH Informe del Relator Especial sobre las ejecuciones extrajudiciales, sumarias o arbitrarias, Christof Heyns, Seguimiento a las recomendaciones a Colombia, 15 de mayo de 2012, A/HRC/20/22/Add.2

¹⁴ <http://www.fidh.org/en/Americas,176/Colombia,529/OPEN-LETTER-OF-THE-INTERNATIONAL>