



# COLOMBIA AT THE CROSSROADS

*The vital role of lawyers and human rights defenders for real justice and peace*

*Report of the IV International Delegation of Lawyers to Colombia*

August 2014

*We dedicate this report to courageous human rights lawyers and defenders in Colombia and around the world.*

*To our friend Henry Smith who was dedicated to defending the rights of others.*

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## METHODOLOGY AND OBJECTIVES

The IV International Lawyers' Delegation (the "Caravana") visited Colombia from August 23-30, 2014, and was comprised of 68 participants from 12 countries, from all segments of the legal community.<sup>1</sup> The delegation was organised by the Caravana UK Lawyers' Group in coordination with the Colombian Association of Human Rights Lawyers (ACADEHUM). The objective of the fourth Caravana visit was to continue monitoring the protection situation for lawyers, other human rights defenders and judges<sup>2</sup> and the status of access to justice for victims of human rights violations. Regional groups met with and recorded the testimonies of human rights defenders, lawyers, judges, and victims in seven cities in the departments of Santander (Bucaramanga), Valle del Cauca (Buenaventura and Cali), Antioquia (Medellín), Nariño (Pasto), Bolívar (Cartagena) and Magdalena (Santa Marta). In each of the regional visits, delegates also met with regional government authorities. Following the regional visits, meetings were held in Bogotá with national and international organisations, as well as with Colombian State institutions responsible for protecting human rights and access to justice, and with members of the diplomatic corps. The Caravana was also invited to observe a public debate in Congress on the controversial expansion of military criminal jurisdiction in Colombia.

The contents of this report are based on interviews carried out during the delegation and were prepared exclusively by the international participants. Unless otherwise specified, the information included in the report is based on the testimonies of Colombian human rights lawyers, human rights organisations/defenders, victims and their representatives, members of the judiciary and officials from various branches of the judiciary, as well as representatives of the Colombian government, including the Vice President's office, the National Protection Unit and the Land Restitution Unit.

The Caravana visit followed a four-month training process in the UK which included talks and workshops with experts from civil society organisations working on human rights in Colombia such as War on Want, ABColombia, the Colombia Solidarity Campaign, Justice for Colombia, PBI UK, as well as interventions from Colombian and international lawyers. Delegates were drawn from law firms, universities and human rights or legal networks in the UK, Spain, Netherlands, Italy, Belgium, France, Canada, Ireland, U.S.A., Australia, Germany and Turkey. Participating organisations included the Bar Council of Ireland, Lawyers for Lawyers and Judges for Judges (Netherlands), American Bar Association, Law Society England and Wales, Haldane Society (UK), the Bar Human Rights Committee (UK), European Association of Lawyers for Democracy and World Human Rights (ELDH), Union Internationale des Avocats (UIA) la Asociación Libre de Abogados - Comité por la Defensa de la Defensa (Spain), and Lawyers Rights Watch Canada.

Although the information received during the legal observation mission has not been subject to independent investigation, the general themes and patterns we observed are consistent with the reports of international bodies, such as the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights. Information disclosed in this report includes only that information for which permission to disclose has been granted, keeping in mind the safety of those involved. The report's findings, conclusions and recommendations are based on internationally recognised legal standards for human rights and access to justice.<sup>3</sup> Detailed reports on the seven regional visits, produced by Caravana delegates, are also available to download on the website of the Colombian Caravana UK Lawyers group, at: <http://www.colombiancaravana.org.uk/our-work/reports/>.

1 Lawyers, solicitors, barristers, attorneys, Quebec notaires, judges, legal academics and law students

2 To read the reports of the first three Caravana delegations, see: <http://www.colombiancaravana.org.uk/our-work/reports/>

3 Including the Universal Declaration of Human Rights: <http://www.un.org/en/documents/udhr/index.shtml>; the International Covenant on Civil and 3 Political Rights: <http://www2.ohchr.org/english/law/ccpr.htm>, the United Nations Basic Principles on the Role of Lawyers and the Basic Principles on the Independence of the Judiciary: [<http://www.unhcr.org/refworld/docid/3ddb9f034.html>]; the American Declaration on the Rights and Duties of Man: <http://www.cidh.oas.org/Basicos/English/Basic2.american%20Declaration.htm>, and the American Convention on Human Rights: [http://www.oas.org/dil/treaties\\_B-32\\_American\\_Convention\\_on\\_Human\\_Rights.htm](http://www.oas.org/dil/treaties_B-32_American_Convention_on_Human_Rights.htm)

## MAP OF COLOMBIA



(Source: <http://www.wordtravels.com/Travelguide/Countries/Colombia/Map>)

## Short Glossary of Terms

*Aguilas Negras*: Black Eagles - rebranded paramilitary group emerged since demobilisation

*Autodefensas Unidas de Colombia (AUC)*: United Self-Defence Forces of Colombia - the umbrella paramilitary group before demobilisation

*Bandas Criminales Emergentes (BACRIM)*: used by the Colombian State to refer to new paramilitary groups

*Campesino*: Rural small-scale farmers

*Defensoría del Pueblo*: Human Rights Ombudsman's Office

*Ejército Anti-restitución*: Anti-Restitution Army – rebranded paramilitary group emerged since demobilisation

*Ejército de Liberación Nacional (ELN)*: National Liberation Army – second largest guerrilla group

*Fiscalía General de la Nación*: Public Prosecutor's Office

*Falsos positivos*: The phenomenon whereby civilians, generally rural farmers, are presented as guerrillas killed in combat

*Fuerzas Armadas Revolucionarias de Colombia (FARC)*: Revolutionary Armed Forces of Colombia – largest guerrilla group

*Rastrojos*: new rebranded paramilitary group emerged since demobilisation

*Tutela*: Legal action for the protection of constitutional rights

*Unidad de Restitución de Tierras*: Land Restitution Unit

### Acronyms

Inter-American Commission on Human Rights (IACHR)

Inter-American Court of Human Rights (IACtHR)

Office of the United Nations High Commissioner for Human Rights (OHCHR)

Sexual and gender-based violence (SGBV)

United Nations High Commissioner for Refugees (UNHCR)

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## FOREWORD

I have been following the astounding work of the International Delegation of Jurists for a number of years. I applaud their efforts to raise awareness of the very difficult situation in Colombia and was delighted to be asked to contribute a short foreword to this report.

The following pages detail an illuminating insight into the causes, consequences and wider impacts of the disturbing situation in Colombia. Every legal professional, trainee and student should be alarmed to read of the grave injustices suffered and that fellow lawyers are risking their lives in seeking to rectify the wrongs clearly present here.

The most basic of human ideals is, without doubt, that all people should be entitled to live with dignity. This is true whatever our circumstances; free or in prison, friend or foe. It is a fundamental moral duty that we owe to each other.

The continuing Colombian peace talks offer a beacon of hope for all in Colombia. Nevertheless, the rule of law and respect for human rights must prevail for any transitional justice system to achieve real justice and peace, as the title of this report suggests. The State must protect its people, and those who defend them, the brave lawyers and other human rights defenders throughout the country.

As the representative body of Solicitors, the Law Society represents not just the interests of our members but also our values. Wherever possible, the Law Society will lend its weight to defending lawyers worldwide and promoting human rights, access to justice and the rule of law.

*Andrew Caplen*  
*President of the Law Society of England and Wales*  
*March 2015*



## EXECUTIVE SUMMARY AND RECOMMENDATIONS

*We are at a turning point for the country. Will the war stop or continue? The Colombian people want peace not a return to the past 50 years of conflict, but peace without impunity. To achieve that, we need a lot of support from the international community. Alirio Uribe, Member of Colombian Congress*

In 2008 ACADEHUM, a network of Colombian human rights lawyers, invited a diverse mix of lawyers from around the world to visit Colombia. The idea was that by reporting on the killings, threats, and harassment which they were subjected to on a daily basis, we would provide a form of protection so they could get on with their work.

On our fourth trip the Caravana celebrated the strength of the bonds we have built with our colleagues in Colombia during the past six years. We recognise the progress that has been made in those years, but there remains much work to be done both by the Colombian State, and by us and other members of the international community in supporting that progress.

In 2014, we heard consistent, shocking and detailed eye witness accounts from individuals, backed up by documentary evidence, just as we heard in 2008. The difference is that the peace process offers an opportunity for change. But for lawyers and human rights defenders and their clients, the peace process simply cannot work unless it is founded on the rule of law. At present a combination of lack of resources and apparent lack of political will means that progressive measures like victim compensation and land restitution are not enforced. And most crimes go unpunished. That includes crimes against at-risk groups like indigenous and Afro-Colombian communities, children, campesinos, and women, but it also includes crimes against those who represent them. The challenge for the Colombian State is to reform its legal, justice and penal system so that all sections of society have confidence in the ability of justice to uphold the basic rights of everyone in society.

Without lawyers there is no justice. To achieve a post-conflict society based on the rule of law the State needs to do more than avoid stigmatisation of lawyers. It needs to back lawyers and judges, even when they represent clients who have challenged the government politically or by illegal means.

The Caravana is particularly concerned about the move towards expanding military justice, suggesting a lack of respect for the rule of law. Despite the Constitutional Court repudiation of previous proposals, the government has introduced new legislation that could deny justice for serious human rights abuses—including extrajudicial executions—committed by members of the military and police.



Caravana delegates at the Incca University, August 2014  
(Photo: Colombian Caravana)



The two overarching themes in our recommendations are:

1. **A need for more resources to be allocated to the justice system including protection measures and enforcement, and to be targeted to areas of greatest need.**
2. **A need for Colombian State authorities to show respect for justice and the rule of law. This includes publicly demonstrating support for the work of all lawyers, in particular human rights lawyers and defenders.**

### Recommendations

The Caravana delegation 2012 made a series of recommendations mainly aimed at the Colombian government. In our recommendations from the 2014 visit, we highlight the key areas where more work is needed whilst recognising where progress has been made. But we are also directing recommendations at the international community, recognising its role in supporting a move towards the rule of law in Colombia, in the context of the peace talks.

#### Recommendations of III Delegation 2012: Some progress

In our last report, we highlighted the demands of the Peace Community of *San José de Apartadó* which suffered a horrific massacre 10 years ago, only to be stigmatised by the former President Alvaro Uribe. We welcome the fact that since 2013 the Colombian authorities and the Peace Community have entered into communications leading to the apology by President Juan Manuel Santos on 10 December 2013.<sup>4</sup> It was an important first step, when he said nobody should stigmatise “those who search for peace and reject violence”. But the community is right to say there is more work to be done; we continue to urge the government to actively pursue these talks and the outstanding demands of the community. In particular, the Caravana calls upon the Colombian State to establish a commission to investigate the massacres of 2005, as well as the high levels of impunity for those who continue to harass and attack members of the community.

We observed increasing activity by women and women’s organisations in challenging conflict-based sex discrimination and sexual violence, like the impressive *Red Mariposas* initiative in Buenaventura. The Caravana welcomes the establishment of specific teams to prosecute crimes in relation to gender and sexual violence, but more of these are needed and as public confidence in reporting these crimes grows, additional resources are needed to offer protection and a remedy to the high number of women affected by the armed conflict.

#### Recommendations of the IV Delegation 2014

##### Requests to the Colombian authorities

1. The relevant Colombian authorities, including the Public Prosecutor’s Office (*Fiscalía General de la Nación*), should review each individual case in this report where a lawyer or human rights defender has been threatened or attacked. We ask that a response is sent within the next 6 months on any progress such as an investigation or the implementation of protective measures;
2. The National Protection Unit needs more resources in order to improve the measures provided to protect human rights lawyers and defenders to enable them to exercise their functions, as provided in the United Nations Basic Principles on the Role of Lawyers. It should also consider how to apply current resources so they achieve their aim of protecting lawyers and defenders;
3. The work of human rights lawyers, judges, and human rights defenders should be respected in public statements made by officials. Appropriate guidance and training should be given to all public officials including the army and state security services, who should refrain from making negative statements about lawyers, the judiciary and human rights defenders which places them at risk of violence. Such statements should be made a disciplinary offence;
4. A special team should be established within the Public Prosecutor’s Office to investigate the threats, attacks and killings of lawyers and provide an annual report to Congress on progress. All murders, attacks and threats against lawyers and human rights defenders should be investigated in a timely and independent manner with appropriate resources to ensure that those responsible are prosecuted promptly;
5. The proposed expansion of the military justice system should be reviewed to ensure that the investigation and prosecution of human rights abuses is fully compliant with international standards and the jurisprudence of the Inter-American Court of Human Rights;

<sup>4</sup> These talks were facilitated by British lawyer Kirsty Brimelow QC, of the Bar Human Rights Committee, who was a Caravana delegate in 2012, with the support of the British Embassy

6. The current administration should reiterate its respect for the independence of the judiciary and conduct an inquiry into the prosecution of judges where they are charged with offences linked to the free exercise of their work;
7. The Colombian government should conduct a review of the way in which resources are currently allocated to different regions of Colombia and across the legal, judicial and penal systems. The aim should be: a) to ensure that adequate resources are provided to areas of high conflict such as the Valle de Cauca; and b) to provide adequate financial resources to prosecuting authorities, to the Ombudsman's Office, to the judicial authorities and to the prison authorities to allow them to carry out their duties. The review should include consideration as to ways of reducing unnecessary bureaucracy as a means of saving money;
8. An urgent review should be conducted into the crisis situation of political prisoners and in particular their access to lawyers;
9. A review is needed of the operation of the Land Restitution law and to consider whether reforms are required to ensure its adequate enforcement;
10. In relation to the Afro-Colombian communities we invite the Colombian government to ensure that Afro-Colombian victims, communities and organisations are able to participate in and benefit from the implementation of Law 1448 (Victims and Land Restitution);
11. Fully implement indigenous peoples' and Afro-Colombians' right to prior consultation and to free, prior and informed consent (FPIC);
12. Give special and differentiated training to public officials on the human rights of women, indigenous peoples and Afro-Colombians as sectors of the population suffering discrimination and particularly vulnerable to human rights violations;
13. In relation to the UN Principles on Business and Human Rights we call on the Colombian State to uphold these principles particularly in its dealing with multi-national companies and introduce legislation to ensure that the multinationals comply with the principles;
14. A committee of inquiry should be conducted in relation to the situation in Buenaventura with international observers.

#### **Requests to foreign governments**

15. The success or failure of the peace process will determine Colombia's future. Foreign governments should offer the necessary technical assistance and financial support at this crucial point to strengthen legal and judicial processes and ensure the rule of law and respect for human rights are an integral part of the peace process;
16. The embassies which met with Caravana delegates should review the recommendations in this report and consider if there are any areas where they can offer assistance to the Colombian authorities;
17. Foreign governments should regularly monitor the activities of multinationals which are domiciled in their home state but operating in Colombia to ensure they are not contributing or benefitting from to the kind of human rights violations referred to in this report;
18. Foreign investment is a key component in Buenaventura. Foreign embassies with multinationals based there should conduct their own periodic visits and support the proposed inquiry/ provide observers.

#### **Requests to multinational companies operating in and investing in Colombia**

19. Where human rights lawyers or defenders receive threats from illegal armed groups due to representing clients or communities challenging the activities of multinationals, the companies should make public announcements in support of the lawyers' right to carry out their work, distancing themselves from any such threats. They should also make and support requests to the local authorities to investigate any such threats;
20. Where multinational companies are operating or contemplating operations in, or re-locating to, areas where the operation of the rule of law is clearly in question (such as Buenaventura), they should ensure that full consultation takes place with the local community and that its free, prior and informed consent is obtained before they initiate or engage in any development or expansion of their activities.

### Recommendations for the UN

21. We ask that the Special Rapporteurs on human rights defenders and the independence of the judiciary monitor the cases in this report as part of their ongoing work on Colombia;
22. During the review of Colombia in 2015 the UN Committee for the Elimination of Racial Discrimination should examine the specific case of Buenaventura.

### Recommendations for the international legal community

23. The international community, including law firms and lawyers outside Colombia should consider what resources it can provide, whether financial or in kind, to support the work of Colombian human rights lawyers and the inclusion of the rule of law in the peace process at this vital moment in Colombia's history;
24. Lawyers working for law firms or multinationals who are present in Colombia should advise their clients to take appropriate steps to ensure full compliance with international human rights standards, including the Ruggie principles.



Colombian human rights lawyers awarded certificates of recognition for their work, British Embassy, August 2014  
(Photo: Colombian Caravana)

# Chapter 1. A brief look at human rights in Colombia

*The work of Colombian lawyers and other human rights defenders will continue to be fundamental in providing access to truth, justice and reparation to victims of human rights violations*

In the face of enormous pressure and violence, human rights lawyers, as well as other legal professionals and human rights defenders in Colombia, continue to struggle to provide access to justice for thousands of victims, their family members and communities. In order to understand and recognise the scale and complexity of the challenges facing Colombian lawyers and human rights defenders, and to appreciate how deeply entrenched these challenges are, we will briefly set them in context.

## **Massive and systematic human rights violations**

The prolonged and ongoing 50-year internal armed conflict and wider socio-political violence in Colombia have been accompanied by massive and widespread violations of human rights, including massacres, selective killings, internal forced displacement, forced disappearances, torture and sexual violence.

- Some six million people have been *internally displaced* in Colombia,<sup>5</sup> many of whom are small-scale farmers (campesinos) from rural areas. It is estimated that 6.6 million hectares of land have been usurped in the country.<sup>6</sup>
- According to official figures, 25,007 people were officially listed as *forcibly disappeared* between 1985 and 2012.<sup>7</sup>
- There were more than 5,700 cases of *extrajudicial killings* between 2000 and 2010<sup>8</sup>. From 2010 to 2014, a further 267 victims were reported.<sup>9</sup>

Colombia also faces significant challenges to guarantee *economic, social and cultural rights*. Although classed as a middle income country, and rich in mineral wealth and natural resources, 30.6% of Colombia's population lives below the poverty line, a figure which rises to over 42.8% in rural areas.<sup>10</sup>

## **Victims and the alleged perpetrators**

In November 2014 the Colombian government recognised that there are more than 7 million victims<sup>11</sup> of the armed conflict in Colombia.<sup>12</sup>

5 See Consultancy for Human Rights and Displacement (Codhes) – Report XX, 2014 (In Spanish)

6 See *Investigación memoria y reparación: elementos para una justicia transicional pro víctima*, written by researchers Luis Jorge Garay and Fernando Vargas Valencia, published by the Universidad Externado, available at: <http://www.caracol.com.co/noticias/actualidad/las-tierras-despojadas-a-campesinos-suman-66-millones-de-hectareas-revela-investigacion/20130206/nota/1837848.aspx>. The national government agrees with this figure although it makes a distinction between “abandoned lands” (4 million hectares) and “stolen / grabbed lands” (2 million hectares) according to *Informe de avances proceso de reglamentación ley 1448*, Ministry of Agriculture and Rural development. February 2012, pp. 10-11.

7 The Single Registry for Victims (Registro Unico de Víctimas)

8 CCEEU and FOR, “Falsos Positivos” en Colombia y el papel de la Asistencia Militar de Estados Unidos, June 2011, p.124.

9 CCEEU and Observatorio de Derechos Humanos y Derecho Humanitario, *Observando – Los falsos Positivos y el Proceso de Paz*, August 2014

10 [http://www.dane.gov.co/files/investigaciones/condiciones\\_vida/pobreza/pres\\_pobreza\\_2013.pdf](http://www.dane.gov.co/files/investigaciones/condiciones_vida/pobreza/pres_pobreza_2013.pdf)

11 Sistema Nacional de Atención y Reparación Integral a Víctimas <http://www.unidadvictimas.gov.co/index.php>; see also <http://www.eltiempo.com/politica/justicia/victimas-del-conflicto-armado-en-colombia/15026796>. According to the article, “86% of these victims are displaced people and 14% are victims of threats, homicide, forced disappearance; and to a lesser extent, kidnapping, sexual violence, land grabbing, injury, torture, forced recruitment of children, and attacks. These figures related to the last 30 years of armed conflict are absolutely painful” – (unofficial translation).

12 The term “victim” has a particular legal meaning in the Victims’ and Land Restitution Law. See Section 3.1.2 of this report

The main victims of human rights violations, according to reports from human rights organisations, are members of the civilian population, including:

- *Indigenous peoples and Afro-Colombian communities* who suffer disproportionately the effects of poverty, the internal armed conflict, discrimination emanating from the State and private actors, and the implementation of large-scale development projects on their lands, without prior consultation or their free, prior and informed consent. This situation has pushed more than half of the indigenous peoples to the point of near extinction.
- *Women* who face inequality and discrimination in many areas of life. They are also victims of abuse and sexual and gender based violence in both the domestic setting and in the context of the internal armed conflict, where it has been used as a weapon. Those women who have tried to defend their rights have faced threats to their own lives and those of their children.
- *Small-scale farmers (campesinos)* who face serious impediments to and find little support for their livelihoods under the National Development Plan and the free trade agreements signed by Colombia with third countries. As a result of this, and acts of violence and terror, many have been forced to leave their homes and move to urban areas in search of work and security, making up a large proportion of the six million internally displaced people in Colombia.
- *Human rights defenders* who are frequently stigmatised, threatened, attacked and killed for their work. During the first nine months of 2014, 380 human rights defenders were reported to have been the victims of some form of aggression, more than those recorded in the whole of 2013.<sup>13</sup>
- As many as 2,500 Colombian *trade unionists* have been killed in the last twenty years, as they worked to organise collectively in order to secure and protect basic employment rights for workers and the constitutionally protected right to form and maintain trade unions. Colombia has the ignominy of the highest number of murdered trade unionists in the world.<sup>14</sup>

Serious human rights violations and infractions of international humanitarian law have been committed by all of the armed actors in the conflict (State forces, the guerrilla forces and the paramilitaries). However, it is illegal paramilitary groups that are alleged to be responsible for the vast majority of human rights violations against civilians, both as part of counter-insurgency activities in collusion with the Colombian armed forces, and within the broader, socio-political violence in the country. The paramilitaries have employed tactics such as assassinations, forced disappearances, massacres and the displacement of entire communities from their lands, targeting those perceived to be guerrilla collaborators and supporters. Investigations in the late 2000s by human rights groups exposed the paramilitaries' links to political and business actors, known as the "para-politics" scandal, and a large number of Colombian Congress Members have been under investigation concerning these links.<sup>15</sup> The paramilitaries were officially demobilised in the early 1990s, however, paramilitary successor groups continue to operate throughout Colombia under different names, including the *Los Rastrojos*, *Aguilas Negras* and *Ejército Anti-restitución*. The State denies that the paramilitaries continue to operate, and defines these successor groups as "armed gangs" or BACRIM. This has clear and adverse effects on access to justice, as discussed later in this report.<sup>16</sup>

### **International trade and investment**

Concerns have been raised by Colombian civil society about the implementation of large-scale development projects in areas where serious human rights violations have taken place, such as massacres and mass forced displacements. Indeed, the Colombian Comptroller General's Office (Contraloría General de la República) found in its May 2013 report that 80% of human rights violations in Colombia occur in areas where mining projects are being implemented.<sup>17</sup>

13 Somos Defensores (We are defenders), Bi-annual report July-September 2014, October 2014 (In Spanish).

14 See most recently, the ITUC, in its latest Annual Report on Trade Union Rights, June 2014, "The highest number of murders in a single country took place in Colombia where 26 trade unionists were killed in 2013, an increase of eight worker deaths from the previous year". See: <http://www.ituc-csi.org/ituc-global-rights-index-shows>.

15 See, for example, <http://www.amnesty.org/en/region/colombia/report-2010>

16 In sections 3.2.1 and 3.2.2

17 Colombian Comptroller General, "[Minería en Colombia: Fundamentos para superar el modelo extractivista](#)", May 2013.



This has not gone unnoticed by international organisations. In its latest country report on Colombia, the Inter-American Commission on Human Rights (IACHR)<sup>18</sup> stated that “the information received by the IACHR indicates the existence of a **close relationship** between the occupation of indigenous territories; increasing violations of human rights through armed violence, forced displacement and murder of indigenous people; and the arrival of extractive companies. Killings, enforced disappearances, threats, displacement and other forms of violence have taken place in contexts in which attempts are being made to deprive indigenous peoples of the land and its natural resources” (emphasis added).<sup>19</sup> This raises questions about how third country states and companies investing in or trading with Colombia can ensure that they do not, however unwittingly or well-intentioned, become indirectly complicit in the widespread violence and violations of fundamental human rights and liberties.

### **Impunity**

In general, a situation of “structural impunity”<sup>20</sup> in relation to the commission of serious human rights and international humanitarian law violations is the prevailing norm, the general consensus being that impunity in Colombia stands at between 90 and 100%. In other words, less than 10% of crimes lead to a conviction. In many cases we heard about, it appeared that there was not even any investigation to speak of. ‘Structural impunity’ arises when the administration of justice is characterized by an “entire system of impunity”, where numerous crimes go unpunished, such that the high level of impunity is itself a most serious human rights violation. Impunity begets further violations, a fact that is aptly and tragically demonstrated in Colombia. In the context of transitional justice and peace, international observers must ask how Colombia can effectively navigate the transition to an enduring peace in the face of this deplorable and seemingly intractable reality.

The justice system has been unable to respond to the massive challenges it faces, and this appears to be due to several reasons. Among the apparent reasons are a lack of human and financial resources, and undue or improper interference by political and economic actors in the administration of justice, resulting in the widespread disregard for the rule of law, as will be explained later in this report.

In this overall context, the Office of the Prosecutor (OTP) of the International Criminal Court (ICC) noted in November 2012, that there was a “reasonable basis” to believe that since 1 November 2002, organs of the Colombian State have committed crimes against humanity<sup>21</sup> and war crimes.<sup>22</sup> The country has been under preliminary examination by the OTP since 2006, and the OTP made official visits to Colombia in 2008, 2009 and 2013.<sup>23</sup>

### **The current peace process**

The Havana peace talks between the Colombian government and the Revolutionary Armed Forces of Colombia (FARC) were ongoing during the Caravana delegation. Following a brief suspension, they re-started in early December and a unilateral indefinite ceasefire was announced by the FARC beginning 20 December 2014. Additionally, the initiation of talks between the National Liberation Army (ELN) and the Colombian State, have been announced, facilitated by Ecuador.

These peace talks bring hope that a future peace agreement could end 60 years of armed conflict. If the peace agreements come to fruition, in order to ensure a real and long-lasting peace, there needs to be an effective transitional process that fully complies with international human rights and humanitarian law standards. Whatever the future holds the work of Colombian lawyers and other human rights defenders will continue to be fundamental in providing access to truth, justice, and reparation to victims of human rights violations and guarantees that they will not experience a repeat of the same violations in future.

<sup>18</sup> Comisión Interamericana de Derechos Humanos (CIDH/IACHR), *Verdad, justicia y reparación: Cuarto informe sobre la situación de derechos humanos en Colombia*, OEA/Ser.L/V/II. Doc.49/13, 31 dic 2013 (hereafter referred to as “IACHR Truth, Justice and Reparation Report”). Link: <http://www.oas.org/es/cidh/docs/pdfs/Justicia-Verdad-Reparacion-es.pdf>.

<sup>19</sup> Ibid., para.761. Unofficial translation: [...] la información recibida por la CIDH da cuenta de la existencia de una estrecha relación entre la ocupación de territorios indígenas; el incremento de las violaciones de derechos humanos a través de la violencia armada, el desplazamiento forzado y el asesinato de personas indígenas; y el asentamiento de empresas extractivas. Los homicidios, las desapariciones forzadas, las amenazas, los desplazamientos y otras formas de violencia tienen lugar en contextos en que se busca privar del territorio y sus recursos naturales a los pueblos indígenas.

<sup>20</sup> The Inter-American Commission on Human Rights (IACHR) first characterized impunity in Colombia as “structural and systemic” in its *Third Report on the Human Rights Situation in Colombia*, OEA/Ser.L/V/II.102 (26 Feb 1999), Chapter V, para. 16. The Commission and other credible human rights bodies have continued to apply this characterization in the intervening years. The IACHR Truth, Justice and Reparation Report [supra] described the situation in these same terms: para.18.

<sup>21</sup> Crimes identified include murder and enforced disappearances. The OTP continues to investigate whether there is a reasonable basis for concluding that systematic torture was committed in the ‘false positives’ cases: ICC, *Situation in Colombia: Interim Report*, November 2012, para. 9. Link: <http://www.icc-cpi.int/NR/rdonlyres/3D3055BD-16E2-4C83-BA85-35BCFD2A7922/285102/OTPCOLOMBIAPublicInterimReportNovember2012.pdf>

<sup>22</sup> Crimes identified thus far include murder, attacking civilians, torture and cruel treatment and outrages upon personal dignity, rape and other forms of sexual violence. Ibid., para.10.

<sup>23</sup> [http://www.icc-cpi.int/en\\_menus/icc/press%20and%20media/press%20releases/Pages/pr900.aspx](http://www.icc-cpi.int/en_menus/icc/press%20and%20media/press%20releases/Pages/pr900.aspx), see also: International Centre for Transitional Justice ICTJ Briefing - *Colombia: Impact of the Rome Statute and the International Criminal Court* [<http://www.ictj.org/sites/default/files/ICTJ-Colombia-Impact-ICC-2010-English.pdf>]



## Chapter 2. Continuing risks for lawyers and defenders

In each of the regions they visited, delegates heard compelling accounts from human rights lawyers and defenders about the attacks and threats they had received, and the failure of the State to investigate, prosecute or obtain convictions against the perpetrators. The high level of killings of human rights defenders means that threats, attacks and stigmatisation against them must be taken very seriously.

### 2.1 Threats and attacks

In Pasto, delegates met with **Edgar Montilla** and his daughter, **Diana Montilla**, who are among the very few human rights lawyers in the region. Regrettably, threats and attacks have continued against them since the last Caravana visit in 2012. On 24 November 2013 Edgar Montilla's home was broken into and since only insignificant items were stolen, it was not interpreted as an overt threat to him. His office security has since been strengthened and he has been given state protection, a bullet proof car and two bodyguards, but has been informed that these may be withdrawn.

*Diana Montilla narrowly escaped serious injury when acid was thrown on her. Two days later she received an email from the paramilitary group “Aguilas Negras”, declaring her a military target and warning her to stop interfering in the work of the military*



**Edgar and Diana Montilla with the Colombian Caravana, August 2014**  
(Photo: Sean O'Reilly)

Diana Montilla received death threats on 23 February 2014 from an undisclosed group opposed to land restitution. The defender was also photographed by unknown individuals on 19 March 2014 as she was leaving a meeting where she was advising farmers about their land restitution claims. In the most recent attack against her in December 2014 Diana narrowly escaped serious injury when acid was thrown on her, destroying her clothes, but falling short of causing physical injury. Two days later she received an email from the paramilitary group “Aguilas Negras”, declaring her a military target and warning her to stop interfering in the work of the military.<sup>24</sup> This could be a reference to her work defending young people against illegal forced recruitment (*batidas* in Spanish) by the Colombian Army.



**Leonardo Jaimes Marín with Caravana delegates**  
(Photo: Colombian Caravana)

In Bucaramanga we also met **Leonardo Jaimes Marín**, who represents political prisoners and victims of state crime as part of the Pueblos Legal Team (*Equipo Jurídico Pueblos-EJP*). He is also a member of the Foundation Committee of Solidarity with Political Prisoners (*Fundación Comité de Solidaridad con los Presos Políticos - CSPP*). Marín was persecuted through illegal surveillance by the now defunct Administrative Security Department (*Departamento Administrativo de Seguridad - DAS*) and has suffered a series of acts of harassment and direct threats from state agents and paramilitary organisations. On Tuesday, 29th April 2014, the headquarters of the Confederation of Workers in Santander (*Central Unitaria de Trabajadores de Colombia-CUT*) in Bucaramanga received a sealed envelope, ostensibly from the Municipality of Lebrija containing serious threats against Mr. Marín. Despite these threats, the Caravana is concerned because he has no adequate protection measures.

Movement for Victims of State Crimes (*Movimiento de Víctimas de Crímenes del Estado - MOVICE*) lawyer **Jeison Pava** has been threatened by paramilitary groups seven times over the past two years, most recently in July 2014, when he received a death threat.<sup>25</sup> Shortly after the Caravana visit, in the month of September 2014, 191 defenders received a death threat by email from the paramilitary successor group the “Aguilas Negras”.<sup>26</sup>

In Bucaramanga delegates met members of the **Luis Carlos Pérez Lawyers’ Collective** (*Corporación Colectivo de Abogados Luis Carlos Pérez - CCALCP*), a lawyers’ collective working in the North East of Santander and the region of Magdalena. CCALCP has been the victim of 41 security incidents, carried out by the paramilitaries, army and police. Lawyers representing small-scale farmers (*campesinos*) asking for their land to be protected for agriculture (in *zonas campesinas*) have been accused of being guerrillas for this work. Government authorities have claimed this is an attempt to create ‘guerrilla areas’. The lawyers have asked prosecutors to investigate a number of cases of *campesinos* who have been attacked. However, because local prosecutors also receive threats from paramilitaries, among other reasons, they have not investigated the cases.

<sup>25</sup> <http://www.colombiancaravana.org.uk/wp-content/uploads/2013/05/DRAFT-Letter-Threats-against-Jeison-Pava-TMM-SG-25.07.2014.pdf>  
<sup>26</sup> <http://www.verdadabierta.com/rearme/5452-agenda-de-paz-genera-amenazas-contra-defensores-de-derechos-humanos>



**Anabel Zuñiga**, who hosted the Caravana delegates in Santa Marta, defends the rights of land claimants. Anabel herself as well as several human rights defenders in the Magdalena Department received death threats shortly after the Caravana visit from the paramilitary group, “Los Rastrojos”. The Caravana has written to President Santos asking for protection and investigation of the threats. The work of human rights defenders in assisting victims to reclaim their land is hampered by threats, and by the re-victimisation of individuals and community leaders. Even the Director of the local Land Restitution Unit has been threatened, in an effort to influence the outcome of land restitution claims. This is true of other State employees working on the claims, all of which further hampers progress in this vitally important area.

The delegates who met with the Colombian National Association of Labour Lawyers in Bogota were most disturbed to review a series of death threats received by lawyer **Arturo Lizarro Portilla**, beginning in the spring of 2014 and continuing through to August. Mr. Portilla represents workers, unions and trade unionists around the country, and he was also subject to another threat in January 2015.



Cali delegates during a meeting with human rights lawyers  
(Photo: Colombian Caravana)

## 2.2 Stigmatisation

Defenders are not only threatened and attacked by paramilitary successor groups, they are also stigmatised by different State officials, which increases their vulnerability to various forms of persecution. One lawyer described the stages of harassment of lawyers as firstly threats, followed by campaigns of stigmatisation, and then court proceedings on trumped up charges.

*State authorities improperly identify lawyers with their clients and any crimes or misconduct of which they stand accused*



**Alejandro Arenas Arcila**  
(Photo: Colombian Caravana)

In Cali, the delegation heard repeatedly that the State identifies lawyers with their clients or their purported causes, in clear violation of the United Nations *Basic Principles on the Role of Lawyers* and the *Basic Principles on the Independence of the Judiciary*.<sup>27</sup> This was reported by **Alejandro Arenas Arcila**, head of the Association of Litigating Lawyers of Cali (*Colegiatura de Abogados Litigantes de Cali*). He emphasised that the State does not recognise that a lawyer defends a principle rather than a person and that State authorities improperly identify lawyers with their clients and any crimes or misconduct of which they stand accused. Indeed, human rights lawyers speak more generally about being persecuted as a result of the belief by some members of the State that there is a “legal war” (*guerra jurídica*) being waged in Colombia. Proponents of this theory allege that legal proceedings against Colombia’s armed forces are a tactical aspect of the armed guerrillas “protracted war” strategy. So lawyers who defend civilian and other victims of human rights violations perpetrated by state actors have been maligned as actors in the guerrilla war against the military. As Colombia moves towards a potential resolution of the armed conflict, we found it worrying to observe this dynamic which had been reported to us on previous visits, demonstrated by attacks against legal professionals and human rights defenders who carry out legitimate and vital human rights defence work.

<sup>27</sup> Supra at note 3: see Article 18



In Bucaramanga, delegates heard testimony from **Lenin Patiño** a human rights defender who works with campesino members of Wild Hope (*La Salvaje Esperanza*), an organisation concerned with environmental damage purportedly caused by activities associated with the extractive and agribusiness sectors. During the last year more than 54 members of Wild Hope have been killed, and delegates were told that some 10 people in Santander were receiving death threats for being part of the organisation. Patiño frequently receives death threats from paramilitaries such as Aguilas Negras, Rastrojos and Los Urabeños. He is also frequently stopped by police and has been accused publicly of being a member of the FARC, which has in itself raised his profile and made him a target of ongoing threats and harassment by illegal armed elements.

### *A lawyer was told “stop getting involved in other people’s business or we will kill you!”*

In Cali, the Caravana met **Hernan Sandoval**, former Human Rights Ombudsman (*Defensor del Pueblo*) in the Valle del Cauca region and current secretary of the Association of Labour Lawyers in Cali, and **Danilo Guarín** of the Suyana Corporation (*Corporación Suyana*) who spoke about the difficulties faced by labour lawyers in particular, who are labelled as guerrillas and placed on a “red” list because of their advocacy for trades unions and worker’s rights. **Carlos Bergel**, labour rights defender, receives constant harassment, including death threats. On 24 June 2014 he received a message saying “stop getting involved in other people’s business or we will kill you.” By the end of August there had been no progress in investigating the threat. Delegates also met **Alvaro Bravo Suarez**, a member of Suyana and the public service workers union SINTRAEMDES in Guadalajara de Buga, who told the Caravana that he and his wife receive constant threats.

### *The Caravana delegation gave to the Public Prosecutor a list of 14 lawyers murdered in the Caribbean region, in cases where there has been no investigation*



**Adil Meléndez**  
(Photo: El Universal)

The Caravana delegation visited Cartagena and met with lawyers working in the departments of Bolívar and Sucre, where there has been a longstanding security problem for lawyers. The Caravana delegation gave a list of 14 murdered lawyers<sup>28</sup> to the Public Prosecutor at a meeting in Bogotá, in cases where there has been no investigation. The Prosecutor agreed to investigate these and we are waiting for news of whether any progress has been made. Delegates also met with **Adil Meléndez**, a member of the host committee, the Sixto Asprilla Circle of Litigating lawyers (*Círculo de Litigantes de Bolívar Sixto Asprilla* - CLBSA), and one of the most respected human rights lawyers in the region. Meléndez survived an assassination attempt in 2007<sup>29</sup> and was most recently threatened in December 2014.<sup>30</sup> **Robinson Arrieta**, a human rights defender in the Montes de María region gave testimony on the abuse meted out to those who represent victims of violence. They face particular difficulties because the region is rural and remote, and defenders are at serious risk in cases involving land restitution. **Maria del Pilar Silva** of the José Alvear Restrepo Lawyers’ Collective (*Colectivo de Abogados José Alvear Restrepo* - CAJAR) gave evidence of the numerous threats to community leaders in the Afro-Colombian and campesino communities, and the assassination of 17 leaders in recent years.

<sup>28</sup> Karin Pérez (Santa Marta – 5/03/2014), Miguel Gordillo Sánchez (Barranquilla – June 2013), Humberto Emilio Avendaño Salazar (Sincelejo – 4/08/2012), Alejandro Segundo García Cañavera (Barranquilla – 28/07/2012), Javier Fontalvo López (Barranquilla – 13/06/2013), Raúl Castilla Cuesta (Cartagena – 4/09/2012), Manuel Alejandro Mielles González (Cartagena – 5/12/2011), John Elvis Paz (Barranquilla – 21/07/2011), Esmeralda de Jesús Hernández Vanegas (Barranquilla – 2/03/2010), Guillermo Rafael Luna Arroyo (Santa Marta – 12/02/2008), Cristóbal Lozano Romero (Barranquilla – November 2007), Moisés Tovar Vargas (Barranquilla – November 2007) Sofanor Vázquez Ibáñez (Barranquilla – 25/09/2007), John Jairo Pérez (Santa Marta – unknown date)

<sup>29</sup> <http://colectivogonzalobravo.blogspot.co.uk/2007/10/accion-urgente-conato-de-atentado.html>

<sup>30</sup> See, for example, Colombian Caravana urgent action letter: <http://www.colombiancaravana.org.uk/wp-content/uploads/2013/04/Letter-re-threats-to-MOVICE-lawyers-HRDs-12.02.2015-revised.pdf>

## 2.3 Obstructing lawyers in the performance of their professional duties

There are several ways in which lawyers are harassed that are intended to impede the performance of their professional duties and functions. In addition to physical attacks (including murders), threats and stigmatisation, they are discredited during legal proceedings and hearings, prevented from travelling to meet clients, and their offices are burgled and client files stolen.



**Judith Maldonado**  
(Photo: PBI Colombia)

**Judith Maldonado**, a human rights lawyer and founding member of the CCALCP lawyer's collective, has suffered a number of attacks and threats in the course of her career. On 21 November, 2013, she was prevented from carrying out her professional duties when she was attacked by a police officer while attempting to enforce a court order (*tutela*) preventing the displacement of certain families from their homes and land. While presenting the court order to the police enforcing the eviction, the police agent threw her on the ground and beat her.

*On 31 May 2011 a coffin was placed in the entrance to lawyer Sofia Lopez's home, with a death threat inside.*

In January 2014, the human rights centre in Cali, **Casa de los Derechos Humanos**, was broken into and case files for victims of human rights violations were taken. Caravana delegates raised this case with the Prosecutor's Office in Cali and were told that the matter remains under investigation.

### **Longstanding pattern of harassment of lawyers from the Justice and Dignity Corporation (*Corporación Justicia y Dignidad* - CJD)**

In Cali, the Caravana met CJD lawyers Walter Mondragon, Sofia Lopez and Alexander Montaña, who were harassed repeatedly on multiple documented occasions during the period 2009 to 2013, including threats, attacks and surveillance, as well as stigmatisation, police harassment, an attempted forced disappearance, and being followed by unknown individuals in taxis and on motorcycles. On 31 May 2011 a coffin was placed in the entrance to Sofia Lopez's home, with a death threat inside. In February and March 2013 Alexander Montana and Sofia Lopez were targeted because they were working on the case of the extra judicial killing of a minor, Norbey Bonilla. They were charged with insult and slander on 22 March 2013 by the commander of Battalion Number 91 of the National Army. In April there were more threats and on 12 April 2013 the CJD was informed that Sofia was to be arrested for "rebellion". On 19 April 2013 Sofia was approached by two individuals, one of whom identified himself as a member of the Criminal Investigation Section (SIJIN) of the National Police. They tried to put her in a taxi, but she escaped. A disciplinary investigation of the SIJIN members was archived. Subsequently, Sofia and Alexander Montana were charged with injury and defamation by the specialist prosecutor (*fiscal quinta especializada*) in Popayan. In December 2013, two laptops were stolen from CJD lawyers. The laptops contained information about cases of extra-judicial killings by the Colombian army.





**Sofía Lopez and Alexander Montana lawyers from the Justice and Dignity Corporation**  
(Photo: Colombian Caravana)

### ***High-level convictions obtained after illegal surveillance scandal***

The Caravana has reported in the past about the illegal surveillance carried out by Colombian state intelligence agency, the (*Departamento Administrativo de Seguridad – DAS*), which targeted political opposition and human rights defenders, with the aim of restricting and hindering their work. Members of the CAJAR lawyers' Collective and their families were routinely watched and illegal data was held about them. In one notorious case in which the DAS was alleged to be involved, a bloodied doll was sent to prominent human rights lawyer, Soraya Gutierrez. The DAS was later disbanded and replaced by the National Directorate of Intelligence (DNI). Since our last visit to Colombia, high level convictions have been made against two former DAS Directors, Jorge Noguera and Maria del Pilar Hurtado. They were found guilty of having participated in illegal activity, including conspiracy and collaboration with paramilitaries.



**Caravana delegates in a meeting with human rights lawyers from the José Alvear Restrepo Lawyers' Collective, Bogotá**  
(Photo: Colombian Caravana)

## 2.4 Abuse of Process: Criminal proceedings used against lawyers and defenders



**Rommel Durán Castellanos**  
(Photo: Equipo Jurídico Pueblos)

Bucaramanga-based human rights lawyer **Rommel Durán Castellanos** was invited to the UK by the Caravana in February 2014 for a speaking tour because he faced increased threats in Colombia. Whilst in the UK, he met with MPs resulting in an early day motion highlighting threats to human rights defenders in Colombia. On his return he was informed that he would be arrested and detained for contempt of court for failing to appear at a court hearing even though he had arranged for a colleague to appear in his stead. He had to alter his normal work patterns to avoid arrest. Harassment continued and in August he was arrested by the police, and detained on the basis of a conspiracy to commit delinquency. The international community stepped into action, and he was released with an apology after 22 hours, following national and international protest.<sup>31</sup> The Caravana remains concerned about his safety as he works to protect political prisoners and for campesinos opposing environmental damage to rare wetland areas (*páramos*).

In Cartagena, delegates met with **Gustavo Arrietas**, a human rights defender of 20 years' experience who works with victims of state crimes. On 29 July 2014, he and three other defenders received a summons accusing them of false testimony and abuse of process. It was alleged that their clients had sent bogus threats to each other as opposed to having received death threats from the paramilitaries. On 29 August 2014 members of the Caravana accompanied Gustavo and the three co-defendants at their first hearing before the prosecutor in Bogota. There was a real possibility that they would be detained at the hearing, and so it was important that the Caravana members were there to demonstrate the concern of the international community. The result was that the four were ordered to attend in Bogota on 5 September, being forced to make a 600 mile round trip, exhausting the very limited resources of these pro bono defenders.

Delegates to Cali met with **Ivan Lopez Castañeda**, a member of the Suyana lawyers' collective. The focus of Suyana's work is the defence of political prisoners, and Ivan is himself an ex-political prisoner, who has experienced more than a decade of death threats, harassment and surveillance. On 14 July 2012, he faced a renewed attempt to bring legal proceedings against him. Following his attendance at the national Victims Forum in Cali on 5 August 2014, he was also followed for an extensive period of time.

Of concern to the Caravana is the fact that the testimonies of "demobilised" paramilitaries have also been used to level trumped-up charges against human rights defenders and accuse them of serious crimes, as in the case of David Ravelo.

31 See <http://www.colombiancaravana.org.uk/wp-content/uploads/2013/05/LETTER-12.08.2014-Arrest-Release.pdf>



**David Ravelo Crespo**  
(Photo: PBI Colombia)

#### Case of David Ravelo Crespo<sup>32</sup>

The Caravana is particularly concerned about the case of internationally known human rights defender, David Ravelo Crespo, a member of the Regional Corporation for the Defence of Human Rights (*Corporación Regional por la Defensa de los Derechos Humanos* - CREDHOS), from the city of Barrancabermeja in the Magdalena Medio region. He has been imprisoned since the 14th of September 2010, when he was falsely accused of being the mastermind of the 1991 aggravated homicide of David Núñez Cala, Public Works Secretary. Since Mr. Ravelo Crespo's detention, national and international bodies have highlighted numerous irregularities in his case. Mr Ravelo's defence team has also argued the fact that the case against him is based on the evidence of two demobilised paramilitaries, who were convicted for serious crimes committed in Barrancabermeja (including massacres that occurred on 16 May 1998 and 28 February 1999).

On 4 September 2013, the Caravana and the Bar Human Rights Committee presented an *Amicus Curiae* in the case of David Ravel Crespo before the Superior Court of Santander (Colombia). The *Amicus* brief considered that the Judiciary should declare the process invalid and that David Ravelo should be absolved.

It appears that David Ravelo was declared a military target by the paramilitaries simply because he had presented complaints to the police about their activities. Currently the Prosecutors Office has charged a former leader of one of the demobilised paramilitaries, Mario Jaimes Mejía, alias "El Panadero", with false testimony after he accused Aristides Andrade of committing the same homicide for which David Ravelo has been convicted. When charging Mejia with false testimony, the prosecutor pointed out "the many contradictions in the different testimonies that [El Panadero] had presented to the justice system which contradicted the testimony of other witnesses and other material evidence".

Despite the massive inconsistencies in the case, Mr David Ravelo was found guilty and convicted to 220 months in prison. On the 11 February 2014 an annulment petition was filed before the Superior Tribunal of Bucaramanga, and in March, the Tribunal transferred the case to the Supreme Court of Justice. Nevertheless, in February 2015 the Supreme Court ruled to deny the request for an appeal and Mr Ravelo continues to serve his sentence.

32 See [http://www.colombiancaravana.org.uk/wp-content/uploads/2013/11/141030\\_Carta\\_DR\\_CS\\_FINAL-con-logos.pdf](http://www.colombiancaravana.org.uk/wp-content/uploads/2013/11/141030_Carta_DR_CS_FINAL-con-logos.pdf)

## 2.5 Classifying the work of lawyers and human rights defenders as an “obstruction to progress”

A relatively new feature of threats by illegal armed groups against human rights lawyers is the explicit allegation that they are obstructing “progress”. Implicit in this pattern is the idea that lawful advocacy and representation of Colombians is illicit and therefore justifiably opposed by criminal and illegal means. This type of threat has arisen in the context of the representation of communities and groups that are opposed to economic development which results in environmental and human rights violations, often directly or indirectly as a result of multinationals and the extractive industries.

On 4 August 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)**, “military targets”.<sup>33</sup> The latter were accused 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.*” Given Colombia’s history, the fragile state of the rule of law and the lack of serious investigation of threats by these illegal elements, threats such as these are extremely serious. Such threats are clearly aimed at discouraging lawyers from challenging the activities of multinational companies and other financial interests. The Caravana calls on home states and multinational corporations to explicitly challenge any such declarations and to support the lawful work of human rights lawyers.

Members of the Inter-Church Justice and Peace Commission (*Comisión Intereclesial de Justicia y Paz – CIJP*) including **Abilio Peña, Father Alberto, Danilo Rueda, and lawyer Manuel Garzón** have received a number of serious threats in relation to such cases. On 1 August 2013, Manuel Garzón, a lawyer from the CIJP was followed as he left his office in Bogotá, and told 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. 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 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 NGO.



**Manuel Garzón and Caravana members**  
(Photo: Colombian Caravana)

33 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>



## Chapter 3. Challenges for access to justice in Colombia

The threats, persecution and stigmatisation of lawyers and other defenders described in the previous section have obvious implications for the rights to life and personal integrity of the affected defenders. In addition, these attacks have serious adverse effects on the ability of the many victims of human rights violations to access justice in Colombia. One immediate implication is that the defenders are forced to take on their own defence against trumped-up criminal charges or malicious processes, thereby hampering their ability to take on victims' cases.

This section of the report examines difficulties for victims attempting to access justice, as reported to the Caravana regional delegations by human rights lawyers, defenders and victims themselves. These include general barriers to justice, as well as specific challenges posed by the implementation of transitional justice laws in the midst of the ongoing armed conflict. We will also briefly examine concerns raised regarding the proposed expansion of military criminal jurisdiction and potential implications for victims' access to justice.

### 3.1 General barriers to accessing justice

The right to an effective remedy for the violation of human rights is enshrined in international law under article 8 of the *Universal Declaration of Human Rights* and under article 25 of the *American Convention on Human Rights*.<sup>34</sup> In all regional visits it was reported that the Colombian State is failing in its duty to provide an adequate remedy to victims of human rights abuses. Here are some examples of general barriers to justice as described to us:

#### 3.1.1 Lengthy and ineffective processes and undue bureaucracy

Victims, human rights defenders and lawyers all reported high levels of bureaucracy and confusion about how to lodge and progress claims, which discourages many victims from pursuing justice:

In Santander, Caravana delegates met **Mr. Miguel Sanchez and Mr. Eduardo Pedrosso**, the fathers of two young men killed by paramilitaries who were attempting to falsely claim ownership of their lands. Mr. Sánchez and Mr. Pedrosso reported that their complaints had not been taken seriously when they initially tried to report the deaths of their sons. They were asked to complete the same form on multiple occasions or were told that documents or details had been lost. Similarly, in Buenaventura, delegates heard from one victim who had spent twelve years trying to register the forced disappearance of her husband without success, because she was continually asked to complete the same form and the constant turnover of staff meant that no one remembered her and there appeared to be no records of her visits.

***It is often extremely difficult to lodge complaints and file claims, and many cases are not investigated or prosecuted***

Displaced communities, forced to leave their homes with little or no advance notice, often do not hold the papers, deeds and identity documents required to lodge a claim or to obtain access to health care and local services. Indigenous communities are particularly at risk because: (i) their land claims rarely stem from official titles but originate in traditional and historic land use and occupation; and (ii) they may have been isolated from mainstream Colombian society and have never previously had a need for such documentation. Despite assertions by the Victim's Unit (*Unidad de Víctimas*) that the granting of documentation is an 'immediate' process, testimonies from victims' groups indicated that this was not the case.

<sup>34</sup> UDHR: Article 8. Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law; ACHR: Article 25 (1). Everyone has the right to simple and prompt recourse, or any other effective recourse, to a competent court or tribunal for protection against acts that violate his fundamental rights recognized by the constitution or laws of the state concerned or by this Convention, even though such violation may have been committed by persons acting in the course of their official duties.

### 3.1.2 Failure to investigate claims and complaints

Even when victims have managed to lodge their complaints or file their claims, many cases are not investigated or prosecuted, or suffer lengthy and seemingly undue delays. One of the most widespread trends communicated to Caravana delegates was the failure of state authorities to investigate allegations of human rights violations reported to them. This included complaints by victims of human rights violations against themselves or family members:

#### Rubiel Montilla

The Cali delegation heard testimony about the death of **Rubiel Montilla**, a student aged 17, who was murdered at 23:00 on 4 April 2009 by the National Police. That evening, Rubiel was on his way to a club with two friends in the neighbourhood of Barrio Ron Colorado on the outskirts of Cali. The three young people were intercepted by a police patrol. Rubiel told his friends that he did not have his documents, so they panicked and he ran into the club. His friends hid behind a wall and heard two shots. Rubiel was killed with two shots to the head. The two friends came out with their hands up and identified themselves as professional soldiers based in Tolima. On hearing this, the police allegedly said, "Oh my God, what have we done". The police radioed for back-up and detained the two overnight at the police station. Rubiel's father was not permitted by the police to see his son's body, but he managed eventually to get into the club and found the body face down with a weapon positioned near his son's left hand as if he had been fighting. Given that his son was right-handed, it appeared that the crime scene was staged to make it look like Rubiel had been killed whilst armed and committing a criminal act. The father immediately filed a complaint with the prosecutor's office (*Fiscalia 15*). We were advised that no progress has been made in the intervening years. The father has been told that the case is under investigation but like many cases, it appears to remain in impunity. In the recounting of this case, we were told that under-reporting rates for crimes are extremely high, due to fear and the fact that the prosecutors and ombudsmen are perceived as favouring the paramilitaries and alleged murderers. The Caravana urges the authorities in Cali to review this case and end the impunity for Rubiel's murder.

### 3.1.3 Judicial bias

The Caravana was also concerned to hear about reports of bias by the judiciary and prosecutors:

#### Gustavo Arrietas

Gustavo Arrietas, a human rights defender who was charged as a result of false allegations, travelled six hundred kilometres from Cartagena to Bogota to attend a hearing of his case. On arrival, he learned that his defence team had only been informed of the hearing the day before. Nevertheless, the judge and prosecutor were keen to proceed with the case.

Delegates were advised that the issuing of short notice for hearings is a common phenomenon purportedly employed in order to deplete the resources of human rights defenders (and others) and to deny the defence sufficient time to prepare their case. This tactic works a particular hardship on the already very limited resources of the human rights defenders who work on a voluntary basis. The delegates were told that it is a common tactic of prosecutors to issue the notice of hearing to the defence team the night before and then attempt to press ahead with the hearing. With the defence team entirely unprepared, the common result is the conviction, incarceration and silencing of the human rights defenders. This inequality of arms results in violations of protections for a fair trial<sup>35</sup> as well as indicating judicial bias regarding the administration of justice in these cases.

<sup>35</sup> The Human Rights Committee has noted that the equality of arms is a condition of a fair trial as set out in Article 14 of the International Covenant on Civil and Political Rights. [Communication No. 289/1988, *D. Wolf v. Panama* (Views adopted on 26 March 1992), in UN doc. GAOR, A/47/40, pp. 289-290, para. 6.6.] Colombia signed the Covenant in 1966 and ratified it in 1969.



### 3.1.4 Lack of State resources

It was also reported that the chronic lack of resources means that local government authorities are unable to progress claims effectively and efficiently or unable to progress them at all.<sup>36</sup>

In Santa Marta, delegates met a representative from the Human Rights Ombudsman's Office for the Magdalena Department who indicated that the region was in dire need of more human and economic resources. The Ombudsman has seen a 50% increase in staff following a recommendation of the UN in 2010/11. However, there are still only six lawyers working with victims in the Magdalena region, each of them dealing with between 1,200 to 1,300 case files. A similar observation was communicated to delegates by the Cali Prosecutor's Office.



**Caravana delegates meet with the Land Restitution Unit in Santa Marta**  
(Photo: Colombian Caravana)

A general lack of resources was also highlighted by the Land Restitution Unit (*Unidad de Restitución de Tierras*) for the Magdalena Department which is responsible for land restitution and which employs 65 people (20 of whom are lawyers) who are dealing with 3,000 requests for assistance.<sup>37</sup>

In Buenaventura, there are often long delays in obtaining an appointment to register as a victim. The telephone line to request the appointment is open only on Mondays between 9 am and 5 pm, preventing victims of displacement from registering immediately if displacement occurs on any other day. More concerning still, the human rights defenders with whom we spoke said that even during the times at which the telephone registration line is nominally open, they have not once been able to get through and register a case.

<sup>36</sup> This was a concern raised by representatives of Red - Mujeres de Magdalena, Adesol de Mujeres Productores del Campo Asomuproca and MOVICE (Movimiento de víctimas de crimen del estado capítulo Atlántico).

<sup>37</sup> We understand that, of those 3000 cases, 500 have been logged in the system, 1200 are being processed and the remainder are "pending".

## 3.2 Access to justice: transitional justice laws and the peace process

The current peace dialogues inspire hope that a future peace agreement could end over 50 years of armed conflict. But Caravana delegates heard many expressions of concern about the necessary preconditions for an authentic and enduring state of peace, namely an effective transitional process that fully complies with international human rights standards for transitional justice. There is tremendous anxiety about how any demobilisation will play out as part of the peace process, given the combination of the following phenomena: (i) widespread impunity and failures in the proper administration of justice and the rule of law; (ii) continued threats, violence and gross and systematic human rights violations; (iii) credible evidence of extensive links between the still active paramilitaries, the armed forces and all levels of the State, from municipalities through to the highest levels of the Colombian government.

### *The peace talks bring hope, but how will the transitional process ensure truth, justice and reparation?*

In mid-2012, the government unilaterally proposed a constitutional transitional framework known as the ‘Legal Framework for Peace’ (Legislative Act 01 of 2012), which among other items: authorised the establishment of a Truth Commission and other extrajudicial mechanisms; provided for the prioritisation and selection of specific cases for prosecution; and allowed for the suspension of sentences and the relinquishment of the right to prosecute crimes that are not “selected”. Some civil society organisations suggested that this legal framework was unconstitutional, but in August 2013, the Constitutional Court declared the framework constitutionally compliant. Nonetheless, the IACHR has subsequently expressed its concerns about the framework. The State’s restriction of “selected crimes” to crimes against humanity, genocide and war crimes committed in a systematic manner, does not comply with well-established principles from the Inter-American Human Right System’s extensive jurisprudence on the subject matter. The standards under articles 8 and 25 of the *American Convention on Human Rights* require that States investigate and prosecute all instances of serious human rights violations, and this obligation cannot be suspended even in times of war.<sup>38</sup> The Commission has emphasised the central importance of constructing the Colombian peace process on the foundations of truth, justice and full reparation, in order to secure an enduring peace and to overcome impunity as a guarantee of non-repetition.<sup>39</sup>



**Caravana delegates hear about challenges for access to justice, August 2014, INCCA University, Bogotá**  
(Photo: Colombian Caravana)

Organisations, such as CONPAZ and MOVICE have proposed Truth Commissions; while CCAJAR has proposed the creation of a Special Tribunal for Peace overseen by the International Community. There are proposals in which armed actors would confess their international crimes and receive alternative sentences, with those held to have the “maximum responsibility” for these crimes facing prison sentences. It remains to be seen what the role of universal and regional human rights mechanisms will be in guaranteeing access to Truth, Justice and Reparation as part of the peace process.

In a more immediate and practical sense, legislation has already been passed by the Colombian State which is effectively leading to the implementation of transitional justice laws within an ongoing armed conflict waged by both regular and irregular armed forces. This of course presents particular challenges for the many victims and their defenders.

<sup>38</sup> Ibid, at para 49.  
<sup>39</sup> Ibid.

### 3.2.1 The Victims and Land Restitution Law<sup>40</sup>

The *Victims and Land Restitution Law* (Law 1448/2011) came into force on 10 June 2011. It establishes and regulates the rights of victims of violations of international humanitarian law and serious and manifest human rights violations in the context of the internal armed conflict.<sup>41</sup> There is an administrative phase to the process where an application is made to be formally registered as a victim, and then a judicial phase where it is put before a magistrate with special responsibility to decide whether or not a person has title to land from which they were displaced.<sup>42</sup> This law responds to the wishes of the victims by giving them a means to reclaim their land, however there were significant criticisms of the law reported to delegates in many of the regions visited by the Caravana.

*The issue of land is vital for justice in Colombia. There are over six million internally-displaced people in Colombia and more than ten million hectares of land have been unlawfully expropriated*

The human rights defenders and lawyers we met reported difficulties in accessing the land restitution mechanisms; including failures by the State to provide protection to those returning to their lands; and suspicious dealings with lands that had been obtained illicitly and were subsequently being earmarked for megaprojects, such as the construction of dams and the exploitation of natural resources, often by transnational companies.

Problems described to Caravana delegates in relation to Law 1448 include:

- **Definition of “victim”:** The Constitutional Court has ordered<sup>43</sup> that victims of paramilitary successor groups no longer identified by the State as illegal armed groups but as common criminal gangs or “BACRIM”, must be included as victims of the armed conflict and be able to apply for victim status under Law 1448. Nevertheless, Caravana delegates heard that in practice, these victims continue to experience significant difficulties in gaining that recognition. Given the high number of victims in this category, who should be applicable to register, this has serious implications for access to justice under the law.
- **Delays and procedural problems:** In the Antioquia region the Caravana was told that in some cases claimants will not see land returned to them until 2021, even though the initial phase is supposed to take only four months. There are also complaints about the difficulty of proving ownership of land;<sup>44</sup> and inadequate compensation where that is the only form of redress provided for under the law.
- **Impunity:** the Caravana was told that there is widespread impunity for those who took the land in the first place. This limitation of Law 1448 and the general framework for redressing this central problem, indicate criminality, impunity and general failures in the rule of law and proper administration of justice.
- **No security, no state control:** Law 1448 establishes a geo-referencing (*macro/ micro focalisation*) process which permits the government to designate particular areas of land which it considers to be apt for land restitution, depending on the security level in the area, which is defined by the army. In the Atlántico department, Caravana delegates heard that no decision has been made in relation to the geo-referencing (*macro-focalization*) process, so victims of land grabbing and land displacement in that region may not be able to apply for redress under the law.<sup>45</sup> In Pasto it was reported to delegates by a judge in the Land Restitution Office, that due to the severe security situation, the land agency INCODER, is unable to carry out its work. The failure of the army to properly secure parts of the territory has meant that land restitution cases do not progress. The practical consequences for the administration of justice in these circumstances are and will continue to be borne by the many individuals or communities displaced from their lands as long as the requisite State authorities are unable to properly gain access to contested territory.

40 The summarised information in this section corresponds to information received during the Caravana trip and is not intended as a comprehensive study of the legislation. For further reading, see Amnesty International, November 2014: <http://www.amnesty.org/en/library/asset/AMR23/031/2014/en/e544fa4a-12b0-4b3b-b542-121f5e941364/amr230312014en.pdf>

41 Article 3, Law 1448

42 To elaborate, Law 1448 regulates and outlines the restitution process in three consecutive phases: (1) In the administrative phase claimants apply to have their names and their lands listed in the Register of Stolen and Forcibly Abandoned Lands (Registro de Tierras Despojadas y Abandonadas Forzosamente, RTDAF). In order to be listed they have to prove that they have been a victim of the conflict, have had their land stolen or have been forcibly displaced. They need to present evidence that they are the rightful owner or occupier of the land in question. During the judicial phase, claimants present their demand to a judge. Third persons can intervene and present facts and evidence to prove that they have rights to the property. Eventually the judge decides if the claimant has the right to a land title and to return to the property in question. In the post-judicial phase, the judge monitors whether the measures have been adhered to.

43 Constitutional Court, Auto 119, 2013

44 Caravana delegates in Medellín were informed of problems arising from the lack of an official land registry as well as people not possessing official title documents, either because they were lost when people had to abandon their lands or because none were ever drawn up

45 The *macro/ micro focalisation* process is established under Law 1448 and permits the government to designate particular areas of land which it considers to be apt for land restitution, depending on the security level in the area, which is defined by the army. Although there are no restrictions on making applications under Law 1448, the administration will not deal with applications under Law 1448 where no prior decision of macro or micro focalisation has been taken.

## ***More than 50 land reclaimants have been killed since 2011***

Law 1448 is considered to be a post-conflict law of transitional justice<sup>46</sup>. However we consider that the internal armed conflict in Colombia has not yet come to an end since illegal armed groups continue to be active. As land is in the hands of illegitimate possessors and owners, those seeking restitution of land from which they were displaced face threats and intimidation and even more serious human rights violations if they file requests or eventually return. There have been over 50 killings of those who have applied to reclaim their land recorded since 2011,<sup>47</sup> and victims and human rights defenders report that there is insufficient protection given to those returning to their lands. In Cartagena it was noted by the Interior Secretary of the Mayor's office that three lawyers working on land restitution issues had reported threats against them in the last two years.

### **Women threatened by paramilitaries after being awarded land restitution**

The women of Asomuproca (*Asociación de Mujeres Productoras del Campo*) received the land 'Playones de Pivijay' (Pivijay municipality in Magdalena Department) in 1996 as a part of a pilot project to boost female income under Law 160 of 1994. However guerrillas and paramilitaries were present in the area. As a result, the Asomuproca members could not take full possession of the land. The women were forcibly displaced in 1999, following the killing of one of their leaders and others at the beginning of that year, by paramilitaries. Since their departure, the women have had ongoing problems in accessing justice and as a result of other groups having occupied the lands. The women started a 'tutela' procedure (a form of judicial review) before the Constitutional Court and were granted remedial measures in 2011.<sup>48</sup> Despite the killings and threats, the women filed a claim in June 2013 under the Land Restitution Law 1448. On 27 June 2014, 66 women of Asomuproca were included on the Register under the Victims and Land Restitution Law. Following this decision, death threats and intimidation against them and their families have been increasing.<sup>49</sup>

46 Brochure Ministerio de Agricultura y de Desarrollo Rural: ABC para Jueces en Materia de Restitución de Tierras p. 45.

47 March 2014, Prosecutor General's Office

48 Sentencia T610/11 dd. 12 August 2011, cfr. <http://www.corteconstitucional.gov.co/relatoria/2011/T-610-11.htm>.

49 Testimony of members of ASOMUPROCA to the Colombian Caravana de Juristas 2014 - Urgent Action <http://www.amnesty.org/en/library/asset/AMR23/028/2014/en/9a494282-62fa-4ad8-9db8-fae8f2272f5/amr230282014en.html> ; more information ; see the report "II Informe sobre la situación de mujeres víctimas del conflicto armado en la región caribe : departamentos del Magdalena y del Atlántico 2009" by Colectivo Mujeres al derecho <http://www.colectivomujeresalderecho.org/II%20INFORME%20SOBRE%20SITUACION%20DE%20MUJERS%20VICTIMAS%20DEL%20CONFLICTO%20ARMADO%20EN%20LA%20REGION%20CARIBE.pdf>





**Caravana delegates and Cartagena lawyers meet the local authorities**  
(Photo: Colombian Caravana)

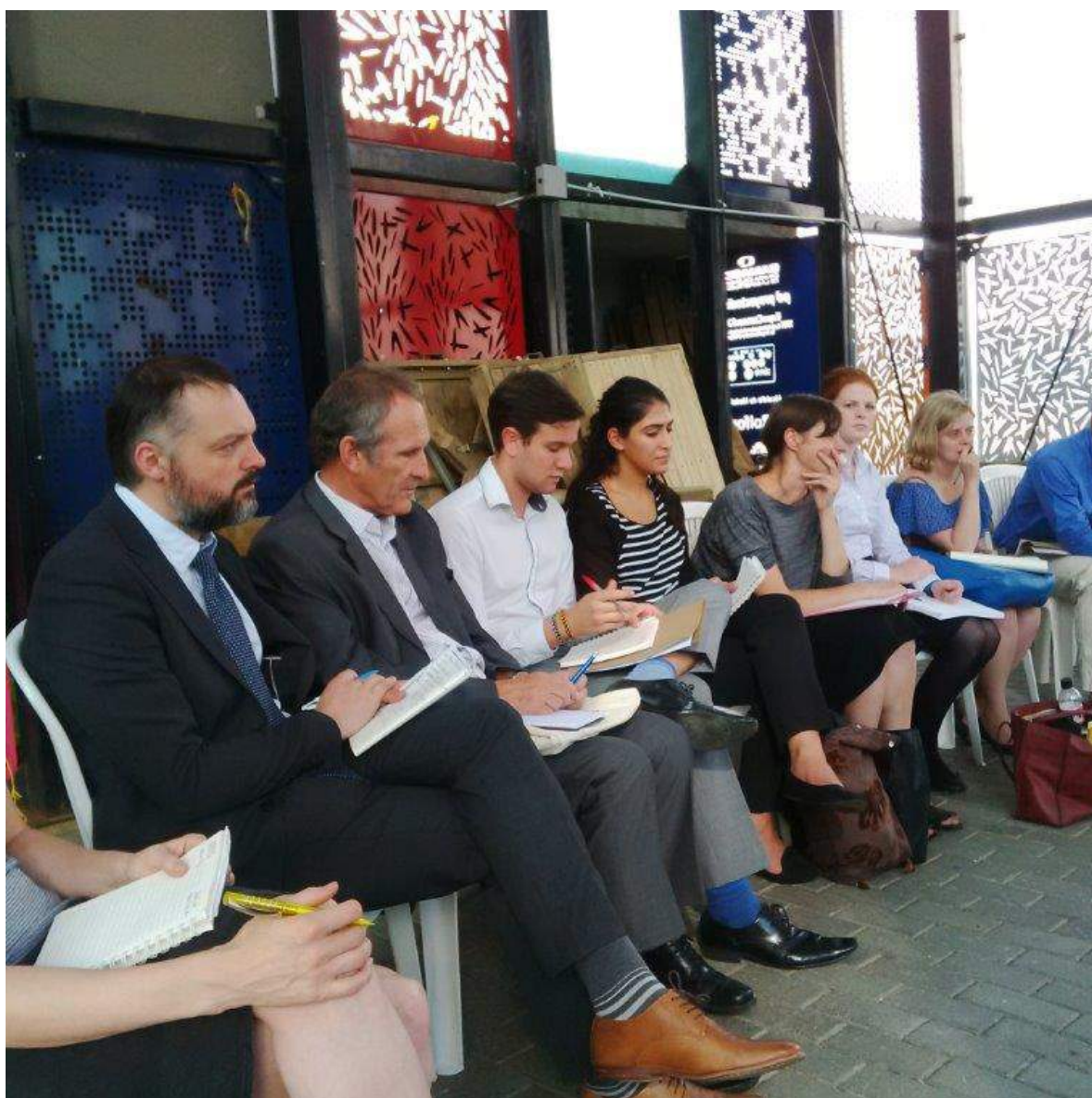
Some communities, such as Macondo in Urabá (see below), and the community of Pitalito in Santander<sup>50</sup>, were unable to access any remedy for their displacement and have taken the difficult decision to return to their lands without State support and protection:

#### Case Study: Campesinos in Macondo are deprived of their land

Three delegates from the Antioquia Caravana delegation visited the *campesino* community of Macondo, in Urabá, whose members returned to their land prior to the passage of Law 1448. In 1996, when the paramilitary presence in the region increased, they began to force people from the land by threatening and murdering some of those who were farming the land. The campesinos were told to sell their land at a low value, with the threat that it would otherwise be their widows selling it for even less. Some sold their land for very low prices and others had their land forcibly seized. Most fled without their belongings into the towns nearby, such as Turbo. However, they were not equipped to live in the town as they did not have skills to obtain employment and they could not tend to their own land. Some started to return eight years ago when they heard about the Justice and Peace Law. Others returned more recently when they learned about Law 1448/2011. They have received no help from the authorities despite being threatened regularly. Some of the campesinos have now been accused of unlawful occupation of the land and are being investigated. The poverty and limited resources of the community members was evident to the Caravana delegates.

Delegates were told that one of the people responsible for the threats against the campesinos was Carlos Lopez, who works for one of the big landowners. The campesinos were attempting to return to three big farms on the land known as “Guacamayo” (approximately 10,000 hectares of land), “Hacienda C”, and “Cuchilla Negra”. They said they did not know who was occupying this territory at present but believe it may be under cultivation by companies.

The community members expressed a significant lack of faith in State authorities and were reluctant to make claims under the Land Restitution Law as they feel the law is simply not effective in practice.



**Caravana Medellín delegates in a meeting on land restitution challenges**  
(Photo: Colombian Caravana)

One major question in relation to Law 1448, is the potential role of transnational corporations in internal displacement, either through action or omission. The concern expressed to Caravana delegates is that this element of the internal displacement dynamic in Colombia is not addressed by Law 1448. Indeed, it was alleged to Caravana delegates that the real intent behind Law 1448 is to legitimise the original looting of land and displacement of people, in order to improve Colombia's international image and make way for the implementation of large-scale investment and free trade agreements.

It does appear to be the case that development plans are already in place for many of the lands from which people have been displaced. For example at San Carlos in the Antioquia department, displaced people are seeking the return of land which is slated for the development of a significant hydroelectric dam. Thus, even if the displaced people were awarded the title to their land, it will be impossible for them to return due to government planned megaprojects.



### Tranquilandia (Aracataca/Fundación- Magdalena)<sup>51</sup>

Tranquilandia is the name of a vast territory in Aracataca, Magdalena department, where more than 100 campesino families once lived. Each family had a land title and owned a parcel of land with names such as: 'El Futuro'; 'Paraíso'; 'Esperanza'; or 'El Silencio'. However, armed groups - first the guerrillas, followed by the paramilitaries known as the AUC Bloque Norte and then the army - invaded the area. They placed the campesinos living there under pressure to cooperate with them, violating the right of the civil population to remain neutral in the armed conflict. The paramilitaries and the army stigmatised the campesinos as being guerrillas, which put their lives in further danger.

Due to multiple human rights violations at the hands of the armed groups, the campesinos living in the area were forced to leave their lands in 1997 and fled to urban areas. The human rights violations included several massacres, torture, sexual violence, forced disappearances, forced labour, threats, and intimidation. The lands taken by paramilitaries, were sold and converted into palm oil plantations or in some cases assigned to new owners by the former State land administration body, INCORA<sup>52</sup> that was later found to be corrupt and replaced by INCODER.

Despite the forced displacement which took place in this area, many of the families were able to stay in contact with one another and formed an organisation to represent their interests. Assisted by human rights defenders and lawyers from Corporación Yira Castro, 66 families filed a collective claim under the Victims and Land Restitution Law. These families hope to be able to return to their lands some day, but face many problems in the process. Four of the claimants may be excluded because of alleged links with the guerrillas. In addition, their claims are contested by the new owner-occupiers of the land. Some of the claimants obtained a land title via a judgment under Law 1448.<sup>53</sup> Others are still waiting. If ever the victims were to return to their land, safety issues would remain a high concern as armed groups continue to be a latent presence in the area. Furthermore, the lands are no longer as fertile as they once were: rivers have run dry and during their occupation the lands were looted and/or neglected. The campesinos are seeking guarantees that will allow them to survive on their lands through financial aid for sustainable projects.

### *The Land Restitution Law should be reviewed to guarantee victims' rights are upheld*

Based on the testimony received, the Caravana concludes that the State's response to date is seriously lacking when assessed against the extensive and complex nature of the problem: ensuring that the millions of victims of displacement have access to justice for the original dispossession, as well as protection against further injustices as a result of inadequate administrative or legal processes, the failure to effectively dismantle the paramilitaries and to prevent other actors from obtaining control of these contested lands. The victims also need to be provided with the necessary support to rebuild their lives, including help to begin small-scale farming projects on their land.

### 3.2.2 The "Justice and Peace Law": Law 975 of 2005 and the paramilitary phenomenon

As discussed, it is widely accepted that successor paramilitaries continue to operate in Colombia, despite their supposed demobilisation in 2003. In its latest country report on Colombia,<sup>54</sup> the IACHR states that the continuing violence is a product not only of the armed conflict (related to FARC-EP and the ELN), but the lack of a complete and effective demobilisation of the armed paramilitary groups, which continue to operate, as well as the verified links between the antecedent paramilitary and the new so-called BACRIM or paramilitary successor groups. The latter are not simply a phenomenon of organised crime, as the State maintains.<sup>55</sup>

Law 975, otherwise known as the "Justice and Peace Law", created a number of legal benefits for paramilitary combatants who formally demobilised from 2003 onwards. In particular, they received alternative penalties of 5-8 years on the basis that they told the truth about their crimes, operational structures, beneficiaries, and identified both the masterminds and the perpetrators of these crimes.

### *There is serious concern about the widespread and continued activities of paramilitary groups and how this will affect the peace process*

51 Testimony to Colombian Caravana 2014 and documentary « Tranquilandia » by Joel Stangle

52 Former institute of agricultural reform (Instituto Colombiano para la Reforma Agraria)

53 For instance see : <http://clasificados.eltiempo.com/anuncio/judiciales/3830112/edicto-rep-blica-de-colombia-juzgado-primer>

54 IACHR Truth, Justice and Reparation Report, supra at note 18,.

55 Ibid, para. 16.

Around the time of the Caravana's visit in August 2014, a group of imprisoned paramilitaries began to leave jail on 'probation' for having served their alternative sentences. Most of these individuals have been released without having been convicted of the crimes they committed and without recognising the victims' rights.<sup>56</sup> Human rights lawyers and defenders operating in the regions visited fear that more insecurity will result if the paramilitary structures are not fully dismantled and criminal acts are not properly investigated. The concern is that the process will replicate what happened following the very deficient and partial demobilisation in the 2000s, and further, that any peace negotiated in Havana will be rendered invalid or at the very least severely deficient by the continued operation of these groups and the impunity for their historic crimes. The fact of their proven but as yet incompletely investigated links with politicians at all levels of government provides further basis for concern.

The IACHR has stated categorically that there must not be any widespread amnesty for paramilitaries and their successor groups, and the State must not renounce its obligation to investigate serious human rights violations. The IACHR also concluded that it is essential that Colombia undertake a serious and detailed clarification of the "dynamics, reach, composition and structure" of the "*autodefensas*" or paramilitaries, and the illegal armed groups that have arisen since the partial and seriously deficient prior demobilisation of the paramilitary organisations.<sup>57</sup> The State's failure to attend to this priority is a critical blockage point for addressing impunity. The Caravana emphasises the Commission's recommendation, as a vital precondition to transitional justice and an enduring peace.



**Caravana delegates discuss access to justice, press conference, Bogotá, August 2014**  
(Photo: Colombian Caravana)

<sup>56</sup> Of the 4,237 members of the United Self Defence Forces of Colombia (*Autodefensas Unidas de Colombia* - AUC), who applied for the benefits of the law, only 19 have been convicted of any crimes

<sup>57</sup> IACHR Truth, Justice and Reparation Report, *supra* at note 18, para. 18.

### 3.2.3 The proposed expansion of military criminal jurisdiction

On 27 August 2014, members of the Caravana delegation were invited as observers during a public debate in the Colombian Congress on the expansion of military criminal jurisdiction or *fuero militar*.

For the last several years, the Colombian State has explored various initiatives towards expanding the jurisdiction of military tribunals whilst limiting the jurisdiction of ordinary civilian courts from their proper ambit of investigating and prosecuting human rights violations and breaches of international humanitarian law committed by members of the military. The restricted competence of military tribunals is a matter of consensus in international law, and the Inter-American Court of Human Rights has repeatedly ruled on these issues,<sup>58</sup> finding that the military jurisdiction system is not competent to investigate and prosecute violations of human rights and international humanitarian law, and these matters fall within the competency of ordinary jurisdiction.

#### *Expanding military justice is a significant step backwards in Colombia's efforts to comply with international human rights and humanitarian law obligations*

Although the Colombian Constitutional Court declared the proposed reforms to be unconstitutional in 2013, the Colombian State re-introduced them with modifications in 2014. The Colombian Congress is set to vote on whether to approve or reject a number of legal reforms<sup>59</sup> that will expand the jurisdiction of military courts, to include such serious human rights abuses as extrajudicial executions committed by members of the military and police. This reform effort has drawn widespread criticism from international human rights observers and experts. Twelve UN experts indicated on 29 September 2014, that they viewed this proposed reform “as a significant step backwards in Colombia’s efforts to comply with international human rights and humanitarian law obligations”. Of particular concern is the possibility that the reforms will shield from prosecution by independent tribunals those responsible for extrajudicial killings known as “*falsos positivos*”<sup>60</sup>, which are alleged to have been carried out by members of the armed forces.

The IACHR’s recent country report on Colombia<sup>61</sup> reviewed this history of previous reform efforts and again signalled its serious concerns about the most recent reforms, stating that it constituted a grave step backward and put at risk the rights of victims to justice.<sup>62</sup> The Commission noted that the Colombian State was opting to expand military jurisdiction at precisely the time when the majority of states in the region have made important advances in the opposite direction.<sup>63</sup> The history of the Americas has amply demonstrated that the exercise of military jurisdiction to prosecute human rights violations has resulted in impunity, and a reform such as the one approved in Colombia does not offer sufficient guarantees to forestall this phenomenon or guarantees of non-repetition.<sup>64</sup>

58 Including in its most recent judgment against Colombia, the Palace of Justice case, where the Court again reiterated that military jurisdiction lacks the competence to investigate serious human rights violations as with that instant case: I/A Court H.R., Case of Rodríguez Vera et al. (Persons Disappeared from the Palace of Justice) v. Colombia. Preliminary objections, merits, reparations and costs. Judgment of November 14, 2014. Series C No. 287, paras. 441-451..

59 El proyecto de ley 085 de 2013; el proyecto de ley 120 de 2014 Cámara; el proyecto de Acto Legislativo Nro. 010 de 2014 Senado; el proyecto de Acto Legislativo 017 Senado de 2014; el proyecto de Acto Legislativo 022 de 2014

60 <http://www.colombiancaravana.org.uk/serious-setback-for-justice-in-colombia-if-bills-to-expand-jurisdiction-of-military-courts-approved/>

61 IACHR Truth, Justice and Reparation Report, supra note 18.

62 Ibid., para 445

63 Ibid., para 459

64 Ibid

## Chapter 4. Women, Indigenous Peoples, Afro-Colombians, and Political Prisoners

Colombia is known for its advanced constitutional and legal framework, which recognises important rights for Afro-descendant communities, and indigenous peoples. Nevertheless, in practice, this legal framework is not properly implemented. As a result, these sectors of the population suffer from massive and systematic human rights violations, a fact which is reflected in various rulings on behalf of these peoples by the Colombian Constitutional Court, the Inter-American Court of Human Rights, as well as reports by UN Special Mechanisms and the IACHR.

*Indigenous peoples, Afro-Colombian communities and the organised women's movement are expanding the mainstream understanding of anti-discrimination and individual and collective rights.*

Despite new laws on sexual and gender-based violence and sexual violence in conflict, we were told that women continue to suffer the effects of widespread discrimination. In Colombia, one of the manifestations of this is widespread and normalised sexual and gender-based violence. Indigenous and Afro-Colombian women experience multiple and intersecting forms of discrimination, based not only on their gender, but due to their race or ethnic origin as well as their poor economic status and minimal means. These multiple forms of oppression and marginalisation increase their vulnerability to human rights violations.

By demanding that their rights are fulfilled, indigenous peoples, Afro-Colombian communities and the organised women's movement are all challenging the status quo. Many cases related to the fulfilment of their rights before the Constitutional Court are seeking to expand the mainstream understanding of anti-discrimination, individual and collective rights, to make real the Constitution's definition of Colombia as a "pluri-ethnic and multicultural" society.

Defending ethnic communities can place lawyers and other defenders at particular risk, especially when they advise communities or take legal cases where powerful interests are at stake. This risk is compounded when defenders come from the very communities they are trying to represent as they may suffer added discrimination because of their ethnic origin. Women defending the rights of other women are at times, ridiculed and threatened with sexual violence if they continue their efforts to advance and make real the rights of women to equality and non-discrimination.

Overcrowding and prison conditions in Colombia are critical. Those who defend the rights of prisoners face many challenges in gaining access to prisons in order to represent their clients. Prison advocacy is especially challenging as the lawyers and defenders are particularly associated with their prisoners and criminalised, as will be described later in this section.



## 4.1 Defending the rights of Afro-Colombian people: racial discrimination - the case of Buenaventura

The Caravana delegation visited the Afro-Colombian city of Buenaventura, on the Colombian Pacific Coast, where the local population continues to suffer extreme violence at the hands of paramilitary successor groups. There is also widespread poverty, despite national and international investment in the city's port and coastal areas relating to trade and tourism. Buenaventura continues to be heavily affected by intra-urban displacement and grave human rights violations, such as killings, disappearances, torture and the recruitment of children. Sexual and gender-based violence is commonplace and is used to instil terror and control communities.

Although Law 70 of 1993 recognises the collective ancestral land rights of rural Afro-Colombian communities<sup>65</sup>, it does not recognise the collective lands of urban-dwelling Afro-Colombian communities, leaving them especially vulnerable to displacement and exploitation. Afro-descendant communities consider their territories as vital spaces in which to maintain ancestral practices, including; the respect and recognition of elders as figures of authority; extended families that inform the way children are raised; spirituality; and mutual respect and solidarity.<sup>66</sup> While the paramilitary successor groups operate throughout the city in different *barrios*, it is notable that many of the areas most affected by this violence coincide with areas where future large-scale developments are planned,<sup>67</sup> including expansion of the port and its container zone, and the development of a recreation area called the *Malecón Perimetral del Mar*.<sup>68</sup>



**Afro-Colombian fishing community in Buenaventura**  
(Photo: Colombian Caravana)

As stated by the IACHR: *"The Commission received information which indicates that in municipalities like Buenaventura, Soacha and Tumaco, forced displacement could clear areas marked within municipal development plans as areas for growth, the aim of which is not to improve the living conditions of the inhabitants of these marginalised neighbourhoods, but rather to construct large-scale works to encourage foreign investment or the implementation of extractive, housing, tourist or commercial projects".*<sup>69</sup>

<sup>65</sup> In addition, Law 1482 of 2011 penalizes all forms of discrimination. Special Decree 4635 of 2011 under the *Victims and Land Restitution Law* provides reparations and restitution to Afro-descendant victims of the internal armed conflict. However, due to the lack of State observance of the Constitution and laws, the Constitutional Court has legislated, through Sentence T025 of 2004, and Orders 005 of 2009 and 092 of 2008, on the State's obligation to provide differential attention to Afro-Colombian communities and women (respectively) in situations of internal displacement, and to address the systemic aggravating factors for displacement in order to prevent it. In 2013, the Constitutional Court passed Order 234 calling for information from the National Government about its compliance in Buenaventura with its previous Court Order 005 of 2009.

<sup>66</sup> See: <http://www.afrocolombians.org/pdfs/Defeating%20Invisibility.pdf>

<sup>67</sup> The Caravana received no hard evidence of collusion between the authorities and/or developers and paramilitaries, but local people question whether the efforts of the paramilitaries are designed to force them to move out of their neighbourhoods, and the coincidence of violence with future development plans requires explanation.

<sup>68</sup> Megaproyecto: Malecón Perimetral del mar (2008), Megaproyecto: Centro de Actividades Económicas de Buenaventura CAEB, Megaproyecto: Terminal de Contenedores de Buenaventura (TCBUEN agosto de 2008), Megaproyecto: CELPA (2 de marzo de 2011), Megaproyecto: Zona de Actividades Logísticas Extraportuarias (ZALESA 2008), Megaproyecto: Puerto Industrial de Agua Dulce (2006). Servicio Jesuita a Refugiados, *¿Cuánto vale la tierra? Minería y megaproyectos. Informe preliminar sobre su impacto en el desplazamiento en Colombia*, junio de 2012, pág. 14, 31-33

<sup>69</sup> IACHR Truth, Justice and Reparation Report, supra at note 18, para. 563: unofficial translation.



The governmental response to the massive and systematic human rights violations in Buenaventura does not appear to have brought hoped-for and much-needed improvements. Despite the significant increase in the presence of the armed forces in the city, this has not deterred violence except perhaps in the very short-term, and has led to questions about the independence of the military and other local State institutions within the context of widespread violence from paramilitary successor groups. The level of under-resourcing of, and lack of access to basic services in Buenaventura, which is predominantly Afro-Colombian, raises serious questions for the delegates about systemic racial discrimination in the allocation of State resources. The continuing impunity in Buenaventura shows a breakdown of the rule of law, creating a vicious cycle, which ends up in generalised violence and lawlessness. Women in particular face stigmatisation and difficulties in accessing justice, and Buenaventura's institutional framework is ill-adapted to meet their needs.

***The situation in Buenaventura raises serious questions about systemic racial discrimination in the allocation of State resources***

Despite the clear need and high demand for assistance for the victims of the armed conflict and political violence, Buenaventura has no practising human rights lawyers as such who are able to bring cases on behalf of clients. There is a small and committed group of lawyers, defenders and social leaders from local human rights organisations, who provide advice, legal accompaniment and guidance to victims, in coordination with the Human Rights Ombudsman's Office (*Defensoría del Pueblo*). International organisations with a permanent presence include the UN Refugee Agency – UNHCR and the Jesuit Refugee Service. Some human rights defenders also work with Buenaventura victims from offices in the city of Cali, some three hours away by road. However, the Caravana was told that not a single lawyer who is resident in Buenaventura acts for victims, in terms of **representing** them in administrative or judicial procedures. This is an astounding gap given the widespread violence and displacement.<sup>70</sup>



**Caravana delegation in Buenaventura**  
(Photo: Colombian Caravana)

<sup>70</sup> We were also informed that there were criminal defence lawyers acting within Buenaventura (who generally represent members of the criminal gangs arrested by the prosecutor). Although we did not speak directly to any of these lawyers, we were told that they were also often threatened by the armed groups, particularly when working with young gang members, in order to make sure that they did not speak to the police.

The work of human rights lawyers and defenders places them at great risk, because it challenges the actions of paramilitary successor groups who perpetrate the violence in the city. The fact that there are so few human rights defenders in Buenaventura makes them easily identifiable, and increases their vulnerability and personal risk. Almost all the human rights defenders we met reported having received threats, and described having to act within certain limitations in order not to expose themselves to greater risks. Victims of human rights violations also receive threats, as they seek to defend their own rights in highly precarious situations, either for their individual cases or in collective complaints. In these circumstances, responding to threats against human rights defenders requires looking not only at the protection of *professional* human rights defenders, acting on behalf of victims, but also at questions of access to justice for *victims themselves* as they seek to defend their own rights. Barriers to accessing justice not only prevent individuals achieving redress, they also magnify the risks to victims defending their own rights.

The UN Special Rapporteur on minority issues and the Inter-American Commission Rapporteur on the Rights of Afro-Descendants and against Racial Discrimination also both mentioned the case of Buenaventura among cases for specific concern, in their visits to Colombia in 2009 and 2010 respectively. The examination of Colombia by the UN Committee on Racial Discrimination, set for 2015, would offer an excellent opportunity to examine in-depth the specific situation in Buenaventura for both victims and human rights defenders.<sup>71</sup>

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71 For further information please see our full report on the Caravana's visit to Buenaventura

## 4.2 Defending the rights of Indigenous Peoples

Colombia has an exceptionally diverse population and a vibrant indigenous cultural heritage. According to recent census figures there are 1.4 million indigenous people in Colombia (about 3.5% of the population) with 102 ethnically-different Indigenous Peoples who speak at least 67 different languages.<sup>72</sup>

Indigenous peoples are in a particularly vulnerable position vis-à-vis the armed conflict given that many communities are located in isolated parts of the country, and coupled with their refusal to take sides in the armed conflict, they have been targeted by both sides as 'siding with the enemy'.<sup>73</sup> Indigenous peoples' lands are often of economic or strategic interest, which results in pressures upon these territories and exploitation by state agents, companies and illegal or armed groups.

According to the National Indigenous Organisation of Colombia (*Organización Nacional Indígena de Colombia* - ONIC),<sup>74</sup> the current situation facing many indigenous communities in Colombia is critical. Thirty-four of 102 communities are regarded as at risk of physical and cultural extinction with a further 37 listed as vulnerable.<sup>75</sup> ONIC campaigns for greater awareness both nationally and internationally of their plight.<sup>76</sup>

### Constitutional Protections

Colombia has signed Convention 169 of the International Labour Organisation (ILO) and the UN Declaration on the Rights of Indigenous Peoples, which establishes the right to prior free and informed consent before any project affecting territories of indigenous peoples is approved.<sup>77</sup> In addition, the Colombian Constitution of 1991 introduced a number of important measures in order to secure the cultural, legal and territorial autonomy of indigenous communities.<sup>78</sup> The Colombian Constitutional Court has also attempted to bolster the constitutional and legal safeguards for indigenous peoples. In a significant decision in 2009 the Constitutional Court declared that the government were responsible for the delivery of specific protection plans (*Planes de Salvaguarda*) by working with 34 listed indigenous communities most at risk.<sup>79</sup> The effective and timely enforcement of these protections is a central part of the work of human rights defenders and lawyers who work with these communities.

### Caravana delegation to Nariño and Santa Marta



**Awá indigenous people in Nariño**  
(Photo: ABColombia)

<sup>72</sup> <http://www.iwgia.org/regions/latin-america/colombia>

<sup>73</sup> [http://www.abcolombia.org.uk/downloads/Caught\\_in\\_the\\_Crossfire.pdf](http://www.abcolombia.org.uk/downloads/Caught_in_the_Crossfire.pdf)

<sup>74</sup> Organización Nacional Indígena de Colombia - <http://cms.onic.org.co/>

<sup>75</sup> figures provided by the ONIC to Caravana delegates, 28 April 2014

<sup>76</sup> Follow campaign efforts and information about the different indigenous communities at <http://cms.onic.org.co/>

<sup>77</sup> <http://www.ilo.org/indigenous/Conventions/no169/lang-en/index.htm>

<sup>78</sup> In particular see, Articles 246; 330; 329.

<sup>79</sup> Corte Constitucional Auto 004 de 2009, <http://www.corteconstitucional.gov.co/relatoria/autos/2009/a004-09.htm>

The Caravana visited two areas where the issues facing lawyers and defenders of indigenous rights are of particular concern: Nariño department in the south-western part of Colombia, home to the Awá peoples, and Magdalena in the north-east where there are a number of indigenous communities<sup>80</sup> in the Sierra Nevada de Santa Marta. The Caravana delegations received testimony that gives cause for **grave concerns** regarding the effective and speedy implementation of judgment 004/2009.

***Indigenous peoples' important and valuable traditional laws and legal systems, call for the careful cultivation of mutual understanding and respect***

In Santa Marta, the delegation was told about infrastructure projects and the lack of effective environmental policies, resulting in the destruction of flora and fauna. Indigenous territories close to the coastal regions report the pollution of clean water supplies and the lack of proper sewerage which results in the prevalence of water borne diseases leading to high mortality rates in children (30%). In Nariño, the Awá people continue to suffer from environmental degradation and brutalisation after many years of intense armed conflict in the region.<sup>81</sup> The delegation heard disturbing accounts of murders, kidnappings, sexual violence and forced displacement from members of the Awá.<sup>82</sup> In addition the Caravana heard testimony from Awá representatives, where they expressed concerns about the criminalisation of Awá people for offences which have very limited evidential basis and they also allege that there is a failure of the public authorities in Nariño to respect and accommodate indigenous legal practices and traditions.

Taken together, the reports of the Caravana visits to the regions suggest that there is an urgent need for the authorities to engage closely with the concerns and problems of indigenous communities in Colombia if adequate progress towards fulfilling judgement 004/2009 is to be made. Indigenous peoples' important and valuable traditional laws and legal systems, call for the careful cultivation of mutual understanding and respect under the 1991 Constitution and its commitment to authentic plurality. Practical steps must be made to work with indigenous communities and ONIC in the implementation of *Planes de Salvaguarda* leading to lasting safety and security for indigenous peoples.

**Risks faced by defenders and lawyers**

Given the lack of lawyers working with indigenous peoples there are evident access to justice issues, but this also means that the few lawyers or defenders who specialise in this area are subject to greater risks of intimidation and serious attack.

**Threats to the ONIC and other prominent indigenous leaders and defenders**

On 19 October 2013, the ONIC received a threat from the Los Rastrojos paramilitary group, declaring as "military objectives", Luis Fernando Arias and other ONIC directors, as well as leaders from the CRIC and ACIN regional indigenous organisations in Cauca Department. The threat also stigmatised these leaders as being linked to the guerrilla. Luis Fernando Arias is a lawyer from the Kankuamo People involved in the defence of the rights of indigenous peoples as ONIC High Councillor (*Consejero Mayor*).



**Luis Fernando Arias**  
(Photo: Various)

<sup>80</sup> Principally Kogui, Arhuaco, Kankuamo and Wiwa.

<sup>81</sup> See also the previous 2012 Caravana delegation report. Also there is a report, in Spanish, of the efforts of the Awá to respond to the ruling of the constitutional court

<sup>82</sup> The brutality of the conflict in Nariño has been well documented in reports from Colombia and the international community. [http://www.abcolombia.org.uk/downloads/F45\\_Caught\\_in\\_the\\_Crossfire.pdf](http://www.abcolombia.org.uk/downloads/F45_Caught_in_the_Crossfire.pdf) on page 10 gives details of the effect of the conflict on indigenous peoples and includes accounts of the massacres that took place in Nariño in 2009 against the Awá.



**Juan Pablo Gutierrez Gonzales (ONIC International Representative and photographer)**

In August 2014 serious threats were made to Gutierrez Gonzales for his work as a defender of indigenous rights.<sup>83</sup> Whilst travelling on public transport in Bogotá, he was approached and handed a death threat from the paramilitary group Black Eagles (Águilas Negras). He also received threats by phone and text message over the same period. This is not the first time Mr Gonzales has been targeted as in 2013 whilst travelling in Colombia his vehicle was followed and shot at. The threats made against Mr Gonzales highlight the urgent need for government authorities to adequately prosecute all complaints of threats, harassment or attacks, in addition to providing necessary protective measures, for those that work with and advocate on behalf of Indigenous peoples in Colombia.



**The Caravana Pasto delegation**

(Photo: Sean O'Reilly)

<sup>83</sup> <http://www.frontlinedefenders.org/node/26935>



### 4.3 Defending the rights of women

The Caravana delegation met with women human rights defenders across Colombia. We also visited the offices of Sisma Mujer, a prominent women's NGO.

#### Sexual violence in the armed conflict

The issue of sexual and gender-based violence (SGBV), including domestic violence, affects all levels of civil society in every country. In Colombia, a particular difficulty is caused by the degree to which violence against women has been used as a 'weapon of war'. There do not appear to be any official statistics on violence against women but in its report on *Sexual violence against women in the context of the Colombian armed conflict*, the Colombian NGO, Casa de la Mujer, estimated that as many as 489,887 women were victims of sexual violence between 2001 and 2009 in the municipalities where there was an active presence of armed forces, paramilitaries and guerrilla. This means that every hour six women were victims of sexual violence at the hands of one of the armed actors in the conflict.<sup>84</sup>

#### *There are numerous barriers to women filing cases and taking crimes of sexual and gender based violence to court*

In its Order 092 of 2008, the Constitutional Court recognised that sexual violence against women, in the context of the Colombian armed conflict, is a common, widespread, systematic and invisible practice, as is the exploitation and sexual abuse, perpetrated by all the opposing illegal armed groups, and in some isolated cases, by individual agents of the army. Order 092 of 2008 obliges the State authorities to safeguard women's fundamental rights. It also requires the Prosecutor General's Office to adopt, in a timely fashion, necessary measures to accelerate legal procedure and open investigations into cases that have not yet been investigated. The Law on Victims and Land Restitution includes specific reparations for women and girl survivors of sexual violence. Law 1257 of 2008 was passed by Congress to raise awareness, to prevent and punish all types of violence against women and discrimination. More recently, Law 1719 of June 2014 establishes the routes for access to justice for victims of sexual violence, which includes a requirement that investigations into cases of sexual violence be advanced quickly.

The issue of SGBV was particularly evident in Buenaventura and Santa Marta. SGBV is reported to be a widespread practice used by the paramilitary successor groups to instil terror and control communities, and reportedly, women and girls as young as 12 years old have been raped and forced to work as sexual slaves.

There are numerous barriers to women filing cases and taking crimes of SGBV to court.<sup>85</sup> Amongst the authorities, there is reportedly a lack of awareness or understanding of the issues that surround SGBV in general, and of the particular measures that are required to ensure the victims have: (a) the confidence to report abuse without fear of reprisals; and (b) a protected, confidential and supportive environment to enable victims to provide the best evidence. Delegates were told that victims often have to conduct their own investigation and to secure evidence, a job for which they neither have the skills nor resources and which places them at personal risk. It was reported that one woman attempted to report a rape but the security guard at the door to the Prosecutor's Office shouted, "there's a raped woman coming", revictimising and humiliating her.

Delegates met with the Prosecutor General's Office in Bogotá and raised the issue of SGBV in Buenaventura and Santa Marta with concerns that some victims had had to wait three years for a response from the victims' helpline. The Prosecutor acknowledged that SGBV tends to be underreported, albeit, they are now receiving more complaints. Specialised teams have been established that contain not just prosecutors but also social workers. The Prosecutor has argued that the government needs to provide more resources dedicated to combating sexual and other gender-based violence.

84 First Survey on the Prevalence of Sexual Violence against women in the context of the Colombian armed conflict  
85 Norwegian refugee council, Buenaventura Brutal realities, September 21: [http://www.nrc.no/arch/\\_img/9183706.pdf](http://www.nrc.no/arch/_img/9183706.pdf)



**Women from the Red Mariposas, Buenaventura**  
(Photo: UNHCR)

#### **Women on the frontline in Buenaventura**

*The Network of Butterflies with New Wings Building a Future (Red Mariposas de Alas Nuevas Construyendo Futuro)*

The Red Mariposas (Butterfly Network) is a volunteer network of women based in Buenaventura, many of whom are victims of sexual violence, domestic violence and forced displacement. Mariposas was formed by the women themselves, in the face of a lack of State presence as a way to offer each other mutual support and protection. The women use “comadreo”, an ancestral practice in Afro-Colombian communities of solidarity between women, to enable them to carry out their work raising awareness of women’s rights in some of the most violent areas of Buenaventura.

The Mariposas now have 22 coordinators who accompany women victims of violence (including forced disappearances, forced displacement, sexual violence). They offer women training on their rights as well as emotional and practical support. They also accompany women through judicial and administrative processes, and to obtain status of victims of conflict, and gain access to compensation, restitution and protection. In September 2014 the organisation was presented with the 2014 UNHCR Nansen Refugee Award for its tremendous work in the face of immense challenges, risks and threats. It is vital that the international community continues to support the organisation and their demands for justice.

As part of the peace dialogues, a gender committee has been set up at the request of Colombian women’s organisations, in recognition of the particular harm that has been caused to women throughout the armed conflict. Women defenders told the Caravana that in order for the committee to have any long-term effect its decisions and proposals must be fully respected during the negotiations.

## 4.4 Defending the rights of political prisoners: a state of emergency?

### Prison Conditions

The Caravana reported in 2012 on the problem of prison overcrowding, one of the areas in which we receive numerous complaints.<sup>86</sup> The Caravana now understands that the current total number of prisoners in Colombia is approximately 150,000<sup>87</sup>, an increase of 35% from the 2012 figure<sup>88</sup>. The most critical rates of overcrowding are reported to be in Riohacha (474%), Santa Marta (353%) and Maganque (320%)<sup>89</sup>. Delegates who visited San Diego district prison in Cartagena were informed that prisoner numbers have increased by almost 50% in the last year and those who visited Ternera prison were informed that cells designed to hold 4 prisoners were routinely used to accommodate 10 to 12 prisoners. Delegates to the Cali region were informed by the National Penitentiary and Prisons Institute (*Instituto Nacional Penitenciario y Carcelario* - INPEC) that south-western Colombia has 24 prisons with a prison population capacity of 14,414 detainees, yet this number is disputed by human rights organisations and estimates run as high as 24,611 prisoners in that area.

Poor sanitation and deplorable conditions prevail throughout many of Colombia's prisons. The Jamundí prison in Valle de Cauca suffers from water shortages that limit inmates' access to water to twice per day for thirty minutes. INPEC Sur-Occidente did not deny these reports. Other common complaints included insufficient medical facilities, lack of access to healthcare and medical treatment for prisoners, lack of access to safe drinking water and prison buildings in considerable states of disrepair. San Diego district prison in Cartagena has in fact been condemned as unsafe by local authorities. The Ombudsman informed delegates that overcrowding is the biggest problem facing Colombian prisons and that the prison system as it currently operates is unmanageable. Delegates were informed that the Ombudsman had called for a "state of emergency" with regard to the prison system in January 2014, but that the government had not taken any action.<sup>90</sup>



**Caravana delegates outside the Modelo prison in Cartagena**  
(Photo: Colombian Caravana)

The Caravana received reports of mistreatment of prisoners in all prisons it visited, coupled with impunity and lack of access to justice. Delegates in Bucaramanga spoke to Claudia Carolina Hurtado, the mother of Julián Hurtado who died in the Modelo prison in Bucaramanga in November 2012, having reportedly committed suicide by jumping 30 metres from the roof of a cell-block. Despite a plethora of evidence suggesting that Mr. Hurtado's injuries were inconsistent with suicide or death in this manner, there has been no inquiry and the legal proceedings initiated by Ms. Hurtado have stalled due to lack of cooperation from prison authorities in investigating and providing evidence.

<sup>86</sup> The Caravana reported in 2012 that delegates had found that approximately 111,000 people were incarcerated in Colombia's prisons, which had an approximate capacity of 55,042.

<sup>87</sup> Meeting with the Ombudsman in Bogota.

<sup>88</sup> This number is excessive when compared to other similar sized countries' prison populations: Spain has a population of 47.27 million and a prison population of 65,194 whereas Argentina has a population of 41.45 million and a prison population of 66,484. (Figures taken from [www.google.com/publicdata](http://www.google.com/publicdata) and [www.prisonstudies.org](http://www.prisonstudies.org)).

<sup>89</sup> Vanguardia Liberal, de Bucaramanga, 22-8-14.

<sup>90</sup> <http://www.elspectador.com/noticias/politica/defensor-insiste-se-declare-emergencia-social-carceles-articulo-471761>



## Political Prisoners

Of particular concern to the Caravana delegates was the predicament of “political prisoners”.<sup>91</sup> Often arbitrarily detained and imprisoned without charge and denied access to lawyers, political prisoners generally experience even worse treatment inside Colombia’s prisons. In Cali, delegates heard about the case of Jenny Estit Patiño who was arrested in 2010 alongside her husband, Hector Fabio Echeverry, who was accused of engaging in terrorism. Ms. Patiño was interrogated about her husband’s activities in violation of Article 33 of the Colombian Constitution,<sup>92</sup> denied access to a lawyer and told she would die in prison. Although there was a complete lack of evidence against her, Ms. Patiño remained in Jamundí prison until April 2014 during which time her infant daughter became ill and died. Despite appealing for compassionate dispensation to INPEC and to the prison directors, Ms. Patiño was denied permission to see her sick child or to attend her funeral.



**Miguel Jesús Velandía León**  
(Photo: FCSPP)

The Caravana heard several reports of political prisoners being denied access to healthcare whilst incarcerated. In Bucaramanga, delegates were informed about the case of Miguel Jesús Velandía León, who is imprisoned in Palogordo prison accused of being a member of the FARC. Mr. León has been suffering from pancreatic cancer for three years and also suffers from muscular dystrophy. Caprecom medical services provider has taken no action to provide treatment for his condition and the prison authorities have not passed on the medication sent to Mr. Velandía León by his family. Instead, Mr. León was prescribed morphine for severe pain and was expected to live in the corner of his overcrowded cell, despite his family’s requests that the remainder of his prison term be substituted for house arrest or that he be transferred to a hospital near his family. Likewise, delegates in Cali heard about the case of disabled political prisoner John García Rodríguez who suffers from haemorrhoids, progressive loss of sight and persistent migraines. Mr. Rodríguez was denied home detention and instead shares a small, dirty cell with six prisoners despite the fact that he is not self-sufficient and must be carried in order to move.

<sup>91</sup> Identified at the *Segunda Seminario Nacional para la Defensa de Prisoneras y Prisioneros Políticos en Colombia* as falling into three categories: (i) Prisoners of Conscience (who engage in civil society opposition by means of critical thinking and social protest); (ii) Prisoners of War (who engage in armed insurrection); and (iii) Victims of Judicial Fixes (who live in zones of armed conflict and are accused of collaboration with insurgent organisations).

<sup>92</sup> Article 33 states that: “No one may be forced to testify against himself/herself or his/her spouse...”



### *There are serious difficulties for human rights lawyers to gain access to prisons*

Particularly striking was one suggestion that prison authorities might be taking advantage of these appalling conditions to further disadvantage political prisoners. Protests by other political prisoners in solidarity with Mr. León resulted in prison authorities threatening to move Mr. León to a different cell block which houses paramilitaries and which would put his life under serious and immediate threat. In addition, the financial circumstances of prisoners appear to shape discriminatory conduct against them. Despite the fact that Mr. Rodríguez has shown good conduct whilst incarcerated, he has been denied a transfer from the high security wing to a lower security wing, allegedly because he lacks the necessary funds to do so. Sadly, Mr. León died in February 2015.<sup>93</sup>

Gaining access to prisons for lawyers and human rights defenders, notably members of the Committee for Solidarity with Political Prisoners (FCSPP), continues to be extremely difficult. In February 2013, after a period of “review” of access provisions during which time no members of FCSPP were permitted entry into prisons, INPEC implemented a provisional protocol.<sup>94</sup> However, the FCSPP reports that the systematic lack of implementation of this protocol has led to persistent and serious difficulties for its members in gaining access to prisons and holding prison visits.<sup>95</sup> Barriers for lawyers and defenders include stigmatisation, harassment and assault by prison officials; lack of suitable locations for meetings; badly organised administrative processes leading to delayed or cancelled meetings; confiscation of authorised external materials; limitations on the provision of legal advice; and restrictions affecting the entry of international observers and commissions.<sup>96</sup> In a similar vein, Caravana delegates in Cali and Bucaramanga were denied access to prisons, with authorities stating that there was no time to complete the necessary paperwork. Delegates in Cartagena met with the Director of Ternera prison, but were refused permission to meet prisoners and denied a tour of the prison for security reasons. Delegates met with a prisoner who was the human rights representative for the prisoners at San Diego district prison in Cartagena, in what appeared to be a tightly controlled and censored interview.

The Caravana had the opportunity to present its concerns to INPEC Sur-Occidente in Cali. INPEC Sur-Occidente acknowledged the existence of some maintenance and water supply issues and said that these problems are being addressed. However it responded with surprise to claims regarding problems of access to lawyers and refused to accept responsibility for other problems such as healthcare (which it acknowledged to be a problem, although falling outside of its remit). The Caravana attempted to meet with INPEC authorities in Bogotá, but this was not possible as there was a strike of INPEC guards who were themselves protesting over prison conditions.<sup>97</sup>

93 <http://derechodelpueblo.blogspot.co.uk/2015/02/muere-presopolitico-ante-negligencia.html>

94 Report produced by FCSPP and sent to the President of Colombia, the Minister of Justice and the INPEC General Director.

95 Ibid.

96 Ibid.

97 <http://www.elespectador.com/noticias/judicial/guardias-del-inpec-entran-paro-jueves-articulo-511805>

## Chapter 5. Are measures working to protect lawyers and defenders at risk?

Although it was reported to the Caravana that threats against human rights defenders increased since our last visit, the numbers of defenders accessing protection measures from the National Protection Unit (*Unidad Nacional de Protección* - UNP) decreased, from 3,500 in 2012 to 2,700 in 2013, in particular in the case of trade unionists, journalists, and members of NGOs.<sup>98</sup> Between January 2012 and September 2013, the UNP recorded some 4,140 requests for protective measures by defenders or community leaders, of which 1,524 were approved.<sup>99</sup>

Moreover, in its 2013 report, the Office in Colombia of the High Commissioner for Human Rights (OHCHR) stated that it “found significant delays in the implementation of protection measures by the National Protection Unit, which increased risks to human rights defenders”.

### *The UN has stated that the Colombian State’s protection measures are not working*

More recently, in August 2014 at the time of the Caravana visit, Todd Howland, the representative in Colombia of the United Nations High Commissioner for Human Rights, stated during a public event that the Colombian authorities’ protection measures for human rights defenders are not working.<sup>100</sup> Subsequently, at the end of August 2014, a scandal broke out when high ranking officials from the National Protection Unit were accused of illegally diverting significant funds.

This section details some of the protection issues encountered by lawyers and defenders, as reported to the Caravana delegation.

### *Lack of investigation of threats and prevention: the vicious circle of impunity*

As noted, high levels of impunity were reported in every region visited by the Caravana delegates. In Cali, delegates received testimony from eight victims and 15 lawyers, including several judges and prosecutors. The consistent complaint is that there is no deterrent to committing crimes against members of communities and the human rights lawyers and defenders who accompany and represent them. The near-total impunity sends a message to the perpetrators of threats and attacks that they are free to commit further crimes of issuing and acting on death threats, and will not be investigated or punished.

### *Failure to grant protection measures*

The IACHR criticised the national protection scheme in its recent country report on Colombia<sup>101</sup>. Delegates in Cali heard of the scheme’s failures to respond to requests, or to delay assessment, putting lawyers and human rights defenders at further risk. The delegates were briefed on specific legal cases that lawyers have been forced to abandon because of threats to their security. In 2011, the IACHR ordered the State to provide protective measures for the Corporación Jurídica y Dignidad lawyers to protect their right to exercise their profession. The Colombian authorities were aware of the threats they had received and the risks they faced, but had not provided protection. In fact, the authorities had refused protection for the lawyers to continue their work for 179 client families of El Vergel and El Pedregal de Caloto, Cauca, who were the recipients of IACHR-ordered protection measures. Following the IACHR order that protection be extended to the CJD lawyers, the State initially took the position that it was not mandatory and that it was entitled to carry out its own risk assessment for CJD. This contradicts the Inter-American jurisprudence that States are required to implement measures automatically, and without any internal processes. The State did assess the CJD lawyers at the highest level “extraordinary risk” and it issued cell phones, bullet-proof vests and special means of transport.

98 Ibid

99 From “Fatsheet on Defenders”, International Office on Human Rights, Action Colombia (Oidhaco), November 2014

100 <http://www.elspectador.com/noticias/nacional/medidas-protger-defensores-de-ddhh-no-funcionan-colomb-articulo-511679>. Mr. Howland has called upon the international community to work with the Colombian State so that protection measures can be improved, and to examine best practices from other countries where peace accords have been signed.

101 IACHR Truth, Justice and Reparation Report, Supra at note 18, paras. 24-25.

But these measures on their own were of little value for various reasons, including the fact that the threats have in part originated from public officials and criminal investigations into the source of the threats have either been archived or have not been concluded.

### ***Significant delays in the application of protection measures***

In Buenaventura, members of the Red Jurídica, a group of local lawyers, reported to Caravana delegates that they have received threats, not only against them personally, but also against their family members. In many cases, even when serious threats are made, it takes several weeks or even months for the UNP to provide protection to human rights defenders, if the request is acceded to at all. Human rights defenders are well aware of the risks they face, and knowing the slim chances of receiving timely, any or adequate state protection, they are forced to take measures for self-protection.

### ***Ill-adapted measures: bulletproof vests in tropical heat***

In contrast to the advice received from the Prosecutor's Office in Bogotá, the cases that the delegates reviewed demonstrate that the State has not determined the most ideal protection measures in consultation with the beneficiaries and their representatives, and it has not then monitored the measures to ensure their effectiveness. This violates the strictures established by the IACHR.<sup>102</sup>

The protection measures offered to human rights defenders and social leaders by the National Protection Unit (the UNP, using its acronym in Spanish) are often inadequate and ill-adapted for defenders. Medellín delegates heard from judges and magistrates about their concerns for their personal security. They are provided with one car and two bodyguards for every three judges/magistrates. Travelling together means that they are easier to attack.

Measures may comprise a 20kg bulletproof vest. In the tropical climate in many areas of Colombia, where the temperature is frequently above 30 degrees, this is particularly problematic. Not only is it uncomfortable and difficult for the recipient of protection, it is also indiscreet. For community human rights defenders, not only does this fail to offer protection, it hinders them from carrying out their job, because community members may be reluctant to approach someone obviously identifiable as targeted by the paramilitary successor groups. The national protection system needs to be adapted to the conditions of Buenaventura and elsewhere, and to be provided in consultation with the beneficiary human rights defenders and local communities being granted protection, to ensure that local needs are fully met. In addition, the effectiveness of measures must be monitored in accordance with IACHR orders and general requirements.

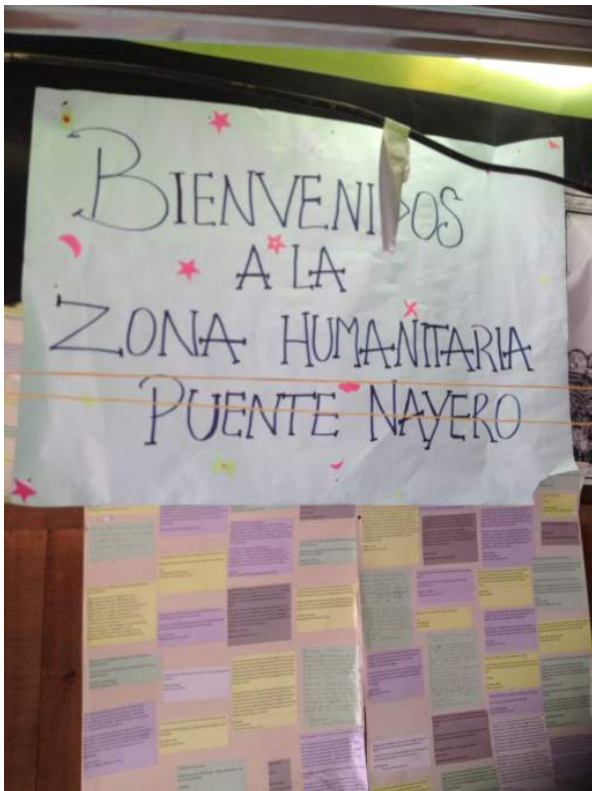
One organisation told us that protection measures also need to be redesigned to address the particular circumstances of women. For example, a woman may have to move her entire family to escape harassment as opposed to moving just herself. This means that provision has to be made for children's education, housing and healthcare. The Caravana therefore welcomed the news that the National Protection Unit has also set up a specific programme aimed at improving protection for female human rights defenders. The delegation will follow-up on its implementation.

### ***Lack of availability of collective measures***

In the case of Buenaventura, many threats are made against communities as a whole, as well as against an individual human rights defender or leader. The UNP is unable presently to offer any 'community-wide' protection measures, which means that only individuals considered particularly at risk are offered protection. The IACHR has ordered a number of collective protection measures, including, most recently, the Precautionary Protective Measures to the Puente Nayero Humanitarian Space in September 2014. These should be implemented in consultation with the community and the human rights defenders who accompany them. At the peak of the violence in Buenaventura, approximately 7-10 people per day were being taken out of the city for their own protection. Delegates were informed that leaders in Buenaventura are being threatened not only for political reasons, but also because of specific legal cases in Buenaventura, with the intention to create a climate of fear so that they do not report crimes against them. There is an urgent need to provide protection for community leaders who are being threatened directly as a result of the role that they have taken on.

In some cases, where communities have been offered no State protection, they have invented innovative new models to resist displacement in the face of threats and attacks.

102 IACHR Truth, Justice and Reparation Report, supra note 18, paras. 26-27.



#### Resisting the chop-houses: The Puente Nayero Humanitarian Space, Buenaventura

In Buenaventura, the Caravana visited the Puente Nayero Humanitarian Space, home to 302 families (1028 people in total), and set up as a “civilian safe zone” within the city. The space was established on 13 April 2014, the day following the murder and dismemberment of Carlos Andrés Angarita, a local coconut water seller. The community dismantled the “casa de pique” (house where people have been dismembered by paramilitary successor groups) located in the street – which remains now as a shell, with a sign outside stating “sin olvido”, and housing a small exhibition. Although humanitarian spaces have previously been set up in areas of rural displacement to provide a safe area for communities who wish to return to their lands, the creation of an urban humanitarian space is an unprecedented initiative in an urban area. Its development was led by the community itself, with the support of NGO *Comisión Intereclesial de Justicia y Paz* (the Inter-Church Justice and Peace Commission), to stand up to violence by illegal armed groups, and to fight for the right to life, integrity, use and enjoyment of land as a community.

**Sign: “Welcome to the Puente Nayero Humanitarian Space”**  
(Photo: Colombian Caravana)

The perimeter of the humanitarian space is guarded by the police at the persistent request of the community, although there have been lapses in security: firstly, when no police have been there, and secondly, when the police have apparently allowed paramilitaries enter the humanitarian space. On each occasion they have been forcibly removed by the community. Moreover, unlike in rural models where the community may be able to live exclusively within the humanitarian space, members of the Puente Nayero community must regularly leave the humanitarian space to go about their daily lives, for work and school, for example. They are therefore exposed to risk in the wider city. There have been around 50 threats against those associated with the zone, including seven threats against Justice and Peace.

On 15 September 2014, following a request made by the community and supported by Justice and Peace, the Inter-American Commission on Human Rights granted precautionary measures to residents of the humanitarian space, thereby obliging the State to provide protection to the community members in consultation with them. It is essential that there is ongoing and effective provision of security by the Colombian state, as well as continuing political support at an international level.



### ***Privatisation and cuts – a car but no petrol***

Some 70.2% of the UNP's budget is implemented via private security companies who provide security services, leading to questions about oversight. In 2014, after the scandal in the National Protection Unit, it was announced that 15% of protection measures would be cut by the end of the year because of a budget deficit.<sup>103</sup> As a result of persistent attacks and cuts to funds, delegates heard testimony about specific cases where lawyers had been forced to abandon cases due to threats to their safety.



**Jorge Molano**  
(Photo: PBI Colombia)

Prominent human rights lawyers **Jorge Molano** and **German Romero** stated in May 2014 that they were unable to continue their work since their security was so seriously compromised and the State has not implemented protection ordered by the Inter American Court of Human Rights. In addition, Mr Molano reported that he was unable to attend cases in remote regions as there were no funds either for petrol, or for the travel costs of his bodyguards. Mr. Molano works as the legal representative of victims of human rights violations in cases of great importance for human rights and the functioning of the rule of law in Colombia, including the case of the 2005 massacre that occurred in the Peace Community of San José de Apartadó.

Lawyer **Adil Melendez** receives protective measures, although his petrol allowance for the bullet-proof car has been cut in half. Mr. Melendez advised delegates that he had been funding his own protection by paying for petrol from May 2014 onwards. However, he was no longer able to do so and in August he had to decide on reduced human rights work. This meant not being able to travel to remote rural areas where his clients live.

The IACHR's recent country report on Colombia emphasises its concern that the use of private security companies to manage the protection schemes, could represent a risk to defenders' security due to the historic links that some security companies have with paramilitary groups and the risk that demobilised paramilitaries could end up working as bodyguards.<sup>104</sup> After threats to Pasto-based defender Diana Montilla in December (see pages 8-9), the defender was offered bodyguards. She requested that these bodyguards be of her own choice, for reasons of trust. Nevertheless, she was informed via *Circular 001* of May 30, 2013 and *Circular 004* of July 12, 2013, that beneficiaries of protection measures are no longer allowed to name their own bodyguards. This is of concern to the Caravana as defenders may feel unable to access protection measures and will therefore be placed under further risk.

<sup>103</sup> <http://www.portafolio.co/economia/presupuesto-seguridad-amenazados-colombia>  
<sup>104</sup> IACHR Truth, Justice and Reparation Report on Colombia Supra at note 18, para 1184

### **Concerns raised with UNP in Bogota**

The UNP accepted that the process of administering protection measures has faults. However they maintain that they apply criteria set by the Constitutional Court. They also stated that the Unit cannot keep up with the number of applications. The UNP told the Caravana that the length of time to reach decisions has decreased and that every single application is now considered. The Unit proposes improvements such as increasing the number of personnel working in the process; reducing the time of risk assessment from 30 days to 15 days; and improving recruitment procedure for bodyguards. Where specific concerns were raised, such as the low level of petrol and transport allowances, the delegates were informed that the level is not decided by the UNP. The Committee for the Evaluation of Risks (CERREM) and the Group for Preliminary Evaluation are made up of many organisations, and no one organisation has sole responsibility.

The Caravana is concerned about the apparent lack of authority within the UNP to make key decisions regarding the assignation and funding of protection measures and the lengthy processes caused by the number of different organisations involved. The Caravana also questions the extent to which the State has integrated its protection mechanisms with the relevant investigative entities. As the IACHR has established, this form of integration is critical in order to clarify the sources of the threats and risks, as well as to identify and sanction the potential perpetrators. As we heard in our meetings with human rights lawyers and defenders, it is the advancement of investigations of threats that will permit and complement the effectiveness of protection measures for those covered by protection programmes.<sup>105</sup>

Although this appears obvious, for protection measures to make sense, the responsible authorities must prioritise the investigation and coordination of efforts to de-activate the perpetrators of threats, harassment and serious attacks that lead to the need for protection measures in the first instance. Without this, lawyers and human rights defenders will continue to be at risk.



**Caravana delegates celebrate the achievements of human rights lawyer Rommel Durán Castellanos, in a show of recognition at the British Embassy. The international community must show its support for the difficult situation faced by lawyers in Colombia (Photo: Colombian Caravana)**

<sup>105</sup> IACHR Truth, Justice and Reparation Report, *supra* at note 18, para. 30.

## Acknowledgements

The Caravana would like to thank first and foremost all the Colombian organisations and individuals who made our visit possible, especially the generous support provided by the Colombian Association of Human Rights Lawyers (ACADEHUM) and other collectives and NGOs, including: the José Alvear Restrepo Lawyers' Collective (CCajar), the Peoples' Legal Team (EJP), the Luis Carlos Pérez Lawyers Collective (CCALCP), the Political Prisoners' Solidarity Committee (FCSPP), Suyana Corporation, the Sixto Asprilla Circle of Trial Lawyers, the Yira Castro Legal Corporation, Mission Aurora, the Collective of Women Lawyers, the Corporation for Justice and Dignity (CJD), the Colombian Association of Labour Rights Lawyers, the Corporation for Judicial Freedom (CJL), the Corporation for Peace and Social Development (CORPADES), the Popular Training Institute (IPC), the Guasimí Corporation, the Awá Indigenous People's Unity (UNIPA), the Black Communities' Process (PCN), Butterflies with New Wings Building the Future, Akina Zaji Sauda Foundation, the March Committee, the Movement of Victims of State Crimes (MOVICE), the Permanent Committee for the Defence of Human Rights (CPDH), the Colombia- Europe-United States Coordination Group, Lazos de Dignidad, the Patriotic March, the National Indigenous Organisation of Colombia (ONIC), Sisma Women, the Research and Popular Education Centre (CINEP), the Inter-Church Justice and Peace Commission (CIJP), Corporación Popular Tejedores de Derechos, INCCA University, Santander Industrial University, Autonomous University, Cali Free University, the Centre for socio-legal studies at the University of Nariño (CIESJU), Sintraunicol.

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Participating institutions who sent delegates include the Bar Council of Ireland, Lawyers for Lawyers and Judges for Judges (Netherlands), American Bar Association, Law Society England and Wales, Haldane Society (UK), the Bar Association Human Rights Committee (UK), European Lawyers for Rights and Democracy, Union Internationale des Avocats la Asociación Libre de Abogados - Comité por la Defensa de la Defensa (Spain), and Lawyers Rights Watch Canada.

As part of its preparation for the trip, the Caravana UK group developed a strategic alliance with the Real Translation Project at Newcastle University to produce a bilingual book of contexts and terms for the delegates. Three language graduates (Rebecca Latter, James Ellis and Niall Flynn) and their lecturer, Angela Uribe de Kellett, also raised funds and participated as volunteer interpreters in the delegation, together with professional interpreter James Lupton of *Macumba Translation* and jurist Miguel Hernández García. These interpreters made a vital contribution to the delegation's success.

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## List of delegates

### *Australia*

Anouska Perram

### *Belgium*

Julie Goffin

### *Canada*

Brent Knazan

Flora Vineberg

Heather Neun

Samina Ullah

### *France*

Mathias Poret

### *Germany*

Katharina Gamm

### *Ireland*

Emma Slattery

Katherine Finn

Mary Henderson

Sean T O'Reilly

Thomas MacManus

### *Italy*

Piergiuseppe Parisi

### *Netherlands*

Anne-Marie Smit

Harald Wiersema

Peter Ingelse

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### *Spain*

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Fernando Piernavieja

José Luis Galán

Naomi Abad Velasco

Patricia Ayodeji

Silvia Nicolaou

### *Switzerland*

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### *UK*

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Camilla Graham Wood

Charlotte Gill

Chetna Varia

David Gray

Evin Zenghin

Hannah Burton

Henry Smith

Jeffrey Forrest

Joe Egan

Julia Bartholomew

Katie de Kauwe

Lee Pearman

Lisa McGrady

Mark Bagshaw

Martha de la Roche

Max Davies-Gilbert

Nick Hanning

Nicola Jeffery

Olivia Percival

Rachel Lewis

Rachel Rushby

Rebecca Chalk

Ros Olleson

Sara Chandler

Sarah Smith

Siobhan Lloyd

Sue Willman

Tim Potter

Tom Rowson

Victoria Channing

Zina Smith

### *USA*

Brantley Shaw Drake

Matthew Norwood



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**Colombian Caravana UK Lawyers Group**

promoting access to justice  
and protecting human rights



The Colombian Caravana is a pioneering initiative based on solidarity, education and advocacy, at the centre of an international network of jurists offering support to lawyers, especially human rights lawyers, and other legal professionals in Colombia. Members of the Caravana work voluntarily and are committed to working towards the day when Colombian human rights lawyers and defenders are able to carry out their work freely without threat to their lives and occupation. Since 2008, international lawyers' delegations to Colombia every two years to gain first-hand knowledge of the situation faced by human rights lawyers. The information gathered is drawn together into a report and used to shine a spotlight through awareness-raising, urgent action and advocacy activities on the issues human rights lawyers and their clients are confronting.