



59-60 Russell Square
London
WC1B 4HP
United Kingdom

Juan Manuel Santos Calderon
President of the Republic of Colombia
Carrera 8 No. 7 26
Palacio de Nariño
Bogotá DC
Colombia

SC SG 0008.1

12th August 2014

Dear President Santos,

Arbitrary arrest and mistreatment of Rommel Duran Castellanos

I am writing to you on behalf of the UK members of the International Caravana of Jurists, Colombian Caravana UK Lawyers Group. During visits to Colombia in 2008, 2010, 2012 and 2014 we called upon the Colombian government to protect lawyers' ability to represent their clients and to refrain from any interference in their work in order to comply with Colombian legislation, and International Law¹.

The Colombia Caravan is deeply shocked to hear that a lawyer with whom we have worked closely, Mr Rommel Duran Castellanos, has been arrested arbitrarily, and during his detention his Colombian lawyers were unable to speak with him, or indeed to locate exactly where he was detained.

During January and February 2014 Mr Duran visited the United Kingdom, and met with members of the legal profession and with members of the UK Parliament. There is a large body of concern at his arbitrary arrest, detention and mistreatment.

On Saturday, August 9, at 9:15 pm Mr Duran was arrested arbitrarily in the town of Curumaní, in Cesar. He is a human rights defender, a lawyer and a member of the People's Legal Team (Equipo Juridico Pueblos) in Bucaramanga, as well as a member of the Santander branch of the Committee for Solidarity with Political Prisoners.

The arrest was made when traffic police stopped the vehicle in which Mr Duran was travelling. They then delivered him to members of the SIJIN in Curumaní. The only information given by these policemen at the time was that there was a warrant for alleged conspiracy. However they did not state which judicial office issued the order. We are gravely concerned at the way Mr Duran has been treated as it has been reported that the concerned members of the SIJIN behaved with severe procedural irregularity and in an illegal manner.

His cell phone was snatched from him, he was filmed and photographed illegally and was prevented from calling his own lawyer.

¹ Law 1426 of December 29, 2010



He was released after being detained for 20 hours at 5.20pm on Sunday 10 August. However, I am troubled because I have been informed that the Sixth Specialised Prosecutor for Bucaramanga has issued certificate which states that the arrest was a mistake. The issue of this certificate suggests that there is no intention holding to account those responsible for Mr Duran's arbitrary detention.

Moreover, during the 20 hours of his detention, we understand that Mr Duran was kept in conditions and subjected to treatment that would appear to amount to ill-treatment and possibly torture. He was detained in a place where the temperature was high, he was handcuffed most of the time and was the subject of sleep deprivation.

This situation is completely unacceptable and must be rectified in order to ensure the safety of all lawyers and human rights defenders, so that they can continue with their important work. In this context, I once again would like to take this opportunity to respectfully remind you of Articles 16(a) and (c), 17 and 18 of the UN Basic Principles on the Role of Lawyers (1990)². We also draw your attention to: UN Declaration on Human Rights Defenders (adopted by the UN General Assembly on 8 March 1999)³.

I also respectfully draw your attention to Article 7 and 9 of the International Covenant on Civil and Political Rights⁴ ratified by Colombia in 1969 and Articles 5 (2) and 7 (2) and (3) of the American Convention on Human Rights ratified by Colombia in 1973.⁵ I also respectfully remind you of Article 18 (1) and (3) of the Body of Principles for the Protection of All persons under Any Form of Detention of Imprisonment approved by United Nations General Assembly resolution 43/173 of 9 December 1988.⁶

² Which state that:

16. Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; ... and (c) shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.

17. Where the security of lawyers is threatened as a result of discharging their functions, they shall be adequately safeguarded by the authorities.

18. Lawyers shall not be identified with their clients or their clients' causes as a result of discharging their functions.

³ Which states at Article 12 that:

a. Everyone has the right, individually and in association with others, to participate in peaceful activities against violations of human rights and fundamental freedoms.

b. The State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration.

c. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

⁴ Article 7. No person shall be subjected to torture, or to cruel, inhuman, degrading treatment or punishment.....

Article 9.No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedures as established by law.

⁵ Article 5(2) No one shall be subjected to torture or to cruel, inhuman, or degrading punishment or treatment. Article 7(2) No one shall be deprived of his physical liberty except for the reasons and under the conditions established beforehand by the constitution of the State Party concerned or by a law established pursuant thereto. Article 7(3) No one shall be subject to arbitrary arrest or imprisonment.

⁶ Principle 18(1) A detained or imprisoned person shall be entitled to communicate and consult with his legal counsel. Principle 18(3) The right of a detained or imprisoned person to be visited by and to consult and communicate, without delay or censorship and in full confidentiality, with his legal counsel may not be suspended or restricted save in exceptional circumstances, to be specified by law or lawful regulations, when it is considered indispensable by a judicial or other authority in order to maintain security and good order.



We respectfully call on the Colombian state:

- to ensure a thorough, independent and impartial investigation is conducted into Mr Duran's apparent arbitrary arrest;
- if it is found that any person or persons are found to have arbitrarily detained Mr Duran, they must be the subject of appropriate disciplinary or criminal sanctions;
- to ensure a thorough, independent and impartial investigation into the way Mr Duran was treated whilst in custody with the intention to bring to justice those responsible for his ill-treatment or torture;
- to ensure a thorough, independent and impartial investigation into the allegations of Mr Duran not being permitted to call his lawyer, whilst in detention and of the taking of an illegal film and photograph of him, with the aim of bringing disciplinary or criminal proceedings against those responsible.

I reiterate that there are many members of the legal profession in the United Kingdom, and several members of the UK Parliament who met with Mr Duran during his visit to the UK in January and February this year, who are outraged at the treatment he has received and who will be involved, alongside us, in continually monitoring the progress in calling to account those responsible for his arbitrary arrest and mistreatment. We look forward to hearing from you with news of significant progress in the above investigations and calling to account those responsible for the above actions as soon as possible.

Yours sincerely

Professor Sara Chandler

Chair, Colombian Caravana UK Lawyers Group

cc:

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| - La Fiscalía General de la Nación | - Sarah Smith, Law Society of England and Wales |
| - Comité Ejecutivo de la Abogacía Colombiana | - Gabriela Carina Knaul de Albuquerque e Silva, Relatora Especial de las Naciones Unidas sobre la independencia de magistrados y abogados |
| - Vice-Presidente Angelino Garzón | - Margaret Sekaggya, Relator Especial de las Naciones Unidas: sobre la situación de los defensores de derechos humanos |
| - Daniel Ricardo Silva, Human Rights and Environmental Attache, Embassy of Colombia, London | |
| - Abogados por Abogados | |
| - Abogados Sin Fronteras Canadá | |
| - Asociación Colombiana de Abogados de Derechos Humanos (ACADEHUM) | |



Colombian Caravana UK Lawyers Group
promoting access to justice
and protecting human rights

