



Francisco Barbosa Delgado
Fiscal General de la Nación
D.C. Diagonal 22B No. 52-01 (Ciudad Salitre)
Nivel Central
Bogotá, Colombia

18 March 2020

Dear Francisco Barbosa Delgado,

Re Threats and harassment towards Nabil Quijano, member of Corporacion Equipo Jurídico Pueblos, and other human rights defenders

I write on behalf of the Colombian Caravana (hereafter 'Colombian Caravana'), a UK registered charity that co-organises the International Caravana of Jurists. During biennial visits to Colombia since 2008, including during our most recent visit in September 2018, we have called upon the Colombian government to protect the ability of lawyers and human rights defenders to represent their clients without any interferences in their work, in order to comply with both Colombian and international law.

The Caravana wrote to the Attorney General (*Fiscalía*) on 19 February 2019 in relation to the harassment experienced by Ms Gloria Silvia, as well as members of the Corporación Equipo Jurídico Pueblos (EJP) and urged the Attorney General to take steps to safeguard the members of the EJP as well as other human rights lawyers and defenders.¹

Despite the above communication, the Caravana are deeply concerned to learn that on 20 January 2020 at 10:30am, Nabil Quijano was subject to harassment by National Police Officers in Bogotá. We received reports saying that whilst Mr Quijano was in his vehicle driving on Carrera 17 between Calle 61 and 62, two uniformed police officers on a National Police motorcycle approached Mr Quijano. After making a series of unusual manoeuvres on their motor vehicle to reach the lawyer, the officers approached the window on the left side and ordered Mr Quijano to move his car to the pavement to be searched. We have been informed that Mr Quijano complied with the police officers' wishes and once he had parked, he was ordered to exit the vehicle and provide the officers with the vehicle's documentation, which he did.

According to the reports we received, immediately on exiting the car, Mr Quijano was subject to a body search and one of the officers proceeded to inspect the rear of the vehicle. We were surprised to learn that Mr Quijano was asked to state his profession, to which he responded that he was a lawyer. Moments after handing the documents over to the officers, the documents were returned to him and Mr Quijano was informed that the vehicle's documents met the requirements

¹ Available at: http://www.colombiancaravana.org.uk/wp-content/uploads/2019/02/EJP-letter_ESP.pdf and http://www.colombiancaravana.org.uk/wp-content/uploads/2019/02/EJP-letter_ENG.pdf



and that he could leave. Mr Quijano got into his car and drove away. As he drove away, Mr Quijano reported that he noticed that the same uniformed men proceeded to follow his vehicle for several blocks, finally turning west on Calle 63 with Carrera 17.

We believe that the actions of the police officers on 20 January 2020 could be an attempt to intimidate and harass Mr Quijano. This type of random police search is not understood to be common practice, nor is it the first time that Mr Quijano has been subject to harassment or intimidation. In December 2019, Mr Quijano's portable computer which contained important notes, evidence and his notes on preparatory hearings was stolen at an event relating to prisoner solidarity. The computer was inside his suitcase, along with his iPad, cell phone, a hard drive and the computer charger, none of which were stolen.

It is essential that the safety of lawyers and other human rights defenders is ensured, in order to allow them to play their part in a healthy democratic society, which has at its core the rule of law and due process. With this in mind, we respectfully remind you of Colombia's international obligations pursuant to the American Convention on Human Rights.² In particular we draw your attention to Article 13 (freedom of thought and expression) and Article 13(3) (the prohibition against restricting freedom of expression by indirect means).³

Similar obligations are contained within the International Covenant on Civil and Political Rights.⁴ We respectfully draw your attention to: Article 17 which includes the prohibition of arbitrary or unlawful interference with privacy,⁵ correspondence or unlawful attacks on honour and reputation and Article 19(2) on freedom of expression.⁶

2 Ratified by Colombia in 1979

3 In particular, see Principles 5 and 11 of the Declaration of Principles on Freedom of Expression of the Organisation of American States (<http://www.oas.org/en/iachr/expression/showarticle.asp?artID=26&IID=1>). Principle 5 states *inter alia* that 'direct or indirect interference in or pressure exerted upon any expression, opinion or information transmitted through any means of oral, written, artistic, visual or electronic communication must be prohibited by law'. Moreover, Principle 11 acknowledges that public officials must tolerate a higher degree of scrutiny by the public and, hence, a higher degree of criticism. The Inter-American Court of Human Rights has ruled that freedom of expression of opinion or information should be especially protected when the information or opinion that is being divulged concerns the or affects the functioning of the state or the rights of individuals (*Case of Tristán Donoso v Panamá*, para 121).

4 Ratified by Colombia in 1969

5 In particular, see UN Human Rights Committee, General comment No 16 (8 April 1988), which states *inter alia* that 'no interference can take place except in cases envisaged by the law' and that, even when the interference with the right to privacy is provided for by the law, it 'should be in accordance with the provisions, aims and objectives of the Covenant and should be, in any event, reasonable in the particular circumstances'.

6 In particular, see UN Human Rights Committee, General comment No 34 (12 September 2011) UN Doc CCPR/C/GC/34, at paras 11-12, where the Committee emphasised that the right enshrined in Article 19(2) 'includes *political discourse*, commentary on one's own and on *public affairs*, canvassing, discussion of *human rights*, journalism, cultural and artistic expression, teaching, and religious discourse' (emphasis added). See also para 38, which states that public figures and institutions should withstand criticism and opposition.



Furthermore, we draw your attention to Articles 16, 17, and 18 of the UN Basic Principles on the Role of Lawyers (1990),⁷ and to the UN Declaration on Human Rights Defenders (1998).⁸

In light of these commitments and the concerns raised above the Colombian Caravana calls on the Colombian government and relevant state authorities to:

- Conduct a full, prompt and impartial investigation into these allegations of harassment, intimidation and theft, with the intention of bringing those responsible to justice;
- Liaise with the National Protection Unit to ensure that they provide adequate protective measures to Nabil Quijano and other human rights lawyers who might be at risk of harm, in accordance with their wishes and needs;
- Ensure that all lawyers and human rights defenders are able to carry out their duties without fear of intimidation or harassment against themselves or their family members.

While we do not act on the behalf of Corporación Equipo Jurídico Pueblos, we write in their support to defend their capacity to undertake legal work safely and free from harassment, as is necessary to building long-lasting peace in Colombia.

We would be grateful to receive updates regarding the progress of the matters raised in this letter, and respectfully ask that an initial response be sent to the Colombian Caravana within 28 days of this letter.

⁷ 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.

⁸ Which states in Article 12 that:

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

2. 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.

3. 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.



Yours sincerely,

A handwritten signature in black ink, appearing to read "Piergiuseppe Parisi".

Piergiuseppe Parisi
Advocacy Director, Colombian Caravana

CC:

- Carlos Alfonso Negret Mosquera, National Human Rights Ombudsman
- Mónica Fonseca, Cancillería de Colombia
- Juan David Bello Guevara, National Protection Unit
- Antonio José Ardila, Colombian Ambassador to the United Kingdom
- Mr Colin Martin-Reynolds CMG, British Ambassador to Colombia,
- Alberto Brunori, Representative in Colombia of the Office of the UN High Commissioner for Human Rights
- Michel Forst, United Nations Special Rapporteur on the Situation of Human Rights Defenders
- Diego García-Sayan, Special Rapporteur on the Independence of Judges and Lawyers
- Francisco José Eguiguren Praeli, Inter-American Commission of Human Rights Special Rapporteur on Human Rights Defenders