

# Colombia: Seeking justice, building peace, and the post-conflict illusion

Report of the VI International Caravana of Jurists 2018



# International Caravana Delegates 2018

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Delegates with Colombian lawyers at the closing session of the International Caravana in Bogota

The **International Caravana of Jurists** is the embodiment of the international legal community's concern and solidarity with human rights lawyers and other human rights defenders in Colombia.

We will continue to stand alongside our Colombian colleagues, many of whom continue to be at risk, for as long as they ask us to.

# International Caravana partners



The International Caravana first travelled to Colombia on the invitation of Colombian human rights lawyers in 2008. Our sixth delegation heralded the Caravana's tenth anniversary of international professional solidarity in defence of human rights, justice, and rule of law.

A steady constant these past ten years is that lawyers, human rights defenders, and social leaders continue to be threatened and killed for seeking justice and defending marginalised communities. Since the signing of the Peace Agreement in November 2016, hundreds of human rights defenders have been assassinated and the UN has called for decisive action to stem the tide of violence enveloping many regions. Colombia's official state Ombudsman has reported that a human rights defender is killed every three days. The country is highly polarised.

In 2018, two years after the historic signing of the Peace Agreement between the state and the FARC, the Caravana joined a call for justice, truth, reconciliation and non-repetition. As the international community and colleagues in the legal profession around the world, we ask that the Peace Agreement be more than just paper and that it lead to transformation and transition for Colombia and security and peace for its lawyers, human rights defenders and citizens; a peace which all Colombians deserve.

**Charlotte Gill, Chair, Colombian Caravana (UK)**



The FBE participated in the 6th delegation of jurists to Colombia with members from Italy and the UK. After more than 50 years of conflict we welcomed the Peace Agreement and over the last two years the process that began to develop.

The Federation supports the peace process and recognises that this is a hugely important period when the peace process is threatened by those who do not respect the rule of law, nor the defence of human rights.

The FBE has supported human rights lawyers in Colombia since 2006 when the Congress of the FBE was addressed by human rights lawyer Reinaldo Villalba Vargas. The Human Rights Commission of the Federation has a long term programme of support for human rights defenders who are at risk, and face daily threats, attacks and assassination.

The Federation represents the bar associations and local law societies of around one million European lawyers. As members of the international legal community we stand shoulder to shoulder with our colleagues in Colombia.

**Michele Lucherini, President, European Bars Federation (*Federation des Barreaux d'Europe*)**

The Caravana mission is of great importance because it increases the visibility of the work of Colombian lawyers and the difficulties they are facing. Lawyers are at the forefront of human rights protection and promotion.

When the legal profession is not able to function independently or effectively, this gives rise to human rights violations, impunity, and injustice. Fundamental to improving the human rights situation for people in Colombia is to ensure that lawyers can do their work without fear of harassment or intimidation.

Our participation in the 6th delegation of the Caravana has given us the opportunity to meet many courageous lawyers who continue to do their work steadfastly, despite the considerable risks they are facing.

Lawyers for Lawyers will continue to support those lawyers who are experiencing difficulties in exercising their professional activities.

**Judith Lichtenberg, Executive Director, Lawyers for Lawyers (Netherlands)**



Recognising the grave and difficult situations facing lawyers, judges, and human rights defenders in Colombia, UIA participated in the 6th International Caravana delegation to Colombia, once again adding its voice in support of human rights and the peace process. As violence seemed to escalate in the post-agreement Colombia, particularly against human rights defenders, it was indeed crucial to reaffirm international support to the Colombian legal community.



UIA, represented by Gustavo Salas Rodríguez, was honoured to contribute to this mission, travelling across Colombia to gather testimonies from all actors involved to better understand how to support lawyers and human rights defenders and advocate for their protection.

Quoting Dr. Martin Luther King, Jr., it is noted that “injustice anywhere is a threat to justice everywhere,” and this is notably so when the victims of such injustice are lawyers and defenders, who must be free to practice their profession without violence, threats or intimidation, so that they can continue to protect the human rights of all.

UIA focuses its efforts on human rights and the defence of lawyers, as well as the defence of the independence of the legal profession and the rule of law.

**Gustavo Salas Rodríguez, International Association of Lawyers (*Union Internationale des Avocats*)**

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# Executive Summary

The International Caravana travelled to Colombia in September 2018. 20 experts from six countries focused their visit on the impact that the peace process has had on the work of human rights lawyers and the dynamics of the conflict.

The Caravana travelled to six regions, meeting with lawyers, judges, human rights defenders, victims, and state representatives, among others. Delegates observed that violence against human rights defenders and social movements has escalated and that there has been a worrying paradigm shift in relation to the characteristics of threats and how threats are acted upon, and a proliferation and re-emergence of illegal armed groups.

The Peace Agreement remains precarious. Uncertainty regarding possible changes by the new administration evidently added to an increasing sense of insecurity. The Caravana heard concerns regarding the limited implementation of core areas of the Agreement as related to substitution of coca crops, the safety and reintegration of FARC ex-combatants, and the ability for the Special Jurisdiction for Peace to establish the truth, reparations, and reconciliation needed to move forward, in particular regarding the functioning of the JEP and issues of command responsibility, military justice, extradition, resourcing, and the process for the prioritisation of cases.

Human rights lawyers are at heightened risk because of their work seeking accountability and defending communities' fundamental rights. Delegates heard reports of repeated aggressions against them: threats to their lives and their families; break-ins and thefts of sensitive information; disciplinary complaints filed to hinder lawyers' work; and stigmatisation by public officials unduly linking lawyers to their clients or making accusations of their belonging to illegal armed groups.

Human rights defenders and lawyers also face obstacles when seeking timely and appropriate protection from the state. The state's approach to protection tends to be reactive rather than preventive and lacks understanding of the context in which lawyers work and how to take specific circumstances of geography, culture, and gender into account when allocating protection measures.

It would be far removed from reality to conclude that Colombia is in a period of post-conflict, let alone at peace. The International Caravana calls on the Colombian government to take on board our recommendations to see that justice is done, rule of law is strengthened, and human rights are not only protected but flourish. To the international community, we ask that we take a global responsibility to stand in solidarity with those who are threatened, and that we speak out against violence and endeavour to support those seeking justice and peace in Colombia.



# Introduction

The International Caravana of Jurists (hereafter Caravana) travelled to Colombia from 1 to 8 September 2018 for its sixth biennial visit since 2008, on the invitation of Colombian lawyers. It was the first visit of the Caravana since the signing of the Peace Agreement between the Colombian government (at the time under the leadership of President Juan Manuel Santos Calderón) and the Revolutionary Armed Forces of Colombia (*Fuerzas Armadas Revolucionarias de Colombia* - FARC) on 24 November 2016 (hereinafter, the "Peace Agreement"). The delegation focused its visit on the impact the Peace Agreement has had on the work of human rights lawyers and the shifting dynamics of violence and conflict within the country.

The delegation consisted of 20 legal professionals and human rights experts from six countries: United Kingdom, Spain, Netherlands, Italy, Switzerland and Mexico. The Caravana delegation was organised by the Colombian Caravana, a UK-based human rights organisation, in collaboration with the Colombian Association of Human Rights Lawyers (ACADEHUM) and José Alvear Restrepo Lawyers' Collective (CCAJAR). The delegation was supported by Lawyers for Lawyers in the Netherlands, the International Association of Lawyers (UIA), and the European Bars Federation (FBE).

Prior to the delegation, delegates were aware of several of the challenges that Colombia faced as the country tried to turn its attention to peace. Despite the signing of the Peace Agreement and the demobilisation of the FARC, the delegates were particularly concerned by reports of escalating violence and the growing presence of a number of other illegal armed groups.

The findings of this report are the result of multiple meetings and interviews with human rights lawyers, judges, NGOs, victims, community leaders, former-FARC combatants, international organisations, diplomatic missions, and Colombian authorities in Bogotá and various other regions. Delegates gathered together in Bogotá before travelling in small groups to the departments of Antioquia (Medellín), Bolívar (Cartagena), Nariño (Pasto), and Norte Santander (Cúcuta), Santander (Bucaramanga), Valle del Cauca (Cali). After spending several days in the regions across the country, delegates returned to Bogotá to share findings and meet with national authorities and diplomatic missions to discuss issues of concern and gain the perspective of those state entities.

This report brings together the detailed findings and observations of the delegation and makes some specific recommendations to the Colombian state and the international community. The report is organised by thematic sections with a particular focus on the implementation and impact of the 2016 Peace Agreement.

In line with its model of international professional solidarity and accompaniment, the International Caravana frames its findings within the context of the ability for the legal profession to carry out its work, the defence of human rights, and the function of rule of law and access to justice. We draw on international human rights norms to guide the recommendations we make.



Welcome and introductory briefing of delegates by Colombian lawyers and human rights experts in Bogotá  
(L-R: Charlotte Gill (Caravana), Rafael Palencia (ACADEHUM), Sergio de Leo (Peace Brigades International))



Section 1  
**Peace Process**

*"Peace does not exist. [...] They are going to kill us. I can't say any more than that."*

*Indigenous community member, Nariño*

After four years of negotiations, on 24 November 2016, the Colombian government and the FARC (at that point the largest guerrilla group of Colombia) signed a Peace Agreement that put an end to five decades of internal conflict.<sup>1</sup> The United Nations (UN) Security Council monitored the demobilisation of FARC combatants, who received certificates permitting their transit into civilian life in return for laying down their arms. This mission was completed on 26 September 2017,<sup>2</sup> although the Security Council continues to provide support and to monitor the peace process through the UN Verification Mission in Colombia. While the signing of the Peace Agreement was a significant milestone, the Caravana recognises that it will take time for the country to achieve sustainable peace.<sup>3</sup>

Despite the signing of the Peace Agreement with the FARC, a number of other illegal armed groups remain active in Colombia, such as the National Liberation Army (*Ejército de Liberación Nacional* - ELN), Popular Liberation Army (*Ejército Popular de Liberación* - EPL) and Gaitanista Self-defence Forces of Colombia (*Autodefensas Gaitanistas de Colombia*).



Lawyers from CCAJAR with delegates and the press in Bogotá

At the time of writing of this report, the peace negotiations initiated by the government of Juan Manuel Santos in 2012 with the ELN<sup>4</sup>, now currently the largest guerrilla group, had been suspended, which effectively reactivated the arrest warrants (*orden de captura*) of those who had sat at the negotiation table.<sup>5</sup>

Daily life for many Colombians continues to be impacted by conflict, whether by the ongoing violence or scars from the violence of the past. The Caravana heard frustrations that indigenous communities have not been adequately considered within the Peace Agreement which is causing ongoing obstacles at national and local level and that the political will to fulfil the guarantees of non-repetition are not evident.

The International Committee of the Red Cross observes that the levels of violence in Colombia are sufficient for the situation to still be considered as a conflict, noting that it is too early to classify the situation as one of post-conflict and that establishing peace will take decades.<sup>6</sup> The testimonies collected by the Caravana reinforced this, with many Colombians with whom we met refusing to acknowledge a 'post conflict' period.

The 2017 report of the UN Office of the High Commissioner for Human Rights raised alarms regarding the implementation of the commitments made by the Colombian government in the Peace Agreement. Concerns included the protection of areas formerly under the control of the FARC which, since their demobilisation in 2017, have been vulnerable to the incursion of other illegal armed groups, criminal gangs, and successor paramilitary groups.

Delegates observed increased anxiety in relation to the new administration's commitment to implementing the Peace Agreement. In Valle del Cauca, the Caravana was informed that President Duque had recently visited the region focusing only on security and business issues. It was claimed that he refused to make any promises in relation to peace in the region. Community representatives stated that they were offered only a minimal amount of time with President Duque and that he had refused to meet with any FARC ex-combatants.

1	2	3	4	5	6
Peace Agreement between the Colombian government and the FARC, 'Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace' (24 November 2016)	UN Mission in Colombia, 'Balance of Laying Down of Weapons Process by FARC-Ep to June 16' (June 2017) <a href="http://bit.ly/UNFarc">http://bit.ly/UNFarc</a>	Established by UN Security Council, resolution 2377, S RES/2377 (14 September 2017)	Agreement between the Colombian government and the ELN 'Agreement to Establish a Peace Dialogues Between the Colombian Government and ELN' (March 2016)	Oidhaco, 'Oidhaco concerned for the situation of the peace dialogues between the Colombian government and the ELN and asks that parties continue working on a joint agenda towards peace' (January 2019) <a href="http://www.oidhaco.org/?art=2312&amp;lang=es">http://www.oidhaco.org/?art=2312&amp;lang=es</a>	International Committee of the Red Cross, 'Humanitarian Challenges 2017, Colombia Report: Results and Perspectives' (March 2017)

The Peace Agreement remains in a precarious situation and delegates were informed across Colombia that uncertainty regarding possible changes that may be proposed by the new administration added to anxieties and an increasing sense of insecurity.<sup>7</sup>

***"We don't want to distract ourselves with punishment but to build the country we want."***

*Leader of an indigenous community,  
Valle del Cauca*

## 1.1 Coca-substitution

The Peace Agreement noted that to achieve long lasting peace, it is necessary to find a solution to the illegal drugs trade.<sup>8</sup> The production and trafficking of cocaine fuels conflict by providing income to competing criminal gangs and illegal armed groups. However, this illicit industry does not operate in a vacuum but rather thrives in a context of insecurity, limited state presence, and poverty. Colombia has about 70% of the world-wide coca plantations<sup>9</sup> and it is a traditional crop that many have used for generations in herbal remedies and teas without any connection to the processed cocaine that provides impetus to violence. However, the extent of coca production for cocaine is significant and the lack of state presence and rule of law across vast areas poses an obstacle to implement any form of 'control' of the illicit drugs trade.

Nariño has been deeply affected by the drugs trade and the conflict it fuels. Delegates were repeatedly told that communities are isolated and state presence beyond that of military or police forces is limited. People in the region, where there are significant numbers of indigenous communities, spoke of an historic and consistent 'abandonment' by the state.

Caravana delegates heard reports that there is lack of political will to provide a viable and sustainable solution to the illegal drugs trade in order to implement the relevant sections to the Peace Agreement. It was noted that in many areas, alternative work or economic opportunities do not exist, access to education and training for children and young people are basically non-existent, and even when individuals do try to cultivate legal crops the costs to bring them to market are so high (due to long journeys, poor infrastructure, and low market prices) that it is not a viable option to provide a livelihood for families. There have been incidences of people who have started the process of growing legal crops (aided by the government) but this is a very slow process and the growers earn significantly lower income than from illegal crops.

The Peace Agreement encourages the participation of the communities to design crop substitution programmes with local authorities. However, forced eradication of crops in various areas continues to be carried out, including in areas where there have been voluntary substitution agreements with the local communities.

At the meeting with the officer of human rights and territory at the indigenous organisation *Unidad Indígena del Pueblo Awa* (UNIPA)<sup>10</sup>, delegates heard about the problem of forced eradication programmes, implemented by the government. It was heard that in Nariño, areas are identified where cocaine crops are growing and then those crops are forcibly eradicated. It was also reported to delegates that when the army finds the water pools used in the production of cocaine they destroy them which causes the contaminated water within them to damage the surrounding flora and fauna, as well as any other crops that people might be growing in the area.

On 5 October 2017, a community in Tumaco staged a protest to request respect for what was agreed in the Integral National Programme of Illegal Use Crop Substitution.<sup>11</sup> In March 2017, an agreement on voluntary crop substitution was reached between the community and the local authorities. However, the community were protesting the forced eradication of crops and the non-implementation of the voluntary substitution agreement. The demonstration ended with six farmers and indigenous people killed and 20 injured due to the alleged use of excess force by the police.<sup>12</sup>

7

Since the delegation, proposals have been introduced that make changes to the JEP and other areas of implementation. More information is available here: <http://bit.ly/Colombia-peace-article> and President Duque's full speech is available here: <http://bit.ly/Duque-speech>

8

Item 4 of the Peace Agreement

9

UN Security Council, UN Verification Mission, Report of the Secretary General, S/2018/1159 (26 December 2018) p4

10

UNIPA is an indigenous organization the unity of the Awa people, their territory, culture and autonomy.

11

Decree 893 of 2017, National Programme of Integral Substitution of Illegal Crops (PNIS)

12

OIDHACO, 'Statement by OIDHACO and several of its member organisations on the serious incident which took place on Thursday 5 October 2017 in Tumaco' (12 October 2017) <http://bit.ly/Oidhaco-Tumaco>

In Valle del Cauca, Caravana delegates met with representatives of the National Coordination for Coca, Poppy, and Marijuana Cultivators (COCCAM) who highlighted the difficulties facing coca leaf growers. There are significant changes that are being made to Law 30 of 1986<sup>13</sup> which may mean that low level growers of coca will be criminalised, notwithstanding the fact that the government has seemingly failed to provide any viable alternative that could generate enough profit to enable the growers to support their families.

Economic viability is not the only challenge coca-growers face when trying to switch crops. It was reported that there has also been a failure to account for the extreme pressure facing these coca growers from the influx of criminal gangs in the region, and other powerful actors who gain from drug trafficking and seek to prevent growers from moving away from coca-growing. Delegates heard of eight farmers murdered in Valle del Cauca because they were involved in the crop substitution process, including, Orlando Grueso,<sup>14</sup> who was intercepted following a meeting with a coca group by the ELN and murdered that night.

The new government's changes to Law 30 of 1986 with respect to the implementation of the Peace Agreement's points on coca substitution have been contradictory. On the one hand, it has committed to pass legislation to criminalise the consumption – even minimal or personal – of illicit drugs. However, while this might yield some success in deterring further coca production, the government has not complied with its part of the Peace Agreement, which requires it to facilitate the substitution of coca-production. In addition, the systemic lack of infrastructure in rural areas, such as in the Catatumbo and Nariño, determines that even if farmers were able to substitute coca plantations, they would face significant hurdles in distributing their produce so as to be able to sustain themselves.

The Caravana met with ASCAMCAT (*Asociación Campesina del Catatumbo*), a non-governmental organisation that represents the interests of rural subsistence farmers in the region of Catatumbo. ASCAMCAT has lead proposals for the establishment of negotiation with the Colombian government, including for example the Dialogue and Agreement Roundtable (*Mesa de Interlocución y Acuerdo*) in Catatumbo, and has put forward proposals for a gradual and sustainable crop-substitution programme that would take into account the impact of coca-substitution on local farming communities. These endeavours were initiated well before the Peace Agreement as the first regional roundtable for the elaboration of a regional mandate for the coca-substitution programme was held in September 2013.

Since then, members of ASCAMCAT have set up pedagogical programmes to train local communities. However, despite these efforts, it was reported that there has not been an equivalent level of engagement from the state authorities, which have failed to provide adequate infrastructure or tackle the actions of illegal armed groups which have filled the gap left by the FARC in some areas. Moreover, ASCAMCAT informed delegates that the government's approach to crop-substitution has shifted to a more 'repressive' system since the new administration took office; fumigations and the criminalisation of drug-consumption have replaced training or support of local communities.

Elizabeth Pavón, director of ASCAMCAT, referred to only one government-initiated project for the substitution of coca: the pilot project Caño-Indio, which proved to be a failure. One of the main problems is that the government seeks to substitute coca plantations with single crops, often palm for palm oil. This practice parches the soil, generating what are often referred as 'green deserts.' In addition, Rommel Durán, human rights lawyer and member of *Corporación Equipo Jurídico Pueblos* (EJP) explained that the government's approach to coca substitution is affecting the socio-economic typology of the rural farmer by classifying individuals as rural workers, living on minimum wage, while foregoing people's inextricable connection with the ecosystem.

Much of this information has been confirmed by the *Corporación Colectivo de Abogados Luis Carlos Pérez* (CCALCP), which insisted on the deleterious effects engendered by the imposition by the Colombian government of single crop plantations. It was suggested that the approach taken by the government, particularly when encouraging wide-scale planting of single crops, negatively impacts on the environment and disregards the indigenous and rural farming processes that could be carried out successfully with limited intervention and without technology.

13

Law 30 of 1986 National Drugs Law  
(Estatuto Nacional de Estupefacientes  
- ENE)

14

El Tiempo, 'Asesinan a 2 líderes sociales en Guapi,  
Cauca, el pasado viernes' (10 February 2018)  
<http://bit.ly/ElTiempo-Cauca>



Delegates meeting with victims, indigenous and community leaders, FARC ex-combatants, COCCAM, human rights ombudsman, human rights lawyers and defenders, in the Palacio Municipal, Miranda, Valle del Cauca

## 1.2 FARC zones and reintegration of ex-combatants

Once the FARC combatants laid down their arms, they were able to stay at concentration zones (*Zonas Veredales Transitorias de Normalización*) specifically created for their social and economic reintegration into civilian life. 22 concentration zones were created across the country but a year after the signing of the Peace Agreement, in November 2017, there was no general plan for the reintegration of FARC ex-combatants. The UN Verification Mission<sup>15</sup> registered that at least 55% of the 8,000 FARC ex-combatants who demobilised and moved to those zones, had abandoned them due to a lack of economic opportunities for real reintegration.<sup>16</sup> To many, state assurances for safety, reintegration, and the promotion of a meaningful peace appear inadequate at best.

Local communities have shared some of their own limited resources to help support the continuance of the concentration zones and enable the FARC ex-combatants to remain in the zones. It is not clear whether the FARC ex-combatants forced to leave the zones would still be permitted to be involved in the transitional justice process with the Special Jurisdiction for Peace (Jurisdicción Especial para la Paz – JEP).

The Caravana was informed by some communities that they would rather see those responsible for the conflict reconstruct the country through restorative justice options that provide social and economic benefit to the region. It was asserted that this is especially important in areas where the government has failed to provide social investment:

The Association of Indigenous Councils of Northern Cauca (*Asociación de Cabildos Indígenas del Norte del Cauca* – ACIN) expressed deep concern that Colombia will return to war. The ACIN stated that FARC ex-combatants are leaving the concentration zones and more extreme factions are starting to mobilise and remobilise due to the failure of the government to fulfil their obligations under the Peace Agreement. FARC ex-combatants are highly vulnerable and the Caravana heard that there is a lack of protection in the FARC concentration zones which is contrary to state assurances for their protection and reintegration (a precondition of their demobilisation).

Delegates found that FARC ex-combatants in Valle del Cauca are particularly vulnerable with paramilitary groups remaining active in the region alongside other illegal armed groups. One ex-combatant, Nativel Chantre, informed the Caravana that since the Peace Agreement, 79 former combatants had been killed, seven of which had been from this region.<sup>17</sup> He further emphasised that those in the region had not received any assistance with reintegration into local society, nor had any land been granted to them.

The farmer's organisation ASCAMCAT denounced a partial failure in the implementation of the rehabilitation programmes for FARC ex-combatants<sup>18</sup> in Norte de Santander which they state has resulted in a relapse into violence by some former guerrilla members. Commitment to the peace process is fragile and finely balanced, though the FARC ex-combatants with whom the Caravana met reiterated a commitment to the Peace Agreement.

15

Once the UN mission verified the laid down of the arms, their mandate was to verify the reincorporation of FARC ex-combatants and safety guarantees for communities most affected by the conflict.

16

UN Security Council, Verification Mission to Colombia, 'Palabras Jean Arnault, En El Foro De El Espectador 'La Reincorporación Y Reconciliación, Dimensiones De La Construcción De Paz' (21 November 2017) <http://bit.ly/UNJeanArnault>

17

UN Security Council, Verification Mission to Colombia, reported 85 ex-FARC combatants since the signing of the Peace Agreement, Report of the Secretary General S/2018/1159 (28 December 2018) para 57

18

Ibid



The delegation visited the concentration zone, established on 20 October 2016, in Monte Redondo, with a municipal representative who had himself suffered two attempts on his life and receives regular death threats. The Caravana learnt that of the approximate 228 ex-combatants who came to the concentration

### Killing of FARC ex-combatants

On 1 September 2018, a FARC ex-combatant was threatened in the centre of Miranda and two FARC ex-combatants were killed on 21 August 2018, just two weeks before the delegation.

The FARC ex-combatants' bodies were left close to the concentration zone's water source, just 100m from a military outpost, allegedly as a warning to other ex-combatants. Nonetheless, there were apparently no witnesses.

zone on 31 December 2016 only approximately 45 remain. For example, Carlos Antonia Acosta, a leader of the former combatants who originally lived in the concentration zone and was involved in negotiating food provisions had to leave due to threats primarily from paramilitaries and has found it difficult to return.

*"We are totally committed to peace and investing everything we can to ensure we're successful; we want to live side by side and for things to be better; but there is a lack of confidence."*

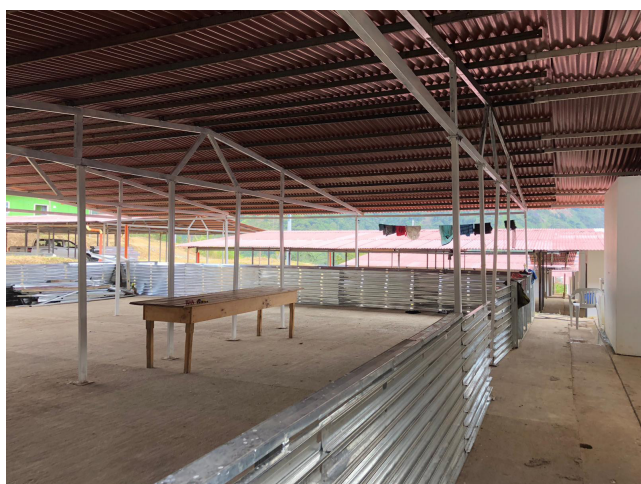
*FARC ex-combatant living  
in a concentration zone, Valle del Cauca*

ex-combatants have not been released from prison despite amnesty provisions in the Peace Agreement and delegates were told that FARC ex-combatants have been victims of falsified charges of belonging to a dissident group and, consequently, imprisoned. Parts of Antioquia are dominated by the drugs trade and were formerly occupied by the FARC. Following the Peace Agreement, areas have been taken over by *Los Gaitanistas*, *Los Caparabos*, y *Los Grupos Pacheli* (who belong to *La Oficina del Valle del Urra*), and dissident FARC combatants.

Antioquia holds the record for the highest rate of killings of FARC ex-combatants. Delegates heard that of the 79 FARC ex-combatants killed since the signing of the Peace Agreement, fourteen were killed in Antioquia. It was reported that 800 FARC

The UNP programme designed to protect reintegrated FARC ex-combatants has faced challenges and delays. The Constitutional Court declared invalid <sup>19</sup> Decree 301 of 2017, <sup>20</sup> which set out to recruit UNP security personal to protect former FARC members, according to what was set out in the Peace Agreement. The decree was set out to create 1,200 new bodyguard positions and over 200 other new positions. <sup>21</sup>

The Court decision was based on the principle that this particular type of modification of the UNP had to be approved by Congress and not by government decree. In August 2017, the law was passed in Congress, which allows for FARC ex-combatants to become part of the UNP as part of a mixed protection scheme, so that they can provide their own security. <sup>22</sup> Delegates heard that over 800 former FARC ex-combatants have been able to form part of the UNP.



Concentration zone in Monte Redondo, Valle del Cauca

<sup>19</sup>

El Tiempo 'Tumban el decreto que ampliaba la planta de la UNP para cuidar a las FARC' (17 May 2017) <http://bit.ly/ElTiempoUNP>

<sup>20</sup>

Decree 301 of 2017, by which the UNP modifies its workforce (23 February 2017)

<sup>21</sup>

Ibid

<sup>22</sup>

La República 'Aprobada Ley Orgánica que adopta programa de protección a reincorporado de las Farc' (8 August 2017) <http://bit.ly/Leyorganica>

### 1.3 Special Jurisdiction for Peace (JEP)

The transitional justice mechanism proposed in the Peace Agreement created the Comprehensive System for Truth, Justice, Reparation and Non-Repetition (Comprehensive System). The judicial component of the Comprehensive System, the Special Jurisdiction for Peace (*Jurisdicción Especial para la Paz* - JEP), is tasked with the investigation, determination, and punishment of serious crimes committed during and in the context of the armed conflict between the state and the FARC (up until 1 December 2016). The JEP commenced its work in March 2018 for a maximum term of 20 years.<sup>23</sup>

The JEP's jurisdiction is limited to the parties of the Peace Agreement, namely state forces and FARC combatants, as well as certain third parties.<sup>24</sup> The JEP consists of three chambers with distinct roles: 1) defining legal situations; 2) amnesties and immunities; and 3) the determination of facts and recognition of truth. A special investigation unit for the determination of charges and a Tribunal for Peace (*Tribunal para la Paz*) to revise sentences and appeals are also part of the JEP.

The availability of amnesties is limited to those who have committed political crimes during, and in relation to, the conflict. Political crimes are defined as crimes of riot, rebellion, and sedition (examples given include, espionage, interception of communications, false document offences, misuse of uniforms and insignias, production and storage of weapons). War crimes, crimes against humanity, and genocide are all excluded from the amnesty provisions, as are crimes committed for economic gain.<sup>25</sup> In order to be eligible for amnesties an individual must make a commitment not to return to illegal armed activities. The Chamber for Amnesties and Pardons can also require that an individual participate in restorative activities and cooperate with the Truth Commission and/or the National Commission for the Search for Disappeared Persons.



Delegates meeting with Judge Tania Bolaños, deputy to Patricia Linares, President of Special Jurisdiction for Peace (JEP)

The length of prison sentences will vary dependent on the admission of responsibility. Those who admit full responsibility will receive sentences of five to eight years in 'special conditions.'<sup>26</sup> Defendants who make late admissions of responsibility will face ordinary sentences of between five and eight years, and those who contest allegations but are convicted will face up to 20 years in prison.

Since his election in June 2018 and inauguration in August 2018, President Iván Duque and his Democratic Centre (*Centro Democrático*) party have sought to make significant changes to the JEP's jurisdiction. Law 1922 of 2018 introduced a range of

procedural measures to ensure the proper functioning of the JEP and the achievement of its mission. While many of these adjustments to the original legislation were deemed necessary, some others are controversial and serious concerns remain regarding their implementation.

#### **Differential treatment of armed forces**

Article 75 of Law 1922 of 2018, one of the provisions under legal challenge would suspend the competence of the JEP to hear cases against members of the armed forces, allowing the government and congress a period of 18 months to establish a special military proceeding for such cases, unless the accused chooses to opt out of this provision. This could create considerable delays.

Of additional concern is the final paragraph of Article 11 of Law 1922<sup>27</sup> which, in cases involving the armed forces, prohibits the JEP from investigating the structure and function of criminal organisations, their motivations

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Special Jurisdiction  
for Peace (JEP)  
<http://bit.ly/jepcol>

Examples of third parties that may participate are politicians, business people and civilians that have been complicit in the commission of offences during the conflict. An amendment to the Peace Agreement makes the participation of these individuals in proceedings before the JEP voluntary. On the other hand, former paramilitaries from the Autodefensas Unidas de Colombia will continue to be tried in the pre-existing Justice and Peace Courts (Tribunales de Justicia y Paz). This means that, in effect, there are two transitional justice mechanisms working simultaneously in Colombia, with jurisdiction over different groups involved in the conflict.

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War crimes are grave breaches of international humanitarian law. Law 1860 of 2016 specifies a number of other offences that are excluded from the amnesty provisions including hostage taking, extrajudicial killings, forced disappearance, forced displacement, torture and rape. Most of these specific offences would also constitute war crimes and/or crimes against humanity.

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This means that those that admit full responsibility for offences committed during conflict will avoid prison sentences and will instead have their liberty curtailed within their communities and will be required to carry out reparative work

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DJusticia,  
'Dejusticia y la  
Comisión Colombiana  
de Juristas demandan  
la ley de procedimiento  
de la Jurisdicción Especial  
para la Paz' (2 August 2018)  
[http://bit.ly/Djusticia\\_jep](http://bit.ly/Djusticia_jep)

and support networks or the leaders of organised criminal activities. This provision, would severely limit the competence of the JEP in cases concerning the armed forces.<sup>28</sup>

On 13 March 2019, the Constitutional Court ruled to eliminate these two provisions (Article 75 and last paragraph of Article 11). The rationale provided in the judgement was that such articles, did not follow due process in order to be enacted according to Colombian law, as they were added by Congress at a late stage in the deliberation of Law 1922, without undergoing the four debates required to discuss and approve such a law.<sup>29</sup>

This decision will strengthen the competence of the JEP and thus victims will be able to seek justice through the JEP against members of the state forces. This is of particular importance since delegates received consistent reports from victims' groups of the difficulties faced when seeking justice in cases where the alleged perpetrator is a member of the armed forces. The Caravana has heard that victims of state crimes often do not trust military tribunals and thus that use of military justice mechanisms could inhibit victims from participating in these proceedings. It is noted that trust in the JEP in order to be an effective transitional justice mechanism is essential.

### *Command responsibility*

Further changes to the JEP process have been introduced in relation to the determination of command responsibility, namely whether officers can be held responsible for the actions of their subordinates. The Peace Agreement initially contained identical provisions regarding command responsibility of the FARC and of state forces. One of the amendments made in response to the 2016 referendum result was a tightening of the definition of command responsibility. However, this led to strong protests from army generals which caused the government to backtrack and insert a completely new and significantly more restrictive definition of command responsibility which is only applicable to the military and police. The original wider definition for the FARC was not amended and continues to apply.<sup>30</sup> Even though the new definitions have been approved by the Constitutional Court, the application of different definitions to different parties certainly raises concerns about fairness and parity.<sup>31</sup>

Moreover, as argued in an Amicus Curiae brief endorsed by the Colombian Caravana to the Constitutional Court, the current definition of command responsibility of Article 24 is not compatible with international standards, thus Colombia could be deemed in breach of its international obligations under the Rome Statute.<sup>32</sup> In particular, we heard that with respect to 'false positives' cases, it is particularly difficult to prove command responsibility given its current definition in domestic law.

The Caravana heard from those representing victims of the armed forces, including lawyers representing the families of 'false positives' victims how difficult it is to establish the responsibility of those in command and their frustration at what they see as the impunity of those arguably most responsible for these offences. It remains to be seen how the JEP will interpret the definitions of command responsibility. An overly restrictive interpretation could create further obstacles to justice particularly in cases such as 'false positives' and the Caravana would emphasise the importance of adhering to international standards in these cases.

The Caravana met with family members who have waited years for justice for the extra-judicial execution of



Family member of victim of 'false positive' killings with photo of their loved one.

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Semana, 'Los Obstáculos que ha Enfrentado la JEP' (5 February 2019)

29

DJusticia, 'Fallo de la Corte Constitucional confirma la competencia de la JEP' (13 May 2019) <http://bit.ly/Dejusticiact>

30

J Pappier, 'The Command Responsibility Controversy in Colombia', EJIL: Talk! (15 March 2017)

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While it remains to be seen how the JEP will interpret the definitions of command responsibility, but an overly restrictive interpretation could become an obstacle to justice, particularly in cases such as 'false positives'

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Amicus Curiae Brief by Monica Feria-Tinta, endorsed by the Colombian Caravana, Law Society of England & Wales, and ABColombia (June 2017) <http://bit.ly/Caravana-tinta>



their loved ones in a number of 'false-positive' cases. EJP, a lawyers collective working across the Santander regions, has seen 70 members of the military imprisoned for extra-judicial executions in cases which they have worked on.

However, following the Peace Agreement, many families whose cases are still pending fear that they are about to miss out on much-sought justice. A number of cases are to be transferred from the ordinary jurisdiction to the JEP, including cases of 'false positives', even if a case is close to successful prosecution.

EJP raised concerns that high ranking members of the military will misuse the JEP process to avoid accountability for serious crimes. Some such crimes may reach the threshold of crimes against humanity, thus justifying them not being referred to the JEP but instead being processed through the ordinary justice system.

### Extradition

The Peace Agreement provides a guarantee against extradition for offences alleged to be committed during the conflict. Article 54 of Law 1922 (one of the provisions that was challenged in the Constitutional Court) reiterates this prohibition, but also limits the ability of the JEP to consider the evidence in, or merits of, extradition applications.<sup>33</sup>

However, the Constitutional Court has since confirmed the JEP's jurisdiction to assess whether any such guarantee against extradition is applicable and has confirmed its competence to consider evidence as to whether an offence referenced in an extradition order meets criteria for it to be processed by the JEP and falls into the time period for which it is competent, that is to say before 1 December 2016.<sup>34</sup>

Moreover, the Constitutional Court ruled to prioritise victims' rights to truth, justice, reparations and non-repetition by changing the Criminal Procedure Code used by the Supreme Court to evaluate extraditions. It requests that the Supreme Court assess the potential to investigate and find justice for serious human rights violations, particularly when it relates to high ranking individuals.<sup>35</sup>

This decision may affect the development of the case of Seuxis Paucias Hernández Solarte, more commonly known as Jesús Santrich, which has brought issues in relation to the guarantee against extradition to the fore at a very early stage in the life of the JEP. Santrich, a leading figure in the FARC, was one of the chief negotiators in Havana and was meant to take one of the congressional seats reserved for FARC's political party, *Fuerza Alternativa Revolucionaria del Común*. The Caravana heard claims that, if Santrich were to be extradited to United States, as has been requested, that some former members of the FARC are more likely to abandon the peace process.

### Transfer of cases from the Ordinary Jurisdiction

Numerous victims who shared their testimony with the Caravana during its previous delegation in 2016, have since had their cases transferred to the JEP. It was repeatedly raised that cases already at advanced stages in the ordinary courts, if transferred to the JEP, will face severe delays and effectively be restarted, after years of seeking justice, creating a real risk of continued impunity.

Victims fear that when the alleged perpetrator is a member of the armed forces they might not be tried due to the limitations of 'command responsibility.' Thus, as the JEP relies on admissions of guilt to be effective, victims are worried that if the alleged perpetrator does not admit responsibility, they might not be sentenced for the crimes committed.

Ricardo Rueda Alanda was murdered in an apparent 'false-positive' case. His mother, Alia Alanda Ruiz, told delegates that, after several years of incoherent investigations and twelve different attorneys in charge of the

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DJusticia,  
'Dejusticia y la Comisión Colombiana  
de Juristas demandan la ley  
de procedimiento de la Jurisdicción  
Especial para la Paz'  
(2 August 2018)  
[http://bit.ly/Djusticia\\_jep](http://bit.ly/Djusticia_jep)

34

DJusticia,  
'Fallo de la Corte Constitucional  
confirma la competencia de la JEP'  
(13 May 2019)  
<http://bit.ly/Dejusticiact>

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Ibid; El Tiempo, 'La médula del fallo  
de la Corte sobre el procedimiento de la JEP'  
(15 March 2019)  
<http://bit.ly/ElTiempotc>

investigation at separate times, the case has been transferred to the JEP. Ms Alanda Ruiz believes that, after all these years of impunity and reticent investigations, there is reason to believe that the truth will not be disclosed.<sup>36</sup>

Furthermore, the effect of transferring a case to the JEP is that the prosecutors and investigators working on the case must cease their investigations, without their knowledge and expertise being passed on to the JEP.

### Prioritisation of cases

The Caravana appreciates that the selection and prioritisation of cases is one of the most difficult challenges for the JEP. The publication of the JEP's criteria and methodology and the provisions in the draft Statutory Law (*Ley Estatutaria*)<sup>37</sup> should help to clarify the process applicable to case selection.<sup>38</sup> The existence of clear and transparent criteria for the selection and prioritisation of cases enables accountability and should help victims to understand the rationale behind these often-complex decisions.

At time of publication, the JEP has been able to function because of a number of legislative instruments enacted following the Peace Agreement. However, if the relevant Statutory Law is not enacted, the extent and source of its powers will be uncertain which, as well as causing delays while the matter is resolved, risks undermining the jurisdiction's legitimacy.<sup>39</sup> The Attorney General, Néstor Humberto Martínez, delivered a letter to the President outlining his concerns over the legislation.<sup>40</sup> On 10 March 2019, the government made clear its opposition to six articles of the Statutory Law.<sup>41</sup> Thus, it will now return to Congress and the Constitutional Court for approval as an amended law.

It is important to reflect that this legislation had already been approved by both the Constitutional Court and Congress. The proposed amendments will cause severe delays to the JEP obtaining the legal backing necessary to facilitate its work and underline its legitimacy.

### Accessibility for victims

Many victims who may seek justice and truth before the JEP, live in rural and isolated communities where travel to even the nearest urban centre can take considerable time and effort. The centralisation of the transitional justice process in Bogota could make it further difficult for victims, particularly those from the most marginalised communities, to access justice.

Concerns were raised to the Caravana about the availability of resources for victims who need to travel long distances to participate in the process. This should be carefully considered when looking at budgets, resources, and the implementation of JEP processes.



Family member of victim holds a photo of their loved one, alongside delegates.

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Case legally represented by lawyers' collective Corporación Equipo Jurídico Pueblos

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In Colombian constitutional law a *Ley Estatutaria* is a law concerned with fundamental rights. These laws require approval both from Congress and the Constitutional Court before finally receiving the presidential signature which enables them to come into force. The president can object to the law and refuse to sign which is the current position with the *Ley Estatutaria* meant to govern the functioning of the JEP.

Criteria and Methodology for the Prioritisation of Cases and Situations. Available at <http://bit.ly/jepmeth>

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The Statutory Law (*Ley Estatutaria*) of the JEP defines powers not defined elsewhere such as for the selection of cases. *El Espectador*, 'Guía para entender qué está pasando con la JEP y con la *Ley Estatutaria* que la regula' (6 March 2019) <http://bit.ly/EIExpectLey>

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*Semana*, 'Los duros reparos del fiscal general a la *Ley Estatutaria* de la JEP' (18 February 2019) <http://bit.ly/Semanajep>

41

*El Tiempo*, 'Estos son los artículos de la *Ley* de la JEP objetados por el Gobierno' (11 March 2019) <http://bit.ly/EITiempojep>

## Section 2

# Escalated violence and continued presence of illegal armed groups

Despite the Peace Agreement, delegates found that the conflict continues and, in many ways, has been exacerbated. The Caravana heard that multiple armed groups are competing to fill the power vacuum left by the FARC, particularly in areas where state presence is limited. During negotiations, prior to the signing of the agreement, civil society warned the government about these risks, but from the Caravana's findings, the action taken has been inadequate to fully address the risks and escalation of conflict, particularly in rural areas or former FARC strongholds.

Delegates heard that people felt let down by the state and are under a great deal of pressure from illegal armed groups vying for control. It would appear that the guarantees of non-repetition set out in the Peace Agreement and of security and tackling criminal groups have not been fulfilled.<sup>42</sup>

Moreover, the Attorney General's Office registered an increase in violence in areas where previously there was FARC presence. In the space of a year, registered homicides increased from 2,271 in 2016 to 2,957 in 2017, a leap of 686 killings, in the 161 municipalities where there had been FARC presence.<sup>43</sup>

***"There has been a hole left by the FARC and no one is monitoring what is happening to this space."***

*Diana and Edgar Montilla,  
human rights lawyers, Pasto*

In Antioquia, the Caravana was presented with evidence of a strengthening and re-emergence of paramilitary groups, such as *Las Autodefensas Gaitanistas* and *Los Caparabos*; other organised criminal groups such as La Oficina del Valle del Aburrá (which used to be called *Cartel de Medellín*); and armed criminal gangs and groups of disaffected FARC members. The disputes in Bajo Cauca, between paramilitary groups *Las Autodefensas Gaitanistas* and *Los Caparabos* reportedly caused eleven instances of forced displacement, affecting at least 4,000 people, who fled the violence.<sup>44</sup>

Delegates were told that in Nariño before the Peace Agreement the dominant organised armed group operating in the area was the FARC, but now there are thought to be twelve armed groups vying for power, including *Las Águilas Negras*, *Gente del Orden*, *Clan del Golfo*, *Las Cucarachas* and the ELN. It was reported that these armed groups often shut off roads that local people rely on to access the region, restricting freedom of movement and impacting people's livelihoods, and their safety. A sense of abandonment by the state and an evident distrust of the army and state forces was also observed and reported to delegates in numerous regions. It was noted that the army is often perceived to not respect communities. Communities feel stigmatised by the army through allegations of links to illegal armed groups. It was reported to delegates that communities often believe that they are caught up in the conflict between the state and multiple illegal armed groups. A shift in the dynamics and apparent motivation for the violence between armed groups was observed by the Caravana, with a noted move away from political demands and towards control of land for financial gain.

Only days before the Caravana arrived in Cali, there had been massacres in Miranda. The Caravana was presented with evidence of the continued existence of paramilitaries, such as *Las Águilas Negras*, armed criminal gangs, insurgent guerrilla groups, such as the EPL, along with an increased military presence within the region; the Caravana heard that there are now 5,000 armed forces soldiers in the region. The increase in armed groups within the region has made the situation far more complex and has inevitably contributed to a growth in the level of violence suffered by local communities. The indigenous communities with whom the Caravana met were often unable to identify the perpetrators of crimes against them, as they noted that

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Item 3.4 and item 3.6  
of the Peace Agreement

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Attorney General's Office,  
'Fiscalía logra histórico  
esclarecimiento de homicidios'  
(11 January 2019)  
<http://bit.ly/fiscaliaacol>

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Meeting of Caravana delegates  
and the guarantees roundtable of  
Coordinación Colombia Europa-Estados Unidos  
and Sumapaz Foundation, Medellín

any one of the paramilitary groups, guerrilla groups, organised criminal gangs, police or military forces that operate in the area could have carried out attacks. Alarmingly, they noted that army members have disguised themselves and opened fire on some indigenous communities.

Those with whom the Caravana met highlighted that as a region, Valle del Cauca has not been prioritised within the peace process. Moreover, In Valle del Cauca, it was reported that the EPL are trying to take control of an area formerly controlled by the FARC and putting the local communities under pressure to cooperate with them, with the civil society community councils trying to work together to resist this pressure. Various incidents were described to highlight the tactics of these insurgent groups, for example, instigating a curfew, enforced by armed individuals driving around in lorries and threatening those out after 9pm. The Caravana also heard reports that these groups are seeking to recruit children from the local communities.

The delegation visited the border town of Cúcuta in Norte de Santander and found themselves witness to a very precarious and dangerous situation. Although the town is known as a crossing point for thousands of refugees and migrants from Venezuela, it is also home to thousands of internally displaced Colombians seeking refuge from the conflict between legal and illegal armed groups. The delegation understands that paramilitary groups (including *Los Urabeños* and *Las Aguilas Negras*), guerrilla groups (including the EPL, ELN, and disaffected FARC members), and the presence of an estimated 13,000 members of the Colombian armed forces creates a volatile environment. Delegates heard that the situation was further complicated by people trafficking and by Venezuelan migrants being recruited by illegal armed groups.

Delegates were told that the area of El Tarra (Norte de Santander), is surrounded by guerrilla groups affiliated with either the ELN or EPL. It was reported that the army has planted landmines on the land adjacent to the military base in order to discourage guerrilla members from entering the zone. It was reported that mines have claimed the life of a ten-year-old boy and led to nine farmers losing limbs. As a result, the local community is now scared to access their land. Delegates heard that some people consider that these are humanitarian law violations which constitute genocidal social practices.<sup>45</sup> Moreover, on 30 July 2018, a massacre took place in the village of El Tarra, when a commando entered and opened fire against the civilian population killing ten individuals, including a social leader.<sup>46</sup> The circumstances, authors and reasons for this massacre are unknown, and so far only the ELN has explicitly rejected responsibility.

In contrast to our visit in 2016,<sup>47</sup> we found increasing denial of the persistence of paramilitary groups both in urban and rural areas, including from high-level state officials. For example, not only did the Minister of Justice, Gloria María Borrero Restrepo, state that paramilitary groups do not exist, but she also argued that victims have been over-victimised on the initiative of lawyers who profit financially from representing them against the state. The Minister suggested that the case of *Las Pavas* estate, in Cesar, was an example of alleged false displacement,<sup>48</sup> in contrast to what members of

### Being outspoken means an early grave

Indigenous leader Freddy Guevara, explained that he receives threats from many illegal armed groups, including *Las Aguilas Negras*, EPL, ELN, and organised criminal gangs. He has been followed and had attempted break-ins at his home. He believes that he and the other leaders are targeted as are speak out about human rights violations.

According to Freddy, being outspoken has meant an early grave for many. He informed the Caravana that military and police presence offer no reduction to the level of threat. Instead he suggested that the armed forces and the anti-riot police, ESMAD, are allegedly responsible for or complicit in certain killings by paramilitary groups.

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Delegates met with local human rights lawyers' group called Corporación Equipo Jurídico Pueblos

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El Tiempo, 'Capturan a dos hombres involucrados en masacre de El Tarra, Norte de Santander' (18 November 2018) <http://bit.ly/EITarra>

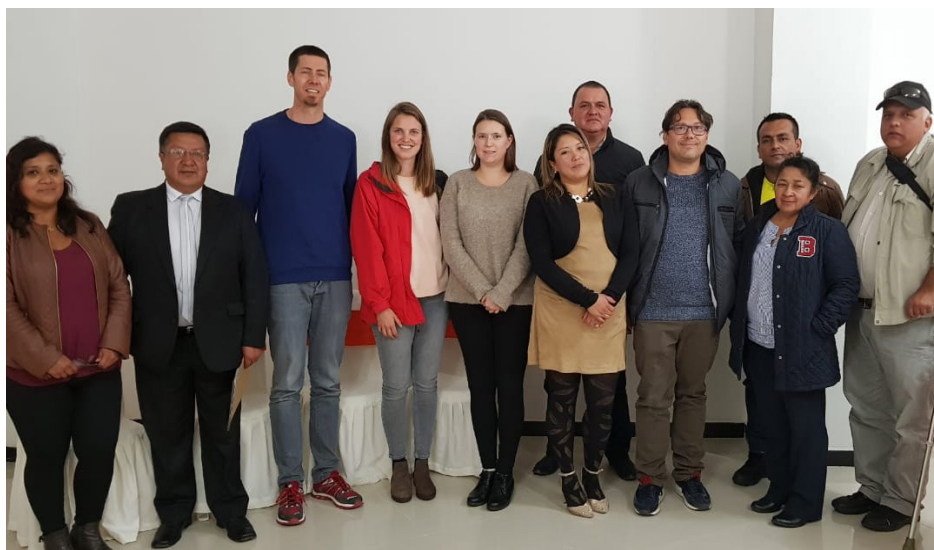
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When we found some progress with regards, for example, to investigations into murders of human rights defenders at the hands of new paramilitary groups (Caravana Report 2016, p. 11).



the *Equipo Jurídico Pueblos* claim. According to lawyer Rommel Durán Castellanos, some companies have been financing paramilitary groups in order to intimidate trade unions.

The continued failure by the state to publicly acknowledge the presence of paramilitary groups prevents a meaningful assessment of the gravity of the situation, and ultimately prevents effective protection of communities and human rights defenders by state bodies.



Delegates meeting with lawyers and activists in Pasto, including human rights lawyers Edgar and Diana Montila

### Section 3

## HRDs and the legal profession at risk

The signing of the Peace Agreement was an important step towards peace, however of overwhelming concern has been the dramatic increase of violence specifically targeted towards human rights defenders, as noted by state <sup>49</sup>, non-governmental, <sup>50</sup> and international institutions. <sup>51</sup>

*Programa Somos Defensores* (translated as the We Are Defenders Programme and referred hereinafter as *Somos Defensores*) registered the lowest rate of overall killings of the last 30 years in Colombia in 2017 (24 per 100,000 inhabitants). However, that same year they also recorded the highest rate of killings of human rights defenders and social leaders (106), <sup>52</sup> representing an increase of 32.5% from the killings registered in 2016 (80). <sup>53</sup> Moreover, *Somos Defensores* registered 78 homicides in the first six months of 2018, while in same period of 2017 they registered 28, which means an increase of more than double compared to the same time period the previous year. <sup>54</sup> Moreover, the Office of the UN High Commissioner of Human Rights in Colombia registered the killing of 121 human rights defenders in 2017, compared to 59 in 2016. <sup>55</sup>

Organisation	HRDs killed in 2017	HRDs killed in 2016
Somos Defensores	106	80
UN	121	59
National Ombudsman	126	134

Sources: Programa Somos Defensores; UN High Commissioner for Human Rights; *Defensoría del Pueblo*

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The case has been thoroughly documented by Verdad Abierta, '¿Qué pasa alrededor de la hacienda Las Pavas?' (1 November 2017) <http://bit.ly/verdadpavas>

49

National Human Rights Ombudsman, Official News (1 March 2018) <https://bit.ly/2GOkkt2>

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Programa Somos Defensores, 'Piedra en el zapato' (2017 annual report)

51

UN Security Council, Annual Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Colombia of year 2017, A/HRC/37/3/Add.3 (2 March 2018)

52

Programa Somos Defensores, 'Piedra en el zapato' (2017 annual report)

53

Programa Somos Defensores, 'Contra las Cuerdas' (2016 annual report)

54

Programa Somos Defensores, 'Agresiones contra Defensores(as) de Derechos Humanos en Colombia Enero – Marzo 2018' (January to March 2018 quarterly report)

### Six members killed in two years

ASCAMCAT (*Asociación Campesina del Catatumbo*) is a network that defends farmers' rights, promotes sustainable programmes of crop-substitution, and advocates for a more equal redistribution of land.

Members stated that because they have sought prosecutions of members of the armed forces, they are targeted by illegal armed groups and stigmatised by the media and politicians who accuse them of links with the FARC, increasing their risk of attacks by third parties.

Members report harassment such as having had their phones monitored, arbitrary detention, having been followed, and having had their livestock slaughtered 'as a warning.' ASCAMCAT's board of directors has collectively been the victim of threats by paramilitary groups, two members of the organisation have suffered attempts on their lives, and several other leaders have been displaced because of threats made by illegal armed groups.

At the time of the Caravana delegation, five ASCAMCAT community leaders had been murdered since the signing of the Peace Agreement, one on the Sunday before the visit. Since the delegation, another member has been killed taking the total to six. \*

Across all regions the Caravana visited, delegates heard testimony that carried a resounding message that the increased risk faced by human rights defenders is dramatic, and attacks are a daily occurrence. Those who are working to protect human rights and land in their communities are particularly targeted in what appears to be a systematic and deliberate attempt to gain control of territory. Of additional concern is that delegates reported that the speed in which threats are acted upon appears to be increasing, with a number of individuals killed mere days after initial threats. In Valle del Cauca delegates found that not only has the level and frequency of violence increased, but so has the level of brutality, with dismemberment and mutilation of children being reported. The savage nature of the attacks is likely to reflect the desire of the numerous illegal armed groups to control communities through fear. Evidence of sexual violence towards women was also noted; which has long been used to demonstrate territorial power. This changing pattern of threats and violence is a paradigm shift since the last Caravana visit.

In Pasto, delegates found that the context of threats had worsened particularly in relation to threats escalating more quickly and being carried out swiftly. In August 2016, the delegation travelled to Tumaco. However, due to the deteriorating security situation across much of the region, our local partners advised against travelling there on this delegation due to the increased risk. However, delegates noted that despite the increased risk, local lawyers continue to travel to Tumaco, making a long road journey in order to meet with their clients, who are often victims of the conflict.

The Caravana heard of numerous cases of threats and killings of human rights defenders who defend rights through legal processes, social movements, or political activities. All of the lawyers with whom

the Caravana met reiterated the dire seriousness of the situation and emphasised the increase in the level of aggressions and killings across the country, particularly since the Peace Agreement, noting that guarantees of non-repetition are yet to be made reality and that the situation has worsened significantly. Delegates saw evidence of a grave situation which undermines progress made in the lead up to the Peace Agreement.

In addition to the concerning number of threats lawyers and other human rights defenders continue to receive, delegates also noted a very worrying shift in dynamics, particularly regarding the level of threat to community leaders. From testimony gathered in a number of regions, the Caravana understands that threats are becoming realised at a far more rapid pace than previous years, and in some cases, individuals are not threatened prior to being targeted; that is to say they are targeted directly and without warning, making a reassessment of the system for the provision of state protection measures an urgent need.<sup>56</sup>

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ASCAMCAT 'Apagaron la alegría de Antonio, en menos de un mes la historia se repite' (2 December 2018)  
<https://www.prensarural.org/spip/spip.php?article23737>

Human Rights Council,  
'Annual Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Colombia' A/HRC/34/3/Add.3 (14 March 2017)

56

Rommel Duran Castellanos' comments in 'Is there peace in Colombia?' Colombian Caravana and Playground Magazine, (November 2018) 2:16 min  
<http://bit.ly/PGpeace>; Testimony of community leaders in Pasto



Delegates from the UK, Italy, and Mexico present initial findings at a press conference in Bogotá, on their return from visiting six regions of Colombia

The situation of human rights defenders and people's ability to exercise the fundamental freedoms of expression and assembly has been further impacted by the criminalisation of protest with changes to the police code and protocols on protest. It has been suggested that these changes aim to restrict protest <sup>57</sup> by social movements. Delegates understand that serious criminal charges are being used in an attempt to deter protesters, for example, some of the charges levied against protesters carry up to 28 years imprisonment.

### 3.1 Spotlight on lawyers

The Caravana notes that lawyers who are threatened tend to identify the following as reasons for their harassment: that they are involved with cases related to land restitution, <sup>58</sup> extrajudicial executions, <sup>59</sup> or multinational companies; <sup>60</sup> or that they have reported alleged links between paramilitary groups and local authorities. <sup>61</sup> Undertaking high profile strategic litigation places human rights lawyers at further risk.

Being a human rights lawyer in Colombia is high-risk because of the work they undertake representing victims of human rights violations. A non-exhaustive list of threats they face includes: harassment, stigmatisation through the unjust association of lawyers with the alleged crimes of their clients, illegal surveillance, break-ins and theft of sensitive information, fabricated and political charges, death threats and physical harm to them and their families.

The situation of risk, a heavy and gruelling workload, and frustrations at obstacles to justice mean that for many lawyers, their emotional and mental well-being can be as much a risk as their physical health. The burnout faced by lawyers who must operate in such trying circumstances itself is an obstacle to justice, especially at a time when Colombia is implementing new judicial processes.

The Caravana also heard how human rights lawyers continue to be discredited through false allegations and disciplinary complaints. Alejandro Montaña informed the Caravana that due to malicious complaints concerning a legal technicality which has been filed by opponents to the *Consejo Superior de la Jurisdicción*, a disciplinary investigation has been opened against him and Sofia Lopez, another human rights lawyer at *Corporación Justicia y Dignidad* (CJD). Depending on the *Consejo Superior de la Jurisdicción*'s findings, this could mean that they are fined, or worse, suspended from practicing as lawyers. The Caravana was also told that as a result of their work on a case involving the extra-judicial killing by the army of a young man in Valle del Cauca, they are now being countersued by the captain in charge of the operation on the basis of false accusation and defamation. Alejandro Montana noted that it is very hard to continue to work in this environment and it has had a chilling effect on their activities and resolve, though they remain as tirelessly committed to their cases as ever.

In Colombia, there is no national Bar Association or Law Society. Over the years lawyers across the country have tried to unite, in order to form a stronger tie within their profession. In the past there was little success, but

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On 3 August 2018 the 'Protocol for the coordination of actions of respect and guarantee of peaceful protest' (Protocolo para la coordinación de las acciones de respeto y garantía a la protesta pacífica) was enacted

58

Trend observed in Bolívar

59

Trend observed in Nariño, Santander and North of Santander

60

Trend observed in Santander, North of Santander and Antioquia

61

Trend observed in Antioquia



today this power is being recognised in Cartagena and it is supported as an official organisation under the management of Claudia Flores Hernández.

In Cali, delegates heard of the struggle lawyers face to develop an overarching membership body, akin to a Law Society or Bar Association, to dignify the profession, increase solidarity among lawyers, and introduce a Code of Ethics to ensure lawyers are not unjustly associated with clients. It was felt that this structural improvement could help deal with aspects of corruption in the legal system.



Delegates meeting regional hosts in Medellín

### *Jorge Molano: Years of dedication take its toll*

Jorge Molano is a well-known human rights lawyer with dhColombia and was awarded with the Lawyers for Lawyers Award in 2015.<sup>62</sup> He has been a lawyer for 30 years and his career began alongside Jose Eduardo Umaña Mendoza, a well-known human rights lawyer, killed in 1998.<sup>63</sup> He has worked on high profile cases related to extrajudicial killings, massacres, and other serious crimes, representing victims of state crimes in national and international courts.

Jorge's work has put him in the spotlight and led to severe threats and he has been granted protection measures by the IACHR and is accompanied by human rights NGO, Peace Brigades International. He is also currently in receipt of protection measures from the UNP. Despite the fact that he would prefer to conduct a normal life without the need for protection measures, he knows he has to accept the reality of his situation.

"The only reason I accept the protection, is because if I get killed, the government won't take responsibility for my death because I rejected their measures."

Jorge's protection has been recently extended for another 12 months. Every year the UNP investigates whether beneficiaries of protection schemes still require the assigned measures and to this point Jorge has not encountered any problems in acquiring the appropriate protection. However, he fears that his colleague German Romero might lose his protection and he commented that decisions taken by the UNP do not always seem consistent and are often arbitrary.

When he met with the Colombian Caravana in the UK in 2017, Jorge had mentioned his frustration that, despite a Peace Agreement, there was no respite for human rights defenders.<sup>64</sup> When delegates met Jorge during the delegation, he mentioned how exhausted he is due to his work. Jorge has decided to step back from 90% of his cases and to focus on cases which he thinks have the greatest chance of success. It was observed by one delegate in particular that Jorge entered the room as an energetic and charismatic man but when talking about his work was overshadowed by the challenges and steep uphill battle he faces on daily basis.



Jorge Molano with Dutch delegates in Bogotá

*"I need to get my life back. [...] Nine out of ten times it makes no sense to fight. I feel like I have been running into a wall for 30 years that just wouldn't break down. And now that wall is being reinforced."*

*Jorge Molano,  
human rights lawyer, Bogotá*

62

Lawyers for Lawyers "Lawyers are not their clients"  
[https://lawyersforlawyers.org/en/141\\_awards/20123/](https://lawyersforlawyers.org/en/141_awards/20123/)

63

Peace Brigades International,  
Jorge Molano's profile  
<http://bit.ly/PBI/molano>

64

Colombian Caravana,  
'Beyond the peace agreement –  
Jorge Molano talks at the Law Society'  
(13 June 2017)  
<http://bit.ly/CaravanaLS>

### **Corporación Equipo Jurídico Pueblos (EJP): Arbitrary detention and false accusations**

*Corporación Equipo Jurídico Pueblos (EJP)* is a collective of human rights lawyers who defend marginalised communities and victims of human rights abuses in Santander and Norte de Santander, including cases representing victims of extrajudicial execution, enforced disappearance, torture, and killing, perpetrated by State agents and paramilitary groups.

EJP members have faced various aggressions over the years, such as threats, harassment, illegal surveillance, arbitrary detention, stigmatisation, and theft of a computer with sensitive information. In particular, on 1 July 2017, Rommel was with a community journalist and social leader when they were subjected to violence by law enforcement officials during their arrest, while accompanying the Ayacucho community in La Gloria, Cesar, during a peaceful protest. They were later released without charge.<sup>65</sup>

Delegates heard that EJP lawyers are being threatened with the fabrication of false evidence against them, by individuals within the very offices of the local prosecutor. In particular, the Caravana was told by EJP that some officials working within the Attorney General's local office threatened them saying that if they are not careful, attempts would be made to alter the content of some USB devices so as to associate EJP with the ELN.

Moreover, EJP reported having been told that demobilised former FARC members are being pressured by the authorities, including by using financial incentives, to testify against members of social movements. EJP stated that the National Directorate of investigations against organised crime (*Dirección Nacional de investigación contra el crimen organizado* - DECOC) within the Attorney General's office and the police and military officers are behind these attempts to delegitimise and criminalise dissent and social movements.

*"When I decided to be a human rights lawyer, I had a romantic idea of it. I didn't imagine that I wouldn't be able to stop on the corner for a coffee without fear of attack."*

*Rommel Durán Castellanos, President of EJP, during his visit to London in March 2018*

Rommel Durán Castellanos, Gloria Silva, and Leonardo Jaimes Marín have all requested protection measures from the UNP and in particular collective protection measures for the whole organisation since the risk affects all of their members, but to date they do not have a response from the UNP to this request.

Rommel applied for protection measures in December 2013. In April 2015, the UNP informed him that he had to share a protection scheme assigned to the organisation Committee of Solidarity with Political Prisoners, used by Carolina Rubio. The decision was appealed and supported by various international organisations, including the Colombian Caravana.<sup>66</sup> Only in April 2017, the UNP granted Rommel a bulletproof vest and a mobile phone, which was communicated to him by telephone with a message he could not appeal the UNP's decision.<sup>67</sup> Today, Rommel has a car and a bodyguard, and is currently waiting for a second bodyguard. It has taken him a considerable time, along with several letters by international organisations, to be granted a protection scheme more adequate to his level of risk.

### **Adil Meléndez: Fighting for protection**

Adil Melendez is an afro-Colombian human rights lawyer working on over 130 cases in the department of Bolívar, and representing victims of illegal land grabbing, people murdered by paramilitary forces, and collective actions against police and armed forces.

<sup>65</sup>

Colombian Caravana, intervention letter to Colombian authorities and intervention letter to the Inter-American Commission of Human Rights (IACHR) (8 August 2017) <http://bit.ly/CaravanaEJP>

<sup>66</sup>

Colombian Caravana, Intervention letter to Colombian authorities (15 February 2016) <http://bit.ly/CaravanaEJP-UNP>

<sup>67</sup>

Colombian Caravana, Intervention letter to Colombian authorities (6 June 2017) <http://bit.ly/CaravanaIL>

Since 2007, Adil has been a beneficiary of UNP protection measures. Between 2007 and 2009 he had one bodyguard. During his mayoral campaign in San Onofre, he was protected by two police officers and one military bodyguard because paramilitary groups had threatened to kill him. In 2008, Adil applied for a car and three permanent bodyguards, which he finally received about one year later. In 2010, his regular vehicle was replaced with an armoured car and retained the bodyguards.

Adil's work as a human rights lawyer started to increase as of 2014 onwards, at a time when the UNP wanted to take away Adil's armoured car, as they believed his risk levels were reduced. Dismayed at this decision, Adil presented a *tutela* (constitutional writ), after which it was decided he could keep the car and three bodyguards.



Delegates with the EJP team in their office in Bucaramanga

In November 2017, the UNP interviewed Adil for four minutes as part of a re-assessment procedure. On 26 March 2018, they changed his armoured car to a regular one. Again, Adil presented a *tutela* (constitutional writ), and was successful in having the armoured car reassigned to him. However, in December 2018 the UNP decided to remove his armoured car again to replace it with a regular car. The Caravana has heard reports that in February 2019 Adil had effectively no bodyguards to protect him for a week because both bodyguards did not turn up to work. Since, one of the bodyguards has returned but Adil is currently in need of a second bodyguard, as granted by the UNP. Thus, Adil's measures are not being properly implemented.

### ***Comisión Colombiana de Juristas: Stolen information***

The Colombian Commission of Jurists (*Comisión Colombiana de Juristas* - CCJ) is a lawyers' collective working on strategic land restitution litigation and which conducts international and national advocacy. They reported having been named on a death list published by the paramilitary group Las Aguilas Negras. They raised pressing concerns about serious threats faced by Silvia Ojeda, a communications officer at the Commission. Unknown assailants broke into her home and stole her cameras and equipment, including memory cards from computers, and a number of documents. Silvia suspected that they had been watching her home for a period of time. The robbery happened before a public press conference and the publication of a report.

### ***Daniel Prado: Stigmatised for defending victims***

Daniel Ernesto Prado Albarracín, a lawyer with the Colombian NGO Inter-Church Commission for Justice and Peace (CIJP), represents a number of victims in the emblematic case of *Los Doce Apóstoles* (12 Apostles). In this case, Santiago Uribe Vélez, brother of former president and current senator, Álvaro Uribe Vélez, has been accused of co-founding a paramilitary group called the 12 Apostles in Antioquia, a group which allegedly committed crimes against humanity.

After the delegation, the Caravana was informed of threats made towards Daniel Prado.<sup>68</sup> His protection is vital so that he can continue his work ensuring access to justice, truth, reconciliation, and guarantees of non-repetition, all essential elements for the construction of a lasting and sustainable peace in Colombia.

<sup>68</sup>

Colombian Caravana, intervention letter  
to Colombian authorities (5 December 2018)  
<http://bit.ly/CaravanaDP>

Following the issuance of an arrest warrant against Santiago Uribe Vélez on 19 February 2016, threats and harassment against Daniel Prado considerably intensified, as did threats and harassment against witnesses and judicial officials involved in the case.<sup>69</sup>

Soon after the arrest, Álvaro Uribe Vélez accused Daniel Prado of being a member of a guerrilla group in a public video.<sup>70</sup> Moreover, Luis Alfonso Plazas Vega, who had previously been convicted (but later acquitted by the Supreme Court) for enforced disappearance, also launched accusations against Daniel Prado on Twitter, calling him an “imposter” and demanding his arrest.<sup>71</sup>

### **Andino case: Lawyer arrested alongside activists**

On 17 June 2017, an explosion at the Andino shopping mall in Bogotá, resulted in three deaths. Within a week, a group of ten activists, including lawyer Natalia Trujillo, were arrested and charged with the attack.

The case attracted a lot of media attention. Before the hearing regarding their arrest had been held, evidence was leaked to the media, provoking speculation and generating a climate of animosity against the defendants. The Attorney General, the Mayor of Bogotá, and the commander of the National Police made public statements affirming that those arrested belonged to the Revolutionary Movement of the People (*Movimiento Revolucionario del Pueblo* - MRP) and were responsible for the attack, damaging the core principle of presumption of innocence. This situation puts pressure on the work of the judiciary to the point that a group of judges publicly rejected statements made by the Attorney General which threatened judicial independence.

On 24 August 2018, they were released and immediately detained again outside the penitentiary facilities where they had been held. The new arrest was ordered under the accusation of rebellion, for alleged links between the MRP and the ELN. Delegates heard from their lawyers that the evidence against them is inconsistent. They remain deprived of their freedom, while this new charge is being investigated. Delegates attended the initial retrial hearing to see first-hand some of the alleged evidence being presented.

Gloria Silva, Natalie Trujillo's lawyer, reported that families of the defendants have been subjected to surveillance. Gloria herself has experienced unlawful surveillance and monitoring at her office. During a public event in Soacha, where she was speaking about arbitrary police actions, she had her laptop stolen by unknown individuals who were able to deceitfully access the venue of the event.

### **Edgar and Diana Montilla: Constant threats**

Edgar and Diana, father and daughter, are two human rights lawyers based in Pasto. Edgar had to flee the city twice for his safety. He says that he does not always know where threats come from but he believes that he and his daughter are threatened because of their work on ‘falsos positivos’, which are cases of extrajudicial executions, and the successful judgments they have had.

In February 2018, they received threats from the paramilitary group *Autodefensas Gaitanistas*. The authorities tracked the phone calls and ascertained that the calls were made from prison. Delegates were also made aware that in July 2018 the Montilla family were informed that an ex-combatant of the FARC had ordered the ELN to assassinate Edgar and Diana.

***“Defending victims is a beautiful job but it puts you in a constant situation of threats”***

*Edgar Montilla, human rights lawyer, Pasto*

<sup>69</sup>

Ibid

<sup>70</sup>

El Espectador,  
‘Defensa de víctimas de  
“Los 12 Apóstoles” solicitará medidas  
cautelares ante la CIDH’ (4 April 2016)  
<http://bit.ly/Espect12Apost>

<sup>71</sup>

IACHR, Resolution 47/2017  
(20 November 2017)  
Precautionary Measure No 261-16  
<http://bit.ly/IACHR47>



### CCALCP: Smear campaigns and gendered abuse

CCALCP is a prominent women lawyers' collective. Founded in 2001, they seek to empower local and marginalised communities through legal representation, while defending civil rights and liberties, including political and environmental rights. CCALCP has taken on several high-profile cases, including extrajudicial executions, 'false positive' cases, forced disappearances, and serious law enforcement misconducts, including physical injury caused by members of the police or ESMAD <sup>73</sup> or deaths in custody under the responsibility of National Penitentiary and Prison Institute (*Instituto Nacional Penitenciario y Carcelario* – INPEC).

Over the years, CCALCP's members have suffered constant threats, harassment, defamation, physical attacks, theft of computers and sensitive information, and illegal surveillance. CCALCP have reported all events to the police but no resolution has been achieved, sending a dangerous message to the perpetrators that they can act with impunity. When reporting harassment, police have told CCALCP that it probably was an 'admirer' or a 'jilted boyfriend'. These responses demonstrate dangerous gender stereotyping that dismisses and minimises the very real threats these women lawyers face.

**"Let's see how I can come up with a strategy so that they don't kill me. That's the first thing I have to do in the morning."** <sup>72</sup>

*Julia Figueroa, human rights lawyer, CCALCP*

This situation of continuous high risk affects the psychological health of the members of CCALCP. Stress has an impact on their family roles and inhibits their ability to work, as they revert to self-censorship, refraining from making public statements to try ensure a minimum level of security. Delegates note particular concern about CCALCP members' safety, especially that of Julia Figueroa, whose health is being affected by the constant situation of risk she is under.

Delegates heard of tactics that have been used to obstruct CCALCP's work on the case of Páramos de San Turbán, a natural reserve in the departments of Santander and Norte de Santander of incredible ecological relevance that faces mining exploitation by a Canadian mining company. <sup>74</sup>

CCALCP referred to smear tactics regarding their role in the development projects. It is alleged that false information has been disseminated claiming that CCALCP is pursuing a plan to displace communities living close to the Páramos. They said that the local authorities had a strategy of creating a rift between the urban communities, which CCALCP supports, and rural communities living closer to the Páramos.



Delegates with Julia Figueroa (CCALCP) and threatened community leaders (AMSCAMCAT) in Cúcuta

In addition, CCALCP understand that criminal complaints have been submitted against them to the local prosecutor's office, as an intimidatory tactic, although no investigation has been initiated so far. In order to counter this narrative, CCALCP informed delegates that they wish to implement a model of self-protection based on accountability. This consists of inviting local communities to open and interactive meetings to hear about CCALCP's actual activities. The NGO ASCAMCAT has taken this approach in other local areas to reduce stigmatisation and so increase its security. However, extra funding and resources are needed for this innovative self-protection measure. CCALCP have called upon local and national authorities to provide financial help to enable these public accountability and protection mechanisms.

<sup>72</sup>

Julia Figueroa, lawyer at CCALCP, 'Is there peace in Colombia?' Colombian Caravana and Playground Magazine, (November 2018) 00.01min <http://bit.ly/PGpeace>

<sup>73</sup>

ESMAD is the Escuadrón Móvil Antidisturbios (Mobile Anti-Disturbance Squad) of the national police, mostly deployed during protests.

<sup>74</sup>

La Silla Vacía, 'Los poderes detrás del páramo de Santurbán' (9 March 2011) <http://bit.ly/SanTurban> ; Semana, '764 millones de dólares vale la demanda de Eco Oro contra Colombia por San Turbán' (13 October 2018) <http://bit.ly/EcoOro>

## 3.2 Protection measures

The National Protection Unit (*Unidad Nacional de Protección* – UNP) is a national institution operating under the Ministry of Internal Affairs. It is entrusted with the protection of individuals, groups, and communities who are under threat due to their activities in the social, political, public, and humanitarian work of the country. Human rights lawyers, defenders and social leaders often rely on the UNP for protection measures. During our delegation, the Caravana met with many people who have experience of the UNP protection scheme and its processes.



Delegates and local lawyers, including Adil Meléndez, visiting San Diego women's prison, Cartagena

**“In a world full of lies, the one who dares to tell the truth becomes the most persecuted soul”**

Holmes Alberto Niscue was an indigenous community leader in Gran Rosario Reserve. On receiving death threats in June, he applied for protection measures to UNP. Two months later he was killed. Following his murder, Holmes' wife and his family had to flee.

The UNP decision-making process took too long for Holmes. Despite the fact that his death is attributable to the threats he received and that his request for protection measures included protection for his family members, his wife was told she would have to initiate a new claim for protection, further delaying her hope of receiving measures to keep her and her children safe.

The Caravana heard about a range of issues regarding the effectiveness of protection measures for human rights lawyers and social leaders at risk. It was reported to the Caravana that the most typical protection measures granted by the UNP consist of a mobile phone or a panic button and a bulletproof vest. Some people are assigned cars (in some cases armoured) and bodyguards (either UNP agents or police officers).

The Caravana learned that protection strategies are often not tailored to the specific circumstances of those at risk. As a result, the schemes implemented are often inadequate to protect an individual. For example, mobile phones are granted to lawyers working in areas where there is no network; panic button alerts often remain unattended; bulletproof vests are assigned to individuals working in areas where it is too hot to wear them or where wearing one is likely to render the protected individual a more visible target, and thus increase their risk.

Risk assessments by UNP analysts often do not take into account the geographical context of a territory in which a lawyer may need to travel. As a result, lawyers who had been granted vehicles as a protection measure informed delegates that most of these vehicles do not have the capacity to travel across uneven terrains in isolated rural areas. The UNP provides electronic pre-paid credit cards with vehicles but it was explained that these are often insufficient to reach remote rural areas and that fuel stations in many areas are not equipped with the technology to accept payments through electronic cards.

It was repeatedly communicated to delegates, including by representatives of the UNP itself, that the function of the UNP is essentially reactive. Evidence is necessary to prove that a person is under threat before they can be granted protection measures. In a meeting with its national office the UNP claimed that it liaises with civil society and takes into consideration 'early alerts' from the

Ombudsman. However, the Caravana has identified a shifting paradigm of threats to human rights defenders, as it is becoming more common that an individual may not have received a death threat before being killed. The Caravana heard proposals from lawyers that human rights lawyers should be regarded as high risk by default, similarly to land restitution judges, due to the automatic risk they face because of their work.

The arbitrariness of the UNP decisions as to whether to give protection measures was a recurring issue in several of our meetings, and the same problem appeared to apply to the withdrawal of protection measures. Moreover, it was reported to the Caravana that protection measures can be withdrawn or changed by the UNP without a comprehensive explanation. This leads to people living in fear of having their protection withdrawn or curtailed with every annual review. One particularly striking case is that of Adil Meléndez, a highly threatened lawyer from the Caribbean region, who for years has constantly had to fight to keep his protection measures in place.<sup>75</sup>

The Caravana found that protection agents are often insufficiently trained to provide risk management and protection services, nor do they possess the required understanding of the specific risk faced by human rights lawyers and defenders. Lawyers informed the Caravana that they have to adjust their schedule to the availability of UNP escorts, if they want to receive protection, and sometimes escort agents simply forget to show up. This often results in an increased exposure to risks of individuals and a generalised mistrust towards UNP protection schemes.

In some cases, security incidents were caused either intentionally or negligently by the protection agents themselves. CCALCP's UNP protection scheme has been so far insufficient to ensure that they can carry out their work safely. On at least one occasion CCALCP identified the source of a threat as the same agents charged with their protection. On another occasion, a female body guard was caught providing information about the location of the CCALCP president to unknown individuals. Delegates were told that, throughout 2017, UNP agents assigned to CCALCP's protection were abusive towards women victims, having made sexual remarks to them. During some field visits, it was reported that UNP escorts even went so far as to provoke tensions within the communities accompanied by CCALCP.

Delegates heard that there is no credible and independent internal complaint mechanism within the UNP. When lawyers ask for the removal of specific protection officers because of allegations of corruption or inappropriate behaviour, officers may be removed but then the lawyers are exposed to many months with no protection scheme in place.

In addition, the Caravana observed that a three-month time period to consider initial applications appears excessively long, especially in cases where the threat of death is imminent, for example in the case of indigenous leader, Holmes Niscue.<sup>76</sup> While interim measures might be granted (e.g. a phone or panic button), these are often insufficient to reduce the risk that an individual faces.

Often, those at-risk struggle to meet with the UNP to discuss their case. During our meeting with the UNP we were accompanied by two lawyers from Pasto and members of lawyers collective Corporación Guasimi, Jesús Antonio Bolaños and Lyda Janeth Timana Rojas, who had been requesting a meeting with the UNP to discuss the situation facing Gran Rosario indigenous reserve for a long time.

The Association of Indigenous Councils of Northern Cauca (ACIN) made it clear to the Caravana that they are mostly reliant on mobilising their own indigenous guard for protection. These indigenous communities largely do not seek protection from the UNP, as bullet proof vests and armed body guards are at odds with their deeply held spiritual beliefs and commitment to non-violence. Instead they simply seek recognition of their own indigenous guard. Although some progress has been made on this front at the governmental level, in reality, acceptance has not been forthcoming. The Caravana heard how UNP representatives who visit the region to assess the risk posed to individuals, often refuse to go beyond built-up settlement areas, due to their own safety concerns. Therefore, they are not able to make a realistic and full assessment of the risk these communities, especially their leaders, face in isolated rural areas. In turn, the situation for these communities becomes more serious by the day.

75

Colombian Caravana letter sent to the UNP  
concerned about Mr Melendez' protection measures  
(13 March 2019)  
<http://bit.ly/CaravanaAM>

76

Holmes Alberto Niscue, Gran Rosario  
indigenous leader,  
killed after while waiting for protection



Communication between the UNP and those whom it is charged with protecting can also be an issue. In 2018, the UNP failed to communicate that new agents had been assigned to the protection of CCALCP. As a result, on one occasion, having noted an unknown man following her vehicle, Julia Figueroa called the police only to find out that the man was in fact a new escort recently assigned by the UNP.

It was generally universally accepted by those with whom the Caravana met that the UNP is under-resourced and under-staffed for the task it faces. During a meeting with the UNP, we were informed that, funding for the activities of the UNP has been cut since 2016. Delegates were surprised to learn of budget cuts, particularly considering that part three of the Peace Agreement explicitly acknowledges that its successful implementation hinges on the provision of effective protection measures. As mentioned previously, the implementation of some elements of the Peace Agreement have faced legal challenges and the recruitment of UNP security personnel to protect former FARC combatants has also experienced delays.

At the meeting with UNP representatives, delegates were informed that the UNP is making efforts to decentralise and strengthen its presence in rural areas, as well as to tighten coordination with local and regional authorities. Proposed measures to achieve this include self-protection education programmes and a stronger focus on collective protection, including the improvement of infrastructure and communication networks.

The Caravana found general consensus among human rights defenders, lawyers, international organisations, and local institutions that collective protection could be the most effective to protect the whole community, sometimes even more effective than individual measures. It is also noted that many lawyers have been raising the issue of collective protection measures for a number of years. While human rights defenders might experience more direct threats, their family members and communities are also a target and at risk. It appears evident that this risk is currently exacerbated by the proliferation of illegal armed groups vying for control of regions previously controlled by the FARC.

Amongst the collective protection measures proposed were infrastructure improvements such as better street lighting and institutional visibility with presence of not only armed forces but also local civil local institutions, such as the local Ombudsman. Training programmes geared towards generating a change to the internal culture of the police and the army were also proposed. The Caravana observed a strong belief that that local authorities, including police officers, tend to harbour strong bias against human rights lawyers and defenders. In light of these reports, culture change and proactive steps by the state to improve these relationships and build trust could also positively impact on the safety of lawyers and the communities they serve.

Many communities have already taken responsibility for their collective protection through a number of innovative approaches. A number of groups have established networks to monitor each other's whereabouts. For example, delegates talked to *Ruta Pacífica de las Mujeres*, a feminist pacifist movement working to achieve peace and raise awareness of the impact of war on women, whose main self-protection measures is to constantly confirm each other's location and well-being.

Many lawyers consider their public profile as relevant to their self-protection and that both high and low profiles can serve as a strategy for self-protection. For example, delegates met *Corporación Jurídica Libertad*, a lawyers' collective in Medellín, who sought to maintain a high profile and develop relationships with national networks and international groups as a self-protection measure. However, lawyers in Cartagena told delegates that those who had not been granted state protection measures try to keep a low profile, particularly when working on land restitution cases and cases where there are alleged links to paramilitary groups or multinational corporations. They commented that they would work on the case behind closed doors and only those lawyers who benefit from state protection measures would have their name appear on the court files that might put them in direct danger. However, it was noted that this puts a lot of pressure on those lawyers who can appear publicly, particularly if their protection measures are insecure. Moreover, only the lawyer

### Failed protection leads to aggressively violent assault

Sometimes protection measures are not effective and this can have very serious consequences. Corporación Clarentina Norman Pérez represent Laura Cristina Salasad. Laura's case is extreme: she was raped, tortured, stabbed, and had her lips sewn together and her face scarred. Laura made accusations against a paramilitary member who is a beneficiary of Law 975 of 2005 and is in prison but will not be released whilst her complaint stands. Her accusations in Peruta Barnaca have triggered an investigation into key paramilitary figures and thus she is supposedly under the protection of the Attorney General's Office and UNP. She has been displaced from different municipalities for her protection, yet paramilitaries have still managed to find and attack her, suggesting that information might be passed on from institutions responsible for her protection. Her lawyers believe that she has not being killed outright yet in order for her to be forced to withdraw her statement.

who is signatory to relevant court documents can represent the client in court hearings. As these hearings often get postponed without prior notice, this makes it especially difficult to manage big caseloads.

The Caravana noted that there has been increasing collaboration between indigenous and afro-Colombian communities as they work together to resist and protect themselves in an increasingly violent landscape. On previous delegations these groups have often worked separately, but the gravity of the situation has meant that they have chosen to strengthen their position by working directly together, especially now that the afro-Colombian groups have been recognised under 169 ILO Convention.<sup>77</sup>

Delegates heard how lawyers across the country deem international monitoring and solidarity of great importance to encourage the government to take meaningful action to ensure the safety of human rights defenders. The International Caravana coincided with the 40th anniversary celebrations of CCAJAR. CCAJAR members reiterated the importance of the international community's support. When a delegate asked a senior lawyer of CCAJAR how he could tell the work of the International Caravana and the wider global community is effective he said "the proof is that I am still alive, which probably would not be the case without the Caravana."<sup>78</sup>



Caravana delegates from the UK and Spain presenting an award in recognition of 40 years of CCAJAR at their anniversary celebrations, in Bogota

<sup>77</sup>

Some countries, such as Colombia, include afro-descendants in the concept of 'indigenous' and 'tribal' under the International Labour Organisation (ILO) Indigenous and Tribal People Convention, 1989 (No 169)

<sup>78</sup>

Luis Guillermo Pérez Casas, at the time a senior lawyer in CCAJAR

## Section 4

## Access to justice

Colombia has ratified the International Covenant on Civil and Political Rights (ICCPR) and the American Convention on Human Rights (ACHR) committing to guarantee access to justice and judicial protection for human rights violations within its territory.<sup>79</sup> According to the Inter-American Court of Human Rights (IACtHR) state failure to guarantee access to justice and provide remedy for victims can be deemed as structural impunity when there is an “overall lack of investigation, tracking down, capture, prosecution and conviction of those responsible for violations protected right.”<sup>80</sup>

## 4.1 Land restitution and displacement

Law 1448 of 2011 on Victims and Land Restitution (*Ley de Víctimas y Restitución de Tierras*) sets out a comprehensive reparations system for victims of the conflict to return to their lands and claim compensation. On our previous visit to Colombia in 2016, the Caravana noted that its implementation presents serious difficulties<sup>81</sup> and in 2018 whilst delegates saw that there have been some improvements, the law’s implementation continues to present many challenges.

Delegates heard that victims and their lawyers, often come up against a wall they cannot overcome and that the number of active or concluded cases is significantly lower than would accurately reflect the number of victims country-wide.<sup>82</sup> The burden of proof to be recognised as a victim lies with the victim him or herself, making the process extremely complex and bureaucratic, particularly for individuals who may have limited formal education, not possess official documents, and in some cases are illiterate. Without the existence of clear proof of ownership and displacement, a case cannot even be opened.

As a consequence, there are thousands of land restitution cases that remain unresolved and, in many cases, are not even under investigation. It was observed that this does not appear due to unwillingness from judges or lawyers, but because of the huge backlog, lack of judicial resources and often extremely complex legal procedures involved.

Lawyers who litigate land rights reflected on the need for law to be interpreted to favour victims rather than illegal occupants of the land, whether multinational companies or individuals. As ascertained in our previous visit in 2016, the issue of restitution is clearly linked to impunity, thus, there is a critical need to strengthen mechanisms to access justice and seek remedy, also as a measure of non-repetition.<sup>83</sup>

## Swamped in paperwork to claim compensation

The Caravana met with a farmer who had been forcibly displaced from Montes de María with her husband, unable to return to their land. She explained that they used to own a rich land and had a prosperous future but now they are homeless in Cartagena. She showed the various documents she had filed to claim compensation as a victim and seemed confused by the lengthy and complicated process she had to go through to be recognised as a victim and to be able to receive compensation from the state. Even though she has a lawyer, she was uncertain of which stage of the process she has reached and her case, showing how the system presents many difficulties for victims.



Victim of forced displacement swamped in paperwork, Cartagena

79

Articles 1(I), 8 and 25 of the ACHR & Articles 2 and 14 of ICCPR

80

IACtHR (2001) Case of Ivcher Bronstein v Peru. Judgement of February 6, 2001. Serie C No 74, para 186

81

Colombian Caravana, Report of the Fifth International Caravana of Jurists to Colombia (November 2016)

82

Reported by the Comisión Colombiana de Juristas

83

Colombian Caravana, Report of the Fifth International Caravana of Jurists to Colombia (November 2016)

Many victims from rural areas face threats from paramilitary groups, criminal gangs, and other illegal armed groups, if they receive a judgement that allows them to return to their land. Delegates heard frustration from lawyers that the only measures available for victims are reparative and that there is a complete lack of proactive measures to provide victims with any form of protection. Despite an obligation to do safeguard returning communities, local authorities often fall short of these duties. The Caravana observed that indigenous and afro-Colombian communities are particularly vulnerable to threats and violence. It is noted that this model is unsustainable given that reparative measures are more often difficult and more expensive to implement than taking the steps necessary to protect communities in the first place.

Displacement to and from urban areas and rural areas reflects patterns of violence. Many victims of displacements come from farming or rural backgrounds and may find it hard to adapt to urban life when displaced to towns and cities, thus finding themselves at risk of social exclusion. On the other hand, it was also reported to the Caravana that due to the escalation of urban displacement, individuals were also being forced to return to more rural parts of the Valle del Cauca where they are far more vulnerable from the multitude of armed groups.

*“Something [compensation] that is meant to help ends up being a problem”*

*Judge, Cartagena*

### **Fishermen displaced from Bahía de Barbacoas, Isla del Covado**

Orlando and Antonio Godoy Carmona are two brothers from a town in the rural area called Turbaná. They used to own land in Bahía de Barbacoas, Isla del Covado, where they worked as fishermen.

In 2004, threats forced the brothers to flee to Cartagena, with their wives and children. Paramilitaries later confessed to having taken part in the threats, murders, and expulsion of countless families in the Turbaná area.

The brothers assert that their land had been in their families for more than 200 years and is now used by a fishing company. The brothers assume that the company acquired the land after reaching an agreement with the paramilitary group that displaced the Godoy Carmona family.

The brothers are currently involved in several processes to regain their land, or to at least receive compensation for the damages suffered. Despite risking their lives, they remain undeterred. Other families have joined the brothers in their fight for justice, meaning that both individual and collective cases are currently being prepared.



Brothers Orlando and Antonio Godoy, victims of forced displacement, talking to Adil Meléndez and delegates, Cartagena



**"We do not have a right to give up on the struggle."**

In Cali, delegates met an afro-Colombian community who had been displaced to the river valley and were seeking recognition of their ethnic status as afro-Colombians, in order to benefit from the protections under Law 160 of 1994. The community had set up a make-shift camp and were physically occupying the land outside the town hall and had been doing so for 42 days at the time of the delegation. The community appeared resolute, and said that they were mindful of the need to remain focused and unified in the face of their displacement and demands for recognition, stating that "hope resides in the places where we come together."

The community was vocal in their defence of land and their concerns that natural resources were being exploited for money without thought for the wider impact. The stated that "without water there is no life," and that their dispossession was "an attack on our ability to survive." The community complained about unfettered development asserting that "for the state it's more important to construct a hotel than provide a dignified life."

## 4.2 Impunity

Somos Defensores tracked the killings of human rights defenders between 2009 and 2017. Of the 458 cases examined, they concluded that the impunity rate stands at 87%. <sup>84</sup> The Caravana understands that there have only been 28 convictions, there are seven open processes where initial identification of suspects has occurred, and 26 cases are being prosecuted. <sup>85</sup> Somos Defensores published a similar report in 2013 and established an impunity rate of 95% in cases for killings against human rights defenders between 2009 and 2013, out of 219 cases. <sup>86</sup> Whilst, there may be a small improvement to the impunity rate, this is not sufficient to herald success. Of further concern is that despite the impunity rate dropping slightly, killings are increasing apace in recent years, a very worrying trend that the Caravana observes with alarm. <sup>87</sup> Moreover, Somos Defensores also note that investigations, prosecutions, and convictions tend to focus on the material perpetrator of the crime and there is often no investigation into the intellectual perpetrators. <sup>88</sup>

Caravana delegates were dismayed by alleged state plans to dismantle prosecution units specialised in human rights and international humanitarian law. Several Colombian human rights lawyers commented that these units have contributed to upholding human rights and *jus in bello*, <sup>89</sup> taking some effective steps to tackle impunity for the first time and in doing so developing considerable expertise. Nonetheless, high-level civil servants in the municipality of Bucaramanga have suggested that the Attorney General seeks to abolish such highly specialised units and shift competence in cases of human rights abuses or breaches of international humanitarian law to the ordinary units within the prosecution service.

In Bogota, Caravana delegates met with the federal offices of the Ministry of Foreign Affairs (*Cancillería*) and the Attorney General's Office (*Fiscal General de la Nación*). At the latter delegates were accompanied by Leonardo Marin of EJP. Both agencies reported in detail the steps the state had taken to investigate the large number of murders of community leaders and human rights defenders.

However, the Caravana remains concerned by the continued high impunity rates. If comprehensive investigations into the intellectual perpetrators and not only into the material perpetrators of crimes against human rights defenders are not carried out, attacks against them inevitably will continue. Comprehensive investigations may help to identify patterns of criminality and better understand the root causes of attacks.

The Caravana heard reports of cases of alleged abuse against the civilian population by members of the army that have not been brought to justice. The Caravana repeatedly heard of inadequate responses to threats or crimes reported, particularly when reported by indigenous and rural farming communities. Delegates were

<sup>84</sup>

Somos Defensores,  
'Stop Wars La Trilogía,  
Episodio I: Crímenes Contra Defensores  
y Defensoras: La impunidad Contraataca'  
(2019) 58

<sup>85</sup>

Ibid 122

<sup>86</sup>

Ibid 47

<sup>87</sup>

Ibid 122

<sup>88</sup>

Ibid 122

<sup>89</sup>

*Jus in bello* is also known as international humanitarian law and regulates the conduct of parties engaged in an armed conflict

told that other investigations appear to be resolved with relative ease and speed, calling into question the reason for delays in cases of alleged criminal acts by the armed forces.

According to lawyers with whom the Caravana met, accusations of systematic sexual abuse against young women in isolated villages allegedly by members of the armed forces often go unpunished. In one case, the mother of a victim sought to file a petition with several local authorities but none of these opened an investigation. The lack of judicial remedies has led victims to accept these abuses as something that, sooner or later, is going to affect everyone in the community. Disturbingly, the victim in this particular case told the Caravana that she was 'lucky' that it was not a member of a guerrilla group who attacked her. Worryingly, she claimed that once members of guerrilla groups have raped a woman or girl, they then abduct them and no one ever sees them again.

### 4.3 Allegations of corruption

The Caravana observes that there are currently a number of high-profile cases that involve high-ranking politicians and senior officials, in particular cases implicating a former President and the current Attorney General. In relation to these and any such cases the Caravana calls for the full respect for rule of law, due process, and any measures necessary to ensure independence of judiciary. While the Caravana was not made aware of direct threats to judicial officials involved in the cases, the Caravana emphasises its support for the independence of the judiciary and the safety of all individuals involved.

There is an active investigation into former President of Colombia, and current Senator, Álvaro Uribe Vélez on charges of bribery and false testimony.<sup>90</sup> The Caravana met with the Supreme Court pledge a commitment as members of the international community to follow the case with interest and in particular to be alert should anyone involved in the case be threatened. It is noted that at the time of the delegation, a threatening pamphlet was issued by the paramilitary group *Las Aguilas Negras* naming a key witness, Ivan Cepeda, as well as many other lawyers and human rights defenders.<sup>91</sup>

The Caravana understands that Attorney General, Nestor Humberto Martínez, has been linked with alleged bribes in the 'Odebrecht case' between years 2012 and 2016.<sup>92</sup> Allegations centre on a corruption network called *El Cartel de la Toga*<sup>93</sup> that is accused of evidence tampering and judicial bribery. The Caravana notes that the former anti-corruption prosecutor has already been sentenced in relation to this case.<sup>94</sup> The Caravana encourages the relevant authorities to conduct fully independent, impartial, and prompt investigations into any alleged wrong-doing by any officials regardless of their seniority.

### 4.4 Judges workload and resources



Delegates meet the Minister of Justice, Gloria María Borrero Restrepo

Delegates met with several judges in Cartagena who explained that land restitution judges face significant risk and thus have bodyguards by default. In Cali, many of the lawyers and judges with whom the Caravana met reported having been threatened as a result of their work, with some judges alleging that their communications are tapped and monitored.

The Caravana heard in Medellín, Cartagena, and Cali that the extreme workload was affecting judges' mental health and impacting on their work. Judges had a significant backlog of cases

90

*El País*,  
'Iván Cepeda, el  
senador que sentó a  
Uribe ante la Corte  
Suprema' (1 August  
2018) [http://bit.ly/  
EIPaisIC](http://bit.ly/EIPaisIC)

91

*El Tiempo*,  
'Denuncian nuevas amenazas a  
congresistas de la oposición'  
(4 September 2018)  
<http://bit.ly/ElTiempoIC>

92

*El Espectador*,  
'El 'caso Odebrecht' en  
Colombia acorrala al fiscal  
general'  
(20 November 2018)  
<http://bit.ly/EIPaisOd>

93

*Toga* refers to the robes  
that judges wear in court

94

*El Espectador*,  
'El panorama del Cartel de la Toga en  
2019' (3 January 2019)  
<http://bit.ly/ElEspectToga>

which is causing huge inefficiencies and strain on the legal system in all areas. One of the judges interviewed got very upset when talking about the pressure judges are under and shed a tear when she expressed how much will there is to deliver justice, but that the system is putting too much pressure on their workload under inadequate conditions. In Cartagena, delegates found hundreds of boxes of confidential files including tutelas (constitutional writ) stored in the corridors of the courts, accessible to the public and exposed to weather conditions since the corridors are made of arcades on the open air.

The Caravana found that the Palace of Justice in Cali, the central court house for the Valle del Cauca region, had been shut down and *Asonal Judicial*, the trade union of judges, had gone on strike, following a fatal accident in a lift. This action essentially paralysed around 80% of cases in Cali. The Palace had been closed after a lift fell nine floors, killing two individuals and injuring four others, with two paralysed from the waist down.

The Caravana heard, during their meeting with the *Asonal Judicial*, that since 1974, the building has undergone numerous repairs highlighting concerns with the lifts and yet the conditions in the court building have continued to be unsafe for lawyers and judges to work in. The lifts had allegedly been faulty for years with more than thirty incidents reported since 2014 that authorities have failed to resolve; the ongoing delay in identifying an alternative court building gives the impression that ensuring a functioning court process is not a high priority to the authorities. As a result, the judges have gone on strike bringing access to justice to a halt.



Delegate observing confidential case files stored in the corridors of Courts of *El Cartel Fijo*, accessible to the general public, Cartagena

When the Caravana met with the Minister of Justice in Bogota, the issue was raised and although the Minister was aware of the circumstances and stated that she was trying to work towards a solution, she felt that due to lack of resources the situation would not be remedied in the short term, noting that it would take at least six months to fix the lifts as a public tendering process would be required.

From the Caravana's meeting with the Judicial Disciplinary Tribunal (*Sala Disciplinaria Consejo Superior de la Jurisdiction*) it was clear that there is a strong need to strengthen judicial and professional ethics within the legal profession. It was noted that 18,000 lawyers had been sanctioned between 1980-2017, for a variety of reasons. Defence lawyers must often represent themselves during the process. The Judicial Disciplinary Tribunal suffers from lack of resources and is under a great deal of pressure to investigate the complaints made to it.

It was highlighted to the Caravana that there remains a high level of corruption within the legal system but there was hope that reforms under the new government would improve this. The Caravana raised concerns that if lawyers do complain about the judge on their case, such as for undue delay, which is normally a tactic used to prevent access to justice, then the judge is not removed from the case. This means that human rights lawyers do not want to raise disciplinary actions against judges, in case this influences the final judgement. The Judicial Disciplinary Tribunal recognised this obstacle but noted that it was not practice removing a judge from the case citing the lack of resources.



## Conclusion

It would be far removed from reality for anyone to conclude that Colombia is in a period of post-conflict, let alone at peace. The Peace Agreement was ground-breaking and provided a comprehensive blueprint of how to begin a transition to peace. However, it cannot be overlooked that this agreement was only between two parties in the conflict and there are numerous other illegal armed groups who remain active and some which have been able to strengthen their operations in the past two years.

Colombia faces a human rights crisis which will escalate, if it does not take concrete steps as a matter of urgency to address the challenges identified in this report, in particular around the implementation of the Peace Agreement and function of the JEP; state presence in areas where illegal armed groups operate; appropriate and timely protection measures for human rights defenders; and impunity and guarantees of non-repetition.

The International Caravana makes a fervent call to the Colombian and the pertinent state authorities to take on board our recommendations to see that justice is done, rule of law is strengthened, and human rights are not only protected but can flourish.

To the international community, we ask that together we take a global responsibility to stand in solidarity with those who are threatened, and that we collectively speak out against violence and endeavour to support those seeking justice and peace in Colombia.



Source: <https://commons.wikimedia.org/wiki/User:Shadowxfox>  
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# Recommendations

## Peace Process

1. All parties should respect the Peace Agreement and continue to work to ensure its implementation.
2. The government should fulfil the guarantees established by the Peace Agreement, including, but not exclusively, those which relate to the safe integration of FARC ex-combatants into civilian life, the voluntary substitution of coca crops to allow rural communities a sustainable livelihood, and the implementation of the transitional justice and the free and independent function of the JEP.
3. The government should provide security to civilians in areas where there is a power vacuum due to the FARC's demobilisation, particularly in areas where state presence is already low or inexistent. Deployment of any armed forces or law enforcement officers should be in full compliance with international humanitarian law, non-military state institutions should be reinforced and engagement at the local level improved and further developed.
4. Educational programmes should be developed for communities to better understand the mechanisms that are available to them under the Peace Agreement in order to enhance transparency and build trust between the state and its citizens.
5. The Colombian state and the remaining guerrilla groups, including the ELN and the EPL, should proactively seek to re-establish a commitment to negotiating a peace deal in good faith.

## Justice and Impunity

6. The government should increase the resources (financial and otherwise) available to the Attorney General's Office, in particular to those units responsible for the investigation into crimes against human right defenders and human rights violations, to facilitate effective investigations and tackle impunity. Any proposals to remove separate units with responsibility to investigate these distinct crimes should be abandoned immediately.
7. Independent and impartial mechanisms should be in place to carry out the necessary disciplinary and/or criminal investigations into judicial conduct. To ensure the independence of the judiciary, and respect for the rule of law, the judiciary should be regulated by an independent and non-political judicial appointments and discipline commission. Where there is evidence of criminal offences, this evidence should be passed on to the relevant prosecutorial authorities for further impartial and prompt investigation, and possible prosecution.
8. An effective prosecutorial policy should be implemented to ensure that the Attorney General's Office prioritises investigations into alleged crimes against human rights defenders and lawyers and completes them in a prompt and impartial manner.
9. The state must carry out impartial, independent, and effective investigations into, and, where appropriate, seek prosecutions of the material and intellectual perpetrators of crimes against human rights defenders and community leaders, in recognition of their increased risk and the roles they play in supporting access to justice and accountability, with a view to reducing impunity rates.
10. The state should ensure that all legal professionals can undertake their work without fear of fabricated charges being brought against them leading to prosecutions and disciplinary procedures; stigmatisation; intimidation and harassment; illegal surveillance; theft of sensitive information; breaking and entering; arbitrary detention; physical and mental harm; being disappeared; or killings either of themselves or of their family members.

11. The state should enact all necessary legislation and provide funding and resources to enable the JEP to function properly and efficiently, according to its mandate as established under the Peace Agreement, ensuring its legitimacy it is not undermined by political interference and that its operations are transparent.

12. The JEP should retain its jurisdiction to try crimes allegedly committed by members of the state armed forces. Both parties to the Peace Agreement should be treated the same when victims of the conflict seek justice, truth, reparations, and non-repetition. Further, guarantees established preventing the extradition of individuals while subject to processes under the JEP should be respected, in recognition of victims' rights, and allowing it to maintain jurisdiction to consider evidence in, and the merits of, extradition applications.

13. Legislation referring to 'command responsibility' should comply with the definition provided in Article 28 of the Rome Statute of the International Criminal Court, to which Colombia is a party, and any legislation that does not comply should be amended accordingly.

14. Judges, attorneys, and other legal professionals employed by the state should enjoy a safe environment in which to work, requiring that law buildings are well-maintained and sufficient resources are provided to manage an appropriate workload, avoiding putting legal professionals' physical or mental health at risk.

15. Lawyers' voluntary initiatives to establish local, regional, or national bar associations or similar independent professional bodies that aim to strengthen the legal profession and tackle stigmatisation should be supported and promoted.

16. The state should review the burden of proof and the lengthy processes that victims must follow in order to have their claims recognised and considered for remedy under Law 1448 of 2011, on land restitution. Further, the state should ensure that a fair and transparent procedure is implemented to establish whether individuals have the right to return to their homes and that purchases of land are not legitimised when in relation to lands where individuals have been displaced.

## **Safety of civilians and protection of human rights defenders**

17. The state should comply with its responsibility to protect the civilian population from all illegal armed groups. The government should acknowledge the continued existence of paramilitary groups and implement adequate strategies to dismantle such groups.

18. Military and security forces should ensure that they act in a neutral manner in compliance with their obligations under international humanitarian law. They should avoid stigmatising marginalised or indigenous communities and human rights defenders by moving away from the doctrine of an 'internal enemy'. A review should be undertaken of internal codes and doctrines to ensure the protection of civilians and the promotion of peace.

19. The government should guarantee that communities and, in particular, human rights defenders and social movements, can protest safely without fear of criminalisation or attack from military or security forces. A transparent protocol should specifically regulate how the military and security forces should act when dealing with demonstrations, prohibiting the use of firearms and excessive or disproportionate force.

20. State representatives at all levels must abandon and publicly reject any rhetoric that legitimises the abuse of legal professionals and instead take steps to reinforce rule of law and justice through the open recognition of the vital role the legal profession takes in upholding justice and furthering peaceful and democratic objectives. The government and the UNP should implement proactive strategies to counteract stigmatisation of human rights defenders, and senior government officials, including the President and the Attorney General, should issue consistent public statements condemning all attacks against human rights defenders.

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21. The state should guarantee the safety of those who report human rights violations and of human rights defenders and community leaders when they are threatened or attacked, with particular attention to ensure fully independent, impartial, effective and prompt investigations into cases where the alleged perpetrator is a state representative, a member of military or police forces, or connected to a paramilitary group or another illegal armed group.

22. The state should openly explore the adoption of additional, innovative, and holistic protection measures to guarantee the safety and freedom of human rights defenders and social leaders who face an unprecedented level of risk, these measures should include support for self-protection strategies as proposed by human rights defenders themselves.

23. The UNP should receive the necessary funding and resources needed to fulfill its mandate to protect human right defenders, social leaders, legal professionals, and FARC ex-combatants.

24. The UNP should establish a fast-track procedure to provide de facto protection measures for human rights defenders and lawyers who are particularly vulnerable, starting from a position that assumes risk applies, without requiring over burdensome proof of a prior threat and procedural delays, in a similar system to that which applies to land restitution judges.

## International Engagement

25. The international community should provide support and solidarity to civil society in Colombia, especially to human rights defenders and community leaders who are at particularly high-risk.

26. The international community should continue to monitor the full implementation of the Peace Agreement. States should make representations to the Colombian government in their bilateral and other diplomatic relationships to encourage respect for the Peace Agreement and its implementation.

27. In bilateral discussions with the Colombian government, other states should seek to ensure that Colombia is reminded of its obligations under the Rome Statute and the other international treaties to which it is party.

28. Colombia should seek to implement the recommendations recently made under its Universal Periodic Review mechanism of the UN Human Rights Council, in particular those which relate to safety of human rights defenders, access to justice, and rule of law.

29. UN Special Rapporteurs on the Situation of Human Rights Defenders, and on Independence of the Judiciary, as well as relevant OAS Special Rapporteurs should continue to monitor the implementation of the Peace Agreement, respect for human rights, and the functioning of rule of law in Colombia providing international scrutiny and accountability.

30. The Colombian government should ensure there is a standing and open invitation to all UN and OAS Special Procedures to undertake fact-finding missions as and when deemed appropriate, and to ensure full access, openness, and transparency when such Special Procedures engage with state institutions.

31. Where possible, resources should be mobilised in agreement and collaboration with the Colombian state, to support the implementation of the Peace Agreement and its transitional justice mechanism, the JEP, in order that the JEP be able to fulfil its mandate for the period of 20 years as set out in the Peace Agreement.

# Glossary of Acronyms

Acronym	Spanish	English
<b>ACADEHUM</b>	Asociación Colombiana de Abogados de Derechos Humanos	Colombian Association of Human Rights Lawyers
<b>ACHR</b>	Convención Americana de Derechos Humanos	American Convention on Human Rights
<b>ACIN</b>	Asociación de Cabildos Indígenas del Norte del Cauca	Association of Indigenous Councils of Northern Cauca
<b>ASCAMCAT</b>	Asociación Campesina del Catatumbo	Catatumbo Farmers' Association
<b>CAJAR</b>	Colectivo de Abogados José Alvear Restrepo	José Alvear Restrepo Lawyers' Collective
<b>CCALCP</b>	Corporación Colectivo de Abogados Luis Carlos Pérez	Luis Carlos Pérez Lawyers' Collective
<b>CCEEU</b>	Coordinación Colombia-Europa-Estados Unidos	Coordination Colombia-Europe-United States
<b>CCJ</b>	Comisión Colombiana de Juristas	Colombian Commission of Jurists
<b>CIJP</b>	Comisión Intereclesial de Justicia y Paz	Inter-Church Commission of Justice and Peace
<b>COCCAM</b>	Coordinadora Nacional de Cultivadores de Coca, Amapola y Marihuana	National Coordination of Coca, Poppy, and Marijuana Cultivators
<b>DECOC</b>	Dirección Nacional de investigación contra el crimen organizado	National Directorate of investigations against organised crime
<b>EJP</b>	Corporación Equipo Jurídico Pueblos	People's Legal Team Corporation
<b>ELN</b>	Ejército de Liberación Nacional	National Liberation Army
<b>EPL</b>	Ejército Popular de Liberación	Popular Liberation Army
<b>ESMAD</b>	Escuadrón Móvil Antidisturbios	Mobile Anti-Disturbance Squad
<b>FARC</b>	Fuerzas Armadas Revolucionarias de Colombia - Ejército Popular	Revolutionary Armed Forces of Colombia - Popular Army
<b>IACHR</b>	Comisión Interamericana de Derechos Humanos	Inter-American Commission of Human Rights
<b>IACtHR</b>	Corte Interamericana de Derechos Humanos	Inter-American Court of Human Rights
<b>ICCPR</b>	Pacto Internacional de Derechos Civiles y Políticos	International Covenant on Civil and Political Rights
<b>INPEC</b>	Instituto Nacional Penitenciario y Carcelario	National Penitentiary and Prison Institute
<b>JEP</b>	Jurisdicción Especial para la Paz	Special Jurisdiction for Peace
<b>MRP</b>	Movimiento Revolucionario del Pueblo	Revolutionary Movement of the PeopleCultivators
<b>UNIPA</b>	Unidad Indígena del Pueblo Awa	Indigenous Group of the Awa People
<b>UNP</b>	Unidad de Protección Nacional	National Protection Unit





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**European Bars Federation**

*(Federation des Barreaux d'Europe)*

**International Association of Lawyers**

*(Union Internationale des Avocats)*

**Lawyers for Lawyers**

**Law Society Charity**

**Simmons & Simmons**

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Every effort has been undertaken to ensure findings shared in this report are accurate at the time of publication and where based on reports are stated as such.

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