



Individual submission to the United Nations Universal Periodic Review

LAWYERS FOR LAWYERS

Colombia

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Presented by:

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A. Introduction

1. Lawyers for Lawyers (“L4L”) submits this report on the state of human rights in Colombia, particularly in respect of the legal profession, with recommendations for the 44th session of the Universal Periodic Review (UPR) Working Group in the UN Human Rights Council in November 2023.
2. L4L is an independent and non-political foundation based in the Netherlands, which was established in 1986 and is funded by lawyers’ donations. L4L promotes the proper functioning of the rule of law through the free and independent exercise of the legal profession around the world. L4L has special consultative status with ECOSOC since 2013.

B. Executive Summary

3. This submission highlights key concern regarding Colombia’s compliance with its international human rights obligations to guarantee the right to independent counsel as set out in the UN Basic Principles on the Role of Lawyersⁱ (“**Basic Principles**”) and other international rights instruments, focusing on the following issues that Colombian lawyers are confronted with:
 - 1) Harassment, Threats and Intimidation (section D)
 - 2) Surveillance of Lawyers (section E)
4. The identified issues illustrate that since L4L’s previous UPR submission in 2018 and midterm report filed in September 2021, Colombia has failed to improve the prevention, investigation into and prosecution of attacks and threats against lawyers involved in human rights cases. Such cases include those dealing with the principle of free prior and informed consent, land restitution cases, and cases that deal with the Special Peace Jurisdiction. In fact, based on the information gathered by L4L for this UPR submission, the situation for human rights lawyers appears to have worsened.
5. The findings gathered for this 2023 UPR submission are presented below under sections D and E, followed by a list of Recommendations under section F.

C. Normative and Institutional Framework of the State

6. The adequate protection of human rights and fundamental freedoms requires that every citizen has effective access to justice and legal assistance. Legal assistance can only be provided effectively in a judicial system where lawyers, along with judges and prosecutors, are free to carry out their professional duties independently of the government and political pressure. This follows inter alia from the Charter of the United Nations, the Universal Declaration of Human Rights, and the International Covenant on Civil and Political Rights (“**ICCPR**”). In particular, the protection and the independence of justice actors is a key component to ensure the well-functioning of justice systems and to combat impunity. This is a precondition to the right to a fair trial, protected by Article 14 of the ICCPR.
7. On 22 June 2017, the Human Rights Council (“**HRC**”) passed a resolution condemning in general “the increasingly frequent attacks on the independence of [lawyers], in particular threats, intimidation and interference in the discharge of their professional functions”.ⁱⁱ The HRC expressed its deep concern “about the significant number of attacks against

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lawyers and instances of arbitrary or unlawful interference with or restrictions to the free practice of their profession” and called upon States “to ensure that any attacks or interference of any sort against lawyers are promptly, thoroughly and impartially investigated and that perpetrators are held accountable”.ⁱⁱⁱ

8. In its task of promoting and ensuring the proper role of lawyers, the Government of Colombia should respect the Basic Principles within the framework of its national legislation and practice. The Basic Principles provide a concise description of international standards relating to key aspects of the right to independent counsel. Adherence to the Basic Principles is considered a fundamental pre-condition to fulfilling the requirement that all persons have effective access to independent legal assistance.^{iv}
9. During the third UPR Cycle in 2018, Colombia received and accepted four recommendations concerning the effective protection of human rights defenders (HRD), including lawyers.^v
10. Furthermore, Colombia supported two recommendations on the need to conduct investigations against threats, attacks and killings of HRDs.^{vi} In addition, Colombia made a voluntary commitment to continue the adoption of measures required for the protection of HRD, including lawyers.^{vii}
11. Reports gathered by L4L, including information received from lawyers in Colombia demonstrate that, despite accepting and supporting six recommendations in 2018, Colombia does not uphold the necessary guarantees for the proper functioning of the legal profession as set out in the Basic Principles. L4L has learned that lawyers in Colombia remain the subject of harassment, threats, intimidation, stigmatization, and surveillance.
12. Consequently, lawyers continue to encounter serious difficulties in carrying out their professional duties independently. This undermines the proper functioning of the judicial system, including the right to fair trial and effective access to justice.

D. Harassment, Threats, and Intimidation of Lawyers

13. According to recent human rights reports, human rights defenders in Colombia continued to be the target of threats, harassment, and violence during 2021 and 2022.^{viii} Despite the signing of a peace accord in 2016 by the FARC and the Colombian government, violence did not cease and has since manifested in different and worse forms than before the peace accord. According to Human Rights Watch, this has led to an increase of abuses by armed groups, killings, massacres, and forced displacement in remote areas of Colombia during the year 2021.^{ix}
14. The unsafe environment for human rights defenders also severely impacts the working conditions of Colombian lawyers, especially those active in the field of human rights. As reported by Lawyers’ Rights Watch Canada, Colombian lawyers have historically been the target of harassment, intimidation, and violence in connection to their professional activities: more than 700 lawyers were killed between 1991 and 2013, at least four between 2017 and 2019, and at least eight threats against lawyers were reported between 2017 and 2021. In 2021 the risks for lawyers increased during civilian protests regarding the announced tax reform expected to strongly disadvantage low- and middle-class Colombians.^x

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15. In accordance with Principle 16(a) of the Basic Principles, governments must ensure that lawyers “are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference”. The rhetoric creates a risk for lawyers carrying out their legitimate professional activities and fulfilling their crucial role in safeguarding protesters. This rhetoric could have a deterring effect on lawyers and decrease the access to justice of protesters.
16. The harassment of lawyers in Colombia can be illustrated by the following cases:

Adil Meléndez Márquez

Mr. Meléndez is an environmental and human rights lawyer, who represents afro Colombian peasant communities and indigenous peoples in the northern Caribbean part of Colombia. The people he represents are mostly victims of land grabs, paramilitary violence, environmental damage, and corporate human rights violations.

In August 2022, a funeral wreath with a pamphlet was found on the door of the house of a human rights defender with whom Mr. Meléndez works closely. The pamphlet carried the name of Mr. Meléndez, and two of his human rights colleagues. It referred to the three individuals as “enemies of development”, due to their representation of vulnerable groups, often against the interests of powerful state actors and large corporations. The message included a warning to the three individuals and their families.^{xi}

CCAJAR

The lawyers from CCAJAR (Colectivo de Abogados “José Alvear Restrepo”) mainly work to represent victims of the armed conflict and human rights violations in Colombia. CCAJAR focuses on cases related to land rights, the environment, and indigenous communities, and actively campaigns for fair treatment in areas such as agriculture, water, and energy.^{xii}

CCAJAR lawyer Sebastián Escobar Uribe, who represents victims of extrajudicial executions and other crimes before the Special Jurisdiction for Peace (JEP), received death threats in February 2021.^{xiii}

On 25 May 2022, CCAJAR lawyer Yessika Hoyos Morales discovered that there had been an illegal entry into her home, as her personal belongings were interfered with, and her door was left open. The following day, she received a phone call threatening to kill her if she did not stop her work. These threats alluded to her work representing Mr. Alfonso Mora León, father of a victim of the Mondoñedo massacre.

Reinaldo Villalba Vargas

Mr. Villalba manages national litigation for CCAJAR, primarily representing criminal defense cases and victims of serious human rights violations.^{xiv} Mr. Villalba has received multiple messages via social media with threats against his life. For example, a message sent via Twitter stated: “we will see you in the street or in the mountains”, referencing a potential attack against him. Other tweets directly addressed to him call for his death or incarceration and label him a defender of terrorists. These threats appear to be related to his professional work as the legal representative of Colombian Senator Ivan Cepeda Castro.^{xv}

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Germán Romero Sánchez

Mr. Romero Sánchez is a prominent lawyer committed to the defense of human rights offenses in Colombia. He primarily handles cases involving enforced disappearances and extrajudicial killings allegedly committed by active and retired State agents and senior officers of the army and police. In March 2021, Mr. Romero Sánchez and his family members were directly threatened via a phone call.^{xvi}

Andrea Torres Bautista

Ms. Torres is the co-director of the Nydia Erik Bautista foundation (FNEB), which was set up by family members of victims of forced disappearances in Colombia. Ms. Torres represents victims in these cases, victims of police abuse and young people who have been criminalized during the 2021 protests. On 21 May 2022, the lawyer and her husband were abducted from their taxi, robbed of their personal belongings, physically attacked with a knife, verbally abused and Ms. Torres was subjected to sexual assault. In June 2022, the office of FNEB was broken into and confidential information was stolen. Despite the presence of evidence captured on a security camera, no action was taken by the police. The Public Prosecutor has made no progress in investigating these attacks.^{xvii}

E. Surveillance of Lawyers

17. Lawyers involved in politically sensitive cases have reported being subjected to improper interference by the authorities, including the Colombian National Army's unlawful surveillance activities.^{xviii} Colombia has a history of State-enacted illegal intelligence activities against HRD, including lawyers. These activities threaten the security of HRDs and in some cases have led to serious crimes, such as assassination attempts and murders.^{xix} On 1 May 2020, the Colombian magazine *Semana* reported existence of 'secret files' containing private information of 130 individuals.^{xx} These military intelligence reports were carried out without legal justification.^{xxi} L4L has received reports from several Colombian lawyers that this form of surveillance continues to persist. This unlawful surveillance is characterized by covert intelligence reports that lack legal justification, the use of drones, and the unauthorized monitoring and photographing of lawyers.^{xxii}
18. Any unwarranted or illegal surveillance poses a threat to lawyers' ability to carry out their work.^{xxiii} The unlawful surveillance of lawyers by the government is not only violating basic human rights, such as the right to privacy as enshrined in Article 8 of the ECHR and Article 12 of the Universal Declaration of Human Rights (UDHR), but is also a breach of attorney-client privilege, and herewith in violation of the above mentioned Principle 22 of the Basic Principles on the Role of Lawyers. The Basic Principles provide that communication between lawyers and their clients must take place "in full confidentiality" and that "governments shall recognize and respect that all communications and consultations between lawyers and their clients within their professional relationship are confidential."^{xxiv}
19. Furthermore, the HRC stated in its General Comment No.32 on Article 14 ICCPR that "the right to communicate with counsel requires that the accused is granted prompt access to counsel. Counsel should be able to meet their clients in private and to communicate with the accused in conditions that fully respect the confidentiality of their communications."^{xxv}

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20. The surveillance of lawyers in Colombia can be illustrated by the following cases:

Rommel Durán Castellanos and the Comité de Acción Jurídica Popular

Mr. Durán is a human rights lawyer working in the rural areas of Catatumbo in the northern part of the Santander region, close to the border with Venezuela. He and his organization represent peasants and communities which have become the victim of land grab, violence and other human rights violations. Rommel has been a victim of different methods of harassment. Due to his determination to defend his clients he received the Ludovic Trarieux human rights prize in 2019.^{xxvi} Recently, he informed L4L that his personal data, including names, phone numbers and identity cards of himself and other colleagues of the Comité de Acción Jurídica Popular had been unlawfully recorded by the judicial police. Allegedly, the information gathered by the police is used by the Public Prosecutor to monitor the work of Mr. Durán and to contribute to the stigmatization and criminalization of him and his organization. L4L has also learned of attempts from the local authorities to force local peasants to falsely testify against Mr. Durán, by linking him to activities of the guerrilla group ELN, also known as the National Liberation Army in a case led by the Attorney General's Special Directorate Against Criminal Organisations and the Valledupar Judicial and Criminal Investigative Section of the police (SIJIN).

Daniel Prado

Mr. Prado is a human rights lawyer who mainly represents victims of human rights violations in Colombia. Mr. Prado represents a number of victims in the highly controversial case the '12 Apostles', in which Santiago Uribe Vélez has been accused of co-founding a group which allegedly committed crimes against humanity.

On 20 January 2020, the CCJ (Comisión Colombiana de Juristas) was monitored by an illegal drone that flew over the facilities. This occurred a second time on the 24th of January 2020. Similarly, on January 30, 2020, a drone crashed in the courtyard of Mr. Prado's home. These events are believed to be directly linked to Mr. Prado's work as a lawyer and HRD and constitute attempts to disrupt his professional work.^{xxvii}

Reinaldo Villalba Vargas

Mr. Villalba was stalked and followed by the State-sponsored illegal intelligence. The identities of the national intelligence that threatened and stalked his person have been confirmed in 2021.^{xxviii}

Mr. Villalba also reported that HRDs are often filmed and recorded inside of their cars. More notably, the National Protection Unit (UNP) has been caught filming and illegally monitoring lawyers while they are in their 'protected' vehicles. Thus, the surveillance intended to protect certain individuals ultimately results in the illegal documentation and monitoring of their actions.^{xxix}

In February 2023, Mr. Villalba noted that phones are often tapped and that the illegal intelligence follow lawyers during their meetings with the victims they represent.

Germán Romero Sánchez

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Mr. Romero has documented several instances of surveillance and monitoring. Unidentified individuals traveling in unmarked vehicles, including cars and motorcycles lacking license plates, have been observed photographing his residence, monitoring his departures from work, and observing the activities of his children.^{xxx}

Andrea Torres Bautista

In December 2022, Ms. Torres visited Spain and discovered that her suitcase had been opened. It appeared that her documents, clothes, and other personal belongings had been searched.^{xxxi}

F. Recommendations to the Government of Colombia

- **Take immediate measures to ensure sufficient safeguards are in place, both in law and in practice, to guarantee the full independence and safety of lawyers and their effective protection against any form of retaliation in connection with their professional activity;**
- **Refrain from harassment of lawyers and undue interference in their work, including unlawful surveillance;**
- **Immediately take measures to ensure the prompt, effective, and independent investigation of all human rights violations committed against human rights defenders, including lawyers, and hold them accountable.**

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ⁱ The UN Basic Principles on the Role of Lawyers provide a concise description of international norms relating to the key aspects of the right to independent counsel. The Basic Principles were unanimously adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders in Havana, Cuba on September 7 1990. Subsequently, the UN General Assembly “welcomed” the Basic Principles in their ‘Human rights in the administration of justice’ resolution, which was adopted without a vote on December 18 1990 in both the session of the Third Committee and the plenary session of the General Assembly.

ii UN Human Rights Council, Independence and impartiality of the judiciary, jurors and assessors, and the independence of lawyer s, A/HRC/RES/35/12, 22 June 2017, http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/35/L.20.

ⁱⁱⁱ Ibid.

^{iv} During its 29th session (from 15 June – 3 July 2015), the Human Rights Council adopted without a vote a resolution on the independence and impartiality of the judiciary, jurors and assessors, and the independence of lawyers. While recalling the Basic Principles on the Role of Lawyers and condemning the increasingly frequent attacks on the independence of lawyers, in particular threats, intimidation and interference in the discharge of their professional functions, the Human Rights Council reminded all States of their duty “to uphold the integrity of [lawyers] and to protect them, as well as their families and professional associates, against all forms of violence, threat, retaliation, intimidation and harassment resulting from the discharging of their functions, and to condemn such acts and bring the perpetrators to justice”. See UN Human Rights Council, Independence and impartiality of the judiciary, jurors and assessors, and the independence of lawyers, A/HRC/RES/29/6, http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/29/L.11.

v Recommendation 120.60 (Costa Rica): Strengthen the existing mechanisms for the protection of human rights defenders, focusing on rural areas and territories where illicit economies flourish;

Recommendation 120.65 (Germany): Ensure that activists, human rights defenders and other social and community leaders, especially in rural areas, are equally and effectively protected also in view of the current challenges facing the implementation of the final peace accord, by, inter alia, ensuring an effective presence of government institutions in all areas of the country;

Recommendation 120.72 (Netherlands): Take further measures to prevent systematic violence against local leaders and human rights defenders, improve individual and collective protection of those at risk, and focus on investigating and prosecuting the intellectual authors of the threats and killings;

Recommendation 120.77 (Sweden): Ensure that human rights defenders are able to carry out their work free from intimidation, threats, harassment and attacks and guarantee their safety, especially those working in rural conflict-prone areas.

^{vi} Recommendation 120.55 (Austria): Ensure that human rights defenders are protected while carrying out their important work and the judicial authorities conduct full and impartial criminal investigations so that perpetrators are held accountable.

[Midterm-report-Colombia-L4L-LRWC-Caravana-sept-2021.pdf](#), paragraph 7.

^{vii} Recommendation 120.58 (Canada): Take further actions to improve the prevention of, and response to, threats, attacks and killings of human rights defenders and social leaders, through strengthening security, timely investigations and addressing impunity.

[Midterm-report-Colombia-L4L-LRWC-Caravana-sept-2021.pdf](#), paragraph 8.

^{viii} Amnesty International Report 2022/23: The state of the world’s human rights - Amnesty International, p. 129.

^{ix} Human Rights Watch World Report 2022, p. 129.

^x The Day of the Endangered Lawyer, January 24, 2022: Colombia | The Advocate, January 2022 — Lawyers' Rights Watch Canada (lrwc.org)

^{xi} “Threats to Canal del Dique Defenders.” El Tiempo, 24 Nov. 2010, www.eltiempo.com/colombia/otras-ciudades/amenazas-de-muerte-a-defensores-del-canal-del-dique-696538.

“Carta de preocupación por la situación del defensor de derechos humanos Adil Meléndez y el megaproyecto Canal del Dique.” Taula Colombia, 12 Dec. 2019, www.taulacolombia.org/es/carta-de-preocupacion-por-la-situacion-del-defensor-de-derechos-humanos-adil-melendez-y-el-megaproyecto-canal-del-dique/.

^{xii} Cajar, Prensa. ‘CAJAR.’ CAJAR, retrieved from: www.colectivodeabogados.org/.

^{xiii} “Death Threat Against Lawyer Sebastian Escobar Uribe.” Council of Bars and Law Societies of Europe, 26 Mar. 2021,

https://www.ccbe.eu/fileadmin/speciality_distribution/public/documents/HUMAN_RIGHTS_LETTERS/Colombia_-_Colombie/2021/EN_HRL_20210326_Colombia_Death-threat-against-lawyer-Sebastian-Escobar-Uribe.pdf.

^{xiv} “Reinaldo Villalba Vargas.” Colectivo de Abogados “José Alvear Restrepo,” n.d., <https://www.colectivodeabogados.org/reinaldo-villalba-vargas/>.

^{xv} L4L, *Joint Letter to Rapporteurs on Threats to Reinaldo Villalba and His Team*. (12 May 2021) <https://lawyersforlawyers.org/joint-letter-to-rapporteurs-on-threats-to-reinaldo-villalba-and-his-team/>

^{xvi} [Midterm-report-Colombia-L4L-LRWC-Caravana-sept-2021.pdf](#), paragraph 17.

^{xvii} L4L, *Concerns about the ongoing threats, kidnapping and harassment against Colombian lawyer Andrea Torres Bautista* (15 March 2023)

<https://lawyersforlawyers.org/en/concerns-about-the-ongoing-threats-kidnapping-and-harassment-against-colombian-lawyer-andrea-torres-bautista/>

^{xviii} L4L, *illegal intelligence activities against lawyers in Colombia* (27 July 2020) <https://lawyersforlawyers.org/joint-letter-on-the-alleged-illegal-espionage-against-colombian-lawyers/>

^{xix} FIDH, Colombia – Las actividades de inteligencia del Estado – DAS – al servicio de intereses criminales y de persecución política, 21 May 2010.

^{xx} Semana Magazine “Las Carpetas Secretas” (5 January 2020) <https://www.semana.com/nacion/articulo/espionaje-del-ejercito-nacional-las-carpetas-secretasinvestigacion-semana/667616/>.

^{xxi} L4L, *illegal intelligence activities against lawyers in Colombia* (27 July 2020) <https://lawyersforlawyers.org/joint-letter-on-the-alleged-illegal-espionage-against-colombian-lawyers/>.

^{xxii} Ibid.

^{xxiii} Ibid.

^{xxiv} UN Basic Principles, Principle 8 and Principle 22.

^{xxv} CCPR/C/CG/32. UN Human Rights Committee. 23 August 2007.

^{xxvi} Ludovic -Trarieux International Human Rights Prize, *Rommel Duran Castellanos* (27 May 2019) <http://www.ludovictarieux.org/uk-page3.callpt2019.htm>

^{xxvii} L4L, *Monitoring of lawyer Daniel Prado* (9 April 2020) <https://lawyersforlawyers.org/monitoring-of-lawyer-daniel-prado/>

^{xxviii} Villalba, Reinaldo. Interview. (16 February 2023)

^{xxix} Ibid.

^{xxx} [Midterm-report-Colombia-L4L-LRWC-Caravana-sept-2021.pdf](#), paragraph 21.

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^{xxxii} L4L, *Concerns about the ongoing threats, kidnapping and harassment against Colombian lawyer Andrea Torres Bautista* (15 March 2023) <https://lawyersforlawyers.org/en/concerns-about-the-ongoing-threats-kidnapping-and-harassment-against-colombian-lawyer-andrea-torres-bautista/>