

# **International Verification Mission on the Status of the Defense of Human Rights in Colombia**

## **Preliminary Report Bogotá, Colombia December 2, 2011**

The International Verification Mission is made up of 40 people from 15 countries, including parliamentarians, lawyers, and human rights defenders. At the invitation of the National and International Campaign for the Right to Defend Human Rights in Colombia, and with the objective of following up on the report of the UN Special Rapporteur on the situation of human rights defenders, the Mission visited eight different regions in Colombia from November 28 to December 2, 2011. During these visits, the Mission met with dozens of organizations and hundreds of human rights defenders, in addition to local, regional and national authorities.

### **How the mission was carried out**

The Mission has focused its work on five major issues relating to the difficulties and risks faced by human rights defenders in Colombia, such as failure to prosecute attacks on defenders, the lack of protection afforded them, false accusations and stigmatization, the misuse of state intelligence, and baseless criminal prosecutions.

The Mission has applied the United Nation's broad concept to define human rights defenders, which is anyone who defends their human rights and those of others, including those representing peasants, women, African-descendants and indigenous people, in addition to IDP leaders, trade unionists, and lawyers.

The principal reason for carrying out this mission is the difficult situation faced by human rights defenders in Colombia. According to the Report by the Information System on Attacks on Human Rights Defenders (The "We are Defenders" or "*Somos Defensores*" Program), human rights defenders were the targets of 255 acts of aggression in Colombia from July 2010 to May 2011. Of these, 54 were murders. Nonetheless, this Mission was carried out with a spirit of hope, heartened by the words of President Juan Manuel Santos, stating that the defense of human rights involved an "unwavering commitment" and "deeply democratic, ethical and humane convictions."

Based on the large amount of testimony received, this Mission has verified a series of acts of aggression against human rights defenders over the past two years, including murders, assaults, forced disappearances, and death threats.

### **Attacks against human rights defenders remain unpunished**

During our visit, we observed that the vast majority of attacks against human rights defenders, including such serious crimes as murders and forced disappearances, remain unpunished. We were informed of cases where the complainants even identified those who were threatening them by name, but investigations were not pursued. We have only learned of a few cases where the parties responsible for the attacks have been brought to justice.

We have observed a number of factors contributing to this impunity. First, we have seen that there is widespread fear about speaking out against these the acts of aggression, due to the retaliations carried out against those who file complaints. We have heard many types of concerns, including the fact that some prosecutors operate within military bases; that the complainants are called to a military installation to ratify their complaints; that the complaints are leaked and a few days later reach the hands of the aggressors; and that investigative agencies sometimes display a threatening attitude toward certain vulnerable groups.

Second, we have observed that many regional authorities refuse to recognize the existence of illegal armed groups, particularly paramilitary groups or other new forms of illegal armed groups. This refusal to recognize these groups is not conducive to serious investigations in cases of aggression or the implementation of preventive measures.

Third, we have found that in many cases the attacks against human rights defenders are treated as isolated cases and classified as common crimes unrelated to their work in defense of human rights or their membership in a threatened community or group.

Finally, we have received information about some cases in which the Attorney General's Office is reluctant to receive complaints, claiming that the office is saturated with cases. Unfortunately, we must say that this contrasts with the diligent progress that investigations experience when a human rights defender faces criminal prosecution.

### **Insufficient protection of human rights defenders**

The Colombian government's protection program has been —and is— very necessary. It has clearly contributed to the protection of human rights defenders and has undoubtedly saved lives.

However, in accordance with the testimony received, we observe that protection schemes do not have a comprehensive approach. These protection measures often do not allow human rights defenders to continue carrying out their work — especially in the regions outside of the major cities. To date, the measures still need to incorporate differentiated approaches, which take into account the specific needs of women, indigenous people, Afro-Colombians, and LGBT population. Collective protection measures have also not yet been implemented to address the threats especially affecting land restitution processes.

In addition, we found that risk assessments are often performed in a slow, bureaucratic manner, and have given rise to disturbing discrepancies between how advocates and organizations perceive risk and the low level of risk assessed by the program. We have even received reports of protective measures being granted only belatedly, after the human rights defender has already been attacked.

With great concern we also observed that there is virtually no progress in investigations meant to bring to justice those who attack the defenders, although the attackers may have been identified by name in the complaints themselves. Protective measures are of little use if attacks go unpunished. In this sense, we believe that there is no better way to protect the work of defending human rights than by fighting against impunity.

### **Human rights defenders continue to face false accusations and stigmatization**

The Mission found that human rights defenders continue to frequently face false accusations and stigmatization. Additionally, human rights defenders reportedly received death threats from unidentified perpetrators or new illegal armed groups in each of the eight regions of Colombia. In rural areas with a strong presence of insurgent groups, the Mission also learned of cases in which the army distributed pamphlets with the names and photos of community leaders or broadcast radio ads calling for leaders or communities to “demobilize,” which signified falsely accusing them of being guerrilla members. The resulting stigmatization affected the entire community.

During meetings with regional and local authorities, different authorities also questioned or discredited human rights defenders, as occurred in the case of El Tamarindo, on the outskirts of Barranquilla.

The Mission also heard of cases where regional civilian and military authorities made false accusations and stigmatized human rights defenders participating in social mobilizations. For example, we heard that the antiriot police (ESMAD) made unsubstantiated claims that students involved in protests were guerrilla members.

We have also observed an increase in false accusations by non-state actors, including mining companies, when communities express concern about the possible impacts of the activities of these companies.

Finally, we note with great concern the increasing trend to discredit and insult victims who are seeking justice by branding them as “opportunists.”

### **Misuse of state intelligence against human rights defenders**

The Mission recognizes and welcomes the measures that the Government has taken to reform State intelligence agencies. We hope that this process may effectively prevent the misuse of intelligence against human rights defenders.

However, during our Mission, we have received extensive information that human rights defenders continue to be very

concerned about different issues, including information theft from their offices, the possibility that their phones continue to be wiretapped, and that State security forces film or take their pictures at public events and ask them to answer inappropriate questions.

We are especially concerned about the extensive and recent information we received in all regions of Colombia on the many cases of theft of computers and other electronic devices systems containing information on cases and work carried out by human rights defenders. During these visits, we also learned that these cases systematically classified as “theft” by the authorities have not made progress in identifying and prosecuting those responsible.

Lastly, we received testimony on the use of information from military intelligence in the criminal prosecution of human rights defenders, even though there is clear jurisprudence and orders from the Attorney General’s Office establishing that military intelligence can never be used as evidence in a criminal case.

### **Criminal prosecutions against human rights defenders**

The Mission has learned of repeated cases where human rights defenders have faced criminal investigations with multiple irregularities —as reported during and outside of these cases—, such as the aforementioned use of military intelligence or the use of testimony by demobilized combatants who often received payment for this testimony.

The Mission has learned that the Attorney General’s Office has initiated a process to improve the investigation of cases against human rights defenders in order to prevent baseless prosecutions. We hope that this process will soon bear fruit.

We have also heard of numerous cases of individual and mass arrests and prosecutions of human rights defenders who engage in social protest, such as opposition to large-scale mining projects, infrastructure projects, land issues, and young people who participated in the recent student protests, among other situations. We have also heard numerous concerns that the new Citizen’s Security Law will make it more possible for these actions to be carried out against human rights defenders and communities.

### **Recommendations**

As the members of the International Mission, we wish to express our solidarity and unconditional support for the actions and proposals of the human rights defenders in Colombia and the victims they defend. We also wish to express our deepest gratitude for their hospitality and effort to organize this Mission, especially in each of regions we visited.

In accordance to what was observed and the testimony received, we **RECOMMEND** that Colombian authorities carry out the following actions:

**END IMPUNITY for the violations suffered by both victims and those who defend their rights.** This request includes in the following recommendations:

- The Human Rights and International Humanitarian Law Unit and the recently created Protection Agency at the Ministry of Interior, in coordination with a special unit from the Attorney General's Office, should promptly investigate and consolidate all violations committed against human rights defenders, identifying the chain of command responsibility for these crimes, following up on all cases until justice is achieved, and making public the results of their investigations.
- All investigations and prosecutions for human rights violations involving members of State security forces should be carried out within the civilian criminal justice system. In this respect, we are very concerned about the possible passage of the justice reform measure to expand military jurisdiction, which is contrary to the jurisprudence of the Colombian Constitutional Court, the Inter-American System, and the United Nations.
- Prosecutors’ offices should be removed from military bases to ensure their independence and impartiality and provide human rights defenders and the victims they represent with guarantees and resources to access justice.

**STRUCTURALLY IMPROVE PROTECTION PROGRAMS FOR PEOPLE AT RISK**, which should entail the following:

- The changes announced and implemented for the Ministry of Interior's protection programs, which attempt to improve risk evaluations, protection measures, and their corresponding effectiveness and speed, should be evaluated over the coming months jointly with human rights organizations to verify their effectiveness and results. We consider it especially important that the changes comply with the needs of the human rights defenders in each of the regions of the country. These changes should also have the participation of organizations and should apply differentiated approaches to meet the specific needs of women, LGBT population, indigenous people, and Afro-descendants.
- The protection systems should be comprehensive so human rights defenders may continue their work and should also include political, social and preventive measures to promote recognition and acceptance of the legitimacy of the work of human rights defenders.
- Bodyguards and drivers must not have or had links with illegal armed groups and must not engage in intelligence activities.
- All of these programs and measures should have sufficient financial and human resources to ensure the effective protection of the human rights defenders.
- An effective protection policy should be designed and implemented for land reclamation and restitution processes.

**END SYSTEMATIC STIGMATIZATION AND FALSE ACCUSATIONS**, which should entail the following:

- The President of Colombia and other senior government officials should publicly and broadly recognize the legitimacy and importance of the work of human rights defenders. They should also refrain from making statements that discredit this work, repudiate any attacks, and issue a regulatory framework to order all authorities to respect and protect the work of human rights defenders.
- The President of Colombia—as the supreme commander of the armed forces—should ensure that military commanders refrain from making false accusations about human rights defenders.
- The Inspector General's Office should initiate disciplinary proceedings against all public officials for their actions or omission encouraging or allowing violations against the rights of human rights defenders and the victims they represent. In this respect, Directive 012 of 2010 should be fully applied.
- Public authorities and the mass media should stop spreading doubt about serious human rights violations before a full investigation is carried out—as if they were emblematic cases of “fraud.” They should also avoid making generalizations that increase the risk faced by victims and human rights defenders.

**END THE MISUSE OF STATE INTELLIGENCE**, which should entail the following:

- Human rights defenders should be ensured access to the information contained in intelligence files. It should also be ensured that intelligence is not gathered on their work and is not used as evidence in criminal proceedings against them. In this respect, we request the declassification and public disclosure of the files from the Administrative Department of Security (DAS), following the example of other countries from the region.
- State authorities should review this information and exclude baseless incriminating data, especially when concerning human rights defenders. Likewise, the cases being conducted against officials involved in illegal wiretapping, whether as material or intellectual authors, should be investigated and progress should be made in these cases.
- Effective and permanent controls should be established so that the new National Intelligence Agency and any

other institution in Colombia do not commit abuses with intelligence activities. It is also essential to take measures to ensure that the information obtained from these activities is not leaked to armed groups or used for purposes other than those established in the Constitution.

**END BASELESS CRIMINAL PROSECUTIONS**, which should entail the following:

- It should be ensured that social protest can be exercised as a civil right and is not criminalized or characterized as a part of the armed conflict.
- Criminal and disciplinary proceedings should be carried out against any public official that violates the law by carrying out baseless investigations against human rights defenders. Sanctions should be also imposed by the corresponding internal control bodies.
- Authorities should also reject any testimony that is manifestly implausible or that comes from unreliable witnesses or informants.

**Recommendations to International Community:**

- The international community should insist in its dialogue with the Colombian government that measures be implemented to protect human rights defenders. These measures should also include the recommendations suggested by this Mission and by the National and International Campaign for the Right to Defend Human Rights in Colombia, specifically ending impunity for attacks against human rights defenders; improving protection programs; ending systematic stigmatization and false accusations; ending the misuse of State intelligence; and ending baseless criminal prosecutions.
- The international community should prioritize international cooperation that strengthens nongovernmental and social organizations that protect human rights and international humanitarian law. International aid programs should also prioritize the accompaniment of victims and communities at risk.
- The international community should insist that its cooperation programs with the Colombian government have strict follow-up and accountability mechanisms to ensure progress in these five recommendations to protect human rights defenders.

## **Conclusions**

The Mission wishes to extend its gratitude to national, regional and local authorities for their willingness to receive us, their cooperation in preparing this report, and the information provided. Likewise, we emphasize the commitment we have seen from a number of public officials, who have courageously and decisively been fulfilling their responsibilities to ensure respect for human rights and the work of those who defend human rights in different regions of the country.

We especially want to thank the hundreds of human rights defenders who have shared with the Mission their situation, concerns, and the difficulties they face in carrying out their work, in addition to their dreams for a better country.

Lastly, it is very inspiring for us to see the wealth of activities carried out to improve the human rights situation in the country, in addition to the great diversity of human rights defenders working to build a better Colombia. Only through having full freedom and respect to carry out their legitimate and important work may the rule of law and justice be achieved in Colombia.