

Human Rights Brief

Volume 11 | Issue 2

Article 5

2004

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Kelleen M. Corrigan

American University Washington College of Law

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Recommended Citation

Corrigan, Kelleen M. "Searching for Justice: Colombia's Human Rights Defenders Under Attack." Human Rights Brief 11, no. 2 (2004): 16-18.

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Searching For Justice: Colombia's Human Rights Defenders Under Attack

by Kelleen M. Corrigan

ON JULY 8, 2003, COLOMBIA'S DEFENSE MINISTRY issued Directive 09, which urged military and police commanders to strengthen the protection of human rights workers and other threatened groups. This directive was the most recent in a series of government initiatives addressing the special security concerns of human rights defenders, prompted in large part by precautionary and provisional measures handed down by the Inter-American Commission on Human Rights (Inter-American Commission) and the Inter-American Court of Human Rights (Inter-American Court), respectively. The goal of these measures is to compel the Colombian government to provide special protection for human rights defenders and investigate and hold responsible those who perpetrate crimes against them. Although the government has invested significant resources in the implementation of these measures, it has mainly focused on the protection of human rights defenders while systematically ignoring the investigation and prosecution of the perpetrators of these crimes. As a result, Colombia's human rights defenders remain among the most threatened in the world. Since 2002, approximately 29 human rights defenders have been killed in Colombia and many others have gone into exile. Those who remain endure threats, harassment, detention, and the risk of assassination, torture, or forced disappearance. Without judicial protection, security measures alone are insufficient to adequately protect human rights defenders.

BACKGROUND

THE PRIMARY PLAYERS IN THE COLOMBIAN CONFLICT are the leftist guerrillas belonging to the Revolutionary Armed Forces of Colombia (FARC) and the National Liberation Army (ELN), the right-wing paramilitary forces of the United Self-Defenses Forces of Colombia (AUC), and the Colombian security forces. All three illegal armed groups—the FARC, ELN, and AUC—have been designated as terrorist organizations by the U.S. State Department, although the AUC is currently engaged in peace talks with the Colombian government.

The FARC and ELN took up arms in the 1960s in a struggle for social justice and political inclusion. In a response to the guerrilla threat, private groups of paramilitaries—some of them with direct assistance from the Colombian military—began to arm themselves to fight the guerrillas and their supporters. The ensuing war has resulted in about 4,000 politically-motivated deaths per year. The different armed groups routinely target civilians, accusing them of supporting rival groups. Paramilitaries have specifically targeted human rights defenders, sometimes with the tacit support of state security forces, accusing them of being leftist sympathizers.

LEGAL FRAMEWORK FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS

TO FULLY UNDERSTAND THE RIGHTS OF HUMAN RIGHTS defenders and the responsibility of the Colombian government to protect them, it is important to look at the legal framework that governs this

relationship. Indeed, international obligations compel Colombia to take steps to guarantee the security of these courageous men and women.

UN INSTRUMENTS

The Universal Declaration of Human Rights (Universal Declaration) sets out basic rights and freedoms for all people and claims in the preamble that respect for human rights and human dignity “is the foundation of freedom, justice, and peace in the world.” On December 9, 1998, the United Nations General Assembly recognized the importance of the work of human rights defenders in achieving this end and adopted the Declaration on the Right and Responsibility of Individuals, Groups, and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (Declaration on Human Rights Defenders). Key articles of the Declaration on Human Rights Defenders include the right to peaceful assembly in order to promote human rights, the right to criticize government policy, and, perhaps most significant, the right to adequate protection and an effective remedy when an individual's rights are violated as a result of efforts to promote fundamental rights and freedoms.

Although the Declaration on Human Rights Defenders is not binding, it prompted the UN in 2001 to appoint a special representative to monitor its implementation. Hina Jilani, Special Representative of the UN Secretary-General on Human Rights Defenders, has produced numerous reports on the situation of human rights defenders, characterizing Colombia's situation as one of the worst. In a report from a ten-day trip to Colombia in October 2001, Jilani criticized the Colombian government for adopting “inefficient and ineffective” measures to protect human rights defenders, denounced the continued links between paramilitaries and state security forces, and expressed concern regarding the existence of military intelligence archives containing information on human rights defenders.

THE INTER-AMERICAN SYSTEM

The Inter-American human rights system offers further protection for human rights defenders in Colombia. As a member of the Organization of American States (OAS), Colombia is party to the American Declaration of the Rights and Duties of Man (American Declaration) and is subject to the jurisdiction of the Inter-American Commission. Colombia is also party to the American Convention on Human Rights (American Convention) and is therefore subject to the compulsory jurisdiction of the Inter-American Court.

The Inter-American Commission receives and investigates petitions alleging human rights violations by member states. In addition to making recommendations to the governments of these countries, the commission conducts on-site country visits to monitor human rights situations and has appointed special rapporteurs to analyze and report on key issues, such as the rights of women, children, and indigenous peoples. There is also a rapporteur for matters relating to Colombia. In certain cases of human rights abuses, the commission will submit the case to the jurisdiction of the Inter-American Court.

The Inter-American Court hears cases of grave violations of human rights and makes binding decisions about reparations and reform. Additionally, the court receives petitions to issue advisory

Kelleen M. Corrigan is a J.D. candidate at the Washington College of Law and an articles editor for the Human Rights Brief.

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opinions in which it interprets member states' obligations under the American Declaration, the American Convention, and other human rights conventions and treaties in effect in the hemisphere.

Victims of human rights violations can also resort to the commission and the court to seek protection from grave and immediate threats. In response to petitions from victims, the commission and the court can prescribe "precautionary measures" and "provisionary measures" requiring states to take immediate steps to protect the lives and integrity of potential victims of human rights abuses, as well as to investigate and subsequently prosecute the alleged perpetrators.

DOMESTIC MEASURES

Colombia incorporated many of the Universal Declaration's provisions into its 1991 Constitution. For example, article 95(4) calls upon individuals to "defend and promote human rights as a fundamental aspect of peaceful coexistence." The work of human rights defenders is commonly considered an integral factor in achieving this goal.

The Colombian government has implemented several domestic measures to comply with its international treaty obligations to protect human rights defenders. Directives 07 and 09, adopted in 1999 and 2003, respectively, directly address the protection of human rights defenders. In addition, the Ministry of the Interior has implemented a program to protect witnesses and other threatened persons, including human rights defenders.

Directive 07, entitled, "Support, Communication and Collaboration of the State with Human Rights Organizations," was implemented on September 9, 1999. Directive 07 requires that all public servants abstain from questioning the legitimacy of human rights organizations and the activities of their members, refrain from making false accusations that compromise the security and good name of these organizations, and recognize that these groups contribute to the consolidation of democracy, the search for peace, and the recognition of human dignity.

Directive 09 was adopted on July 8, 2003, with the objective of "strengthening the politics of promotion and protection of human rights of workers, unionists, and human rights defenders." Directive 09 reiterates the importance of compliance with Directive 07. Additionally, the 2003 directive calls upon the heads of the military and the national police to implement training programs to sensitize their officers to the importance of human rights work. It further urges those officials to pay special attention to the activities of illegal armed actors who threaten human rights defenders.

The Ministry of the Interior implemented a third domestic protective measure entitled the "Program for the Protection of Witnesses and Persons under Threat." This program seeks to enforce a 1997 law requiring the government to "implement a program to protect persons that find themselves in a situation of immediate risk to their lives, integrity, security or freedom, for reasons related to political or ideological violence, or with the internal armed conflict" and specifically names "leaders or activists of human rights organizations."

The beneficiaries of this program receive security measures for travel within Colombia and abroad, emergency humanitarian relief, communications support, and protection of their workplaces. In its 2002 Annual Report, the Inter-American Commission called this program "an important, albeit still insufficient, response" to the mounting threats, harassment, and constant attacks against human rights defenders in Colombia. The insufficiency of this response translates into the deaths of human rights defenders.

HUMAN RIGHTS DEFENDERS CONSISTENTLY INVOKE Directives 07 and 09 in their requests for increased government protection and in denouncing unfair public statements made against them. Despite the existence of the directives and their invocation by human rights defenders, some military and government personnel have continued to make defamatory statements against human rights defenders.

On September 8, 2003, President Alvaro Uribe gave an inflammatory speech that accused unnamed Colombian human rights organizations of being "terrorists" and "politickers." The statements provoked international outcry, as many viewed the president's statements as a threat to human rights defenders and their work. Not only did President Uribe not retract his statements, but three days later in



Human rights workers meet in front of pictures of the disappeared.

a speech to his constituency, he stated, "My commitment is with you, not with those who have lived by defending and giving consent to the terrorists, those people's honeymoon is over." Many believe these statements, made in apparent violation of Directives 07 and 09, reflect the government's unwillingness to comply fully with its international obligation to protect human rights defenders.

The government must do more than provide security measures. The precautionary and provisionary measures prescribed by the Inter-American Commission and Court require that these state initiatives include the investigation and prosecution of perpetrators of crimes against human rights defenders. Until the Colombian government takes this additional step, the security measures are no more effective than the directives that the president openly violates while addressing his supporters.

The critical situation facing the following human rights organizations exemplifies the insufficiency of governmental compliance with the Inter-American measures.

ASSOCIATION OF FAMILIES AND RELATIVES OF DETAINED AND DISAPPEARED PERSONS

The Association of Families and Relatives of Detained and Disappeared Persons (Asfaddes) was founded in Colombia in 1982 by families who were searching for their disappeared loved ones. In 1994, the Inter-American Commission granted the organization precautionary measures. In light of a sustained campaign of harassment—including threats, disappearances, assassinations, and detentions—the Inter-American Commission asked the Inter-American Court to pursue the case of Asfaddes' members. The court issued pro-

visionary measures on behalf of Asfaddes on July 22, 1997. Notwithstanding the court's order, Asfaddes had to close several of its regional offices and a number of members have been displaced to larger cities.

On June 2000, for example, Elizabeth Cañas Cano, an Asfaddes member, was shot to death near her office in Barrancabermeja. Cañas Cano witnessed a massacre allegedly perpetrated by Colombian security forces. Her killers have not been brought to justice and progress in the investigation seems unlikely. Asfaddes members Angel Quintero and Claudia Patricia Monsalve disappeared on October 6, 2000, in Medellín, not long after international NGOs had denounced death threats made against them. Although several people witnessed the abduction, the disappearance of these Asfaddes members has not been



Alirio Uribe of the Colectivo de Abogados Jose Alvear Restrepo, winner of the 2003 Martin Ennals Human Rights Award.

solved. Further, an investigation revealed that members of the police and the military's elite anti-kidnapping unit (GAULA) had illegally tapped over 2,500 telephone lines used by human rights organizations, including Asfaddes. A police officer who testified to this was subsequently murdered.

THE JOSÉ ALVEAR RESTREPO LAWYERS COLLECTIVE

The José Alvear Restrepo Lawyers Collective (CAJAR) is an internationally recognized human rights organization that provides legal analysis and casework on human rights abuses in Colombia. Paramilitary groups have subjected this organization's members to repeated threats and attacks, forcing many of them to flee the country. In response to the constant harassment, the Inter-American Commission ordered precautionary measures for the organization's president, Alirio Uribe, in 2000 and expanded the measures to cover the rest of CAJAR's membership in 2001.

While driving to her Bogotá office on February 13, 2003, Soraya Gutierrez, a CAJAR attorney, was pursued by gunmen who fired at her car with a submachine gun. Ms. Gutierrez, who was traveling in a bulletproof vehicle, managed to escape the assault. The attack occurred after Ms. Gutierrez received a series of phone calls threatening her and her daughter.

On May 21, 2003, signs were posted in several Bogotá universities and in the attorney general's office threatening CAJAR, calling them the juridical arm of the National Liberation Army guerrillas. The threatening signs appeared after several members of the military were incarcerated for a highly-publicized assassination attempt on a union president in December 2000. CAJAR attorneys had represented the union in the lawsuit that ultimately led to that incarceration.

Despite the requirement of the Inter-American Commission's precautionary measures to investigate these events and bring the perpetrators to justice, the Colombian government has not sufficiently investigated or sanctioned any of those responsible for these crimes.

JOEL SIERRA REGIONAL HUMAN RIGHTS COMMITTEE

The Joel Sierra Regional Human Rights Committee (Joel Sierra) works to protect human rights in the oil-rich eastern department of Arauca, which is now Colombia's most heavily militarized department in proportion to its population. The Inter-American Commission granted precautionary measures to members of Joel Sierra on July 29, 2002, in which it required the Colombian government to ensure the safety of its members, including José Rusbell Lara.

Regrettably, Mr. Rusbell Lara was assassinated on November 18, 2002, in Tame, Arauca, presumably by paramilitaries. In its 2002 Annual Report, the Inter-American Commission implicated the government by stating that "the Colombian State had failed to comply with its obligation to effectively implement measures of protection." The commission called upon the government to undertake an exhaustive investigation into the death of Mr. Rusbell Lara, to sanction those responsible, and to provide adequate measures of protection to the rest of the members of Joel Sierra.

Nevertheless, in August 2003, authorities arbitrarily arrested the president of Joel Sierra, José Murillo Tobo, in Saravena, Arauca, as part of a mass detention of human rights advocates and social activists. According to Amnesty International, the arrest of Mr. Murillo Tobo followed his organization's denouncement of the collusion between paramilitaries and security forces in Arauca, as well as a recent spate of accusations by the security forces that Joel Sierra is a group comprised of subversives.

CONCLUSION

THE CASES OF ASFADDES, CAJAR, and Joel Sierra, three organizations that have been awarded precautionary and provisional measures by the Inter-American Commission or Court, exemplify the precarious situation of human rights defenders in Colombia. While pursuing justice for the victims of human rights abuses, they themselves have become the victims. Of the two principal components of the Inter-American protective measures—physical protection, and investigation and accountability—Colombia has fallen far short of achieving the latter.

In August 2003, the Inter-American Commission's special rapporteur for Colombia conducted a ten-day visit to the country. After the visit, the commission issued a press release in which it "expressed concern over continuing reports of acquiescence by law enforcement personnel or their cooperation with the self-defense groups in committing acts of intimidation and violence against persons or groups protected by these measures, and over the lack of effective judicial inquiries, which has prevented clarification of the facts and reparations in many of these cases."

As the Colombian conflict continues to escalate, effective investigations and a functional judicial system are vital to the protection of human rights and the activists who work to preserve them. The Colombian government has taken some positive steps by instituting protective measures to comply with the recommendations of the Inter-American Commission and Court, but it will have to do more than supply human rights defenders with cell phones and bulletproof vests if it is to secure an environment where they can safely continue their work. The Colombian government must thoroughly investigate all attacks against human rights defenders and hold accountable those responsible for the crimes. *HRB*