



## GRAVE ATTACKS ON THE WORK OF HUMAN RIGHTS DEFENDERS IN COLOMBIA

*Written report for the UN Special Rapporteur on Human Rights Defenders on the occasion of her visit to Colombia (7-18 September 2009)*

In her April 2002 report to the United Nations Human Rights Commission regarding her visit to Colombia in October 2001, the Special Representative of the Secretary General on human rights defenders, Mrs. Hina Jilani, said that “*she is deeply concerned over the climate of intimidation and insecurity in which human rights defenders carry out their work*”<sup>1</sup>. As a result of her visit, the Special Representative noted “*a pattern of serious abuses of human rights defenders, including threats, disappearances, killings and forced displacements*”. At the same time, she observed “*that all sectors of the civil society are affected by violence, including State officials working on human rights issues. Certain groups are still more targeted than others, among them trade unionists, ethnic minorities, internally displaced persons and women. The Special Representative is extremely concerned for the safety of trade unionists and indigenous leaders, in light of the scale of violent acts against them*”<sup>2</sup>.

Eight years after her visit, these grave abuses or patterns not only continue but have intensified, which shows that the recommendations formulated by Mrs. Jilani not only have not been implemented but that the Government has acted against them.

Although Mrs. Jilani stated that, at that moment, the main violations of the rights of human rights defenders came from actions by the paramilitary groups, she also viewed with concern that “*certain practices used by the police and the army against human rights defenders, in particular the keeping of intelligence files containing false information about human rights defenders and the tapping of telephones of NGO offices.*” She also condemned “*the alarming tendency of State and army officials to violate Presidential Directive 07 by using harmful and irresponsible rhetoric against human rights defenders, who are often accused of collaborating with the guerrillas*”<sup>3</sup>.

In early 2009 it became known that since 2004, shortly after the Special Representative made public her denunciations about the situation of human rights defenders in Colombia, a special strategic intelligence group (called “G3”) whose creation has no legal basis, has operated within the DAS (Administrative Security Department), the Intelligence Office which depends directly from the President of the Republic, Álvaro Uribe Vélez. It is known that the G3 began the most gigantic operation of illegal surveillance, which included detailed and meticulous monitoring of the work of human rights defenders and their organizations, that has come to light during the

<sup>1</sup> Report by Ms. Hina Jilani, Special Representative of the Secretary General on human rights defenders, Mission to Colombia (23-31 October 2001), E/CN.4/2002/106/Add.2, page 3.

<sup>2</sup> *Idem.*

<sup>3</sup> *Ibid.*, page 4.

history of this country. Some of the uses to which the illegally-obtained information has been put have included providing lists to paramilitary groups of trade union activists and human rights defenders who were to be murdered, and who effectively were<sup>4</sup>, and “*offensive intelligence*” operations involving carrying out diverse attacks, setups, death threats and repeated and continued violations of the rights of human rights defenders and their close family members, including children, constituting a situation of generalized and systematic attacks against human rights work.

## **Dialogue of human rights organizations with the National Government**

Since November 10, 2008, four human rights and peace coalitions<sup>5</sup> and 16 social sectors in Colombia committed themselves to dialogue with the National Government to try to reach agreements on the necessary guarantees for the work of defending and promoting human rights and for the recognition of the legitimate activity of human rights and social organizations and movements at the national level. To this effect, a National Roundtable on Guarantees (*Mesa Nacional de Garantías*) was set up in April this year. It is composed of representatives of the National Government, of the 16 social sectors and of the four human rights and peace coalitions. This process is accompanied by the international community in Colombia (OHCHR and embassies of the G-24). The aim of this dialogue is to address and reach agreements on guarantees that would make it possible to have conditions for a human rights defense work and particularly to facilitate participation by diverse sectors of society and human rights organizations in the process to discuss a National Plan of Action on Human Rights and International Humanitarian Law, discussion of which has been stalled due to the lack of guarantees denounced by civil society organizations.

With the establishment of the National Roundtable in April, human rights coalitions and leaders of the social sectors agreed with the Government to hold a series of Regional Hearings (many of them already took place) to discuss the lack of guarantees that have been affecting human rights defenders in diverse regions of the country and agree on mechanisms to grant them.

However, despite the commitment and willingness of these coalitions and sectors to generate the dialogue on how to improve conditions for human rights defenders and members of social organizations, we have verified during this process of dialogue that, instead of effective means to overcome the situation, there has been an increase in attacks by the Government and by diverse State authorities against the work of defense of human rights and against human rights organizations and their members, demonstrating a lack of will on the part of the Government to adapt their conduct to changes required and demanded by the civil society and interested sectors of the international community. This situation is exemplified by the situation in the departments of Sucre and Risaralda, where a number of people who attended the Regional Hearings received death threats and had to flee from their regions.

We will now address the main patterns of current violations against human rights defenders and provide concrete examples of what has occurred in recent months.

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<sup>4</sup> Last May 8, the Prosecutor General's office formally indicted Jorge Noguera, the first director of the DAS under the current administration, for the homicides of human rights defender and university professor Alfredo Correa de Andreis, journalist Zully Codina Pérez (killed in Santa Marta in 2003), political leader Fernando Piscioti and trade union activist Adán Pacheco, killed by paramilitary groups based on intelligence information provided by the former DAS director. In addition to these 4 homicides, the Prosecutor also brought charges against him for promotion and financing of paramilitarism.

<sup>5</sup> The four coalitions are: *Coordinación Colombia – Europa – Estados Unidos*, *Alianza de Organizaciones Sociales*, *Plataforma Colombiana de Derechos Humanos, Democracia y Desarrollo* and *Asamblea Permanente de la Sociedad Civil por la Paz*.

## 1. Monitoring and illegal wiretapping of telephone lines and e-mails

Although the media have widely reported on monitoring and interceptions carried out by the DAS against journalists, judges and political leaders from opposition parties, it is known that, starting in 2004, human rights organizations and their members have been the targets of surveillance in a generalized and systematic fashion carried out by the G3. The *Semana* magazine reported that, in addition to judges and journalists, “Many of the country’s most well-known human rights NGOs have their own A-Z in the DAS: Redepaz (Ana Teresa Bernal), Comisión Colombiana de Juristas (Gustavo Gallón), Codhes, Cinep and the Colectivo de Abogados José Alvear Restrepo (Lawyers Collective). As part of an operation called ‘Transmilenio’, the latter group was investigated from top to bottom: finances, movements, location, composition of nuclear family and means of transport, among other aspects. This operation began in 2004 and was mainly directed against Alirio Uribe, the president of the Colectivo”<sup>6</sup>.

In proceedings currently being carried out by the Prosecutor General's office, the existence of those folders on the activities of human rights organizations has been corroborated, including organizations that are part of the National Roundtable on Guarantees. These files include:

1. Interceptions and records of telephone communications and e-mails of institutions such as the Board of Directors of Justapaz, the Colombian Commission of Jurists, Justicia y Paz, Cinep, Colectivo de Abogados José Alvear Restrepo, Asfaddes, Codhes, Colectivo de Abogados Luis Carlos Pérez, Comité Permanente para la Defensa de los Derechos Humanos, Corporación Siempre Viva, Humanidad Vigente, Instituto Latinoamericano de Servicios Legales Alternativos (ILSA), Redepaz, Caritas Diocesana, Movimiento Cimarrón, Asamblea Permanente por la Paz, Minga e Indepaz, among others.
2. Monitoring of trade union organizations such as the CUT, CTC, Asonal Judicial, Sindess and Sintrateléfonos.
3. Telephone records and intelligence monitoring of movements along with family information specifically regarding Gustavo Gallón (CCJ), Camilo González Posso (Indepaz), Carlos Rodríguez and Gloria Flórez (Minga).
4. Monitoring of cooperation agencies such as Diakonie Colombia, Justicia por Colombia (England), Oxfam Solidarité and Broederlijk Delen. Documents found in the analysis office also show that the e-mails of José Miguel Vivanco, Director for the Americas of Human Rights Watch, were also intercepted.
5. Surveillance of members of the Inter-American Commission on Human Rights (IACHR) during its missions to the country. In August 2009, the IACHR denounced that “the Special Strategic Intelligence Group (“G3”) within the Administrative Security Department (DAS), was created to monitor activities tied to the litigating of cases at the international level. The G3 allegedly carried out an intelligence operation against an IACHR visit to the city of Valledupar in 2005, led by then Commissioner and Rapporteur for Colombia Susana Villarán. According to the DAS file, the objective was “to identify the cases being studied by the Rapporteur and the testimony presented by NGOs, as well as the lobbying these organizations are doing to pressure for a condemnation of the State”. According to the IACHR, these activities, which “seriously affect the work of human rights defenders in Colombia”, also “violate the State’s commitment to respect the privileges and immunities of

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<sup>6</sup> *Semana* magazine, Bogotá, April 26, 2009: <http://www.semana.com/noticias-nacion/siempre/123265.aspx>.

*representatives of the OAS and to comply in good faith with the aim and purpose of the American Convention on Human Rights and other treaties of the Inter-American system”<sup>7</sup>.*

As has been stated by the judges of the Supreme Court of Justice, this systematic surveillance against the work of human rights and peace NGOs and their members cannot credibly be attributed to the initiative of mid-level officials from the presidential intelligence office, divorced from the will of those who control and direct intelligence activities at this institution and who order missions and receive reports on the results. According to the President of the Supreme Court of Justice, "what is being investigated is nothing less than the top level of the justice system and we feel that this is extremely grave ... it is a very concrete criminal conspiracy that must be anchored to the upper levels". He went on to refer to those responsible, saying that "*we know that they are not mid-level officials, we know that this has to come from the upper levels*".<sup>8</sup>

This illegal monitoring has involved a large part of the human rights organizations and, in many cases, their members. The preliminary report by the Technical Investigation Body (CTI) of the Prosecutor General's office on the case of the illegal DAS interceptions corroborates exhaustive monitoring by this intelligence office against 41 employees of the *Corporación Colectivo de Abogados José Alvear Restrepo* (CCAJAR), particularly its then President Alirio Uribe Muñoz. In one of these folders, "there is evidence of activities aimed at obtaining records of public and private databases, movements, location, composition of the nuclear family, means of transport and financial information of members of the CCAJAR". Monitoring and interception of Alirio Uribe made it possible to find out about his "*personal identification, résumé, biographical information, professional credential, passport, legal history, marital status, studies, residential address, habits, weaknesses and strengths, places he frequented, family structure, names of children and parents, friends and colleagues, bank accounts, credits and contacts abroad*"<sup>9</sup>. This document includes color photographs, with their respective negatives, showing the facades of certain residential buildings.

The existence of a 'manual' for monitoring and harassing people considered to be members of the opposition, revealed by *El Tiempo* newspaper on June 14, 2009<sup>10</sup>, reinforces the hypothesis that these practices of persecution are being carried out as part of the application of a state policy against political opponents and human rights defenders and their organizations.

## **2. Gathering and illegal preservation of military intelligence reports against human rights defenders**

In recent weeks, the human rights and peace coalitions have found out about intelligence reports drafted by the regional military intelligence offices (RIME) which, in a generalized manner, involve leaders of social organizations and movements and human rights defenders. The human rights and peace coalitions have also gained knowledge of this illegal practice by the RIME in reports on the departments of Antioquia and Caquetá, drafted in 2008 and 2009.

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<sup>7</sup> "IACHR expresses concern over intelligence operations related to Inter-American Commission Activities in Colombia", Press release number 59/09, 13 August 2009: <http://www.cidh.oas.org/Comunicados/English/2009/59-09eng.htm>.

<sup>8</sup> *Corte Suprema insiste en que las 'chuzadas' no vinieron de mandos medios*. El Espectador.com, April 27, 2009: <http://www.elespectador.com/noticias/judicial/articulo138022-corte-suprema-insiste-chuzadas-no-vinieron-de-mandos-medios>.

<sup>9</sup> <http://libretaencontravia.blogspot.com>.

<sup>10</sup> "Un 'manual' para seguir y acosar a personas calificadas como opositores tenía el DAS". El Tiempo. June 14, 2009. <http://www.eltiempo.com/colombia/justicia/un-manual-para-seguir-y-ac>.

In Regional RIME Military Intelligence Report N° 6 MD-EJC-CIME-RIME6-53.1, broad sectors of social leaders and human rights leaders from Caquetá are massively accused of links to the Support Network of the Amazon Front of the FARC. The 97 people mentioned in the report are identified by name and/or alias as well as home address, telephone number and photo, and include several members of the Victims' Movement against State Crimes (Movimiento de Víctimas contra Crímenes de Estado - MOVICE) in Caquetá, the president of the Corporación Caguán Vive, attorneys for political prisoners, professors from the Universidad La Amazonía, members of the ASOTAXIS, ASOGRICAK and FENSUAGRO associations, the regional president of the Union Association of University Professors (Asociación Sindical de Profesores Universitarios - ASPU), ASODEMCA, the JUCO (Communist Youth), members of the Polo Democrático Alternativo (one of Colombia's main opposition parties) and the liberal party, candidates for mayor in the region, ex-municipal council members and candidates for the municipal assemblies.

Based on that intelligence report, around 10 of these people have already been charged and detained in military operations that received widespread media attention, and the former mayor of Cartagena del Chairá and member of the Unión Patriótica, Víctor Oime, has been jailed three times.

The creation of these reports by the Regional Military Intelligence Offices treats the work of social organizations and human rights defenders in diverse regions of the country as though they were enemies in a war, which is incompatible with the primacy of fundamental individual rights and freedoms under the rule of law. In the great majority of these cases, as has recently come to light, the intelligence reports, telephone and e-mail interceptions and monitoring have been carried out without authorization from the Attorney General's office and without that office having taken appropriate action to control, investigate and punish those responsible for these criminal practices.

On the contrary, the large number of social organizations and human rights defenders affected, along with high court magistrates, political opponents, journalists and even members of international human rights organizations, shows that not only have the perpetrators of these actions acted with considerable freedom but also with the consent and knowledge of high government authorities. The communications media have focused their attention on the illegal actions of the DAS against high court magistrates, but there is ever-increasing evidence of actions by this presidential agency against human rights defenders as well as actions against them by the Army's RIMEs and the Police's SIJIN.

Frequently, the illegally-obtained information found in those intelligence reports is not immediately used as relevant information to structure judicial proceedings but is instead secretly filed and preserved with the expectation of finding an appropriate opportunity to use it for diverse objectives, such as the sale of such information to paramilitary leaders leading to the murders of human rights defenders and trade union activists (as occurred with Alfredo Correa de Andreis and other social leaders on the Atlantic coast) or in line with orders to carry out homicides issued directly from the offices of the heads of the presidential intelligence organism. DAS detective Carlos Andrés Moreno, a member of this group involved in the interceptions, denounced that *"murders were ordered and files sold by the DAS intelligence office the 'para' leaders"* according to an article that appeared on June 5, 2009 in *El Espectador*<sup>11</sup>. The communications media have reported that information obtained several years ago was illegally preserved and had been consulted in late 2008 at a storage facility located on a

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<sup>11</sup> *"Los últimos hallazgos de las pesquisas de la justicia son aterradores. El portafolio de las 'chuzadas'".* El Espectador. June 5, 2009, <http://www.elespectador.com/impreso/judicial/articuloimpreso144279-el-portafolio-de-chuzadas>.

floor of the DAS headquarters, kept there with the consent of all of its directors and classified as “ultra secret”<sup>12</sup>.

The Corporación Reiniciar has also repeatedly denounced intelligence activities against its director, Jahel Quiroga, whose name has been included in intelligence materials (Reports and Battle Orders), in which they have tried to link her to illegal groups (FARC and ELN); this has resulted in threats, illegal telephone interceptions, the opening of judicial investigations based on declarations by informants encouraged by those intelligence reports as well as attempts by paramilitary groups to kill her.

### **3. Opening of judicial investigations based on intelligence reports by prosecutors attached to military units**

Despite repeated rulings by the Constitutional Court to the effect that intelligence reports alone do not constitute sufficient proof to begin judicial proceedings, officials from the Attorney General's office attached to military units and security organisms frequently end up approving unfounded reports drafted by the secret services of military units for whom they are working.

In this way, testimony gathered by the Informants Network at each military brigade or those obtained based on testimony provided by demobilized former members of guerrilla organizations (which they must provide as a condition for gaining access to the benefits of demobilization), presented in proceedings coordinated within the military brigades themselves, are used to draft intelligence reports that subsequently end up being approved by units from the Attorney General's office stationed at these military units. This questionable method of opening legal proceedings has been criticized by diverse international human rights bodies in the case of Arauca<sup>13</sup>, for violating the principles of impartiality and independence of the judicial function. The method has been extended and generalized in diverse regions of the country (such as Cúcuta or Medellín) as an effective mechanism to break up social organizations and silence the work of denunciation by human rights organizations.

Based on intelligence reports drafted by Regional Military Intelligence Office N° 7 starting on February 26, 2009, the 74th Sectional Delegate of the Attorney General's office attached to the Army's IV Brigade in Medellín on April 3 reopened a criminal proceeding involving various members of social organizations, trade unions, student groups and human rights NGOs.

The use of testimony provided by demobilized former members of guerrilla groups, mainly from the FARC, obtained within the Army's IV Brigade, have been used to supplement intelligence reports upon which this proceeding is based, which clearly shows the aim of criminalizing and silencing the legitimate exercise of fundamental guarantees such as the freedoms of opinion, expression, conscience and participation. RIME intelligence reports have been included in these proceedings that tendentiously accuse many student leaders, professors and workers from the Universidad de Antioquia of being part of the FARC's Clandestine Communist Party (PC3), along with

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<sup>12</sup> “Un ‘manual’ para seguir y acosar a personas calificadas como opositores tenía el DAS”. *El Tiempo*. 14 June 2009; [http://www.eltiempo.com/colombia/justicia/un-manual-para-seguir-y-acosar-a-personas-calificadas-como-opositores-tenia-el-das\\_5436047-1](http://www.eltiempo.com/colombia/justicia/un-manual-para-seguir-y-acosar-a-personas-calificadas-como-opositores-tenia-el-das_5436047-1).

<sup>13</sup> *Report by the Working Group on Arbitrary Detention. Mission to Colombia, October 1 to 10, 2008, A/HRC/10/21/Add.3. Page 19. Paragraph 75; Report by the United Nations High Commissioner for human rights on the situation of human rights and international humanitarian law in Colombia, E/CN.4/2004/13, February 17, 2004, paragraph 78.*

many human rights organizations, trade unions and political movements that are not part of the governing coalition, such as the Alianza Social Indígena and the Polo Democrático Alternativo. Organizations such as the Corporación Jurídica Libertad, Escuela Nacional Sindical (National Trade Union School), Instituto Popular de Capacitación, Colectivo de Derechos Humanos Semillas de Libertad, Federación de Estudiantes Universitarios (FEU), Federación de Estudiantes de Secundaria (FES), Corporación Colombo Cubana Medellín, Corporación Sumapaz, Comité Universitario de Derechos Humanos Gustavo Marulanda, Corporación Región, Asociación Campesina de Antioquia, Corporación Prometeo de Antioquia and the Red Juvenil, Liga de Usuarios de los Servicios de Salud are the targets of these irregular procedures along with trade union organizations such as the Asociación de Institutores de Antioquia (Adida), Sintrapintuco, Sintratextil, Sintraintabaco, Sintravidricol, Sindicato de Trabajadores y Empleados de Servicios Públicos, Unión de Empleados Bancarios, Asociación de Pensionados y Jubilados de la Universidad de Antioquia and the SENA trade union.

The legal prohibition against beginning judicial proceedings based solely on intelligence reports is being evaded, as has occurred with other prosecutors attached to military units and security organisms, through the use of officious witnesses, generally demobilized persons, presented by military intelligence as part of an agreement with the CTI, who have also been “used” in other proceedings, with doubtful credibility. In this as in other cases against social leaders and human rights defenders, their role has been to ratify reckless accusations stemming from intelligence reports regarding supposed relationships between NGOs and student organizations and the PC3, also charging professors from diverse faculties of the Universidad de Antioquia, particularly the law faculty, as well as researchers from the Institute of Regional Studies (Instituto de Estudios Regionales - (Iner) and certain university administrators.

Interference by military power in the direction of investigations to incriminate human rights defenders and social leaders as well as the abandonment of control functions and of the principles of impartiality and judicial independence is shown by the fact that the RIMEs, without having judicial police powers, guide and direct evidence gathering. In the case brought by the 74th Sectional Delegate of the Attorney General's office attached to the Army's IV Brigade against the university leaders, human rights NGOs and trade union leaders, it has been shown that the Attorney General's office itself, in order to validate and integrate military intelligence reports in the proceedings, has reached agreements with the RIME and the Technical Investigations Body (Cuerpo Técnico de Investigaciones) in order to validate the “evidence” that has been irregularly obtained by the brigade secret services. These unconstitutional practices go so far as to have military personnel direct the judicial proceedings, as shown when the prosecutor decided to open the proceedings based on a CTI report in coordination with the RIME that offers alleged proof against those implicated and concludes that “*the proceeding can be reactivated*” (Report of February 26, 2009).

The subordination of units of the Attorney General's office attached to military units and intelligence organisms that create reports based on intelligence in order to neutralize, interfere with and intimidate the activities of denunciation and defense by human rights organizations is full of irregularities and illegal actions that ignore the guarantees established in the Constitution and in international human rights treaties. In the case of the 74th prosecutor attached to the RIME of the IV Brigade, the case brought against the human rights defenders was put together under the parameters of Law 600 of 2000, even though the events under investigation took place after the coming-into-effect of the new procedural law that enshrines the validity of the accusatory system. This irregular procedure has enabled the accusers and their military allies to limit the constitutional rights and freedoms of the incriminated persons, without being subject to control by a Judge of Guarantees. In addition, those implicated in this proceeding were never informed of those actions, which has prevented them

from exercising their right to defend themselves in a timely fashion and to respond to the incriminating evidence that military intelligence and the demobilized persons working for military intelligence had been gathering.

The illegal reluctance of the Attorney General's office to use the accusatory criminal proceeding not only seeks to evade the controls exercised by the Judges of Guarantees but also seems to be part of a strategy aimed at speeding up proceedings to massively charge human rights defenders and social leaders, carried out in the absence of those implicated and making illegal use of wide-ranging powers for carrying out the proceedings on the part of the Attorney General's office in collusion with secret actions by the Regional Military Intelligence offices and their unconstitutional agreements with the CTI, which end up delegating judicial police powers to Army intelligence organisms.

The legal requirement to abstain from opening judicial investigations based solely on military intelligence reports has been bypassed not only using false supplementary testimonies by demobilized persons but also with new intelligence activities against human rights organizations. These activities involving the creation of apocryphal "public denunciations" aimed at serving as the support for the military intelligence reports as a whole that the Technical Investigations Body (CTI) of the Attorney General's office and the Regional Military Intelligence office have contributed to the criminal investigation being carried out by the 74th Sectional Prosecutor attached to the Military Intelligence Network of the Army's IV Brigade. In this context, on May 4, 2009 a false document sent over the Internet was widely circulated in Antioquia, which fraudulently used the names and signatures of BAYRON GÓNGORA and ELKIN RAMÍREZ, attorneys for the Corporación Jurídica Libertad, accusing the human rights defender NGOs, trade unions and students of this city, the department and the country of having a close relationship with the FARC and ELN guerrilla groups. Their aim in this case is to continue the campaign to damage the prestige and legitimacy of diverse social organizations and human rights groups, creating a favorable climate of opinion to eventually file criminal charges while attempting to confirm that the organizations and persons previously mentioned in the intelligence reports are supposedly providing political support to the insurgency.

In this case, persecution of human rights defenders not only involves the use of a new criminal practice, namely false documents, but also indicates that information obtained through interceptions and thefts in which they were able to obtain logotypes, attorneys' signatures and lists of recipients of the information is being used as part of the "offensive intelligence" tactics outlined in the intelligence "manual de seguimientos" (monitoring manual) cited by El Tiempo.

The combination of legal and illegal methods applied to human rights defenders and social leaders mentioned in this proceeding was also evident in the attempted forced disappearance of WINSTON GALLEGÓ PAMPLONA and JORGE MENESES, members of the Fundación Sumapaz human rights NGO. On May 7, 2009, two men in civilian clothes and carrying firearms stopped the taxi in which they were passengers near the Universidad de Antioquia, making them hand over their possessions and identification documents. Due to the presence of the police at the scene, the assailants were forced to identify themselves as members of the National Army. Although a disciplinary denunciation was filed against the perpetrators, the victims' belongings were never returned. Instead, on June 10 an arrest warrant was issued for WINSTON GALLEGÓ PAMPLONA after he had voluntarily showed up for questioning in order to disapprove the accusations against him and establish the legality of his activities as a human rights defender. Once the questioning had ended, the prosecutor ordered his immediate arrest, ignoring his voluntary presentation at the proceeding and his expressed decision to collaborate with the investigation. This constitutes a violation of his fundamental rights such as that of individual freedom, which can only be limited in

exceptional cases, as well as the presumption of innocence. Many members of human rights organizations, social leaders, student leaders and members of the political opposition in the Department of Antioquia expect similar actions to be taken against them at any moment.

Some of the proceedings carried out by the 74th prosecutor attached to the IV Brigade were transferred to the offices of the 94th Sectional Prosecutor of Antioquia, which is located outside of the Brigade's installations. However, what is worrisome is not only knowing that other cases mentioned in the intelligence reports that served as the basis for this proceeding continue at that office, but also that other prosecutors attached to military units are bringing charges against human rights defenders and social leaders in this manner, using questionable procedures aimed at evading control by the judges of guarantees. Such procedures make use of unconstitutional agreements between the Attorney General's office and military intelligence organisms and end up validating intelligence reports and extending judicial police powers to the secret services, thereby evading the prohibition expressed in Constitutional Court rulings that stipulate that intelligence reports shall in no case have evidentiary value in judicial or administrative proceedings.

The arbitrary actions of the Attorney General's office in this proceeding have reached the extreme of taking reprisals against human rights defenders were organizations that have denounced them. These reprisals include:

1. The formulation of new denunciations to bring charges against attorneys who act as lawyers for the defense in this proceeding,
2. Visits by prosecutors to the press agency that denounced the facts with requests to inspect their computers,
3. Illegal release from prison of criminals who make declarations against the defenders (without the required authorization by the judge in the case),
4. Disciplinary proceedings against the president of the judicial employees' union for having expressed solidarity with those being persecuted,
5. Accusations that human rights defenders who met with the above-mentioned prosecutor in the presence of representatives from the Office of the United Nations High Commissioner for Human Rights in Medellín were members of criminal organizations, and finally
6. Treating human rights defenders as terrorists, which was implicit in the transference of the proceeding against the defenders to the unit of the Attorney General's office that deals with terrorist crimes.

The actions of the 74th prosecutor's office attached to the IV Brigade have continued, now through the strategy of denouncing defense lawyers who represent some of those under investigation for violation of the confidentiality of the case file and even denouncing them for supposed threats that the prosecutor claims to have received. These actions only seek to prevent the human rights defenders from freely carrying out their principal mission, which is to denounce violations of legality and of fundamental rights whenever they become aware of them. On May 28, 2009, after a meeting held at the Office of the United Nations High Commissioner for Human Rights in Medellín at the request of the human rights defenders' organizations, the 74th prosecutor stated in writing that the meeting had been with members of the FARC's Clandestine Communist Party, PC3. (He made this statement in the formal document formulating charges regarding anticipated sentencing as part of the criminal proceeding involving a deserter from a criminal organization, the person who incriminated one of the defenders on trial, and whom the prosecutor illegally gave the benefit of immediate release, conceding the principle of opportunity without the required consent of the judge). Then, a communiqué issued by the judicial employees' union, expressing its solidarity with the human rights defenders who are the victims in this proceeding, was followed by disciplinary proceedings against the president of that union for having questioned the irregularities committed in the case.

Finally, in a decision that can be understood as a reprisal for having used various opportunities to question the jurisdiction of units of the Attorney General's office attached to military units, on July 31, 2009, the soon-to-be former Attorney General Mario Iguarán reassigned the proceeding to be Antiterrorism Unit, under the argument that it was *"to guarantee the personal security and integrity of the officials carrying out the proceedings, of the other parties involved and the impartiality and independence of the proceedings"*. In doing so, he deduced a kind of incrimination in terrorist activities against those under investigation, the associated human rights defenders and the attorneys carrying out the technical defense of those under investigation.

#### **4. Unfounded criminal proceedings using paid witnesses or demobilized persons seeking legal benefits**

Based on intelligence reports and illegal actions by certain prosecutors attached to military units and increasingly under the influence of military intelligence officers, there has been an increase in cases brought against leaders of social organizations and human rights defenders in wide-ranging zones of the country. Since January, HARRY YESID CAICEDO PERLAZA, a leader of the Comité Permanente por la Defensa de los Derechos Humanos en Nariño (Standing Committee for the Defense of Human Rights in Nariño) and a member of the Coordinadora Social del Pacífico, has been unjustly held in the city of Buenaventura (Valle del Cauca) by order of the Second Specialized Prosecutor Delegated to the Gaula (anti-kidnapping unit) of Buenaventura, accused of the crime of rebellion and criminal conspiracy.

This situation is constantly repeated against numerous human rights defenders and organizations that make public denunciations in the Department of Nariño, who are charged based on constant accusations by the authorities, the security forces and paramilitary groups that operate in the region.

In the case of charges brought against 55 student leaders in Bogotá, denunciations have been made that the Prosecutor General's office has renounced the principle of independence and its control function by signing arrest warrants jointly with the National Police. These clandestine court proceedings constitute a genuine persecution against social organizations and human rights groups, because they prolong without control and for an indeterminate time span the choice of the opportune moment to take actions against the freedom and rights of those under investigation.

In Sucre, the prosecutors are accustomed to carrying out raids and searches in the early morning hours, accompanied by masked individuals who subsequently turn out to belong to the first Marine Infantry Brigade.

Setups using paid witnesses, demobilized persons seeking legal benefits or witnesses paid by the military brigades continue to frequently occur in order to prosecute human rights defenders, and almost always involve complicity by prosecutors attached to military installations throughout the country. This procedure has been demonstrated in recent judicial rulings. The May 2009 ruling acquitting MIGUEL ANGEL GONZALEZ HUEPA, a leader of the ACVC who was unjustly imprisoned for more than 16 months, made it clear that he had been the target of evidentiary startups orchestrated within the Army's Calibío Battalion in association with former combatants who had been reintegrated into society and now work for the Army. These same methods have been used to detain ANDRES GIL, another leader of the Asociación Campesina del Valle del Cimitarra.

On November 13, 2008 in San Onofre (Sucre), CARMELO AGÁMEZ, Secretary General of the Sucre Sectional Office of the National Movement of Victims of the State

(Movimiento Nacional de Víctimas de Estado - Movice) was arbitrarily detained by 5 people dressed in civilian clothes, who were later identified as members of the National Police but who acted without a court order. After remaining in the custody of the SIJIN for five days without being charged, he was accused of committing crimes with the paramilitary groups even though it was well known that Agámez has always actively denounced the presence of paramilitaries in that region. Carmelo was accused based on setups that appear to have been promoted by people associated with paramilitarism and who are currently incarcerated as the result of declarations formulated by Movice members, particularly Carmelo Agámez.

In Arauca, this method of criminalizing human rights defenders who are legitimately exercising fundamental guarantees such as the freedoms of opinion, expression, conscience and participation, was demonstrated in the recent preclusion of the investigation against Martín Sandoval, President of the Comité Permanente por la Defensa de los Derechos Humanos (Standing Committee for the Defense of Human Rights) and a member of the regional team of the Asamblea Permanente de la Sociedad Civil por la Paz (Standing Assembly of the Civil Society for Peace) along with 13 other social leaders and human rights defenders. The ruling recognized that the investigation involved a setup by the security forces, mainly SIJIN DEARA, with “witnesses” who were supposedly former members of the rebel organizations who had been reintegrated into society and had made a business out of this type of trafficking in false testimony. The ruling went on to state that *“...this means that the witness memorized the role that he was to play in order to corroborate the security forces and shows the willingness of these very unscrupulous persons to take on and collaborate in this kind of situation in order to receive an easy monetary reward, without taking into account the pain, heartache and damage to the reputations of many people who have nothing to do with the illegal armed groups...the witness for the prosecution...who was romantically involved with..., said and recited word for word what his spouse had said in accordance with the role assigned to them by officials of the SIJIN DEARA judicial police. These statements were completely in accordance with the role and script and were cut and pasted by the same official who manipulated the proceedings...after analyzing the statements made by the informants, who are supposedly demobilized persons, the prosecutor’s office is surprised that the informants’ objective was to damage an upstanding citizen while using these accusations to obtain an economic benefit from security organisms* ...<sup>14</sup>.

The setups or the creation of scripts by the Police and Army Secret Services that are used as the basis for testimonies that must subsequently be recited by witnesses or demobilized persons who hope to obtain benefits frequently begin with information obtained by the troops through registrations or censuses that the security forces continue to carry out in broad zones of the country, as has been denounced in Arauca, Casanare, Meta and other regions, even though these were prohibited by Constitutional Court rulings.

The court ruling that ordered preclusion of the case against Martín Sandoval and 13 other social leaders from the Department of Arauca effectively showed that *“...what was made clear to this court was that even though the Constitutional Court prohibited censuses and registrations in rehabilitation and consolidation zones, it is common in any urban and rural zone to see these illegal procedures being carried out, which consist in using notebooks, computers or special formats to record personal, family, commercial and professional information, ID numbers, addresses, etc.; also to photograph and film people and their ID documents and to register or make a census of bicycles, automobiles, motorcycles and trucks. People are taken to police stations, military bases and battalions where the same procedures are carried out, after which some are detained in the operation while most are set free, but the*

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<sup>14</sup> First delegate prosecutor before the criminal judges of the Saravena Circuit, Colectivo de Abogados “José Alvear Restrepo”, Bogotá, May 28, 2009.

*information and photos that have been taken of them are used for setups, which are supplemented with false testimonies, such as in this case of paid informants or informants who receive information and photos and are told what to say about the victim. In subsequent months, as in this case, these people are detained and exhibited before the communications media as highly dangerous guerrillas or terrorists, as occurred in the case that was set up to implicate these honorable citizens, workers and upstanding members of Arauca society...*<sup>15</sup>. As can be seen, Constitutional Court rulings aimed at impeding the violation of fundamental liberties by certain policies stemming from the Democratic Security policy are not obeyed by the security forces and these practices continue to be applied against marginalized sectors in the field in diverse regions of the country, with the expectation that their denunciations will never be heard and their requests will never be addressed.

## **5. Pressure on the judiciary by intelligence services to obtain rulings against social leaders and human rights defenders**

Set ups and baseless accusations against human rights defenders have led to unjust sentences against human rights defenders in recent months. The irregularities of these procedures have led to strange rulings that generate suspicions about their bases. One example is the case of PRINCIPE GABRIEL GONZÁLEZ, a member of the Comité de Solidaridad con los Presos Políticos (Solidarity Committee with Political Prisoners) in Santander, who was sentenced to 7 years for rebellion by the Superior Court of Bucaramanga, but absolved in March of 2007, when a judge ruled that the criminal proceeding was baseless and without evidence. However, the Attorney General's office decided to appeal the absolution. The worrisome ruling by the Bucaramanga Superior Court cited González's work on behalf of human rights and his legal representation of the prisoners as "evidence" of his participation in the guerrilla groups. In early 2006, González was detained in Bucaramanga for over a year and remained in jail while awaiting trial for rebellion. After a trial, the judge of the first instance ruled that the criminal proceeding was baseless and never should have been initiated. The strange accusations against González were based on fabricated testimony by 2 false witnesses: one who was unable to physically identify González or even name him before his detention and another who confessed to having given evidence under coercion. Currently, the case is being appealed before the Supreme Court based on the following reasons: first of all because it violates González's right to defense because the Attorney General's office failed to inform him of its initiation of the preliminary investigation, and secondly due to a factual error stemming from false reasoning for having accepted contradictory and incoherent testimonies provided by ex-combatants who were receiving reintegration from the state.

In addition to judicial setups, the opening of proceedings based on intelligence information and the use of paid witnesses and people who have been reintegrated into society and are receiving benefits for taking part in judicial proceedings against human rights defenders, it has recently become known that the intelligence organisms have brought pressure to bear on the justice system to obtain rulings against the leaders of social organizations and human rights defenders.

In late February 2009, the *Semana* magazine published two secret reports on its web page showing monitoring of judicial officials in proceedings against leaders of social organizations and human rights defenders<sup>16</sup>. The published documents clearly show that the DAS spied on judicial officials in Saravena (Arauca) who were carrying out

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<sup>15</sup> First delegate prosecutor before the criminal judges of the Saravena Circuit, Colectivo de Abogados "José Alvear Restrepo", Bogotá, May 28, 2009.

<sup>16</sup> "DAS MEMORANDO. Arauca, September 6, 2005", *Semana* magazine: [www.semana.com/documents/Doc-1828\\_2009224.pdf](http://www.semana.com/documents/Doc-1828_2009224.pdf).

proceedings against “20 members of social organizations of the Municipality of Saravena accused of belonging to the ELN, including ALONSO CAMPIÑO BEDOYA, (President of CUT trade union federation of Saravena), whose detention was subsequently changed to house arrest”<sup>17</sup>.

The published DAS memorandums clearly show how state intelligence organisms have been interfering in judicial proceedings against leaders of social organizations and human rights defenders. After the intelligence organisms have detained the leaders and defenders, they carry out detailed investigations of the private lives of all of the judicial officials responsible for the proceedings and of their family members and friends, in order to pressure them and force them to rule against those under investigation, or to induce judicial investigations, transfers of judicial officials or other types of persecutions if they fail to adopt the arguments of the security organisms.

The DAS memorandums published by *Semana* magazine were drafted by the Operational Director and by the DAS Sectional Director in Arauca and were addressed to the DAS General Operational Director in Bogotá, showing that these are not practices confined to low-level officials but rather one of the presidential intelligence organism’s core policies. The first of the memorandums (June 29, 2005) involves “monitoring of judicial rulings of Saravena Circuit Judge EDUARDO FERRERIRA ROJAS”<sup>18</sup> for having ordered the release or house arrest of around 40 members of social organizations who had been detained in August 2003 and unjustly accused by the DAS and the Army of having links to the ELN. The confidential document also includes a lot of personal, family and professional information on some of the detainees as well as their photographs.

The second memorandum<sup>19</sup> contains the results of monitoring over the last three years of officials of the Sole Judge of the Municipality of Saravena as well as the rulings issued by that court and refers to supposed evidence that was to be used for a “possible investigation of Mr. Eduardo Ferreira, Saravena Judge”. The alleged proofs include the fact that the Judge “has been living in that locality for approximately 15 years, during which time he has lived under the actions of the FARC and ELN terrorist groups without having experienced any difficulties”, it appearing suspicious that “while he has held that post, he has not had any kind of protection from the Security Organisms, which has enabled those groups to have easy access to him”. In other words, the memorandum deduces his complicity with the armed groups because he had not been harassed or murdered by them. Additionally, ignoring the fact that in a small municipality such as Saravena, much of the population has family ties or friendships with a large part of the inhabitants, the memorandum accuses employees at his office of complicity with those under investigation because they have friends or family members within the group of 40 detainees. The memorandum also provides details on his family, private and academic life, as well as information on his children and family group, which shows extensive and intense monitoring of judicial officials in charge of proceedings against social leaders and human rights defenders based on setups prepared by the military intelligence organisms.

The DAS officials accused the Judge because “despite having sufficient evidence, his rulings always seem to conclude in irregularities that benefit the defendants” with rulings that “have jeopardized the effectiveness of operational actions of State Security Organisms along with their credibility”. The DAS Directors’ interpretation, according to which the leaders

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<sup>17</sup> “MEMORANDO. Arauca, June 29, 2005.” *Semana* magazine: [www.semana.com/documents/Doc-1829\\_2009224.pdf](http://www.semana.com/documents/Doc-1829_2009224.pdf).

<sup>18</sup> “MEMORANDO. Arauca, June 29, 2005”. *Semana* magazine: [www.semana.com/documents/Doc-1829\\_2009224.pdf](http://www.semana.com/documents/Doc-1829_2009224.pdf).

<sup>19</sup> “DAS. MEMORANDO. Arauca, September 6, 2005”. *Semana* magazine: [www.semana.com/documents/Doc-1828\\_2009224.pdf](http://www.semana.com/documents/Doc-1828_2009224.pdf).

of the social organizations and defenders that they have arrested and helped bring to trial with their intelligence reports must always be found guilty, is clearly shown in the document. It asserts that granting release or the benefit of house arrest is part of a series of “strategies” (quotation marks from the original), “that the judge would use to seek benefits for members of the ELN and FARC” which would include “manipulation or fallacious interpretation” of the rights awarded under Law 750/02, which provides for house arrest for mothers and fathers who are heads of household. It is therefore clear that the correct interpretation of the law in Colombia has to be what the directors of the intelligence organisms order and not what is determined by judicial officials who have this responsibility under the Constitution.

Finally, showing the extent of interference by the security organisms in judicial proceedings and in activities to persecute and intimidate judicial officials in charge of cases against human rights defenders and social leaders, the DAS Directors dare to formulate recommendations such as the following: “Immediately transfer the judicial proceedings to other courts”, “Transfer Judge EDUARDO FERREIRA ROJAS in order to destabilize the legal structure...”, “Evaluate the Judge’s procedural actions in order to begin a judicial proceeding against him”, “Request judicial inspections of the proceedings carried out by him as well as his ongoing proceedings” and “Finally, it would be a positive step to study the possibility of adapting or creating a support structure for the municipality of Saravena or at least transferring the office of the Circuit Court Judge to a military installation, thereby guaranteeing the administration of justice”. Most of these recommendations were subsequently adopted and the leaders under investigation were later sentenced.

For the citizens of Colombia to find out that the financial control entities (UIAF, *Unidad de Información y Análisis Financiero del Ministerio de Hacienda* / Financial Information and Analysis Unit of the Ministry of Finance) and the Presidential Intelligence Agency, DAS, are carrying out systematic surveillance, interceptions and monitoring of High Court magistrates casts doubt on their ability to effectively fight against impunity in crimes for which state agents or their allies in criminal organizations bear responsibility. But knowing that these same intelligence organisms also try to interfere in judicial proceedings and use pressure and blackmail against judicial officials to impose rulings that must be adopted against social leaders, human rights defenders or political opponents clearly demonstrates that there is a total lack of guarantees for the legitimate work of human rights defense and promotion.

## **6. Proliferation of death threats and control using armed terror in a large part of the country**

Since mid-February, death threats and threatening pamphlets have been massively distributed in more than 30 cities and diverse regions of the country in an attempt to use terror to control social conflict that the social crisis and rising unemployment have caused among the most country’s most marginalized and excluded sectors, particularly young people. While the national unemployment rate has risen to 12.5% and reached nearly 20% in Pereira and Ibagué and 16.3% in Medellín, homicides of young people and murders committed by hired gunmen have increased in these cities and in the marginalized zones of the country’s main cities. This shows the application of authentic “social euthanasia” against large sectors of the population that fail to find alternatives in the economic system or obtain state attention for their social needs. The recent increase in “social cleansing” against large sectors of marginalized young people is especially worrisome in cities such as Medellín, Cali and Bogotá. It is acquiring a terrifying magnitude in medium-size cities such as Quibdó, Barrancabermeja, Buenaventura, Tumaco and Buenaventura, even though the authorities justify these deaths as stemming from confrontations between criminal bands or young people with criminal records. Amidst this increasing mortality, social organizations and human rights defenders have also been included in many of the pamphlets and intimidations

issued by groups who have total freedom to impose their threats and use terror to control a large part of the national territory, despite the merits claimed by the National Government for its Democratic Security policy. This context has been used to “normalize” the murders of human rights defenders and social leaders. The communitarian movement has denounced that, as of May, around 100 community leaders had been murdered throughout the country and had been the victims of numerous intimidations through threatening pamphlets in various regions, as stated in reports by the diverse community federations, mainly in the departments of Arauca, Córdoba, the coffee-growing region and Nariño. At the same time, in the year-to-date 21 trade union leaders have been murdered, mostly by hired gunmen or “unknown assailants”. Many indigenous leaders have also been killed.

Most of these threats have been issued in the name of paramilitary groups such as the Águilas Negras, Autodefensas Unidas de Colombia and Autodefensas Gaitanistas de Colombia, demonstrating a military reconfiguration of paramilitarism, its positioning as principal actors in the urban governability strategy of “Democratic Security”, its new social control tasks in marginalized zones of the large cities and the strengthening that it has achieved by moving a significant number of its members from the rural to the urban zones under the protection of the process of negotiation with the government. This has enabled them to take on the function of regulating conflict among the “excess” population that cannot be absorbed by the market or served by state social services (the unemployed, sexual workers, indigents, drug addicts, football hooligans and smalltime criminals or those who commit crimes out of necessity, or simply people who happen to be on the streets at night) as well as a renewed function of repression and elimination of social and trade union leaders and human rights defenders.

Since the beginning of May 2009, pamphlets signed by the Metropolitan Bloc of Bogotá of the Águilas Negras have been distributed in different neighborhoods announcing their rearmament and control in four localities of the capital and issuing death threats against Senator Piedad Córdoba, certain political opposition organizations and human rights defense organizations including the Colectivo de Abogados José Alvear Restrepo, Corporación Sembrar, Fundación Comité de Solidaridad con Presos Políticos, Corporación Reiniciar, Corporación Yira Castro, Fundación Manuel Cepeda (Iván Cepeda), Asonal Judicial, Comisión Intereclesial de Justicia y Paz, the CUT, Minga, FUNDIP, ASOPRON, ANDAS, ASDEGO, FENACOA, ASOMUJER, TAO and CODHES along with other organizations and members of the Comité de Impulso and the Capítulo Cundinamarca-Bogotá of the Movice. In a context of threats and murders of young people in large zones of the country, the inclusion of defenders in this strategy seeks to divert attention from the attacks and threats in the face of which human rights defenders and social leaders must carry out their activities.

These threats against human rights leaders and social leaders have become part of the context of “normality” in which they must carry out their work as human rights defenders in this country, because neither the police authorities nor the Attorney General's office has done anything to impede, detain and punish those who issue these threats.

Although it would be impossible to mention all of the cases of people who have been threatened, because rarely have threats against human rights defenders become so widespread, certain recently-mentioned cases illustrate the situation: a) Claudia Erazo and Irene López, attorneys at the Corporación Jurídica Yira Castro, by the Capital Bloc of the AUC (March 26, 2009); b) Lina Paola Malagón and another member of the Comisión Colombiana de Juristas (March 2, 2009) after the former took part in drafting a report on impunity and crimes against trade union activists that several weeks before it had been presented before a U.S. Senate hearing; c) la Mesa de Organizaciones Sociales Defensoras de Derechos Humanos (Roundtable of Human Rights Defender

Social Organizations) of Quindío, (January 13, 2008), signed by the "Comando Central de las Águilas Negras de Colombia", d) the Alianza Social Indígena (January 21, 2009); e) Carlos Serrano, director of Radio Diversia (late April of 2009), one of the radio stations that since February of 2008 has been reporting on the situation of the lesbian, gay, bisexual and transsexual (LGBT) community of Bogotá, accusing him of harming society through his radio programming, f) threats by paramilitaries against Federico Sajonero Aguilar, an officer of the Board of Directors of the Comité Regional de Derechos Humanos de Barrancabermeja (Credhos) and also president of the Barrancabermeja section of the National Union of Health and Social Security (Sindicato Nacional de la Salud y la Seguridad Social - SINDESS), (May 26, 2009), g) threats since late 2008 and in the year-to-date against Alexander Marín, member of Corpades in Medellín, who has been harassed by members of paramilitary groups for denunciations that he made about the grave situation of rights in Commune 8 of that city, which forced him and his family to leave Medellín and has placed their personal safety at grave risk; h) threats issued in Barranquilla on June 1, 2009 by the Bloque Central Caribe Gaitanista Águilas Negras against José Humberto Torres, member of the Operational Committee of Coordinación Colombia - Europa - Estados Unidos and of the Comité de Solidaridad con los Presos Políticos, along with another 25 people associated with social organizations and human rights defense in that city, such as ADEA, CUT, ASONAL JUDICIAL, ASPU, ASOJUA, ANTHOC and SINTRAUNICOL, among others, and on June 9 and 11 against members of the Asociación Nacional de Ayuda Solidaria (Andas), the Asociación Colombiana de Estudiantes Universitarios (ACEU), the Asociación Nacional de Estudiantes Universitarios (ANDES), the Comité Permanente de Derechos Humanos del Atlántico and Movice.

Threats by paramilitaries, aggressions, prosecutions and murders of student leaders have occurred this year at a number of the country's universities, primarily at the Universidad de Antioquia, Universidad Industrial de Santander, Universidad del Atlántico, Universidad del Quindío, Universidad Nacional de Colombia, Universidad Pedagógica Nacional and Universidad Distrital in Bogotá. Even though the National Government continues to insist, despite all evidence to the contrary, that paramilitaries no longer exist in Colombia, throughout the country the population endures their threats, which frequently have been carried out despite having previously been made known to the authorities.

The scenarios created for interlocution on the subject of attacks against human rights defenders, particularly in the Regional Roundtables and the National Roundtable on Guarantees, have not led to implementation of effective measures to surmount the threats and risks denounced in each region. On the contrary, it is a source of concern that after holding these meetings between the government and the human rights platforms, new threats have been made against human rights defenders, including some of those who attended these hearings. One week after holding the Roundtable on Guarantees in the Department of Sucre, human rights defenders Ingrid Vergara, Rogelio Martínez, Pedro Geney Arrieta and Adil Meléndez, the beneficiary of precautionary measures formulated by the Inter-American Commission on Human Rights, received death threats from paramilitary groups. In the department of Risaralda, threats came in the wake of the Roundtable on Guarantees, issued by paramilitary groups against Guillermo Castaño, president of the Risaralda section of the Comité Permanente por la Defensa de los Derechos Humanos (CPDH); Mauricio Cubides, member of the Colectivo de Derechos Humanos Domingo Taborda, which makes documentaries on human rights, and Yezid Beltrán, director of the of the Ombudsman's Office's Early Warning System in the coffee-growing region.

## **7. Violations of the right to life and integrity**

Although the National Government and the judicial authorities see little importance in threats made against human rights defenders and many other people under the diverse acronyms that hide the actions of the paramilitary forces or state forces that cooperate with them, it is now impossible to deny that these threats have had lethal consequences in so many cases. Although the police authorities deny or underestimate the reality of these threats, what is certain is that when the threats involve social leaders or human rights defenders they are frequently carried out. On March 26, 2009, National Police Director General Oscar Naranjo declared that threatening pamphlets distributed in a number of cities were the work of the FARC, criminal bands or common criminals who were *“using the name of the Águilas Negras”*, and also *“pamphlets issued by neighborhood community organizations that, in the face of systematic concern over the sale and supply of drugs in the streets, in the communes and in each locality, had very mistakenly and radically taken these steps in order to threaten the drug dealers”*<sup>20</sup>.

The community organizations have denounced that such statements have increased the risks and threats against their leaders in diverse regions, frequently leading to murders of their members, such as the case of Fredy Duarte Herrera, brother of the President of the Confederación de Juntas de Acción Comunal (Confederation of Community Action Boards) in Santander, murdered on June 20, 2009 in Bucaramanga. On July 30, JOSÉ FERNÁNDEZ ORTIZ, a councilman from Bosa and also the President of the Community Action Board in the La Independencia neighborhood and of the Association of Community Action Boards of Bosa, was murdered in Bogotá. During a previous attempt on his life, he had received 7 bullet wounds and when he was killed was returning from a meeting at which the subject of lack of security in the locality had been discussed.

Starting in early 2009, the South Colombian Human Rights Observatory (Observatorio Surcolombiano de Derechos Humanos - OBSURDH) denounced threats against young people by means of pamphlets in the municipality of Pitalito (Huila). The threats were followed by the violent deaths of a large number of people in this municipality. On March 16, 2009, ENRIQUE DIEGO PÉREZ, a member of the Nodo Sur (Southern Node) of the OBSURDH, was murdered by two armed individuals as he traveled to his place of residence in the village of Betania, on the road between Pitalito and the municipality of Palestina. The individuals stopped him, struck him and shot him 8 times, after seizing his portable computer containing important information on human rights violations in southern Huila, organizational processes by young people in the municipality and cases of extrajudicial executions that are being denounced by the Observatorio Surcolombiano de Derechos Humanos.

Subsequently, another member of the Nodo Sur of the OBSURDH escaped assassination when two armed individuals arrived at his home in the early morning hours (they were detained by members of the police with help from the community. However, they were freed minutes later). Members of the Nodo Sur of the BSURDH have publicly denounced persecutions and accusations by the SIJIN stemming from denunciations regarding these events and the monitoring of a large number of extrajudicial executions directly attributed to the security forces in this region that could be associated with the death of ENRIQUE DIEGO PÉREZ. Finally, on April 16, 2009, Observatorio Suroccidente de Derechos Humanos Nodo Sur members FAVER CADENA and ROBINSON LONDOÑO received death threats through phone calls and letters delivered to their homes, in which paramilitaries of the Águilas Negras gave them 24 hours to leave the region or be killed. Similar threats were received by its director, journalist ANDRY GISSETH CANTILLO, thereby dismantling one of the few human rights organizations that continue to dare to denounce grave human rights

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<sup>20</sup> <http://www.caracol.com.co/nota.aspx?id=785101>, Caracol Radio, March 26, 2009.

violations in southern Huila, particularly extrajudicial executions that are now being covered up.

That is not the only case in which threats have been effective. In January of 2009 after his appointment as Vice Governor of the Honduras Reservation in Cauca, ROBERTH GUACHETÁ unsuccessfully denounced threats against his life. Communiqués published by diverse organizations made these threats known<sup>21</sup>. Guachetá, who had served as president of the Asociación de Cabildos Indígenas de la Zona Occidente (Association of Indigenous Councils of the Western Zone) and had also been part of the leadership of the indigenous Association of Cauca (Asociación Indígena del Cauca - AIC), was murdered "*in strange circumstances*" weeks after these denunciations. His body showed signs of having received blows from "unknown individuals" who beat and then shot him. Despite having been the subject of precautionary measures formulated by the Inter-American Court of Human Rights, the Colombian state did nothing to protect his life and has done nothing to resolve the crime and punish those responsible. The indigenous organizations have said that the murdered leader had expressed opposition to the planting of illicit crops and criticized the state policy of turning land over to mining companies for gold exploitation<sup>22</sup>.

Nor is this the only case of crimes committed in "*strange circumstances*" by "*unknown individuals*" against human rights defenders. On Friday, March 6, 2009, in Cali, ÁLVARO MIGUEL RIVERA LINARES, the human rights defender of the LGBT population, was found dead in his apartment. The crime was reported by a neighbor who found him bound, gagged and with a blow to the head. Álvaro Miguel Rivera was involved in diverse organizations and projects that promoted the rights of the LGBT population, which was why he had previously been the target of threats<sup>23</sup>.

On April 3, 2009 indigenous leader EFRAIN YATUACUÉ GARCÍA, who for the last four years had been working as a radio announcer at Amazonia Estéreo in the municipality of Puerto Guzmán (Putumayo), the center of operations for the Plan Colombia, was killed. The crime occurred after he was hired as a *mototaxista* (independent motorcycle taxi driver - a second job that he performed during his spare time) to transport an unknown individual from Puerto Guzmán to Puerto Limón, 10 kilometers along the road to Mocoa. The victim was found with his throat slit and stabbed in the back.

On January 14, 2009, "*unknown individuals*" killed housing activist and social rights defender FERNANDO HENRY ACUÑA RUIZ at his residence in the municipality of Turbaco, near Cartagena (Bolívar), after 2 hit men had shot at him on 6 occasions.

In recent months, the paramilitary groups have intensified their actions against human rights defenders in various regions of the country. Cases include a) the murder by paramilitaries of Middle Magdalena region environmental rights defender and community leader LUIS ALIRIO CRESPO, on February 12, 2009, in Barrancabermeja (Santander). He was the President of the Asociación de Pescadores (Fishermen's Association) of El Llanito (Apall). b) On April 15, ANA ISABEL GÓMEZ PÉREZ was killed in Los Córdoba (Córdoba). She was an IDP leader in the department of Córdoba and a member of the board of the Comité de Familiares Víctimas de la Violencia en Córdoba (Comfavic), which represents more than 4,000 people who demand reparations as victims of the paramilitaries, to which they have a right under Law 975 of 2005, known as the "Justice and Peace" law. Two weeks earlier, she had denounced

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<sup>21</sup> "Cali: continúan persecución contra el Movimiento Indígena" by Nomadesc, Tuesday April 21, 2009: <http://colombia.indymedia.org/news/2009/04/101055.php>.

<sup>22</sup> "Las comunidades indígenas en el Cauca se declararon en alerta y en emergencia territorial y humanitaria", Caracol, May 19, 2009, <http://www.caracol.com.co/nota.aspx?id=814712>.

<sup>23</sup> See [http://www.colombiadiversa.org/index2.php?option=com\\_content&do\\_pdf=1&id=647](http://www.colombiadiversa.org/index2.php?option=com_content&do_pdf=1&id=647).

that she had received death threats from unknown persons. These threats were fulfilled 13 days after Ana Isabel Gómez revealed them at an encounter of IDPs with representatives of the National Reparations Commission<sup>24</sup>. c) On the afternoon of January 5, 2009, Mrs. Cecilia Montaña, the wife of Mr. Jorge Caicedo, President of the Asociación Nacional de Trabajadores Hospitalarios de la Seguridad Social y Servicios Complementarios de Tumaco "ANTHOC", was killed presumably by paramilitaries when she received three shots to the head fired by hit men who instantly disappeared, due to omission by the authorities. d) On July 14, 2009, GUILLERMO ANTONIO RAMOS was killed in Volador, a village in the municipality of Tierralta, located in the so-called Zone of Location for dialogs leading to demobilization and disarmament the self-defense (paramilitary) movements. During the previous 5 years, Ramos led the process of reclaiming more than 1,400 hectares that the 'paras' had usurped from around 80 families in the zone. For a number of days, Ramos Rosso's murder had to be kept secret, "because, according to his family members, they have received instructions from authorities associated with the peace process with the self-defense groups not to reveal the event to the communications media<sup>25</sup>".

On other occasions, attacks against defenders have involved attempts at forced displacement or physical aggressions. Examples include a) the attempted murder of YURY NEIRA, on January 17, 2009, in Bogotá, the day after a DAS operation involving around 25 heavily-armed people and about 8 vehicles, including an anti-explosives truck, illegally raided and searched the site of the El Salmón Cultural educational institution. The raid was carried out without judicial authorization and was validated 2 hours later by the 304th prosecutor delegated to the DAS, who drafted the judicial order without authorization from a Judge of Guarantees, based once again, as is done by prosecutors attached to military units, on arguments obtained from DAS intelligence reports. Even though they found nothing of what they said they were looking for, the DAS personnel photographed everything in the installations as well as the people who stopped by in solidarity with the victims of this violation, without the Attorney General's office having taken any measures against this extrajudicial violation. Yury Neira is a member of the Movice and has been denouncing the murder of her son, the child Nicolás Neira, victim of an extrajudicial execution by the police in Bogotá. b) on April 22, 2009, in Bucaramanga, MAURICIO MEZA BLANCO, President of the Board of Directors of the Corporación para el Desarrollo del Oriente (Compromiso) was the victim of an attempted forced disappearance carried out by two unknown assailants. Meza is a well-known human rights activist in Bucaramanga who had worked to make public the grave effects on the environment of several large agricultural and energy projects in the department. That night, Meza was about to leave when a truck approached his home. Two men jumped from the truck, violently assaulted him and tried to drag him to the truck. According to the denunciation, the assailants spoke of their work while they attacked him. Meza fought back until two police officers passed by, at which point the assailants fled. c) There was a similar attempt at forced disappearance against WINSTON GALLEGO PAMPLONA and JORGE MENESES, members of the Fundación Sumapaz in Medellín, whom members of the Army assaulted and stole important information along with their belongings. d) On May 3, 2009, the human rights defender of the Red Juvenil de Medellín, YENIFER CÁRDENAS RUEDA, was wounded by "unknown individuals" who attacked her with a sharp instrument when she was returning to her home in the El Salado neighborhood, also in commune 13, the commune with the highest degree of militarization (and paramilitarization) in that city.

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<sup>24</sup> "Amenazas de muerte había denunciado líder de los desplazados en el municipio Los Córdoba", El Tiempo, [http://www.eltiempo.com/colombia/caribe/amenazas-de-muerte-habia-denunciado-lider-de-los-desplazados-en-el-municipio-los-cordobas\\_4987748-1](http://www.eltiempo.com/colombia/caribe/amenazas-de-muerte-habia-denunciado-lider-de-los-desplazados-en-el-municipio-los-cordobas_4987748-1).

<sup>25</sup> *Asesinan a líder de desplazados que reclamó tierras arrebatadas por Mancuso*. [http://www.eltiempo.com/colombia/caribe/asesinan-a-lider-dedesplazados-que-reclamo-tierras-arrebatadas-por-mancuso\\_5720447-1](http://www.eltiempo.com/colombia/caribe/asesinan-a-lider-dedesplazados-que-reclamo-tierras-arrebatadas-por-mancuso_5720447-1).

Death threats and systematic persecution against the Comisión Intereclesial de Justicia y Paz, due to its work accompanying Afro-Colombians, peasants and indigenous communities in their processes to defend their territories and demand restitution of their usurped lands, has affected their work in diverse areas of the country. On March 19, 2009, the Justicia y Paz team in El Naya (between the departments of Valle and Cauca) received various death threats that forced them to immediately leave the region. These threats were also aimed against Isabelino Valencia, an Afro-Colombian leader and legal representative of the Community Council of the Naya River Basin, and even included the Justicia y Paz team in Popayán.

The persecution against Justicia y Paz has been carried out in every region where they operate, through a strategy that includes the most diverse means of harassment, blackening of their reputation and continuous aggressions. In the midst of the process of accompanying the communities of the lower Atrato (Department of Chocó), who demand restitution of collective territories that have been taken from them and which are now under the control of companies linked to oily palm and extensive cattle raising agribusinesses, there has been systematic harassment of the work of Justicia y Paz in national and international scenarios. This harassment aims to affect the image and work of Justicia y Paz. Members of these communities have been co-opted to encourage them to carry out activities to affect the prestige and to slander the work of Justicia y Paz, including accusations that they are a subversive organization that provides support to the FARC, and baseless charges that they had embezzled millions allocated to the communities. These activities have been undertaken in diverse regions of the country and include dissemination of these slanders on web pages, radio and TV programs, interviews in the press, public gatherings, declarations at meetings and events with local authorities and before international forums such as the Inter-American Human Rights Commission and Court. The broadcast of a telephone conversation between General Rito Alejo del Río and former Interior Minister Fernando Londoño Hoyos on the TV Noticias Uno newscast on October 5, 2008 showed that they were behind this strategy of blackening the NGO's reputation. However, the Colombian state is not exempt from responsibility in these systematic hostilities, because the above-mentioned conversations took place while the retired general was in jail under the custody of the penitentiary authorities. This harassment apparently constitutes a reprisal against Justicia y Paz, because that institution represents the victims of multiple crimes committed by General del Río when he served as commander of the Army's XVII Brigade.

On September 3, 2008 an armed group attempted to disappear Danilo Rueda and Abilio Peña in the municipality of Chigorodó (Antioquia), and kidnapped YIMMI JANSASOY for a number of hours, both of whom were human rights defenders and members of Justicia y Paz. Jimmy Jansasoy was threatened with a gun to make him turn over information including the names, addresses and locations of the members of Justicia y Paz; the group threatened to kill his family and he was forced into exile. As a result of this incident, the entire Justicia y Paz team in the Atrato River region was forcibly displaced.

The persecution against Justicia y Paz has also included criminal proceedings brought against its members, as is actually the case with Elizabeth Gómez and Luz Marina Arroyabe, defenders of Justicia y Paz in the lower Atrato who have been charged on diverse occasions and are presently on trial for the crime of violent protest. This proceeding is in limbo because, despite a number of rights of petition filed by the Attorney General's office and within the framework of precautionary measures to force the state to report on this investigation, until now there is no clear information on the status of the investigation and the legal situation.

In the context of the attacks on human rights defenders, murders of trade union leaders have become particularly important in recent years. According to the World Federation of Trade Unions, in 2008 Colombia had more murdered trade union activists, 49, than any other country in the world, accounting for more than half of the worldwide total<sup>26</sup>. According to information supplied by the National Trade Union School (*Escuela Nacional Sindical*), as of late August of this year, an additional 23 labor leaders had already been killed. The great majority of these cases remain in impunity.

## **8. Raids and searches at offices of organizations and systematic thefts of information**

Throughout this year, thefts of information belonging to human rights defenders and their organizations have continued. The increase in assaults on their offices, on the defenders themselves and thefts of information seem to be related to the substantial rewards being offered by the Ministry of Defense to those who provide computer information, hard drives, USBs and other means of “*information that serves as the basis for the continuation of intelligence work and subsequent operational planning*” (Secret Directive N° 029 of 2005 of the Ministry of Defense, chapter 4. part f).

The process of obtaining these pieces of evidence has sometimes been accompanied by attempts to disappear the bearers of the information (as in the case of WINSTON GALLEGO PAMPLONA and JORGE MENESES, by the Army) or the murders of people from whom materials have been stolen (as in the case of Enrique Diego Pérez, of the Nodo Sur of the OBSURDH).

On February 17, 2009, unidentified individuals violently entered the installations of the *Corporación Con-Vivamos*, whose work focuses on strengthening the social fabric in the neighborhoods of the northeastern zone of the city of Medellín. The objective was to steal equipment containing valuable information belonging to the institution, in line with which they took away the PC containing institutional information, a USB, two digital cameras and two journalists’ type voice recorders as well as one DVD. The assault was repeated on March 17; the leaders of this NGO stated that “*It’s very suspicious that they only stole a CPU containing a database of leaders who have spoken out against the wave of violence that has intensified in recent months in this zone*”<sup>27</sup>. On February 24 of this year, also in Medellín, there was a strange attack on computer equipment at the offices of the Madre Laura social initiative, where the *Corporación Jurídica Libertad* jointly assists victims of the armed conflict that Commune 13 of Medellín has been experiencing for a number of years.

In the Department of Cauca, on February 7, 2009, the home of the spokesperson for the *Asociación de Cabildos del Norte del Cauca* (ACIN), Gustavo Adolfo Ulcué, was assaulted. Two men on a motorcycle held a gun to his brother and, after looking all over the house, entered Gustavo’s room and took away his portable computer. Upon leaving, the assailants voiced threats, telling his brother to “*be thankful that Gustavo was not here, because if we had found him, we would have finished the job*”<sup>28</sup>.

On July 21, 2009, 6 people entered the offices of the Red Juvenil de Medellín (Youth Network) and took away the organization’s computer, which they subsequently turned over to members of the paramilitary groups that patrol and “*provide supervision*” in diverse sectors of the center of the city. These groups, referred to as “*Convivir*”, persist

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<sup>26</sup> “*Colombia, país con más sindicalistas asesinados en 2008, afirma Confederación Sindical Internacional*”, *El Tiempo*, 10 June 2009: [http://www.eltiempo.com/colombia/politica/colombia-pais-con-mas-sindicalistas-asesinados-en-2008-afirma-confederacion-sindicalinternacional\\_5398923-1](http://www.eltiempo.com/colombia/politica/colombia-pais-con-mas-sindicalistas-asesinados-en-2008-afirma-confederacion-sindicalinternacional_5398923-1).

<sup>27</sup> <http://alainet.org/active/30276&lang=es>.

<sup>28</sup> <http://www.cric-colombia.org/PDF/Febrero%2011%20de%202009.pdf>.

since the time in which current Colombian President Álvaro Uribe Vélez was the Governor of the Department of Antioquia. He was in fact their creator and they were never demobilized or disarmed, despite a Constitutional Court ruling ordering them to do so. Even today, these “Convivir”, a clear expression of urban paramilitarism and of the functional division of tasks between the security forces and the paramilitaries in exercising social control over the city, work closely with the authorities and systematically charge families and merchants in the center of the city “vaccinations” or extortions in exchange for the provision of “security services”. Both the Red Juvenil and the Tienda Agroecológica Raizes, located next to the offices of the Red, have denounced these extortions, which has in turn led to reprisals and thefts by the “Convivir”.

The Corporación Nuevo Arco Iris, which carries out important investigations into alliances between political leaders and members of Congress and paramilitary groups, continues to be the target of information thefts. Along with the 2008 robbery of the computer belonging to Luisa Margarita Gil, coordinator of the Program of Attention to Populations Affected by the Conflict, there was the recent theft on Thursday, July 23 of the personal computer belonging to its president, Fernando Patiño. Also, in the early morning hours of Tuesday, July 28, unknown individuals entered the home of Ariel Ávila, coordinator of the Observatorio de Conflicto Armado, in order to carry out this same action. Arco Iris has denounced that these computers contained information relating to the dynamics of the armed groups, their relationships with territorial politics and actions and the entity’s own analysis of its work.

These systematic information thefts against human rights NGOs have recently spread to the Ombudsman's Office. On August 11 of this year, unknown individuals entered the installations of the Ombudsman's Office in Montería, where they limited themselves to taking only the computer containing the Early Warning System, which contains information on violations of human rights and IHL committed by illegal groups and members of the security forces. Identical cases occurred last year in Bucaramanga and Cartagena, putting at enormous risk those who have placed their trust in state mechanisms to denounce threats and attacks against them<sup>29</sup>.

The incentives established by National Ministry of Defense Directive on Rewards 029 of 2005 that have fostered this “market for pieces of information” have placed the activity carried out at the offices of human rights NGOs and social organizations at grave risk, along with the physical integrity of the defenders themselves. In pursuit of these pieces of information, not only have there been murders and attempts to disappear people whom these elements have been taken from. On August 20, 2009, the *Corporación de Desarrollo Solidario – CDS* was for the second time the target of aggression in which a group of 6 masked men wearing military uniforms intimidated one of the organization’s employees and the family that lives at and takes care of the installations, stole computer and audiovisual materials and destroyed diverse pieces of equipment. The attackers also took away the family’s personal effects and raped their 14-year-old daughter<sup>30</sup>.

## **9. Hostile governmental public statements that discredit human rights defenders and treat them as enemies**

Since the beginning of the administration of President Uribe, human rights defenders have had to carry out their work in a constant environment of attacks and public

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<sup>29</sup> “Lluvia de amenazas contra funcionarios de la Defensoría del Pueblo”, *Semana* magazine: <http://www.semana.com/noticiasproblemas-sociales/lluvia-amenazas-contra-funcionarios-defensoria-del-pueblo/127369.aspx>.

<sup>30</sup> “Brutal agresión contra los trabajadores de una ONG colombiana de derechos humanos”: <http://www.intermonoxfam.org/es/page.asp?id=2005&ui=11045>.

attempts to discredit their work by the President himself as well as by the Vice President and other high governmental officials who seek to encourage society to take sides against them and publicly portray the defenders as “enemies, accomplices or allies of terrorism”. From the start of his government, President Uribe described the human rights defenders as “minor politicians who ultimately serve terrorism and cowardly hide behind the banner of human rights”<sup>31</sup> (September 8, 2003). The list of these accusations is a long one and this practice has not ceased, even after the Government invited the social organizations and human rights groups to discuss the subject of guarantees requested by the defenders in the framework of the process for creating a National Plan of Action on Human Rights.

This stigmatization was borne out during the recent visit by the United Nations Special Rapporteur on Extrajudicial Executions, whose preliminary report stated that “Human rights defenders tend to be intimidated and threatened, and sometimes murdered, often by private actors. There are high-level government officials who accuse them of being guerrillas or terrorists, or of being close to them...these declarations stigmatize those who work to promote human rights, and create an environment in which specific acts of threats or murders can be carried out by private actors. It is important for high-ranking officials to put an end to the stigmatization of these groups”<sup>32</sup>.

These hostile statements have to do both with discrediting the work of denouncing human rights violations before international bodies as well as denunciations formulated internally. The National Government has used diverse means to attempt to impede and discredit the work of denunciation that the human rights organizations, in the face of an internal lack of guarantees, have brought before diverse international protection mechanisms. A number of defenders have been threatened after denouncing human rights violations abroad (such as in the case of Lina Paola Malagón), persecution from the presidential intelligence apparatus, or attacks on their lives (as in the case of Edwin Legarda, the husband of Aída Quilcué, who was killed by the Army on the same day last December when Aida had returned from Geneva [Switzerland] where she had gone to denounce violations of the rights of indigenous peoples before the Human Rights Council in the framework of the EPU).

On March 4 of this year, Vice President Francisco Santos used harsh language in an attempt to discredit a commission of human rights defenders, whose members included Monseñor Héctor Fabio Henao, which was denouncing diverse types of human rights violations before the United States Congress. Santos went so far as to say that “... politics in Colombia has moved to international scenarios and the hatred towards the president and the grudge that certain sectors have against him now have the strategy of going to all of these scenarios to speak ill of the country”. He reaffirmed the concept that the human rights defenders are the country's enemies, saying that “it is painful to one's patriotism, it hurts that they use that strategy to try to damage Colombia and the president and to hurt the country”, and he concluded his invective calling on the communications media “to keep the fights inside the country. So that we will wash our dirty laundry at home”<sup>33</sup>.

The use of international mechanisms to denounce human rights violations, due to lack of justice at the internal level, has also occasionally been criminalized through the filing

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<sup>31</sup> Address by President Álvaro Uribe during the inauguration of the new Colombian Air Force Commander, 8 September 2003:

[http://www.presidencia.gov.co/prensa\\_new/discursos/discursos2003/septiembre/fac.htm](http://www.presidencia.gov.co/prensa_new/discursos/discursos2003/septiembre/fac.htm).

<sup>32</sup> Press statement by Professor Philip Alston, United Nations Special Rapporteur on extrajudicial executions. Mission to Colombia, June 8-18, 2009:

<http://www.hchr.org.co/documentoseinformes/documentos/relatoresespeciales/2009/relatores.php3?cod=2&cat=80>.

<sup>33</sup> “Vicepresidente denuncia plan de desprestigio internacional contra el gobierno”. La W Radio.

<http://www.wradio.com.co/nota.aspx?id=772214>, March 4, 2009.

of criminal actions against human rights defenders by public officials who receive orders from high government officials, such as those attached to military institutions. Legitimate actions before the Inter-American Human Rights System to expose a series of aggressions and threats committed against peasants and leaders of the *Comunidad de Paz de San José de Apartadó* (Peace Community) who had been the targets of arbitrary detentions on March 12, 2004, and the information relating to those events presented before the Inter-American Commission on Human Rights (IACHR), were responded to by a criminal lawsuit brought against Father Javier Giraldo, attorney Elkin Ramírez of the Corporación Jurídica Libertad and the Ombudsman of Urabá, Miguel Ángel Afanador by Colonel Néstor Iván Duque López, commander of the Carlos Bejarano Muñoz Engineers Battalion of the Army's XVII Brigade, headquartered in Carepa, the military unit responsible for the irregularities that had been denounced. These violations were reported to the Inter-American Commission on Human Rights (IACHR), which had ordered special protection measures on behalf of the *Comunidad de Paz de San José de Apartadó*. Motivated by the information presented to the IACHR in September of 2005, Colonel Duque formulated a denunciation against Javier Giraldo, Elkin Ramírez and Miguel Ángel Afanador for the crimes of slanderous allegations, defamation and false denunciation. This led to the opening of a preliminary investigation, which was resolved in the first instance through disqualification and shelving of the proceeding; however, after the appeal lodged by the officer's representative, the second instance overturned the ruling and ordered an investigation to be formally opened, which was taken on by 216<sup>th</sup> Sectional Delegate Prosecutor before the Criminal Judges of the Bogotá Circuit. Although the case was recently precluded, it reveals a precedent in which defenders are prosecuted based on the argument that their actions involve the formulation of "false denunciations". Attacks on human rights defenders to prevent them from using international mechanisms and bodies to protect and defend human rights have also led, as can be seen in CTI reports on actions by the DAS against defenders, to presentations by this secret organism to foreign embassies about the activities of certain civil society organizations, and explicit recommendations to deny applications for visas submitted by human rights defenders, as is done with respect to members of the NGO *Comisión de Justicia y Paz*. In this manner, they have prevented a significant number of human rights defenders from using international mechanisms for the protection of human rights. This shows a perverse practice in which Colombian state secret services not only abuse intelligence reports but also misuse probable agreements with certain embassies regarding migratory matters in order to prevent human rights violations committed by the Colombian state from being denounced before international bodies by human rights defenders who have been chosen as targets for their attacks.

In addition to the above, the argument regarding "false denunciations" has repeatedly been used by the government in recent months to reject the reality of many human rights violations, and particularly extrajudicial executions. At a recent Community Council in Tibú (Norte de Santander), President Álvaro Uribe stated that "many people, have used the topic of 'false positives' to create false accusations and attempt to paralyze the actions of the security forces against the terrorists"<sup>34</sup> and he also said that "of the cases denounced as 'false positives', only 22 of them have a legal basis", even though at that particular time, the Attorney General's office was investigating 1019 cases out of 1708<sup>35</sup>. The United Nations Special Rapporteur for Extrajudicial Executions was able to observe during his visit that the extrajudicial executions were not isolated cases but

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<sup>34</sup> Office of the President of the Republic. "Fuerzas Armadas no aceptan 'falsos positivos' y tampoco se van a dejar acomplejar por falsas acusaciones": Uribe. Consejo Comunal in Tibú. March 23, 2009: [http://web.presidencia.gov.co/sp/2009/marzo/23/04232009\\_i.html](http://web.presidencia.gov.co/sp/2009/marzo/23/04232009_i.html).

<sup>35</sup> Prosecutor General's office, National Unit for Human Rights and International Humanitarian Law. "Cases Assigned of Homicides Presumably Committed by the Security Forces. Updated on May 15, 2009". Response to Right of Petition sent by the *Coordinación Colombia – Europa – Estados Unidos*.

rather “the quantities of these cases, their geographical distribution and the diversity of implicated military units indicate that they were carried out more or less systematically by a significant number of elements within the Army”<sup>36</sup>. In response to the argument about “false denunciations”, he stated that “I cannot discard the possibility that some of the false positives were actually committed by the guerrillas, but apart from strong affirmations, the government has not given me any proof in this sense”<sup>37</sup>.

The argument of “false denunciations” has also been used as a supposition to deny the right to administrative reparation for victims of state crimes in the context of the Victims’ Law, many of whom are relatives of murdered human rights defenders. But what is most worrisome is that this argument is used in an attempt to prevent denunciations by defenders or by the victims’ family members of extrajudicial executions and other human rights violations, threatening them with criminal prosecution if they continue to make false denunciations. This comes within a context of structural impunity and inability on the part of the justice system to establish the truth in the majority of crimes, as shown by the fact that the possibility of a homicide being punished in Colombia is just 7%, according to the conclusions of a study published and sponsored by the European Union on the efficacy of the new accusatory criminal justice system in Colombia<sup>38</sup>. Under these circumstances, to deal with the 93% of crimes that remain unpunished as though they were false denunciations is extremely harsh, particularly when attempts are made to prosecute those formulating denunciations and their family members on the pretext that their claims correspond to false denunciations. (On May 4 of this year, the Minister of Defense stated that “there are certain persons who want to stain the name of the security forces by formulating false denunciations, which is why specific cases are being investigated with the aim of prosecuting them”<sup>39</sup>. Clarifying that after the purge of 25 military personnel, there had been only one case of extrajudicial execution, the Minister affirmed that “there are many false denunciations, many people who want to make terrorists and guerrilla members who have been legitimately killed in combat appear as extrajudicial executions, to spatter or stain the good name of our military institutions”.

The theory of false denunciations has also given rise to attempts to paralyze activities in defense of human rights in the internal sphere, under the concept that these denunciations are part of an international conspiracy against the country, carried out through the human rights defenders. On May 9, 2009, President Uribe, speaking at the International Encounter of Directors of Schools of Military Studies, said that “We must denounce that there is also a cluster of attorneys paid by international organizations, with ideological biases that prevent them from impartially examining the set of conducts and the legal order, and who do so with hatred and from an ideological viewpoint. A cluster of attorneys dedicated to formulating false accusations against our security forces”<sup>40</sup>. On June 13, 2009 the communications media reported that the Disciplinary Chamber of the Higher Council of the Judiciary had begun to investigate President Álvaro Uribe’s affirmations regarding attorneys paid to formulate denunciations about cases of “falsos positivos”<sup>41</sup>.

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<sup>36</sup> Press statement by Professor Philip Alston, United Nations Special Rapporteur on extrajudicial executions. Mission to Colombia, June 8 – 18, 2009.

<sup>37</sup> *Idem*.

<sup>38</sup> “De 7% es la posibilidad de que un homicida sea castigado por la justicia en Colombia, dice la UE. El Tiempo”, 5 April 2009: [http://www.eltiempo.com/colombia/justicia/de-7-es-la-posibilidad-de-que-un-homicida-sea-castigado-por-la-justicia-en-colombia-dice-la-ue\\_4951148-1](http://www.eltiempo.com/colombia/justicia/de-7-es-la-posibilidad-de-que-un-homicida-sea-castigado-por-la-justicia-en-colombia-dice-la-ue_4951148-1).

<sup>39</sup> “Mindefensa advierte que podrá judicializar a quien levante falsas denuncias contra FF. MM”. El Espectador, 4 May 2009: <http://www.elespectador.com/noticias/judicial/articulo139210-denuncian-nuevo-caso-de-falso-positivo-despues-de-purga-el-ejercito>.

<sup>40</sup> Ejército Nacional. “Cúmulo de abogados promueve falsas denuncias contra Fuerza Pública: Uribe”. <http://www.ejercito.mil.co/?idcategoria=223640>.

<sup>41</sup> El Consejo Superior llamaría a declarar al presidente Álvaro Uribe. On Caracol Radio. 13 June 2009:

## 10. Privatization and commercialization of services and systems for the protection of threatened defenders, journalists and trade union activists

Finally, widespread lack of rights and guarantees for the work of human rights defenders and progressive application of enemy status to the defenders has led to orders to abolish protection systems that until now had been in effect for a large number of human rights defenders faced with recognized situations of risk. Steps to privatize protection services and commercialize security and guard systems contained in the Draft Bill on Private Security Companies are aimed at freeing the State of its direct responsibility to protect defenders, journalists, trade union activists and social leaders in a situation of risk, permitting private companies, including foreign ones, to incur in the provision of such services. This draft bill, which revives the ill-starred *Cooperativas Convivir*, which facilitated the consolidation and territorial expansion of paramilitarism, provides for “rewards” for the operational personnel of private security and guard services whenever they provide “*agile, truthful and opportune information that makes it possible to prevent, avoid and decrease the commission of punishable acts, particularly those related to terrorism*”<sup>42</sup>. With this same pretext, the Directive 029 of 2005 created the bases for the expansion of the market for “falsos positivos” (i.e. civilians victims of extrajudicial executions by the Armed Forces, who are then presented as members of the guerrilla killed in combat) encouraged at the national level by eagerness to “show” operational achievements at any cost in exchange for economic benefits, with the already-known results of thousands of civilians killed by those who had the obligation to protect them. The risk is evident that is generated for human rights defenders and leaders of social organization to place their safety under the control of private guard and security companies stimulated by the possibility of increasing their income by providing information on people regarding whom the State constantly, through repeated declarations, accuses of being accomplices of terrorism supposedly motivated by the goal of “*causing a loss of prestige to the institutions*” and making “*false accusations aimed at paralyzing the actions of the security forces against the terrorists*”.

Along with the intention of making protection services a lucrative business, there is concern that protection systems would also be used as another means to continue persecution against human rights defenders, trade union activists and journalists in a situation of risk, as deduced from DAS documents found by the Attorney General's office in the proceedings regarding illegal surveillance. But the DAS has also used information obtained in this manner to continue to persecute human rights defenders in the courts. Proof of this is the criminal proceedings against two indigenous leaders in the Department of Caldas, Arney Tapasco and Félix Hernández, community leaders of the Cañamomo Lomapieta Emberá Chami indigenous reservation. They were recently sentenced based on declarations by demobilized persons in the process of reintegration and on inconsistent and contradictory testimony by witnesses, along with intelligence reports provided by the DAS, which had been obtained by members of that institution responsible for the convicted leaders' protection systems. The situation of risk in which these indigenous leaders carry out their work had been recognized by the Inter-American Commission on Human Rights, which had ordered precautionary measures on behalf of the reservations and settlements of the Emberá Chami community, of which the two are leaders.

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<http://www.caracol.com.co/nota.aspx?id=811312>.

<sup>42</sup> “Proyecto de seguridad privada. ¿Revivir las polémicas Convivir?” El Espectador, 15 June 2009: <http://www.elespectador.com/impreso/politica/articuloimpreso145994-revivir-polemicas-convivir>.

The above reasons show that there is currently a policy of criminalizing the work of human rights defenders aimed at making it appear illegitimate and illegal, which demands accompaniment and solidarity from the international community in the face of this reality in order to propose measures and effectively remedy the above-mentioned situations.

## **11. Effects on the rights of women human rights defenders**

Women's organizations working on behalf of human rights have been the target of persecution and harassment of their leaders, thefts of information from their organizations and intelligence reports that place their lives at risk. Cases such as the persecution against leaders of the Organización Femenina Popular and the Liga de Mujeres Desplazadas, harassment of leaders belonging to the Ruta Pacífica de las Mujeres, information theft against La Casa de la Mujer and the attempted murder of the former Senior Counselor of the CRIC, Aida Quilcué, show the stigmatization of social protest and are also emblematic of the grave situation afflicting these women for exercising the legitimate work of defending their human rights and those of their communities. In particular, the women's organizations point to the obstacles that women face when attempting to normally carry out their activities as human rights defenders and therefore demand that measures be adopted in accordance with their particular needs in order to guarantee their personal safety and that of their organizations.

In addition to all of the risks that human rights defenders face in a shared manner, and which evidently require the generation of a proper environment for the work of human rights defense, women human rights defenders insist that, in order to make this right effective, respect for their lives, bodies and sexual rights must be fully guaranteed. As the women's organizations have constantly and emphatically insisted, measures must be adopted in conjunction with the civil society, the international community and state control organisms that take into account the specific risks faced by women, particularly the invisibility and systematic nature of sexual violence directed at women defenders and leaders, in recognition of the sexual nature of the threats they face on a daily basis because of their work, the risks associated with defense of the land and territory that particularly affect women, and the increased risk to which they are exposed as surviving victims of the conflict. Protection measures must recognize the social networks deriving from their social role and from their work in defense of human rights and must generate conditions of trust and respect without discrimination, that promptly lead to the respective denunciations and investigations of cases that arise. Efforts must be made to promote actions to guarantee access to justice for women, expressing a clear message against impunity to the benefit of guarantees of non-repetition of these violations.

## **Conclusions**

### **1. The situation of human rights defenders continues to worsen**

In 2004, Hina Jilani said that the situation of human rights defenders had worsened since her first visit conducted in 2001. Five years later, the situation has deteriorated further and human rights defenders in Colombia still lack the necessary guarantees for the exercise of defending human rights. Despite this situation, human rights and social organizations – at their own initiative- have been in a continuous dialogue with the Government on this issue (through the establishment of the National Roundtable and the holding of regional hearings).

## **2. The State is responsible for the majority of attacks against HRDs**

Although members of guerrilla groups have been attacking human rights and social organizations, most violations committed against human rights defenders are coming directly from the State or indirectly through paramilitary groups who have never effectively been dismantled. In addition, the State has made increasing numbers of public statements against human rights defenders labeling them as “terrorists” or “collaborators of the guerrilla”, making them more vulnerable to attacks by armed groups.

## **3. The culture of impunity continues**

To guarantee the non-repetition of the violations against human rights defenders, it is key that all violations be investigated and that both intellectual and material authors be punished. However, in Colombia, except from very few exceptions, the majority of violations against human rights defenders continue in impunity.

## **4. Protection programs do not guarantee the security of human rights defenders**

- In spite of the existence of various governmental protection programs (for human rights defenders, journalists, trade unionists), these contemplate physical measures of protection which have not guaranteed in an effective way the security of the persons they aim to protect (various of the beneficiaries of the programme have been killed- one of the most recent case being the killing of indigenous leader Walberto Hoyos by paramilitaries in October 2008, despite the fact that he had provisional measures of the Inter-American Court, and as a result of the order of the Court, was benefiting from a protection scheme of the Ministry of Interior);
- Protection schemes have been used against the persons protected through the use of bodyguards which are illegally carrying out intelligence activities on the persons they are supposed to protect;
- Current privatization of protection programs with the risk that they can be handled by former members of armed groups.

In conclusion, we would like to quote the words of Special Representative Hina Jilani who, very rightly said five years ago: *“Cases sent by the Special Representative in 2004 illustrate the programme’s limitations, as at least two beneficiaries were killed, another arrested and yet another received death threat on the cell phone provided to him by the programme. There is a consensus that the situation of human rights defenders can only improve with a change in attitude for authorities. As long as senior Government officials continue to stigmatize defenders as adversaries, no protection programme, regardless of how well funded, can successfully ensure their safety.”*<sup>43</sup>

## **Recommendations**

The information provided to you in this document shows that the Colombian State not only implemented the recommendations of the then Special Representative Hina Jilani but that it acted, in almost all aspects, against these recommendations. In consequence, so that we can exercise our work free of harassments and without fearing constantly for our lives, we respectfully ask you that, in your dialogue with the Colombian authorities during this visit and in the future, call on them to fully comply with the

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<sup>43</sup> See report of the Special Representative of the Secretary General, Hina Jilani, E/CN.4/2005/101/Add.1, para. 216.

following recommendations (which reiterate in great part those issued by Hina Jilani eight years ago):

### **1. End systematic stigmatization**

- 1.1. The President of the Republic and other senior government officials should abstain from giving public statements which discredit human rights defenders and should condemn the attacks against them, in compliance with Presidential Directives 11 of 1997 and 07 of 1999, and the Ministry of Defense Directive 09 of 2003;
- 1.2. The President of the Republic should make a public statement in which he recognizes the important and legitimate work of human rights defenders and their key contribution to the strengthening of democracy and the rule of law;
- 1.3. The President of Colombia should promulgate a new Presidential Directive which reiterates previous Directives and orders all authorities to recognize, respect and protect the work of human rights defenders;
- 1.4. The Inspector General's Office should take official disciplinary action against all government officials who with their public comments, actions, or omissions, promote or permit human rights violations against defenders.

### **2. End illegal intelligence and use of it against human rights defenders**

- 2.1. Cease all illegal surveillance against human rights defenders and the illegal gathering of information by the different intelligence services;
- 2.2. Guarantee that human rights defenders have full and adequate access to information contained in intelligence files;
- 2.3. The Inspector General's Office should review, in an adequate manner and under the supervision of the United Nations, the intelligence files on human rights defenders and their organizations, so that all unfounded and false information be removed from those files;
- 2.4. The Prosecutor General's Office should move forward in an impartial manner with the current investigations against all civil servants involved in the DAS illegal activities, from those who gave the orders to those who executed them.

### **3. End unfounded criminal proceedings against human rights defenders**

- 3.1. Cease the practice of unfounded criminal proceedings based on intelligence reports and testimonies of informants or demobilized persons who receive in exchange legal or economic benefits;
- 3.2. Criminal and disciplinary investigations should be initiated against all prosecutors or other government officials that have breached the law by falsely investigating human rights defenders and those found guilty should be punished accordingly.

### **4. Improve the protection programs**

- 4.1. The protection programs of the Ministry of Interior should be implemented in conformity with jurisprudence of the Constitutional Court on this matter<sup>44</sup>, and that any reform to those programs should be concerted through direct consultations with human rights defenders in order to ensure the changes respond to their needs in all regions of the country, in particular:
  - a) Guarantee that bodyguards or drivers assigned to the protection program do not have, and have never had, ties with illegal armed groups, and that they do not use their position to carry out intelligence gathering work on defenders;
  - b) While evaluating the risks faced by individual defenders, a range of factors should be taken into account. Special attention should be paid to the high profile of defenders in leadership positions, the type of work undertaken by the defender, and relevant reports by the Human Rights Ombudsman's Early Warning System, the Inter-American Commission of Human Rights, social organizations, and other NGOs;

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<sup>44</sup> See in particular Constitutional Court's decision T-1037 of 2008 (Claudia Julieta Duque case vs. Ministry of the Interior and DAS).

- c) The Justice and Interior Ministry should provide immediate and temporary protection (within 48 hours of receiving the request) to the person or organization seeking protection, while their security situation is being evaluated;
- d) The State should not contract private security companies to carry out the work of protecting people at risk.

#### **5. End impunity and guarantee the independence of the judiciary**

5.1. The Prosecutor General's National Unit for Human Rights and International Humanitarian Law should investigate and centralize all complaints, threats and human rights violations against human rights defenders, identify command responsibility for the crimes and punish the responsible. The Prosecutor's Office should inform periodically and publicly about the results of these investigations;

5.2. All investigations of violations of human rights defenders that involve the armed forces should be presented before a civilian court and not in a military court, as repeatedly stated by Constitutional Court jurisprudence, the Inter-American System of Human Rights and the Office of the High Commissioner for Human Rights;

5.3. Prosecutors should be removed from military brigades to ensure independence and impartiality in their investigations and to guarantee the safety of human rights defenders and the victims that they defend;

5.4. The agreements between the Prosecutor's Office and military or police intelligence services (RIME, DINTE y DIPOL) should be derogated in order to avoid the granting of judicial police powers to intelligence services and prohibit the use of intelligence reports in the judicial proceedings.

#### **6. Dismantle paramilitary structures and put an end to links between paramilitaries and state agents**

6.1. As a measure that would greatly contribute to guarantee the non-repetition of the violations against human rights defenders, effectively dismantle paramilitary structures and try and punish those responsible for violations against human rights defenders;

6.2. End the permanent links between paramilitaries and state agents;

6.3 Try and punish state agents who have participated in, supported or tolerated the commission of serious human rights violations by paramilitary groups, including against human rights defenders.