



DOSSIER
Repression against Colombian human rights defenders

-
Time for international justice
November 2017 (Updated in April 2018)

In April 2018, ECCHR and CCAJAR submitted a substantive Communication to the Office of the Prosecutor of the International Criminal Court on the Repression Against Colombian Human Rights Defenders. This Dossier provides information and a summary of the Communication submitted to the Office of the Prosecutor of the ICC.

“The attacks have forced me to permanently live in fear. My daughter and family were at the center of threats. How are you supposed to respond to that?”

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Human rights lawyer Soraya Gutiérrez Argüello (CCAJAR)

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I. Colombia - a dangerous place for human rights defenders

Colombia is one of the most dangerous countries for human rights defenders. Violent repression of trade unionists, land rights and environmental activists, community leaders, lawyers, LGBTI activists, journalists and others who stand up for rights is widespread and systematic.

This violence has been rampant for decades. During the government of Álvaro Uribe Vélez, the president himself encouraged the persecution of human rights defenders. But also under president and Nobel Peace Prize laureate Juan Manuel Santos Calderón, the threats, surveillance, stigmatization as terrorists, arbitrary imprisonments, torture and killings have not stopped. Violence against human rights defenders has even increased since the 2016 peace accords with the *Fuerzas Armadas Revolucionarias de Colombia* (FARC).

The organisation *Somos Defensores* maintains a network of more than 500 organizations which report incidents of violence against human rights defenders in Colombia. It counted 335 attacks against human rights defenders, of which 51 were fatal, in the first half of 2017.

Many crimes against human rights defenders are committed by actors within the state apparatus, or with their collusion or tolerance. Especially the army has long denounced human rights defenders as guerrilla supporters. Luís Miguel Gómez Porto documented human rights abuses by security forces in the Montes de Maria region in the department of Sucre. In 2004 the military accused him of being a FARC

member. After more than two years of detention on remand, he was cleared of charges. In 2007, soldiers shot him and falsely claimed he had been killed in combat.

The government does too little to protect those who stand up for rights. Family of Afro-Colombian leader Manuel Ruíz alerted the police after he had been abducted on 23 March 2012 near the community of Mutatá in the department of Antioquia. They were told Ruíz had “kidnapped himself” to extort money - his body was found soon after.

Impunity is rife, in particular when high-ranking state officials are involved. By 2014, convictions had ensued in less than four percent of the 219 cases of killed human rights defenders that *Somos Defensores* counted from 2009 to 2013. Trade unionist Adán Alberto Pacheco appeared on a list of names which, as evidence suggests, the intelligence agency *Departamento Administrativo de Seguridad* (DAS) passed on to his killers as “military targets.” An investigation into the role of the former DAS director Jorge Noguera Cotes in his murder on 2 May 2005 in Barranquilla was discontinued.

Most violence against human rights defenders is not part of the armed conflict with guerrilla groups. For that reason, it would not be appropriate for the Special Jurisdiction for Peace to address these crimes. It was created by the peace accords to try crimes related to the armed conflict.

Struggles about land and resources, and about social justice and accountability



drive the violence against those who challenge the power of the economic and political elites. The women's rights defender Ana Teresa Yarce was murdered by a paramilitary on 6 October 2004. She had been openly speaking out against the paramilitary takeover of her native *Comunidad 13* in Medellín.

Specific severe crimes such as murder, torture, persecution or enforced disappearance that are committed as part of a widespread or systematic attack against a civilian population, with knowledge of that attack, constitute crimes against humanity which come under the jurisdiction of the International Criminal Court (ICC).

The *Colectivo de Abogados José Alvear Restrepo* and the European Center for Constitutional and Human Rights are currently documenting that many acts of violence against human rights defenders in

Colombia constitute crimes against humanity.

The ICC is competent to step in where the state concerned is unwilling or unable to investigate and prosecute crimes against humanity, war crimes or genocide. Since thirteen years, the Office of the Prosecutor (OTP) at the ICC is examining if the Colombian justice system is investigating and prosecuting the most serious crimes committed in the country.

The almost complete impunity for violence against human rights defenders means that the Colombian justice system is unwilling to investigate and prosecute these crimes. The OTP should request the opening of an investigation into the situation in Colombia and look into those most responsible for the most serious crimes committed in the country, including against human rights defenders.

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II. Interview with Luis Guillermo Pérez Casas (CCAJAR)

*“The murders of our colleagues must stop.
The Prosecutor of the International Criminal Court has the possibility to save lives.”*

CCAJAR and many of its members have been subjected to different types of repression. How did this affect your work and personal life?

The state and its security forces have never understood the nature of our work. They have always treated us as enemies and stigmatized us as terrorists. But in the end we succeeded in overcoming ex-president Álvaro Uribe Vélez’ attempt to destroy our organization. Even army general Iván Ramírez has said on Colombian TV: “We won the war against the FARC, but lost the war against the *Colectivo de Abogados José Alvear Restrepo*.”

This also shows the misunderstanding: They speak of a “judicial and political war” that we lead against the state, but we do not fight a war against anyone. We only want the state to respect its human rights obligations and to end impunity for the most serious crimes.

Our work and private lives of course have been severely affected. The peace of our families has been disturbed and our very lives have been put at the highest risk. We continue to be targeted by the armed forces. The military still has a cold war mentality and sees us as an “internal enemy” they must defeat.

Have there been investigations? Is the government protecting you?

We regularly receive threats. The situation is even more difficult for female

colleagues whose families are often targeted. The government has provided us with bullet-proof vests and vehicles thanks to precautionary measures granted by the Inter-American Commission on Human Rights. The Colombian Ombudsperson recognizes in a March 2017 report that we are one of the organizations most at risk.

Ex-president Uribe Veléz and the intelligence agency *Departamento Administrativo de Seguridad* (DAS) that reported directly to him persecuted and surveilled us, other human rights organizations and even members of the highest courts. We achieved to obtain convictions of 24 DAS officials, including two former directors, for illegal surveillance and other crimes. Uribe Veléz’ confidant and former DAS director Noguera Cotes has been sentenced to 25 years imprisonment in connection with the 2004 murder of human rights defender Alfredo Correa de Andreis. But the context of the attacks against human rights defenders has not been investigated.

We were victims of state terrorism that included assassinations, death threats, the destruction of our publications, the taking away of our passports, defamation as terrorists and more. But Uribe Vélez remains unpunished, because for crimes committed as president he enjoys constitutional immunity from investigations before ordinary courts.

What are your demands to improve the situation for you and other human rights defenders? What are your hopes for the peace process?

Ninety-eight human rights defenders have been killed in 2016 and three have been disappeared. The murders of our colleagues must stop. Human rights defenders who work in the more remote parts of the country are the most vulnerable and we demand the state to provide them with adequate protection.

We knew from previous attempts to achieve peace that the opponents of the process would attempt to undermine it through assassinations. The peace accords foresee measures to protect human rights defenders, but these will take some time to take effect. Even if a member of CCAJAR were killed this would not change our position that the peace process is what this country needs.

The non-violent resistance of communities that assert their rights is what will transform this country and not political violence. We believe that in spite of the difficulties, we will finally overcome the past 50 years of violence in Colombia.

Why should the International Criminal Court (ICC) step in now?

The preliminary examinations on Colombia that the Office of the Prosecutor (OTP) of the ICC has been conducting have saved many lives. The OTP has the possibility to save more lives and to strengthen the peace process if it looks into the systematic attacks against human rights defenders by paramilitaries and state actors. We ask the prosecutor Fatou Bensouda to open an investigation into those most responsible for the crimes against humanity perpetrated against human rights defenders in Colombia.

Bensouda said that she will not interfere with the transitional justice process if it is implemented in a genuine manner. Most crimes against humanity perpetrated against human rights defenders, however, are not related to the armed conflict. They are part of a violent strategy to repress critical voices and should not be addressed in the domestic transitional justice framework. That is why the ICC has an important role in complementing transitional justice.

III. Repression of human rights defenders is on the rise

Violence against human rights defenders has increased since the 2016 peace accords between the Colombian government and the FARC. According to *Somos Defensores*, 2016 was the deadliest year on record, with 80 reported killings of human rights defenders. Another study by *Indepaz*, *Comisión Colombiana de Juristas* and *Centro de Investigación y Educación Popular* even counted 98 murders and three disappearances in 2016. As of June, the *Somos Defensores* tally for 2017 already stood at 51. In contrast, general violence in the country has decreased since the peace accords.

This apparent contradiction is explained by the social conflicts that cause the systematic repression of human rights defenders. This violence is not part of the armed conflict with the FARC. Conflicts about land and resources, and about social justice, drive repression against human rights defenders. Those who expose crimes by security forces and armed groups and support victims to obtain truth and justice, who fight for marginalized communities, especially with regard to land, or challenge mining projects, are a threat to parts of the economic and political elite. They frequently are attacked to silence them. On 26 February 2015, the indigenous leader Alejandro Casamachín Fernández was shot and wounded by riot police. His community had been trying to retake parts of their ancestral lands in the community of Agustina in the department of Cauca that had been taken over for cane farming.

For decades, however, representatives of the Colombian state and especially the military have used the armed conflict to justify and cover up violence against human rights defenders. They stigmatize them as supporters of guerrilla groups and terrorists, as “internal enemy” within the population. After a 2009 visit to Colombia, the UN Special Rapporteur on the Situation of Human Rights Defenders called their “systematic stigmatization” a “prime reason” for the [...] insecurity faced by human rights defenders in Colombia.” This was especially the case during the presidency of Álvaro Uribe Vélez between 2002 and 2010. In a 2003 speech, Uribe said: “They [human rights defenders] are demagogues at the service of terrorism. Cowardly they waive the flag of human rights to try to recreate a space for terrorism in Colombia [...]”

While the government of Juan Manuel Santos Calderón does not pursue such inflammatory rhetoric and has taken some measures to protect human rights defenders, the violent repression of human rights defenders continues unabated since he took office in 2010.

The 2016 peace accords even appear to have contributed to the increase in violence against human rights defenders. According to a March 2017 statement by the Colombian Ombudsperson, one cause of the increase in violence is that right-wing armed groups, so-called paramilitaries, move into territories left by the FARC due to its demobilization. Human rights defenders who challenge the paramilitary



presence become targets. Furthermore, the peace accords foresee a number of social reforms, including land reform. In many cases, leaders who were asserting their communities' land rights in this context

have been threatened or killed. Opponents of the peace process appear to rely on assassinations and violence to undermine its credibility.

IV. Patterns of systematic violence

Research by the *Colectivo de Abogados José Alvear Restrepo* (CCAJAR) and the European Center for Constitutional and Human Rights (ECCHR) documents that the repression against Colombian human rights defenders constitutes crimes against humanity.

This finding is based on an understanding of “human rights defender” as any person who promotes and defends human rights and fundamental freedoms. Examples include land rights and environmental activists, indigenous and community leaders, lawyers, LGBTI activists, but also journalists and trade unionists.

Specific severe crimes such as murder, torture, persecution or enforced disappearance that are committed as part of a widespread or systematic attack against a civilian population, with knowledge of that attack, constitute crimes against humanity which come under the jurisdiction of the International Criminal Court (ICC).

The violence against human rights defenders in Colombia is a widespread and systematic attack: *Somos Defensores* counted 4,320 attacks against human rights defenders, including 609 killings, between November 2002 and June 2017.

This violence follows clear patterns and extends over decades and almost the entire territory of the state. Those defending land rights, especially in indigenous and Afro-Colombian communities, are at particular risk. According to the Office of the UN’s High Commissioner for Human Rights, nineteen of 36 reported killings of human rights defenders in the department of

Cauca in 2015 were related to land restitution.

CCAJAR and ECCHR have already documented in two communications to the Office of the Prosecutor (OTP) of the International Criminal Court (ICC) in 2012 and 2013 that the systematic violence against Colombian trade unionists constitutes crimes against humanity.

Many crimes against human rights defenders are committed by state actors, or with their collusion or tolerance. These include first and foremost the armed forces, but also the police, intelligence agencies and judicial authorities. Security forces were responsible for 17 percent of attacks against human rights defenders during the presidency of Álvaro Uribe Vélez, according to *Somos Defensores*. Under president Juan Manuel Santos Calderón, the figure stood at ten percent between 2011 and June 2017.

The government of president Uribe Vélez’ *de facto* policy was to actively support and encourage the repression of human rights defenders. The Santos government, in contrast, does not do enough to protect human rights defenders. It is turning a blind eye to the continuity of the attack and its systematic scope which shows the following patterns.

“False positives” - killings in guise of combat deaths

Numerous human rights defenders have been killed by the armed forces as part of a phenomenon known as “false positives.” In 2008, it became known that under the

Uribe Vélez government, soldiers had murdered thousands of civilians and subsequently claimed that they were guerrilla members killed in combat. Drivers were the pressure for results in the fight against the guerrilla and rewards to soldiers for combat kills. Human rights defenders, however, were often targeted due to their work. Members of the army's Calibío Battalion shot the farmers' leader Miguel Ángel González Gutiérrez in January 2008 near Puerto Nuevo Ité in the department of Antioquia and claimed that he died in combat. Only days before, he had publicly accused the Bataillon of severe human rights abuses.

Attacks by paramilitaries

Right-wing armed groups, so-called paramilitaries, are responsible for the majority of killings and attacks against human rights defenders. Under the Uribe Vélez government, security forces directly cooperated with these groups. The women's rights defender Ana Teresa Yarce was detained for ten days during a military operation in the *Comuna 13* in Medellín in October 2002 after being falsely accused of being a guerrilla by a paramilitary informer. Two years later, a paramilitary murdered her.

In spite of a demobilization process between 2003 and 2006, numerous paramilitary groups never dismantled or regrouped under new names, as documented by Human Rights Watch and other organizations. The government of president Santos Calderón mostly refers to these groups as "criminal gangs," thus ignoring the continuity between them and yesterday's state-sponsored paramilitaries.

Paramilitaries were responsible for 51 percent of attacks against human rights defenders during the presidency of Uribe Vélez; under Santos Calderón, this figure increased to 61 percent, according to *Somos Defensores*.

Parts of the state apparatus continue to collude with paramilitaries that often are bankrolled by economic actors such as large-scale farmers or corporations to violently assert their interests. Manuel Ruíz fought for his Afro-Colombian community's land taken over by large scale farmers in the Jiguamiandó and Curvaradó region. On 23 March 2012, he and his 15 year old son were first detained by police and later kidnapped by paramilitaries in broad daylight on a road with a police checkpoint. The bodies of him and his son were found soon after.

Attacks by riot police during protests

In the course of social protests, human rights defenders are frequently attacked by the riot police *Escuadrón Móvil Antidisturbios* (ESMAD) and other security forces. As these protests are often led by grassroots movements, organized communities or trade unions, their leaders disproportionately become targets.

The number of social protests has increased under president Santos. Especially indigenous, Afro-Colombian and peasant communities protest for their right to land. On the same note, the violent repression of protests has gone up.

ESMAD routinely uses excessive force to disperse protests without any attempt to deescalate. This involves the resort to rubber bullets, stun grenades or tear gas,

but also to live rounds. On 26 February 2015, ESMAD violently drove away members of the Nasa indigenous community who were trying to recuperate ancestral lands taken over for cane cultivation in the Agustina community in the department of Cauca. Community leader Alejandro Casamachín Fernández and two others suffered gunshot wounds. Five Nasa people have since been shot dead in similar circumstances.

Illegal surveillance

Different state organs have been illegally surveilling human rights defenders. This is often accompanied by threats, stigmatization as guerrilla and attacks.

The intelligence agency *Departamento Administrativo de Seguridad* (DAS) had since 2003 been surveilling human rights defenders, as became known after a 2009 report in the newspaper *Semana*. As established in subsequent criminal investigations, the DAS had forwarded lists of individuals with alleged guerrilla links to paramilitaries. Many were subsequently assassinated. The former DAS director and confidant of president Uribe Vélez, Jorge Noguera Cotes, was convicted in connection with the murder of human rights activist Alfredo Correa de Andreis whose name appeared on such a list. Evidence suggests his responsibility for many similar cases. In 2011, the Santos Calderón government dissolved the DAS.

The DAS surveilled CCAJAR and several of its members, including Soraya Gutiérrez Argüello. She survived an assassination attempt in Bogotá on 14 February 2003 and keeps receiving threats ever since. In

2009, CCAJAR obtained DAS files that included information on Gutiérrez Argüello's routines and family as well as photos taken during her surveillance.

Illegal surveillance of human rights defenders by various other intelligence bodies has been documented. The journalists Álvarez Gardeazábal and Hernán Peláez, e.g., learned in 2012 from a whistle blower that the DAS successor agency *Dirección Nacional de Inteligencia* (DNI) had tapped their phones.

Baseless prosecutions

Human rights defenders are frequently subjected to criminal prosecutions and lengthy detention on remand, and even convicted to long prison sentences, on the basis of dubious evidence and in violation of their due process rights. Many are prosecuted for alleged involvement with guerrilla groups on the basis of false testimonies by members of the security forces, by ex-paramilitaries who hope to profit from transitional justice arrangements, or on the basis of biased intelligence reports. Others are prosecuted for libel or slander due to publicly speaking out against human rights violators.

In December 2012, the Specialized Criminal Court of Bucaramanga sentenced David Ravelo Crespo to 18 years imprisonment in connection with a 1991 murder allegedly committed by the FARC in Barranquilla. The conviction was based on the testimony of two ex-paramilitaries who had been convicted on the basis of Ravelo Crespo's human rights work. Both are being investigated for false testimony.

V. No protection and widespread impunity

The Colombian state fails to prevent violence against human rights defenders. During the government of Álvaro Uribe Vélez, the president himself encouraged their persecution. State bodies like the intelligence agency *Departamento Administrativo de Seguridad* (DAS) and the security forces persecuted human rights defenders and collaborated with paramilitaries to the same end.

The administration of Juan Manuel Santos says it wants to prevent attacks on human rights defenders. It has created the *Unidad Nacional de Protección* (UNP) for their protection. But the rise in violence against human rights defenders demonstrates that the state does too little.

In many cases, a defender is known to be at risk but does not get adequate protection. Before his murder by paramilitaries near the community of Mutatá in Antioquia on 23 March 2012, Manuel Ruíz had merely been assigned a cellphone by the UNP, although he had requested additional protection.

The government denies the systematic nature of violence against human rights defenders. It also fails to recognize the continuity of paramilitary groups that remain active throughout the country and are responsible for most attacks. Institutions which have previously been involved in the systematic repression of human rights defenders such as the military or the riot police *Escuadrón Móvil Antidisturbios* (ESMAD) still lack reform. The intelligence agency DAS was

dissolved after it became known that it had persecuted human rights defenders, but most of its officials now work for its successor agency *Dirección Nacional de Inteligencia*, for the Office of the Attorney General which is in charge of prosecutions, or even for the UNP. The former DAS official William Merchán López subsequently joined the Office of the Attorney General. In June 2017, he was arrested as suspect in connection with threats that the DAS had orchestrated against investigative journalist Claudia Julieta Duque in 2008.

The vast majority of crimes against human rights defenders are not being adequately investigated by the justice system. Perpetrators enjoy almost complete impunity. After soldiers claimed they had killed human rights activist Luis Miguel Gómez Porto in combat near the community of Desbarrancado in the Sucre department in 2007, the investigations were discontinued. According to court documents from an unsuccessful appeal against this decision, its only basis was testimony from members of the military. By 2014, convictions had ensued in less than four percent of the 219 cases of killed human rights defenders that *Somos Defensores* counted from 2009 to 2013.

The Office of the Attorney General tends to focus on recent cases, leaving older cases in impunity. Most cases focus on lower ranking perpetrators so that there is a stark accountability gap for high ranking officials responsible for the persecution of human rights defenders.

VI. A case for the International Criminal Court

The *Colectivo de Abogados José Alvear Restrepo* (CCAJAR) and the European Center for Constitutional and Human Rights (ECCHR) are currently documenting cases of repression against human rights defenders that we assess to constitute crimes against humanity. We call on the Office of the Prosecutor (OTP) of the International Criminal Court (ICC) to open an investigation into the situation in Colombia and look into those most responsible for crimes against humanity that target human rights defenders. This would complement the work of the Special Jurisdiction for Peace (SJP) created under the peace accords with the FARC.

The SJP would not be the right forum to address crimes against human rights defenders. Its task is to try crimes related to the armed conflict. To achieve lasting peace, perpetrators can receive reduced sentences if they confess and recognise their responsibility. But most violence against human rights defenders is not part of the armed conflict. Framing it as such would not adequately address conflicts about land and resources, and about social justice, which drive repression of human rights defenders. It would allow those responsible to receive reduced sentences that never were intended for them.

ECCHR and other human rights organizations, as well as the Prosecutor of the ICC, have also raised concerns about restrictive standards on the responsibility of commanders and superiors in expert opinions to the Colombian Constitutional Court. These standards are codified in a

2017 constitutional amendment that established the SJP. They could keep it from prosecuting high ranking officials responsible for the most serious crimes.

The ICC is competent to step in where the state concerned is unwilling or unable to investigate and prosecute crimes against humanity, war crimes or genocide. Since thirteen years, the OTP conducts preliminary examinations to assess if the Colombian justice system is investigating and prosecuting the most serious crimes. The almost complete impunity for violence against human rights defenders means that the Colombian justice system is unwilling to investigate and prosecute these crimes.

OTP investigations into those most responsible for crimes against humanity perpetrated against human rights defenders would reinforce the transitional justice and peace process. Human rights defenders represent communities with regard to their rights to land and access to resources, help victims of violence to obtain truth and justice, represent marginalized groups and hold the state to account. Their work is needed for Colombian society to overcome a fifty-year cycle of violence.

An OTP investigation into crimes against humanity committed against human rights defenders would signal that the systematic, widespread nature of these attacks is not going unnoticed and that perpetrators of the most serious crimes will not go unpunished. This would put pressure on the Colombian state to do better both at protecting human rights defenders and prosecuting crimes against them.

VII. Exemplary cases

David Ravelo Crespo

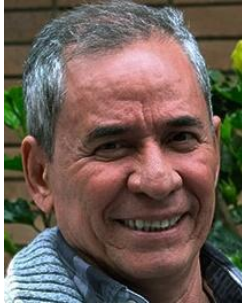


photo: private

Human rights activist in Barrancabermeja.

His investigation of a 1998 massacre led to the conviction of two paramilitaries alias “*El Panadero*” and “*Comando Esteban*.”

Baseless conviction and imprisonment

In September 2010, Ravelo Crespo was arrested for a 1991 murder allegedly committed in Barrancabermeja by the FARC. The charges were based on testimony of “*El Panadero*” and “*Comando Esteban*.” He was sentenced to 18 years imprisonment by the Bucamaranga Specialized Criminal Court.

Another defendant testified that the two witnesses tried to bribe him to incriminate Ravelo Crespo; both are currently on trial for false testimony in Bucaramanga. The prosecutor in Ravelo Crespo’s case had paramilitary links. He would also have been barred from holding a prosecutor’s post as he had been dismissed as police chief in the 1990s.

Lack of justice

- Ravelo Crespo's appeals were denied in spite of the serious irregularities surrounding his trial.
- He was only conditionally released in June 2017, because his case will be re-examined by the Special Jurisdiction for Peace set up under the peace accords with the FARC.

Adán Alberto Pacheco



photo: private

Trade unionist and social activist in Barranquilla.

Assassination

On 2 May 2005, Pacheco was shot by two paramilitaries in Barranquilla. Agents of the intelligence agency DAS had searched his house some months before.

In 2006, police found a file named “*Amigo DAS*” on the computer of a paramilitary suspect with regard to the murder. The file contained a list of trade union leaders, including Pacheco. All had been subject to activities by the DAS and were later murdered by paramilitaries.

In 2006, a senior DAS official testified before a prosecutor in Barranquilla that the DAS had provided paramilitaries with lists of persons which they considered “military targets” due to alleged guerrilla links.

Lack of justice

- The paramilitary suspect in 2008 pleaded guilty to the murder.
- An investigation into the former head of the DAS was discontinued by the Attorney General's Office in July 2017. No DAS employee has been convicted in connection with Pacheco's assassination.

Soraya Gutiérrez Argüello



photo: private

Human rights lawyer.

Member of the *Colectivo de Abogados José Alvear Restrepo* (CAJAR).

Member of the *Movimiento de Víctimas de Crímenes de Estado*.

Assassination attempt, threats and illegal surveillance

On 14 February 2003, a car stopped Gutiérrez Argüello's armored vehicle in Bogotá, three men got out and fired at her. In the next days, she received phone threats and a stranger threatened her 5 year old daughter.

In May 2005 she received a parcel with a blood-smeared doll with burnt genitals and a note: "You have a beautiful family, take care of it, do not sacrifice it."

In 2009, CAJAR obtained files of the intelligence agency DAS with information on Gutiérrez Argüello's routines and her family. The surveillance was admitted by DAS agents. Evidence suggests they also carried out threats against her.

Lack of justice

- Investigations into the attempted murder were discontinued by the Attorney General's Office in 2004.
- The office also discontinued investigations into the 2005 threats the same year. It re-opened these investigations in 2012. There is no tangible progress.

Mario Castro Bueno



photo: CAJAR

Human rights defender in the department of Meta.

Documented forced disappearances, murders and arbitrary detentions by paramilitaries and security forces. These had greatly increased in 2002.

Assassination

On 1 November 2002, Castro Bueno was forced off a public bus on the road between Medellín del Ariari and Pueblo Sánchez by paramilitaries and abducted. The same day, his body was found with the throat cut. In the following, a large part of his documentation of human rights abuses disappeared.

According to testimony given by different paramilitaries before the Office of the Attorney General between 2008 and 2015, the immediate perpetrators of the murder had colluded with security forces and a local mayor.

Lack of justice

- Only paramilitaries have been convicted in relation to Castro Bueno's murder in a trial before the Specialized Criminal Court in Villavicencio/Meta.
- No members of the security forces have been charged by the Office of the Attorney General.

Orlando Valencia

Leader of Afro-Colombian community in the Jiguamiandó and Curvaradó region.

Struggled to regain parts of collective land taken over for cattle herding and palm oil plantations.



photo: CIJP

Assassination

In the morning of 15 October 2005, soldiers questioned delegates on their way to the Curvaradó river basin's Major Council about Valencia. At the same time, he and his companions were arrested by police near the community of Brisas. Paramilitaries were seen waiting nearby. During the questioning of Valencia at the police station of Belén de Bajirá, a paramilitary known as “*Diomedes*” was present. Fifteen minutes after his release, and in the presence of his companions, two paramilitaries abducted Valencia. His body was found nine days later.

The military enquiries and the presence of one of his murderers in Valencia's police interrogation suggest an involvement of the security forces in his abduction.

Lack of justice

- Four paramilitaries, including “*Diomedes*,” were convicted of Valencia's murder.
- Only two of the nine policemen involved in Valencia's detention were charged by the Office of the Attorney General. Both were acquitted.

Manuel Ruíz

Leader of Afro-Colombian community in the Jiguamiandó and Curvaradó region.

Was threatened to give up efforts to regain collective land.

Authorities failed to provide protection he requested.



photo: CIJP

Assassination

On 23 March 2012, Ruíz and his son Samir were threatened by paramilitaries in the community of Mutatá. They were then detained by police and later released. Their bus home to Apartodocito passed a police checkpoint. It was then stopped by paramilitaries who abducted Ruíz and his son. In the evening, they called relatives, telling them to pay a ransom. A police sergeant put on the phone with Ruíz said that he had “kidnapped himself” to extort money and took no action. The bodies of Ruíz and his son were found the next days.

On the day of his abduction, Ruíz was going to guide government delegates to parts of his community's land taken over by the farm of “*Los Piscingos*.” The abduction on a road with a checkpoint in daylight after being in police detention, and the lack of police action, suggest at least tolerance of the abduction.

Lack of justice

- In January 2017, a paramilitary was convicted in relation to the murder.
- The Attorney General's Office did not investigate the police involvement.

Ana Teresa Yarce



photo: private

Community leader in the *Comuna 13* in Medellín.

Member of the women's rights organization *Asociación de Mujeres de las Independencias* (AMI).

Arbitrary detention and assassination

From October 2002, security forces conducted an operation against the guerrilla in *Comuna 13* in Medellín upon order of president Uribe Vélez. On 12 November, Yarce and two other members of AMI were detained by security forces after being pointed out as guerrilla by a paramilitary informer. They were released after ten days.

After the operation, paramilitaries began to dominate the area. Yarce publicly spoke out against threats and violence by the paramilitaries and the security forces' collusion. The state did not protect her.

In the morning of 6 October 2004, a paramilitary shot Yarce dead inside her house. A colleague testified that policemen were sitting in a cafe at the next corner, but the murderer walked down the street with the weapon openly displayed. None of the policemen came over, even after the shots.

Lack of justice

- In 2009 and 2010, Medellín criminal courts convicted the murderer and another paramilitary in connection with Yarce's murder.
- The Office of the Attorney General did not investigate the role of the police.

Luis Miguel Gómez Porto

Community leader from the Montes de María region in the department of Sucre.

Documented human rights violations including extrajudicial killings and arbitrary detentions committed by security forces in the area.

Baseless imprisonment and assassination

In 2004, members of the military and police in the Montes de María region in the department of Sucre accused Gómez Porto of being a FARC member and he was detained for more than two years before being cleared of all charges by the appeals court in Sincelejo.

On 3 May 2007, he was shot dead by members of the military near the community of Desbarrancado. The involved soldiers claimed that he had been killed in combat and presented a gun, grenades, materials to make explosives and FARC leaflets which they claimed to have found on his body. It appears extremely likely that these items were placed to make him appear a guerrilla in accordance with a widespread *modus operandi* by the security forces. Members of his family and community testified that he had never carried weapons and was unarmed when they saw him shortly before his death.

Lack of justice

- The Attorney General's Office 37 in Medellín discontinued investigations on the basis of testimony from members of the military only.
- Testimony from members of Gómez Porto's family and community was not considered.

Miguel Ángel González Gutiérrez

Farmers' leader and member of the *Corporación Acción Humanitaria por la Convivencia y la Paz del Nordeste Antioqueño* (CAHUCOPANA) in Puerto Nuevo Ité.



photo: prensa rural

Five members of CAHUCOPANA have been assassinated between 2002 and 2008.

Assassination

In late January 2008, González Gutiérrez accused the army's Calibío Battalion of severe human rights abuses in the presence of members of the military at a council meeting in Puerto Nuevo Ité. After the meeting, the soldiers checked González Gutiérrez' ID card.

On 27 January, González Gutiérrez was killed by members of the Calibío Battalion near Puerto Nuevo Ité. They told his relatives that he had been a member of the guerrilla and was killed in combat.

Lack of justice

- After almost ten years, the Attorney General's Office Number Five of the National Human Rights Unit brought charges against low ranking soldiers in July 2017.
- No higher ranking member of the army has been investigated.

Alejandro Casamachín Fernández



photo: private

Leader of the Nasa indigenous community in the *Provincia del Norte* of the department of Cauca.

The community struggles to regain ancestral lands which have been converted into cane plantations.

Life-threatening attack by riot police

On 26 February 2015, Casamachín Fernández' community was trying to regain parts of their ancestral land in the Agustina community by cutting down cane. The anti-riot police ESMAD attacked them with machetes, gas grenades and firearms without trying to resolve the matter peacefully.

When Casamachín Fernández tried to protect a member of his community at whom an ESMAD member aimed with a gun, he was shot in the right leg. A second bullet was stopped by a bag he was carrying. Two other indigenous people suffered gunshot wounds and 50 were injured otherwise on that day and the previous and following days. Since then, five members of the Nasa community have been shot dead by ESMAD in similar circumstances.

Lack of justice

- The Attorney General's Office failed to investigate the attack by its own motion.
- Investigations only began upon complaint in early 2017. No one has been charged.

VIII. ECCHR and CCAJAR's work to end impunity in Colombia

The *Colectivo de Abogados José Alvear Restrepo* (CCAJAR) is a non-governmental human rights organization in Colombia. It defends and promotes human rights on the basis of their indivisibility and interdependence. CCAJAR aims to end impunity and to contribute to a just society based on political, economic and social inclusiveness and the full respect for the peoples' rights to sovereignty, self-determination, development and peace.

The European Center for Constitutional and Human Rights (ECCHR) is an independent, non-profit human rights organization based in Berlin in Germany that works through legal means to protect and enforce human rights. We work with those affected by human rights violations, their legal representatives and with human rights organizations all over the world. Where perpetrators and facilitators of large-scale human rights violations remain unpunished, we rely on instruments such as complaints to UN bodies, civil claims for damages, or criminal proceedings at national and international levels to help the survivors obtain justice.

For more than five decades, Colombia has suffered from widespread and severe political violence and under an armed conflict that particularly affects the civilian population. There is a real need to challenge the impunity often enjoyed by those responsible, especially by higher ranking officials. Impunity is also rife when it comes to the impact of transnational corporations' business practices in Colombia. The role of companies in human rights violations is

rarely investigated, let alone examined before a court.

CCAJAR and ECCHR have previously submitted joint communications on violence against trade unionists (October 2012 and July 2013) and on sexualized violence by security forces in Colombia (April 2015) to the Office of the Prosecutor of the International Criminal Court (ICC). We believe that the ICC has a crucial role to play to help Colombian society overcome fifty years of violence. The Colombian justice system is not yet at the point to comprehensively investigate the responsibility of perpetrators that are part of the state apparatus.

Challenging injustice through legal action

We use the law strategically to help bring about a world free from torture, repression and exploitation. We work to enforce human rights through legal means and support those who have suffered from serious rights violations as they seek justice.

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