



Submission by: Front Line Defenders – The International Foundation for the Protection of Human Rights Defenders (Front Line Defenders has Special Consultative Status with the Economic and Social Council of the United Nations).

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1. The following submission has been prepared by Front Line Defenders – the International Foundation for the Protection of Human Rights Defenders, based on research carried out by this organisation and information received from independent human rights defenders in Colombia.

2. Front Line Defenders (www.frontlinedefenders.org) is an international NGO based in Ireland with special consultative status with the Economic and Social Council of the United Nations. Front Line Defenders has particular expertise on the issue of security and protection of human rights defenders and works to promote the implementation of the UN Declaration on Human Rights Defenders adopted by General Assembly resolution 53/144 of 9 December 1998.

Introduction:

3. Human rights defenders (HRDs) in Colombia work in a continuously violent and unsafe environment, with the country reported to be one of the most dangerous states in the world for those individuals and organisations actively engaging in the defence of human rights. They are subjected to threats, intimidation, forced disappearances, physical assaults, surveillance, torture, killings, illegal searches on their homes and offices and stigmatisation as a result of their legitimate activities. The perpetrators of these human rights violations are frequently state security forces, paramilitary groups many of whom have links to the Government and/or security services, or armed opposition groups. The continued frequent and severe threats and attacks against human rights defenders around the country contradict government claims of paramilitary demobilisation.

4. HRDs at risk in Colombia come from a broad range of different backgrounds, including: trade unionists, indigenous leaders, afro-colombian leaders, activists working with internally displaced persons and on land issues, women's rights defenders, journalists, lawyers, students and youth activists, church workers, LGBTI and HIV activists.

5. Pursuant to the resolutions of the United Nations General Assembly and the Human Rights Council, the Special Rapporteur on Situation of Human Rights Defenders, Ms Margaret Sekaggya, conducted an official country visit to Colombia in September 2009 to evaluate the situation of human rights defenders in the country. In a report with her conclusions and recommendations to the Human Rights Council in March 2010 she acknowledged the positive efforts of the then Government to improve the situation for HRDs, notably through the implementation of the Protection Programme and a series of human rights policies, but concluded that much remained to be done to ensure a safe and conducive environment for defenders¹.

6. In 2011 *Programa Somos Defensores* (We are Defenders Programme) recorded a total of 239 individual attacks against HRDs². Written death threats (140), were the most reported form of

1 <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/116/15/PDF/G1011615.pdf?OpenElement>

2 <http://www.somosdefensores.org/attachments/article/105/REVISTA%20SOMOS%20INGLES.pdf>

attack, followed by assassinations (49), arbitrary detentions (23), physical attacks (17), forced disappearances (6), other attacks and injuries (3) and arbitrary use of the legal system (1). With an increase of 36% on the figures from 2010 (174), the report observes that in 2011 a human rights defender was assassinated every 8 days in Colombia. In the first six months of 2012 Programa Somos Defensores recorded 163 different attacks that put a human rights defender's life at risk or prevented them from carrying out their legitimate human rights activities. When compared to the same period in 2011 (January - June), when there were 145 cases, an increase of 12% has been recorded³. These figures indicate the worsening situation in the country despite the existence of mechanisms for the protection of HRDs. During this period 29 human rights defenders were murdered, with many being killed by hired assassins or illegal groups.

Political Environment That Stigmatises And Discredits Legitimate Human Rights Activities:

7. During President Álvaro Uribe Vélez's administration (2002 - 2010), stigmatisation of human rights defenders was common in both the private and public spheres. Since Juan Manuel Santos assumed the Presidency in August 2010 there has been a changed discourse in relation to human rights, most notably with the dismantling of the scandal-marred *Departamento Administrativo de Seguridad* – DAS (Administrative Department of Security). However, little has changed in terms of a secure environment for HRDs, with reports of continued systematic attacks. Furthermore, some high-ranking officials, including the President, have continued to make public statements aimed at suggesting links between human rights defenders and guerilla groups, or of accusing human rights groups of creating "false victims" in order to profit from state resources. Not only do these statements aim to discredit the role of human rights defenders and their legitimate and peaceful work in the promotion and protection of human rights, but they put those HRDs at greater risk.

8. In June 2011, HRD and journalist Mr Gonzalo Guillén was falsely accused by President Santos of having links with the Fuerzas Armadas Revolucionarias de Colombia - FARC (Revolutionary Armed Forces of Colombia). Gonzalo Guillén is an independent journalist, and has been long-involved in investigating and documenting crimes allegedly carried out by members of the Colombian armed forces. He has had to leave Colombia on a number of occasions for extended periods as a result of threats he has received.

In June 2011, Gonzalo Guillén presented a film documenting a military operation which culminated in the release of 15 FARC hostages in July 2008. The documentary reports that negotiations were allegedly held between the Colombian Government and two FARC Commanders, who were offered large sums of money in return for the release of 15 hostages. Following the screening of the film the Prosecutor General announced that she would begin investigations into the alleged financial operation orchestrated by then President Uribe.

The same day, Juan Manual Santos, who was Defence Minister at the time of the military operation, issued a public statement in response to the documentary, stating that those who accused the Colombian Government of paying large sums of money to members of the FARC in return for the release of hostages were "useful idiots" who were feeding into FARC propaganda. Following the Presidential statement, further comments were reported in the media from former Commanders of the Colombian Armed Forces, as well as former President Uribe, denying that any negotiation took place and accusing Gonzalo Guillén of trying to make a mockery of the military forces. Gonzalo Guillén subsequently received threats from persons who identified themselves as officers of the DAS.

9. In September 2011, human rights defender and journalist Ms Claudia Julieta Duque was informed of alleged plans within the military to carry out attacks against her. She has been the target of intimidation, harassment, threats and surveillance since 2001. On 22 August 2011 former President Uribe accused Claudia Julieta Duque and Mr Juan Forero, Andean region correspondent

3 http://www.somosdefensores.org/attachments/article/95/+20ALLA%20ENGLISH_web%20version.pdf

for the Washington Post, of being terrorist sympathizers and accomplices of leftist guerrillas. The baseless accusation followed the publication on 21 August 2011 of an article in the Washington Post, co-authored by the two journalists, that alleged that President Uribe may have been involved in illegal actions using the DAS with the help of the United States. Claudia Julieta Duque has previously denounced surveillance and persecution of human rights defenders, magistrates, journalists, and trade unionists perpetrated by a criminal division working from within the DAS.

Impunity And The States' Failure To Effectively Protect Human Rights Defenders:

10. According to the *Movimiento de Víctimas de Crímenes de Estado* - MOVICE (National Movement of Victims of State Crimes), despite the significant increase in attacks against HRDs, the Juan Manuel Santos administration has "failed to forcefully deal with this situation. The government has not prosecuted the direct perpetrators or intellectual authors of the crimes committed. Nor has it taken actions to dismantle paramilitary actors that continue to sponsor them"⁴.

11. In January 2012 the Victims and Land Restitution Law, which was signed in June 2011, came into effect in Colombia. The law seeks to provide reparations to those who have suffered human rights abuses in the armed conflict and to restore land to those whose land was seized by armed groups. The Anti-land Restitution Army claims to be a new armed group set up to fight what they believe to be unjust land restitution and to defend the interests of those who benefited from the land theft and displacement of farmers.

12. On 4 July 2012, thirteen human rights defenders received an email containing a death threat from a paramilitary group in which they were declared to be military targets. The email, purporting to be from the Anti-land Restitution Army stated: "Our army has clear instructions to get rid of these bastards who want to take the land away from the good citizens to give it to guerrillas like themselves. Be warned and take note of the fact that we have you fully identified, your schemes and also bastard guerrillas who with the excuse of being a human rights defender seeks by all manner of arbitrariness to strip the land from its rightful owners so that it ends up in the hands of a handful of guerrilla bastards".

13. On 18 April 2012, human rights defender and peasant leader, Hernán Henry Díaz was victim of a presumed enforced disappearance in the department of Putumayo, where he was leading a delegation of more than 200 farmers and indigenous communities from the town of Valle del Guamuez, Putumayo. The delegation subsequently participated in the protest march 'Marcha Patriótica' which took place in Bogotá on 21, 22 and 23 April 2012. Prior to his disappearance, Hernán Henry Díaz, who is the Vice-President of Asociación Campesina del Sur Oriente del Putumayo - ACSOMAYO (Farmer Association of Southeast of Putumayo), delegate of the Departmental Roundtable of Social Organisations in Putumayo, member of the Federación Nacional Sindical Unitaria Agropecuaria - FENSUAGRO (National United Trade Union of Agricultural Workers) and co-ordinator of Marcha Patriótica (Patriotic March), had travelled to Bogotá where he advised the national government of the risks facing farmers and indigenous communities who are members of social organisations in Putumayo.

14. Impunity remains high for cases of attacks against HRDs and in order for the Government to demonstrate genuine support for improved security and protection of those defending human rights, the authorities must increase their efforts to fight impunity. Human rights defenders are often doubly targeted, by State and non-state actors, and as such are operating under severe risk. Of the reported cases in 2011, 50% were allegedly committed by paramilitary groups, 17% by members of the security forces, 4% by the guerrilla and 29% by unidentified aggressors⁵. The level of impunity for attacks and threats against HRDs drew the attention of the United Nations' High Commissioner for Human Rights, who stated that "Most criminal investigations initiated by the Attorney General in

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<http://www.movimientodevictimas.org/images/archivos2/Revictimization%20of%20Victims%20of%20State%20Crimes-%20The%20Aggressions%20Continue.pdf>

5 http://www.somosdefensores.org/attachments/article/95/+20ALLA%20ENGLISH_web%20version.pdf

cases where the victims were human rights defenders have had limited results. Furthermore, the Procurator General's Office (Inspector General) has not obtained visible results in its disciplinary investigations, despite public commitments to make progress. Serious and urgent efforts are needed to clarify these cases and establish responsibilities.⁶

Criminalisation Of Human Rights Defenders

15. Unfounded criminal prosecutions and arbitrary detentions continue to be used against human rights defenders in Colombia as a means to silencing dissenting voices. These are based largely on military intelligence reports and testimonies by demobilised paramilitaries or ex-combatants receiving economic, or other, benefits from the State. Under the Justice and Peace Law (JPL) 975 of 2005, former paramilitaries can get reduced prison sentences in exchange for full confessions regarding their participation in paramilitary actions.

16. David Rabelo Crespo, secretary of the Board of Directors of the Corporación Regional para la Defensa de los Derechos Humanos – CREDHOS (Regional Corporation for the Defence of Human Rights), is currently being held on charges of conspiracy to commit a crime and aggravated murder. The charges have been brought about as a result of accusations that have been made against him by a member of the paramilitary group Autodefensas Unidas de Santander y Cesar-AUSAC, Mario Jaimes Mejía. It is believed that Mr Mejía is bringing these charges in an attempt to reduce his own sentence under the JPL. At the time of submission of this report, and two years after his arrest David Rabelo Crespo still awaits a final verdict in the trial against him.

17. Principe Gabriel González, is a prominent student activist and, as a Regional Coordinator for the Political Prisoners Solidarity Committee, he worked to expose ill-treatment of Colombian political prisoners. His advocacy led to his own arrest in 2006 when he was detained on unsubstantiated charges of rebellion and association with FARC guerillas. A trial court acquitted him of all charges and went so far as to say the prosecution should never have brought them in the first place. Nevertheless, the prosecution appealed the court's decision to the Superior Tribunal of Bucaramanga which in March 2009 overturned the acquittal and sentenced González to seven years imprisonment. He was re-arrested in August when the Supreme Court declined to hear his case on jurisdictional grounds.

Vulnerable Groups

18. Trade unionists, women human rights defenders, journalists, social and community leaders and their families, indigenous and afro-descendent rights defenders, and those who lead processes of land restitution are amongst the groups who reported high numbers of attacks. Bogotá recorded the highest number of reported attacks in 2011 (35), followed by Cauca (33), Valle del Cauca (29), Antioquia (23), Caquetá (16), Sucre (13), Atlántico (12), Risaralda (12), Nariño (11), Santander (10) and Meta (9)⁷.

19. In March 2012, WHRD Rosa Amelia Hernández, head of Organización de Afrodescendientes o comunidades negras desplazadas y víctimas de la violencia del Municipio de Planeta Rica – Odeprivicor (Organisation of displaced afro-descendants and black communities and victims of violence in the Municipality of Planeta Rica), received a call telling her that if she participated in the demonstrations to mark the National and International Day of Victims of State Crimes she would face consequences. In the days following the march, Rosa Amelia Hernandez heard on two separate occasions that paramilitaries from Piñalito, a district of the Monteria municipality, were planning to kidnap her.

Protection Mechanisms:

20. The National Protection Programme for Human Rights Defenders, coordinated by the Ministry of Interior and Justice and which had been in place since 1997, was replaced with the new

6 <http://www2.ohchr.org/english/bodies/hrcouncil/docs/16session/A-HRC-16-22.pdf>

7 <http://www.somosdefensores.org/attachments/article/105/REVISTA%20SOMOS%20INGLES.pdf>

National Protection Unit (UNP) in December 2011. One of the serious concerns, which has passed over into the new unit, is that the outcome of the risk studies undertaken by the *Comité de Evaluación de Riesgo y Recomendación de Medidas* – CERREM (Risk Evaluation and Recommendation of Measures Committee), which decides on the protective measures to be adopted according to levels of risk determined by studies conducted by the UNP officials (some of whom are former members of DAS) and private contractors, has reportedly failed to match, in several instances, the real situation of vulnerability faced by the person requesting protection. MOVICE have documented serious failings in the UNP operations, noting that out of ten applications filed for MOVICE members in 2012, protection measures have only been approved for two persons; several applications have been denied, in spite of the high level of risk. In some cases, the UNP has failed to meet the excessively long deadlines established to evaluate an application and implement protection measures – 73 business days⁸. Following the discovery in 2009 that the Colombian State had been systematically carrying out illegal intelligence against HRDs, including through personnel and security measures provided through the Protection Programme, a state of mistrust was created in the system and since 2011 several HRDs and organisations have returned their State provided protection mechanisms, out of fear that information gained can be used against them.

21. Front Line Defenders calls upon the UN to urge the Colombian authorities to prioritise the protection of human rights defenders and in doing so to:

1. Take urgent measures to ensure the complete dismantling of paramilitary structures, and prosecution of their funders or sponsors, as a means to bringing an end to extra-judicial killings, enforced disappearances, as well as other forms of attacks, of human rights defenders;
2. The Attorney-General's Office (*Fiscalía*) should carry out immediate, thorough and impartial investigations into all reported cases of attacks against human rights defenders, with a view to publishing the results and bringing those responsible to justice in accordance with international standards;
3. Cease the criminalisation of human rights defenders, and in so doing ensure the immediate revision of all standing criminal investigations against HRDs and close those cases where accusations are unfounded, and immediately release all HRDs who are being unjustly detained;
4. Take measures to strengthen and broaden State institutions working in the protection of human rights defenders, and promptly provide human rights defenders at risk with adequate protective measures tailored to their individual security needs with the aim of preventing future attacks;
5. Urge the National Protection Unit (UNP) to amend its risk evaluation framework to more realistically reflect the dangers facing individual defenders when considering protection measures. Such an amendment would be consistent with the requirements of the UN Human Rights Defenders Declaration to provide adequate protection for defenders.
6. Take measures to ensure that government officials or other public officials, especially senior government members, refrain from making public statements or declarations stigmatising the legitimate work of human rights defenders and that can give the impression that they condone illegal acts of violence against them;

7. Fully implement the adopted UPR recommendations on human rights defenders in a transparent and participatory manner with full involvement of human rights defenders at all levels.