

Statement on: the importance of the work of human rights lawyers and the Inter American System to the rule of law and Democracy.

Human rights defenders are essential to the creation of any strong and inclusive democracy, they are key to monitoring reporting and promoting human rights. They have a substantial role in the strengthening of peace through dialogue and justice through non-violent and legal means. (Report of the UN Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya for the Human Rights Council, 20 December 2010)

Colombia is a country which experiences an ongoing internal conflict with extremely high levels of human rights violations and of impunity for these crimes; this currently stands at around 98 per cent. For the effective functioning of the rule of law these levels of impunity have to be tackled.

Essential to any democracy is an effectual Justice System. In countries where the rule of law and democracy are weak adherence to and maintenance of the separation of powers – executive, judiciary, and legislature –along with the consistent support and promotion of the independence of the judiciary on the part of the executive is essential to the rule of law and the development of a strong judicial system.

The regional Inter-American System has been a leader in demonstrating how effectively it can also be in supporting access to justice for the victims and encouraging the effective functioning of rule of law in countries where the national system is weak.

Lawyers are also essential to the functioning of national and regional justice systems. Human rights lawyers and defenders find themselves in a highly vulnerable situation in Colombia as they seek to uphold human rights and provide access to justice. The first six months of 2011 saw 129% increase in attacks against them compared to 2010. Therefore recent public statements publically attacking the internationally respected group of lawyers of Jose Alvear Restrepo – CCAJAR and the Inter-American System by officials at the highest levels of the Colombian government can only serve to weaken the rule of law in Colombia, as they place not only CCAJAR, but all human rights lawyers and defenders in an even more vulnerable position.

The current controversy arose when the Office of the Attorney General (*Fiscalía General de la Nación*) declared that a victim had lied about the killing of her husband and sons in the massacre of Mapiripan and fraudulently benefited from monetary compensation paid by the Colombian State. This was the result of a ruling by the Inter-American Court of Human Rights (IACHR), based on evidence verified and presented by the Colombia's Office of the Attorney General, that included her as one of several victims of the massacre of Mapiripan, which the State recognise, as it did in the special hearing at the IACHR, on November 23, 2011.

It is important in a country in conflict to maintain and recognise the independence of lawyers within the justice system. Something the Inter-American Commission of Human Rights reiterated, in a public press release (October 2011) "...it is the obligation of the State to investigate the crimes and determine who are the victims of such crimes; leaving to lawyers only the job of representing those who have been declared and recognised as victims by the State..."

The public attacks on CCAJAR have not respected these principles or that of *presumption of innocence* which is disturbing, not least because of the dangers that these lawyers face in bringing to justice these crimes. They have, however, courageously continued their work despite the threats, and attacks.

The UN Declaration on the Basic Principles on the Role of Lawyers states that "Governments shall ensure that lawyers are ...able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; ...shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics"... (Articles 17/18)

ABColombia remains very concerned about the possible consequences of these public statements on the work of CCAJAR, as well as on their personal and physical integrity, and the Inter-American System; and is also profoundly concerned by the resulting negative impact on the integrity of the victims of human rights violations and violations of International Humanitarian Law. Colombia is at a crucial and complex point in its history where for the first time there has been public recognition of the victims by the State contained within Victims Law 1448. This recognition has been put in jeopardy at a time when the Colombian public were just beginning to gain an insight into the hidden plight of victims that had befallen a large part of Colombian civil society over recent decades. If the Victims Law is to be justly and fully implemented then Colombian society and the international community will need to fully support justice for the victims and to continue to recognise their legitimate claims after years of being seen as the enemy by one side or another in this violent conflict.