

Lawyers' Rights Watch Canada

NGO in Special Consultative Status with the Economic and Social Council of the United Nations
Promoting human rights by protecting those who defend them

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Monday, September 8, 2014

Juan Manuel Santos,
President of Colombia
Palacio de Nariño
Carrera 8 No.7-26
Bogotá, Colombia
Fax: 011 57 1 596 0631

Dear President Santos;

Re: Safety of lawyer Arturo Portilla Lizarazo

I am writing on behalf of the Canadian delegates to the recent Fourth International Caravana of Jurists to Colombia and Lawyers Rights Watch Canada. During the 2014 Caravana last week, a group of delegates met with the Asociación de Abogados Laboralistas (Colombian Association of Labour Lawyers). The international delegates were extremely concerned to hear about a series of death threats issued to one of the Association's members, **ARTURO PORTILLA LIZARAZO**, a senior human rights and labour lawyer who resides in Bogota. At their meeting with Mr. Portilla and other Association members, the delegates asked him to forward a copy of the death threat as well as the denuncia penal that was filed with the Fiscalía General de la Nación (Fecha Radicado 2014-08-26 -8 49 21), and copied to the Defensoría del Pueblo (Ombudsman) and Procuraduría General de la Nación.

Mr. Portilla is currently representing several trade unions, including: the flower workers in the city of Facatativa; the union Sintraproaceites, seccional San Albero y Sabana de Torres; as well as domestic service workers in the project being developed by Sintramagra. He is also involved in legal proceedings against the company Drummond Ltd., and various flower and clothing companies. He has been legal advisor to various agricultural unions and he is a labour human rights lawyer.

Some historical context for the recent threats is relevant. In 2009, Mr. Portilla received death threats in the form of pamphlets and letters, which were brought to the Fiscalía's attention. This serious complaint was ultimately archived and did not result either in legal proceedings to hold perpetrators accountable or in measures to protect the victim and prevent reoccurrence. Lawyers Rights Watch Canada The Colombia Caravana Group is very concerned that Mr. Portilla is once again the subject of this criminal conduct as a result of the legitimate exercise of his profession as a labour human rights lawyer.

The most recent threats began in the first few days of May 2014 when Mr. Portilla received an email under the name "Elver Galinda") from the email address elvergalindacoronel@gmail.com, that said:

"Sabemos que usted es un buitres y por eso le vamos a aplicar la ley antiterrorista para que mida sus palabras lesivas contra nuestra gestion"¹.

¹ Translation: We know you are a vulture and as a result, we are going to apply the anti-terrorist law to you so that you mind your harmful words against our affairs.

A similar threat was sent by email on 16 June 2014. On 7 July 2014, the day of his birthday, Mr. Portilla received another email advising him to look after himself because there would be an attempt on his life. The most recent threat took place on 19 August 2014, when he received an email with the same content quoted above. Lawyers Rights Watch Canada is extremely concerned to learn that Mr. Portilla has also been spied on and followed in various places from his residence to places of work and that his telephones and emails have been illegally intercepted without judicial order. These threats and the ongoing harassment and illegal surveillance constitute serious attacks on the life, liberty and personal integrity of Mr. Portilla and his family. They are also a serious interference with and impediment to Mr. Portilla's free exercise of his profession and duties as a lawyer.

We remind the State of its fundamental obligations to protect and guarantee the rights of lawyers to exercise their vital duties as lawyers who ensure that their clients are able to access justice. The protection of Mr. Portilla's life and his practice as a lawyer is fundamental to the proper administration of justice and the rule of law in Colombia.

As a member of the United Nations and of the Organization of American States, Colombia has obligations to ensure the equal enjoyment by all people within its territory of the personal and advocacy rights protected by the *Universal Declaration of Human Rights* (UDHR) and the *International Covenant on Civil and Political Rights* (ICCPR)² the *American Declaration on the Rights and Duties of Man* and the *American Convention on Human Rights* (ACHR). Discharge of these obligations entails ensuring for all, the right to legal representation guaranteed by the ICCPR and ACHR as part of rights to due process and equality. It is widely accepted that in order to ensure the right to legal representation, states must adopt and maintain effective measures to ensure the safety and independence of lawyers and the freedom of lawyers to engage in advocacy without reprisals. The United Nations *Basic Principles on the Role of Lawyers* (Basic Principles)³ describe specific State duties that are widely accepted as necessary to ensuring the right to representation through ensuring the independence and safety of lawyers and protecting lawyers from interference by State and other actors.

Lawyers Rights Watch Canada draws attention to Articles 16(a) and (c) and Articles 17 and 18 of the UN Basic Principles on the Role of Lawyers (1990), and to the State's obligations under the UN Declaration on Human Rights Defenders, Article 12. The Inter-American Court of Human Rights and other international human rights bodies have clearly established the obligation of States to act with due diligence and in mandating States to prevent, punish and provide effective remedies for threats and acts of violence and attacks on the rights to life and personal integrity of its citizens, whether those acts are committed by State or non-State actors.

Lawyers Rights Watch Canada further calls upon the State to:

- ensure that the Fiscalía and relevant state entities act with immediate dispatch further to Mr. Portilla's criminal complaint and carry out a complete, impartial and effective investigation, with the objective of identifying and holding accountable those responsible for these threats against and illegal surveillance of Mr. Portilla
- provide immediate and adequate protection to Mr. Portilla and his family, in accordance with his wishes

² The ICCPR was signed by Iran on 4 April 1968 and ratified on 24 June 1975

³ Adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990.

- ensure that Mr. Portilla and other labour lawyers are able to carry out the legitimate and essential duties of their profession without fear of intimidation, harassment and attack on their lives and personal integrity

It is essential that this case should not join the ranks of so many cases that are archived without resolution and contribute to continuing impunity. Lawyers Rights Watch Canada and the delegates of the Caravana will monitor this case closely. We look forward to receiving an update concerning the State's actions and progress in protecting Mr. Portilla, investigating these facts, determining the authors of these crimes, and bringing the perpetrators to justice.

Sincerely,



Heather D. Neun, Barrister and Solicitor
LRWC Colombia Monitor

Copied to:

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Lawyers for Lawyers

Asociación de Abogados Laboralistas de Trabajadores