

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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Friday, July 03, 2015

Juan Manuel Santos Calderón
President of the Republic of Colombia Carrera
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Palacio de Nariño Bogotá
Colombia

Dear President Santos:

Threats against Colombian Lawyer Andrea Torres Bautista (La Combinada Matter)

Lawyers Rights Watch Canada (LRWC) is deeply concerned at recent reports of threats of violence against human rights lawyer, Andrea Torres Bautista, as well as the threats and violence against those she represents. We believe these threats are related to her efforts to seek justice for the relatives of the victims of enforced disappearances.

Ms. Bautista is a lawyer for the human rights organization Fundación Nydia Erika Bautista (FNEB), which represents relatives of victims of enforced disappearances. She is currently representing the relatives of James Holguín, who together with four other men, was forcibly disappeared by paramilitaries operating in collusion with the police in Monterrey Municipality, Casanare Department, on 16 August 2003. On 20 June 2015, Mr. Holguín's son, Jhon Alexander Holguín Ramírez, was stabbed with a knife and had to be taken to hospital in Tuluá Municipality, Casanare. Jhon Alexander's mother, Jacqueline Ramírez, a witness to the enforced disappearances collectively known as La Combinada case, has received repeated death threats in the context of the ongoing court proceedings.

On 23 June 2015, a day before receiving the threatening telephone call, Andrea Torres Bautista had phoned the Court in Yopal to request that the judge presiding over La Combinada case recuse himself from this and other enforced disappearance cases. In May 2015, a court in Yopal issued a sentence removing the judge from his post and sentencing him to 66 months in prison for “perverting the course of justice” in a case related to enforced disappearances. Court hearings relating to enforced disappearance cases, which would be presided over by this judge, are scheduled for 13 and 30 July.

On 24 June 2015, Ms. Bautista received a threatening phone call, during which a man told her “[...] didn't you understand that you should stop annoying us, we are going to kill you, but first we will rape you so that you respect men...”

[...] no entendió que deje de joder, le vamos a pegar una matada [...] pero primero le pegamos una violada pa' que respete a los hombres.

Instruments imposing and confirming the legal duties of states to ensure that lawyers are able to perform their professional functions without intimidation or improper interference, include the *International Convention on Civil and Political Rights* (ICCPR), *American Convention on Human Rights* (ACHR), *UN Basic Principles on the Role of Lawyers*¹ (Basic Principles), *Geneva Declaration on Upholding the Rule of Law and the Role of Judges and Lawyers in Times of Crisis*² (Geneva Declaration) and the UN Declaration on Human Rights Defenders (adopted by the UN General Assembly on March 8th, 1999).³

LRWC reminds the Colombian State of duties confirmed by Articles 8, 16 17 and 18 of the Basic Principles⁴ and Article 12 of the UN Declaration on Human Rights.⁵

¹ OHCHR, *Basic Principles on the Role of Lawyers*, Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, 1990, U.N. Doc. A/CONF.144/28/Rev.1, available at: <http://www2.ohchr.org/english/law/lawyers.htm> [*Basic Principles*].

² The International Commission of Jurists, *Geneva Declaration on Upholding the Rule of Law and the Role of Judges and Lawyers in Times of Crisis* Geneva Declaration is an instrument adopted by the World Congress of that influential international body of jurists which is dedicated to ensuring respect for international human rights standards through the law. Information about the International Commission of Jurists available at: <http://www.icj.org/>.

³ Which states at Article 12 that:

1. Everyone has the right, individually and in association with others, to participate in peaceful activities against violations of human rights and fundamental freedoms.
2. The State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration.
3. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

⁴ See Principles 8, 16(a) and (c), 17 and 18 of the UN Basic Principles on the Role of Lawyers (1990)
16. Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; ... and (c) 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.
17. Where the security of lawyers is threatened as a result of discharging their functions, they shall be adequately safeguarded by the authorities.
18. Lawyers shall not be identified with their clients or their clients' causes as a result of discharging their functions.

⁵ Article 12 states that:

4. Everyone has the right, individually and in association with others, to participate in peaceful activities against violations of human rights and fundamental freedoms.
5. The State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration.
6. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

LRWC respectfully urges the Colombian State authorities to:

- Act swiftly to determine and provide measures that will guarantee the safety of Ms. Bautista, as well as the other relatives and witnesses of the La Combinada case. As dictated by Inter-American human rights law, these measures should be determined in consultation with the wishes of the beneficiaries.
- Order full and impartial investigations into the aforementioned threats and the attack, and take all necessary measures to ensure that criminal investigations into enforced disappearance cases are carried out, that the results are made public and all those involved are brought to justice.
- Recognize the competence of the Committee on Enforced Disappearances to receive and consider communications on this and other cases from or on behalf of victims or other states parties to the International Convention for the Protection of All Persons from Enforced Disappearance.

We look forward to receiving your reply in relation to this matter at an early date.

Yours sincerely,



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