

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:

Protections for Colombian Lawyer Sofia Lopez Mera

I write on behalf of Lawyers Rights Watch Canada (LRWC). I am LRWC's Colombia Monitor and I also participated in the 2012 and 2014 International Caravana of Jurists to Colombia. We are deeply concerned about the fact that a Bogotá-based prosecutor recently took steps to close the investigation of the 2013 complaint of assault and attempted abduction of Colombian lawyer Sofia Lopez Mera. We are advised that the decision to close Ms. Lopez' file was adopted by the Sixth Specialised Public Prosecutor of Bogotá, Germán Arias Cortes.

Ms. Lopez is a human rights lawyer from the city of Popayán, Cauca, and is the founder of the Justice and Dignity Corporation of Colombia. I met Ms. Lopez in 2014, and have closely followed the extremely concerning events in her case. We are aware of the events that took place on 19 April 2013, when Ms. Lopez was assaulted, allegedly by members of the police force who were without uniform and identification. The reports are that Ms. Lopez was forced in to a taxi by these individuals and she was not told the destination of the vehicle. We are advised that this act of attempted abduction was ordered by the Fifth Specialised Prosecutor of Popayán, Martha Liliana Realpe Ceron, and the order was executed by members of the Judicial Police, SIJIN, namely Carlos Andres Lozano and Ivan Moreno Cruz, who work for the aforementioned prosecutor's office.

Given the grave insecurity that she faced, Ms. Lopez was forced to leave Popayán. We understand that Ms. Lopez has thus far not been provided with security measures as part of the investigation process. Our information is that the investigation to date has been largely ineffective, involving interviews of police members who were not party to the assault and abduction, as opposed to interviewing those who were direct witnesses to the incident.

We understand that Ms. Lopez is the beneficiary of precautionary measures granted by the Inter-American Commission on Human Rights (IACHR) to the members of the

Justice and Dignity Corporation¹. However, it appears that the IACtHR's order is not being implemented by the Colombian authorities, especially in light of the investigative approach taken by Colombian authorities. Investigation is clearly the most important and effective component of protection. Moreover, the Colombia State's failure to implement protective measures and to provide protective measures based on consultation with the beneficiary of such measures is contrary to the clear Inter-American human rights system jurisprudence.²

Colombia is legally obligated by international human rights instruments to take all measures necessary to ensure both effective protection for lawyers, accountability for perpetrators and accountability for perpetrators of attacks on lawyers. Instruments imposing and confirming these legal duties include the *International Convention on Civil and Political Rights* (ICCPR), *American Convention on Human Rights* (ACHR), *UN Basic Principles on the Role of Lawyers*³ (Basic Principles), *Geneva Declaration on Upholding the Rule of Law and the Role of Judges and Lawyers in Times of Crisis*⁴ (Geneva Declaration) and the UN Declaration on Human Rights Defenders (adopted by the UN General Assembly on March 8th, 1999).⁵

As a state party to the ICCPR and the ACHR, Colombia has a legal duty to ensure the right to life of all persons and take measures to effectively prevent and punish violations. The duty to specifically protect the lives and the personal and professional safety of lawyers is integral to Colombia's duty under the ICCPR to ensure that all persons have effective access to legal services to determine and protect rights and secure remedies for violations.

In the case of Sofia Lopez Mera, Colombia has breached its legal duties to take reasonable steps to prevent attacks by failing to: (a) adopt effective measures to protect the life and security of Sofia Lopez Mera; and (b) ensure accountability through

¹ IACHR/CIDH: MC359/10, issued 28 June 2011.

² Comisión Interamericana de Derechos Humanos (CIDH/IACHR), *Verdad, justicia y reparación: Cuarto informe sobre la situación de derechos humanos en Colombia*, OEA/Ser.L/V/II. Doc.49/13, 31 dic 2013, para. 175.

³ 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*].

⁴ 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/>.

⁵ 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.

investigation and prosecutions. The United Nations Human Rights Committee, in a case involving a lawyer in Colombia, concluded that the Colombian State's failure to investigate reported threats and to determine through investigation, who was responsible for the attack, was itself a violation of the State's obligation to protect the victim's right to life, pursuant to Article 6(1) of the *ICCPR*.⁶

The Basic Principles, which elaborate the duty of states to effectively protect the safety of lawyers, direct states to ensure that, "where the security of lawyers is threatened as a result of discharging their functions, they shall be adequately safeguarded by the authorities".

The Geneva Declaration is especially salient for Colombia in establishing under Principle 7, "enhanced responsibilities" for states to safeguard the security of lawyers and to provide: "all necessary measures to ensure the protection by the competent authorities of lawyers against any violence, threats, retaliation... as a consequence of their professional functions or legitimate exercises of human rights".⁷

The Colombian State has breached these international standards and affirmative duties through its failure to take effective steps towards the investigation and prosecution of the assault and attempted abduction of Sofia Lopez Mera.

In summary we respectfully request that:

- a prompt, thorough and impartial investigation into the assault and attempted abduction of Ms. Lopez to be carried out, with the further objective of bringing to justice those involved from the Fifth Specialised Prosecutors office of Popayán,

⁶ UN Human Rights Committee, *Communication No 859/1999: Colombia*, 15 April 2002, CCPR/C/74/D/859/1999 (Jurisprudence), at § 7.3 available at : <http://www.unhchr.ch/tbs/doc.nsf/0/b8708c80eebeec9ec1256c1b004c520f?OpenDocument>: "*With regard to the author's claim that article 6, paragraph 1, was violated insofar as the very fact that an attempt was made on his life is a violation of the right to life and the right not to be arbitrarily deprived of life, the Committee points out that article 6 of the Covenant implies an obligation on the part of the State party to protect the right to life of every person within its territory and under its jurisdiction. In the case in question, the State party has not denied the author's claims that the threats and harassment which led to an attempt on his life were carried out by agents of the State, nor has it investigated who was responsible. In the light of the circumstances of the case, the Committee considers that there has been a violation of article 6, paragraph 1, of the Covenant*". (emphasis added)

⁷ The full script of Principle 7 of the *Geneva Declaration* reads: *Since the protection of human rights may be precarious in times of crisis, lawyers should assume enhanced responsibilities both in protecting the rights of their clients and in promoting the cause of justice and the defence of human rights. All branches of government must take all necessary measures to ensure the protection by the competent authorities of lawyers against any violence, threats, retaliation, de facto or de jure discrimination, pressure or any other arbitrary action as a consequence of their professional functions or legitimate exercise of human rights. In particular, lawyers must not be identified with their clients or clients' causes as a result of discharging their functions. The authorities must desist from and protect against all such adverse actions. Lawyers must never be subjected to criminal or civil sanctions or procedures which are abusive or discriminatory or which would impair their professional functions, including as a consequence of their association with disfavoured or unpopular causes or clients.* See also the UN Commission on Human Rights, *Independence and Impartiality of the judiciary, jurors and assessors and the independence of lawyers*, 19 April 2004, UN Doc. E/CN.4/RES/2004/33, which established the requirement that states must adopt effective measures, including legislation and enforcement to enable lawyers to perform their duties without harassment or intimidation.

Cauca;

- the adequacy of the protective measures afforded to Sofia Lopez be urgently reviewed, and that effective protective measures be provided to her in accordance with the IACHR's order in her favour.

We look forward to hearing from you as a matter of priority about the measures being taken to guarantee Ms. Lopez's security. In addition, we would like to be promptly informed of any progress with the investigation of those responsible for the aforementioned assault and attempted abduction of April 19, 2013. We are most concerned about her welfare.

We look forward to receiving your reply in relation to these matters at an early date.

Yours sincerely,



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