

International Delegation of Jurists to Colombia August 20-28, 2016: Interim Report

by Heather Neun

After many decades of war, the Colombian government and the main guerilla group known as the FARC reached a final and comprehensive peace agreement on August 24, 2016. This historic event coincided with the participation of five Canadian delegates in the Fifth International Caravana of Lawyers to Colombia from August 20 to 28. The peace agreement was formally signed by the parties in Cartagena on September 26. A national referendum scheduled for October 2 will determine whether implementation of the agreement proceeds.¹

The Canadian Caravana delegates were coordinated by Lawyers Rights Watch Canada (LRWC) and included a judge and four lawyers: Justice Brent Knazan of the Ontario High Court (Toronto); Jenny Reid (Stratford); Debbie Markovitz, Q.C. (Montreal); Melissa Tessler (Toronto); and Heather Neun (Vancouver). After assembling in Bogotá with the entire delegation of 57 lawyers from various countries on August 20, the delegates divided into regional groups and each Canadian delegate traveled to one of five different cities: Cali, Baranquilla, Medellín, Bucaramanga and Cúcuta. There were two additional delegations to the cities of Cartagena and Tumaco. Each regional delegation was hosted by lawyers' groups specializing in human rights, and they met with other human rights defenders (HRDs), victims of human rights violations, civil society organizations, local press, and public officials. The regional groups reconvened in Bogotá on August 24 for several days of debriefing and meetings with officials, including the U.N. High Commission on Human Rights in Colombia, members of the judiciary, national human rights and civil society groups, the Colombian national protection office and the presidential advisor on human rights. Delegates also met with their respective embassies; the Canadians met with Douglas Chalbourn and Candice Dandurand at the Canadian Embassy. Following the delegation's conclusion, Heather Neun traveled solo to meet with a women's lawyers' group known as the Luis Carlos Pérez Lawyers Collective (CCALCP) at their office in Bucaramanga. The CCALCP has a long history of persecution, logging 40 security incidents since its founding in 2001. All of the complaints filed as a result, remain in impunity.

While hopes for an enduring peace with justice run deep in Colombia, the delegates were struck by an overriding sense of pessimism or skepticism about prospects for challenging impunity and achieving an authentic peace. Concerns about structural challenges to the effective implementation of the peace agreement are widespread, and relate to the capacity and will of the Colombian State to fulfill agreements such as the dismantling of the paramilitary structures and the guarantee of political participation. The significance of threats to political participation was brought home to the delegates to Cúcuta as they learned on arrival about an assassination plot against human rights lawyer and former CCALCP member, Judith Maldonado. Judith participated in a recent race for governor of the department of North Santander, and her political challenge to the status quo is seen as a threat to established conservative interests in the region. This situation has to be viewed in the context of the historical fact that political parties that emerged from previous demobilization efforts in Colombia were systematically exterminated – the prime example being the Patriotic Union Party (Unión Patriótica), of which thousands of supporters were killed and many others went into hiding or exile. Other challenges include the issue of the remaining guerilla groups outside of the peace agreement, the ELN and the EPL, that did not participate in the negotiations. Questions and concerns have also been raised about the agreement's five mechanisms of transitional justice, including the Special Jurisdiction for Peace. The primary issues of concern relate to implementation and whether perpetrators of human rights violations will be given sanctions appropriate to the gravity of the crimes committed and whether the State demonstrates its willingness to do justice for the victims, in accordance with its international obligations. The international law expectation is that there must be no amnesties for grave violations of human rights and infractions of international humanitarian law.

¹ Since this report was written, the referendum took place on October 2 and the "No" vote on the question of support for the peace agreement won by a very small margin. Turnout was very low and among other factors, bad weather, may have played a role. Certainly, there was a great deal of inaccurate and fear-based messaging from the 'No' side at play. It is clear that the victims of the armed and general conflict voted "Yes", as did the regions most immersed in the conflict. Analysis of the outcome will be the focus of another report. However, the current situation and prospects for peace are uncertain, even though the parties to the agreement have expressed interest in reopening the negotiations.

The delegates were extremely concerned to learn about the high number of threats and attacks against HRDs in Colombia during 2016. Thirty-five HRDs were killed in the first six months of the year, and there were 313 individual attacks. In 68% of the cases, paramilitary groups were allegedly responsible, and the guerillas were alleged to be responsible for two cases. Since the peace agreement was reached, at least 16 leaders, activists or HRDs have been killed, including a human rights lawyer in Medellín on September 15. The potential for an even riskier and more threatening situation for HRDs and others in Colombia has been a worry for some time. The current situation confirms concerns expressed by Colombian lawyers that violence will increase with the actual implementation of the peace agreement. International monitoring and interventions are therefore essential.

A report will be issued within the next month or so and will address the current context and the human rights most relevant to a post-conflict situation: truth, justice, reparations and guarantees of non-repetition. The various country groups of the International Caravana hope to coordinate around actions in support of human rights lawyers and HRDs during this next critical phase. Canadian follow-up by members of the Caravana is also planned and LRWC will look for opportunities to coordinate with like-minded groups in Canada and internationally.