

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 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 2nd will determine whether implementation of the agreement proceeds.

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 further 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 such agreements 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 a credible assassination plot against human rights lawyer and former CCALCP member, Judith Maldonado. Judith participated in a recent political 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 Union Patriótica Party, of which an estimated 6,000 members were killed. Other challenges include the issue of the remaining guerilla groups outside of the peace agreement, the EPL and the ELN, who did not participate in the negotiations. Questions and concerns have also been raised concerning the agreement's five mechanisms of transitional justice, including the Special Jurisdiction for Peace. The primary issues relate to implementation in practice and whether those responsible for human rights violations will be given alternative sanctions that are serious, proportional to the gravity of the crimes committed and such that the State demonstrates its willingness to do justice for the victims, in accordance with its international obligations. The international expectation is that there must be no amnesties for grave violations of human rights and infractions of international humanitarian law.

The delegates were extremely concerned to learn about the high number of threats and attacks against HRDs in Colombia in 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 responsible for 2 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, and the post-agreement environment is confirming those concerns expressed by Colombian lawyers that violence will increase further 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 plan to coordinate around actions in support of human rights lawyers and defenders 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.