

External

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HUMAN RIGHTS DEFENDERS NETWORK ACTION
Misuse of the judicial system to persecute HRDs in
Colombia and Mexico

To: Human Rights Defenders Network (Americas)
From: Human Rights Defenders Program (Americas)

Amnesty International is seriously concerned that the judicial system in Colombia and Mexico is being misused to stigmatize and harass human rights defenders in order to prevent them from carrying out important human rights work. In Mexico, the weakness of the judiciary, particularly at state level, where the prosecution services are not adequately supervised by the judiciary or independent of the executive, means defenders can be easily falsely charged in order to hinder them from working on human rights issues. In Colombia, measures to combat illegal armed groups within the context of the internal conflict are also being misused to persecute and silence human rights activists.

Colombia

Amnesty International delegates have recently returned from a visit to Colombia where they found that a number of human rights defenders have been detained or face detention on spurious criminal charges. Amnesty International is concerned that criminal investigations of human rights defenders may be undertaken by the authorities in order to punish human rights defenders for their important work. Those under investigation or those already detained are frequently presented before the media as “subversive” or supporters of subversive groups. While defending themselves against these criminal charges human rights defenders are often unable to carry out their work in defence of human rights.

In August 2003, the existence of judicial investigations against several members of the Colombian non-governmental organization *Comisión Intereclesial de Justicia y Paz*, Inter-ecclesiastical Justice and Peace Commission was made public. They have been accused of “corruption” and “rebellion”. Justice and Peace is a well-respected non-governmental human rights organization which provides accompaniment to communities in Colombia and which also documents and files legal complaints about human rights violations in a number of regions in the country.

Amnesty International is concerned that the judicial investigation forms part of a strategy to discredit Justice and Peace in order to detract attention from judicial proceedings against military officers and units implicated in over 200 human rights violations in the departments of Choco and Antioquia. Justice and Peace is a party to the judicial proceedings in this case.

Between 1997 and 1998 joint operations carried out by the army's XVII Brigade and paramilitary groups in the departments of Chocó and Antioquia resulted in numerous human rights violations and the forced displacement of thousands of civilians. During this period the XVII Brigade was under the command of former general Rito Alejo del Río (commander between 11 December 1995 and 6 December 1997) and General Martín Orlando Carreño Sandoval (commander between 7 December 1997 until the end of 1998).

Judicial investigations into human rights violations committed by paramilitaries operating with members of the XVII Brigade have implicated former general Rito Alejo del Río. The legal case against Rito Alejo del Río was closed on 9 March 2004 despite strong prima facie evidence against. At least one witness was killed during the criminal investigations and several prosecutors were forced to leave the country.

On 21 August 2003 the *Centro de Operaciones Conjuntas de las Fuerzas Militares*, Centre for Armed Forces Joint Operations convened a press conference in Bogotá, chaired by the commander of the Armed Forces, General Jorge Enrique Moral Rangel. Statements made at the conference implied that Justice and Peace was supporting guerrilla organizations. The NGO was also accused of stealing government funds earmarked for the building of houses in the communities of Uraba.

The accusations raised at the press conference and the judicial investigation coincided with a Constitutional Court decision to allow Justice and Peace to participate in the judicial proceedings investigating into over 200 human rights violations committed by paramilitaries and the XVII Brigade in 1997 and 1998.

According to information received by Amnesty International there are a number of unacceptable irregularities in the proceedings initiated against Justice and Peace.

During the same press conference, the existence of various investigations against Justice and Peace became public. Members of the press were reportedly given judicial documents not in the public domain (*reserva del sumario*) from the case file on the accusations against the NGO. The existence of such investigations was confirmed by the authorities only after the intervention of the Inter-American Commission of Human Rights.

The lack of clarity on the existence of the investigations signifies that those accused are unable to prepare an adequate defence.

According to information received, some charges against the organisation may be based on unsubstantiated and fabricated testimonies.

Amnesty International is concerned that irregularities in due process represent an attempt to misuse the judicial system in order to discredit and therefore silence the work of Justice and Peace.

Mexico

Amnesty International has repeatedly highlighted the misuse of the judicial system in Mexico to silence or deter dissent or opposition through the use of fabricated or unfounded criminal charges. Such means have been used to harass human rights defenders Isidro Baldenegro López, 37, a *Tarahumara* (or *Rarámuri*) indigenous leader, and Hermenegildo Rivas Carrillo, 22, (also known as Domingo Rivas Carrillo) from the community of Coloradas de la Virgen in the municipality of Guadalupe y Calvo, Chihuahua State. They were arrested without warrant by members of the state judicial police (PJE, *policía judicial del estado*) on 29 March 2003 and are considered by Amnesty International to be Prisoners of Conscience.

On the basis of information received, Amnesty International believes that the men were arbitrarily detained and charged on the basis of fabricated evidence. According to the two men, members of their community and local human rights organizations, the motive for their detention is their role in the longstanding struggle by the *Rarámuri* indigenous community of Coloradas de la Virgen to protect their rights and stop the unregulated logging of forest lands.

Following their detention by state judicial police, Isidro Baldenegro and Hermenegildo Rivas were forced to pose holding weapons and were not immediately provided with legal assistance before being brought before a federal prosecutor.

According to reports, evidence provided in their ongoing trial by the arresting police has been shown to be contradictory and the police officer in charge of the operation that led to their detention has repeatedly failed to appear in court to substantiate his statement raising even

further doubts about the police evidence. Despite this, the *Procurduría General de la República*, PGR, Federal Attorney General's Office continues to press charges.

In the case of Isidro Baldenegro and Hermenegildo Rivas, while the state judicial police appear to be primarily responsible for their detention, fabrication of evidence and arraignment, it is the *Procurduría General de la República*, PGR, Federal Attorney General's Office that is responsible for continuing to seek their conviction on the basis of clearly unreliable evidence. The federal authorities are in a position to intervene to ensure that the charges are dropped and the men are released immediately and unconditionally. Beyond ensuring their immediate release, the authorities should also conduct a full investigation into how they came to be detained and charged in order that those responsible are appropriately disciplined and that the two men receive adequate reparations for the detention and prosecution. The federal authorities should also guarantee the protection of the two men and their families who may face reprisals for drawing national and international attention to the case and the environmental and indigenous issues of their community in Coloradas de la Virgen.

Furthermore, the authorities must take steps to implement effectively the United Nations *Declaration on the Right and Responsibility Of Individuals, Groups and Organs of Society to Promote And Protect Universally Recognized Human Rights and Fundamental Freedoms*, commonly known as the UN Declaration on Human Rights Defenders, to ensure that activists such as Isidro Baldenegro and Hermenegildo Rivas, who peacefully and legitimately campaign for the protection of their communities' rights are not threatened, harassed, imprisoned or subject to malicious prosecution, but rather are recognised and supported in their struggle.

TAKE ACTION!

EU and Latin American and Caribbean (LAC) heads of state met in Guadalajara, Mexico on 28 May 2004. The Irish government has indicated that the development of guidelines for the promotion and protection of the right to defend human rights is a priority during its presidency. The stated objectives for the summit were social cohesion and regional integration. The heads of state and government were to address the "extraordinary high level of social exclusion throughout the region" in an effort to "contribute greatly to the consolidation of democratic institutions and to sustainable economic development"¹.

Amnesty International welcomes point 7 of the Declaration de Guadalajara² and urges the governments of the EU, Latin-American and the Caribbean to fulfil these commitments by ensuring that human rights defenders can carry out their work without intimidation from the misuse of the judicial system. AI believes that the work of human rights defenders is intrinsic to the delivery of the EU's objectives of social cohesion and economic development. HRDs promote and protect human rights including the rights of women; fight discrimination; demand justice and combat impunity; defend the rights of victims in armed conflict; promote the rights of uprooted people; promote economic, social, and cultural rights; work to protect the environment; provide humanitarian aid, for just such fair and more inclusive societies that EU and LAC governments were discussing.

Human rights defenders face persistent and serious threats and dangers in Latin America and the Caribbean. Amnesty International has documented more killings of human rights

¹ "Commission sets objectives for the next EU-Latin America and Caribbean Summit", IP/04/475, Brussels, 07 April 2004

² "We are fully committed to provide coherent and effective support to those individuals, organisations or institutions, including human rights defenders, working for the promotion and protection of human rights, in accordance with international law and UN General Assembly Resolution 53/144 on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms"

defenders in this region over the last two decades than anywhere else in the world.³ The difficulties and dangers faced by human rights defenders in Latin America and the Caribbean, as illustrated in the cases above are so serious that concerted efforts are required at the regional and international level to address the issue.

It is therefore essential that the governments of the EU, Latin America and the Caribbean pay urgent attention to the security and rights of human rights defenders in the region as a critical step towards achieving social cohesion and economic development. HRDs are key partners in ensuring that the EU, Latin American and Caribbean governments can implement their stated objectives.

1. Please send appeals to your government's foreign relations/affairs department/ministry/office.

In their contacts with their Colombian and Mexican counterparts at the EU LAC summit and beyond, urge your government to:

- Express concern at the way the judicial system in Colombia and Mexico is misused to harass and threaten human rights defenders using the cases of Isidro Baldenegro and Hermenegildo Rivas and Justice and Peace to illustrate your point;
- Call on the governments of Latin America and the Caribbean to develop national plans of action to implement the UN Declaration on Human Rights Defenders as an important first step to ensure that human rights defenders are able to carry out their legitimate work without fear of arbitrary detention;

2. Please send appeals to the presidents of Colombia and Mexico:

- Express concern at the way the judicial system in Colombia and Mexico is misused to harass human rights defenders using the cases of Isidro Baldenegro and Hermenegildo Rivas and Justice and Peace to illustrate your point;

Mexico

- Calling for the immediate and unconditional release of Isidro Baldenegro and Hermenegildo Rivas;

Colombia

- Expressing concern that in the case of Justice and Peace, criminal charges may be used to punish and prevent HRDs from carrying out legitimate human rights work.
- Urge the authorities to ensure that any criminal investigation against members of Justice and Peace comply with domestic and international standards regarding due process, the right to an adequate defence and fair trial.

For further information about these cases and other issues concerning human rights defenders in the Americas please see:

Amnesty International Memorandum to the European Union and EU Member States: Addressing dangers and difficulties faced by human rights defenders in Latin America and Caribbean States, (AMR 01/005/2003), March 2003

"Essential actors of our time": Human rights defenders in the Americas, (AMR 01/009/2003), November 2003

³ See Amnesty International's report, *"Essential actors of our time": Human rights defenders in the Americas*, (AI Index: AMR 01/009/2003)

Mexico: Prisoners of Conscience: Indigenous environmental activists Isidro Baldenegro López and Hermenegildo Rivas Carrillo, (AMR 41/051/2003), 19 December 2003

Addresses:

President of Mexico

Lic. Vicente Fox Quesada
Presidente de los Estados Unidos de México
Residencia Oficial de “Los Pinos”
Col. San Miguel Chapultepec
México, D.F. MEXICO
Fax: +52 5 2 77 23 76
Salutation: Dear President

President of the Republic

Señor Presidente Álvaro Uribe Vélez
Presidente de la República
Palacio de Nariño
Carrera 8 No.7-26
Santafé de Bogotá, Colombia
Fax: + 57 1 342 0592 / 337 5890
Salutation: Dear President Uribe/ Excmo. Sr. Presidente Uribe

3. Media materials available on Human Rights Defenders:

There are various media materials available to assist with campaigning and press work for the promotion and protection of the right to defend human rights.

TV ads in Spanish

AI has elaborated a series of advertisements or “spots” for use across the region on international Spanish language TV stations to portray the legitimate work of human rights defenders.

If you are interested in placing the ads on national networks in your country, to raise awareness regarding the issue of defenders, please send details of costs and exposure/frequency of the ads and we will consider the various possibilities.

Proposals should be sent to the Americas Human Rights Defenders Team at defensoresamerica@amnesty.org

Radio

1. A radio spot in Portuguese has been produced and is available to air.
2. Two radio spots/interviews/testimonies in Spanish of human rights defenders have already been produced and made available to local and community radio stations in Latin America. The spots, called “*En Defensa de su Voz*”, “In Defence of your voice” (one 7 minutes, 40 seconds long and one 4 minutes long) are available on CD and can also be found on www.news.amnesty.org, the Amnesty International website, with information for journalists.
3. A third community radio program has been developed based on interviews with human rights defenders from the Americas. The program is divided into three sections: two segments of 6 minutes long and one section 13 minutes long. The program covers issues such as human rights defenders in the community, human rights defenders under

threat and campaigns to discredit human rights defenders and their work. Please contact defensoresamerica@amnesty.org if you know of radio stations that might be interested in airing the radio program.

Web

The above mentioned radio spots are also available as files that can be used publicly on your websites. The www.amnesty.org/defenders website will also have these available.