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Colombia: Efforts to discredit human rights lawyers' collective puts them at risk of attack

Recent statements by President Juan Manuel Santos and other senior state and government officials calling into question the integrity of the José Alvear Lawyers' Collective (CCAJAR), which represents victims of human rights violations, may put CCAJAR at risk of physical attack and undermines the work of all human right defenders, Amnesty International said today.

On 25 October, the Attorney General announced that she would investigate claims that some victims of the Mapiripán massacre, in which dozens of people were killed and forcibly disappeared by paramilitaries in collusion with the army in July 1997, had not died and that the families of these "false victims" had, nevertheless, claimed and received financial compensation from the state.

The investigation was opened following a statement by Mariela Contreras in which she revealed that her son, who had supposedly been killed in Mapiripán, was actually alive. Mariela Contreras, who was represented by CCAJAR, which also acted as the legal representative for other victims of Mapiripán, received compensation from the state for the death of her son.

Following these allegations, the Procurator General accused CCAJAR of acting like a "criminal gang", while President Juan Manuel Santos reportedly said: "There are shadowy economic interests using this system making a mockery of it in order to profit from state resources... What we cannot imagine is that they should have recommended people who were not victims to lie and pass themselves off as such. What greater act of corruption can there be." In other statements President Santos also called into question the work of the Inter-American human rights system.

CCAJAR, like many other human rights groups in Colombia, has over the years been the victim of illegal surveillance, wire-tapping, harassment, death threats and even killings, because of its work in seeking justice for the victims of human rights abuses and violations.

Comments by senior government and state officials which seek to discredit their work only serve to legitimize possible further attacks against them, and run counter to obligations assumed by the state not to make statements which could put them at further risk.

In 2005 the Inter-American Court of Human Rights (IACtHR) ruled that the Colombian state had been responsible for the Mapiripán massacre, committed by paramilitaries working in collaboration with the army, and ordered the state to pay compensation to the victims. The Colombian state formally accepted responsibility for the massacre in March 2005.

In 2009, retired General Jaime Humberto Uscátegui Ramírez, who at the time of the massacre was commander of the VII Brigade of the army, was sentenced to 40 years in prison for his role in the killings. His sentence was subsequently reduced to 37 years on appeal.

Victims of human rights violations in Colombia seeking justice are forced to resort to international mechanisms such as the IACtHR because of the systematic and long-standing failure of the Colombian state to ensure that those responsible are held to account.

The actual number of victims of the massacre has never been determined, although the IACtHR concluded there were at least 49 victims, a figure accepted by the Colombian state. What is not in doubt is that dozens of people were killed in Mapiripán by paramilitaries acting in collusion with the security forces. In fact, the IACtHR's ruling was based primarily on the criminal investigation carried out at the time by the Office of the Attorney General.

In its 2005 ruling, the IACtHR drew attention to the fact that the criminal investigations into the massacre had been hindered by the failure to adequately protect the scene of the crime, by the securing of jurisdiction of the case by the military justice system and through attempts by the army to cover up the facts. The IACtHR also ordered the Colombian state to confirm the identities of all the victims, an obligation that is yet to be fully complied with.

The Colombian authorities, in seeking to blame CCAJAR for Mariela Contreras' false testimony, have ignored the fact that her evidence was endorsed by the Office of the Attorney General, and not by CCAJAR. It is not the responsibility of human rights organizations to investigate the victims. If fraud is suspected, it is the relevant judicial authorities that must investigate.

The Office of the UN High Commissioner for Human Rights and the Inter-American Commission on Human Rights have both expressed concern about recent events, pointing out that it is the responsibility of the state to investigate, prosecute and punish any reprehensible conduct on the part of people who may have given untrue statements. They also noted that the fact that fraud may have been committed does not cast doubt on the legitimate work of the bodies within the inter-American system or the right of victims and their legal representatives to make use of international mechanisms whose jurisdiction Colombia has accepted.

Amnesty International is concerned that the recent accusations levelled against CCAJAR are part of a campaign to discredit its work and that of other human rights organizations which have tirelessly campaigned against impunity for members of the security forces implicated in human rights violations. The authorities were reportedly aware that Mariela Contreras' testimony was false as far back as 2008, but the information has only now become public.

This latest effort to discredit CCAJAR comes at a time when the military high command and some senior politicians, including former president Álvaro Uribe, are calling for the convictions of military officers, including Uscátegui's, to be reviewed and overturned. President Santos and the Commander-in-Chief of the Armed Forces recently criticized several such convictions as unjust.

Concerns about the conviction of members of the security forces may also lie behind a campaign to broaden the scope of military jurisdiction to ensure that the military courts, rather than the civilian justice system as is currently the case, determine whether a human rights violation has allegedly been committed by a member of the security forces. The Colombian Congress is currently debating a change to the 1991 Constitution to this effect.

Military courts in Colombia have a shameful history in regularly closing such investigations without holding those responsible to account. If the amendment to the Constitution is approved by Congress it will represent a serious setback in efforts to combat impunity and run counter to international and Colombian jurisprudence, as well as to the repeated human rights recommendations made by the United Nations and Inter-American Commission on Human Rights which make abundantly clear that military courts must not under any circumstances investigate human rights violations allegedly committed by members of the security forces.

President Santos has repeatedly expressed his commitment to human rights and has sought a more constructive dialogue with Colombian human rights groups. This is to be welcomed. However, recent efforts to discredit CCAJAR, to interfere in judicial rulings which have convicted military officers and moves to broaden military jurisdiction – if supported or not opposed by the government – threaten to undermine President Santos' claims that his government is serious about ending Colombia's human rights crisis and impunity.