

# Colombia: do human rights policy changes hold up to scrutiny?

*“Human rights, democracy and the rule of law are core values of the European Union. Embedded in its founding treaty, they have been reinforced by the adoption of a Charter of Fundamental Rights. Countries seeking to join the EU must respect human rights. **So must countries which have concluded trade and other agreements with it**”<sup>1</sup>.*

## Summary

Juan Manuel Santos was inaugurated as President of Colombia on 7 August 2010. In his inauguration speech certain important commitments to human rights, poverty reduction, inequality and land restitution were made. The Santos administration has also pushed through legislative changes which include anti-corruption, judicial reform and land restitution laws. In terms of concrete actions there have also been some steps forward:

- Positive statements made in favour of human rights and public statements condemning some of the killings of human rights defenders and community leaders;
- Introduction of a Victims Law that addresses a framework for land restitution and compensation for victims of the conflict;
- Restoration of dialogue with human rights defenders regarding their security and a commitment to amend the protection programme for people at risk under the auspices of the Mesa Nacional de Garantías para Defensores de Derechos Humanos (National Working Group on Guarantees for Human Rights Defenders);
- The Colombian Government (November 2010) signed a tripartite agreement with civil society and the Group of 24<sup>i</sup>, which committed the Government to holding a National Human Rights Conference in December 2011, with a view to developing their human rights policies. The Conference has since been postponed to 2012.

**This briefing examines these policy changes and analyses whether they hold up to scrutiny.**

Whilst there have been changes in the first year under President Juan Manuel Santos' Administration in relation to victims and land, human rights and human rights defenders **these changes are more limited than they might at first appear**. Victims' Law 1448 (2011)<sup>ii</sup> represents a positive step forward in creating a framework for land restitution and reparation to victims, closer examination however, reveals that only a fraction of illegally appropriated land is likely to be returned. The articles in the law that refer to usurped lands used for agro-industrial development indicate that the victims will not have this land returned to them. Many of these projects have been developed on collective territory belonging to Indigenous and Afro-Colombian peoples.

Where victims land is restored there is initial funding to assist in their return. However, this is not followed by a concrete plan of sustainable support; and there is no major development 'engine' designed to facilitate small scale agriculture and rural livelihoods in the National Development Plan (NDP). This briefing suggests that it is in the NDP that sustainability of land restitution and returns could have been most effectively addressed.

There has been a welcome change in tone by the Santos administration in relation public statements concerning human rights defenders and their work. Despite this the situation of killings and threats **has worsened with 54 defenders killed in the first year<sup>iii</sup> of the Santos administration compared to 32 in the whole of 2010**. Defenders, community leaders and priests<sup>iv</sup> working on the themes of land and victims are being killed in even greater numbers.

Although formal dialogues between the government and defenders have once again been

restored, defenders were forced to suspend these in June 2011 due to the number of killings of defenders and the **absence of concrete actions on the part of the government to implement commitments** made during the dialogues to improve security and protection.

The armed conflict is **not** yet ended, the proposed Free Trade Agreements, specifically the EU-CAN Association Agreement with Colombia and Peru (EU-CAN Agreement), if ratified, would be implemented in the midst of this ongoing conflict and complex human rights crisis and likely to exacerbate the situation of human rights violations.

Displacement continues with 286,000 newly displaced in 2010 with little clarity regarding how the new forcibly displaced victims will have their land restored. The Victims' Law 1448 covers forced displacement because of the conflict, if the government consider the paramilitary groups have changed their character to criminal groups and renamed as Criminal groups (BACRIM) will they will they be entitled to land restitution under Law 1448? Disputes over land are made more complex by the absence of an accurate national land registry.

If the EU-CAN Agreement is ratified by the European Parliament in the current Colombian context it could intensify the human rights crisis, as well as provide support to European companies and international investments to legalise land illegally appropriated from some of the poorest and most disadvantaged in Colombia, namely *campesinos*, indigenous and Afro-Colombian peoples - the same communities who have borne the brunt of the Colombian conflict. Rather than helping Colombia move forward it is likely that the European Union could find itself benefiting from the spoils of stolen lands obtained by gross human rights violations.

The Lisbon Treaty states that the EU *'shall contribute to peace, security, the sustainable development of the Earth, solidarity and mutual respect among peoples, free and fair trade, eradication of poverty and the protection of human rights, ... strict observance and the development of international law, including*

*respect for the principles of the United Nations Charter'* (EU Treaty of Lisbon, Article 2:5). A report to the Committee on International Trade at the end of 2010 considered that the **Commission would be undermining the EU's efforts to support democratic development** in Latin America and its work on strengthening labour and human rights and on protecting nature and the climate by giving increased trade advantages, to a government [Colombia] who 'has a record of at least tolerating the persecution of trade unionists and human rights activists'.<sup>v</sup>

**From a humanitarian and human rights perspectives it is a mistake to ratify the EU-CAN agreement with Colombia in the current context.** It is likely to worsen the human rights situation and exacerbate abject poverty, with even greater possibility, due to a lack of any other alternative, of pushing the poorest into the war economy, thus further destabilising Colombia.

## Recommendations

The EU members of parliament should **vote NO to the pending EU-Can Association agreement with Colombia and Peru.**

**Instead they should work with Colombia** to improve its human rights record and to help with technical assistance **to enable Colombia to fully implement the UN recommendations and support civil society in its dialogue** with the Colombian Government.

**Ensure that the new EU Country Strategy on Colombia (2014) prioritises and promotes:**

- Funding and specific measures to support the peasant-farmer economy and projects promoting food security and livelihood opportunities for victims.
- Funding and technical expertise to enable the Colombian government to collate the land registries that are currently in existence and to carry out the additional work needed to complete the national land audit in accordance with the Constitutional Court rulings.

- Measures to ensure that no aid money is given to projects located on land that has been forcibly expropriated.
- Support and fund programmes to facilitate displaced peoples' safe and sustainable returns to their lands.
- Fund specific measures to support and build on the capacities of the State and ethnic groups to implement free prior and informed consent processes.
- Support and fund an effective and comprehensive protection programme for beneficiaries of the Land Restitution Bill.

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### **Are the human rights conditions in Colombian suitable for EU approval of the EU-CAN Association Agreement with Colombia and Peru?**

Examination of the likely impacts of the EU-CAN Association Agreement with Colombia and Peru on human rights and **whether the Agreement will exacerbate the situation** is crucial.

Positive statements made in favour of human rights and public condemnation of the killings of human rights defenders have sought to distinguish President Santos' government from that of the former Uribe administration. However, this **change in dialogue has not translated into a safer environment for human rights defenders.**

During President Santos' first year in office (August 2010 – August 2011), 54 human rights defenders and community leaders were killed;<sup>vi</sup> the majority of whom were working on land restoration and victims' rights. A comparison between the first six months in 2010 with the same period in 2011 shows an increase of 129 per cent in violence against human rights defenders.<sup>vii</sup> This amounts to one defender being attacked or threatened every 36 hours in the first six months of 2011.<sup>viii</sup> International Non-governmental Organisations (INGOs) and NGOs are not alone in highlighting the lack of safety guarantees for human rights defenders, concerns are also being

expressed by the diplomatic community. The British Foreign and Commonwealth Office (FCO), in its quarterly update on Colombia, June 2011:

*"[t]he issue of security for human rights defenders remains a **serious concern**. Threats against, and assassinations of, land activists, lawyers and other human rights defenders have not abated and civil society is asking searching questions about the government's ability and commitment to guaranteeing their protection."*<sup>ix</sup>

### **Dialogue between Central Government and Human Rights Defenders stalled**

At the beginning of President Santos' term of office Colombian NGOs entered into discussion with the new administration to re-establish the *Mesa Nacional de Garantías para Defensores de Derechos Humanos* (National Working Group on Guarantees for Human Rights Defenders), a process of dialogue regarding the security and protection of defenders initiated, and then suspended, between the previous Uribe

**Facts Box 1:**  
**Santos Administration's first year:**

**54 human rights defenders and community leaders killed**

**129% increase in violence against defenders**

**One defender attacked every 36 hours**

government and human rights defenders. The decision to suspend the Working Groups was taken after defenders attending these dialogues were specifically targeted for attacks and assassinations; along with the lack of action on the part of the former Uribe government to improve the protection for human rights defenders and community leaders.

Following the initial re-establishment of these dialogues under the Santos administration they were once again **suspended on 13 June 2011 due to the increasing number of killings** of human rights defenders and community leaders, **coupled, once again, with a lack of concrete actions** this time by the Santos administration to implement the commitments made during the dialogue.

Following a meeting between NGO representatives and President Santos, in which some basic agreements were arrived at, with the aim of ensuring that commitments were translated into concrete actions, the Working Groups have once again been re-established. However, defenders and community leaders are currently paying with their lives for the worsening human rights situation as is clearly demonstrated by the statistics (see boxes 1 and 2 'The Facts').

The British Foreign and Commonwealth Office recognises the level of violence against defenders and community leaders, they state in their report, throughout 2010 *'Human rights defenders were frequently victims of violence and intimidation and murder; indigenous and Afro-Colombian people suffered displacement, threats and massacres; and impunity levels remained high.'* British Foreign and Commonwealth Human Rights Report 2010.

### Trade unionists

Colombia's Interior and Justice Minister, German Vargas Lleras, recently announced that Colombia had fulfilled the conditions for the U.S. to approve the free trade agreement between the two nations, by complying with the requisite of ensuring safety for trade union leaders.<sup>x</sup>

This is a surprising claim: **Colombia** remains the country where **the highest numbers of trade unionists are killed**; of the 90 trade unionists killed in 2010, 49 were in Colombia (representing 54%).<sup>xi</sup> Despite falling in previous years **killings of trade unionists have been rising** in the country since 2008 (when 46 trade unionists were killed). Figures from 2009 and 2010 demonstrate this: in 2009 of the 101 trade unionist killed in the world 48 were Colombian (48%).<sup>xii</sup>

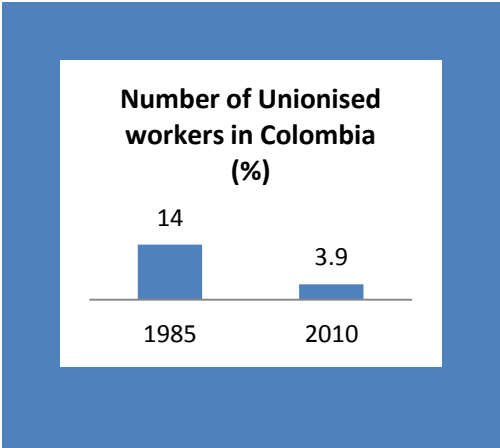
While the figures relating to violence against trade unionists are already high, it is important to bear

**Facts Box 2:  
Santos Administration's first year:**

- 54% of Trade Unionists killed worldwide in 2010 were killed in Colombia, a rise of 6% on 2009
- Unionisation rate in Colombia has fallen dramatically
- Conditions for workers are worsening

in mind that the **number of workers unionised in the country is actually falling drastically**. Twenty five years ago, there was a unionisation rate of 14%<sup>xiii</sup> of the formal workforce compared to only 3.9% today.

The drop in unionisation is due to a variety of factors which include the move by corporations to employ sub-contracted workers via associations or labour cooperatives (CATs). This is a form of third party sub-contracting. Workers are not directly employed by the company and thus not beneficiaries of employment law, they are in fact self-employed and not in receipt of benefits that a company is required to provide under employment law to its employees. This has been particularly notable in the growing agro-industrial sector, in industries such as palm oil, where those who wish to work for the company are told that the company only employs through certain 'associations' or 'cooperatives'. Workers have to



become self-employed to join these associations, they are responsible for paying their own health insurance, tax and pension contributions and have to buy the equipment they need to work. Many cannot afford health or pension contributions, which if they were employees of the company their employer would pay. Companies therefore do not have to engage in 'collective bargaining' with these workers and frequently do not pay even the minimum wage. Such practices discourage unionisation.

The Santos administration in order to facilitate the US-Colombia FTA instituted the Labor Action Plan (15 April 2011). One of the main components of this plan is the dismantling of these exploitative cooperatives (CTAs).<sup>xiv</sup> In a few cases Colombia's ban of CTAs has worked however, in the majority of cases CTAs have simply changed their names and continued with these practices.<sup>xv</sup>

### Land, victims and poverty

Mass forced displacement is perhaps one of the most obvious illustrations of the depth of the humanitarian crisis that exists in Colombia; with 5.2 million persons internally displaced since 1985. Thousands of people continue to be forcibly displaced; in 2010 286,000 were displaced, the majority by paramilitaries who continue to have links with the security forces.<sup>xvi</sup> Even before the massive displacement crisis of the last 40 years, land ownership was highly concentrated and Colombia was in need of an agrarian reform. Land expropriation by illegal armed groups has in fact led to a 'counter-agrarian' reform, greatly increasing land concentration with indigenous people, Afro-Colombians and *campesinos* being at the centre of the most devastating land grabs. Disputes over land are made worse by the absence of an accurate national land registry.

Displacement has also accelerated normal processes of urbanisation and economic migration, swelling the ranks of the urban poor, and land concentration has exacerbated existing poverty, inequality and food insecurity. Nearly half of the population live in poverty (42.8 per cent) and over one fifth in extreme poverty (22.9 per cent);<sup>xvii</sup> in 2008, Colombia was the sixth most unequal country in the world (rising from ninth most unequal in 2005). Despite the tripling of

**"We live here as if we are in a concentration camp"**

(Statement from one of the workers)

Pacific Rubiales a Canadian Multinational, operates in Colombia, near Puerto Gaitan, in Meta where it shares ownership with Ecopetrol, the Colombian national oil company. In the second half of 2010 it made profits amounting to U\$349.4 million (about £217.7 million). It employs around 10,000 workers (subcontracted via associations or labour cooperatives -CTAs).

According to the Workers' Trade Union (Unión Sindical Obrera USO), subcontracted workers are employed for 21 days at a time with 7 unpaid days off before a further 21 day contract is issued. Working conditions are extremely poor: they sleep in large tents for 140 people, there is little ventilation and the temperature can rise to 35°C. There is a total lack of privacy; with queues for everything (40 showers for 1.400 people and one toilet for 40) conditions of hygiene, health and comfort are precarious. Food is of a poor quality with little nutrition.

According to USO transportation to the drilling field is in vehicles without air conditioning, airtight to prevent the dust from choking its occupants. It is high risk work with many accidents; those unfit to work do not have their contracts renewed. They have no lockers to secure their belongings and theft is a problem. They are responsible for the equipment they use and the costs of replacement and repair is docked from their meagre wages.

Information from USO and Colectivo de Abogados José A. Weir Restrepo (CAJAR) report on Canadian company Pacific Rubiales high profit levels and the worrying situation in which its workers live and work  
[www.colectivodeabogados.org/El-drama-de-los-trabajadores](http://www.colectivodeabogados.org/El-drama-de-los-trabajadores)

Foreign Direct Investment (FDI) in Colombia between 2005 and 2008 and the near doubling of GDP, the levels of inequality and wealth



concentration worsened according to the World Development Indicators 2010.<sup>xviii</sup> Whilst there were gains in poverty reduction, down by 4 percent (2005-2008), the situation for the poorest worsened, absolute poverty increased by 2.7 percentage points (2005-2008);<sup>xix</sup> contradicting the theory that ‘a rising tide lifts all boats’. Land and wealth concentration has increased, frequently as a result of human rights violations, these types of gains by economic interests are less visible in countries in conflict.

Colombia has one of the highest rates of forced disappearances in the world. The notion of ‘disappearance’ is more commonly associated with Argentina, where some 30,000 people were disappeared during the 1970s or Chile where 3,000 were killed or disappeared<sup>xx</sup>; however despite the underreporting of disappearance in Colombia around 27,300 people are registered with the Attorney General’s Office as presumed forcibly disappeared for political reasons.<sup>xxi</sup>

Large scale agro-industry and extractive projects are a rapidly escalating factor driving displacement in Colombia. The Colombian government’s National Development Plan under President Uribe placed a strong emphasis on large-scale extractive projects and multi-national corporations. The number of mining concessions granted under the Uribe administration accelerated at an unprecedented rate. There were 7,402,000 hectares of mining concessions granted in 8 years, of these, in just one 4 month period 3,673,000 hectares were granted, which total more than the whole of the previous Pastrana administration’s 4 year term (221,000 hectares).<sup>xxii</sup> This model of development is being pursued by President Santos as one of the five engines of growth identified in the National Development plan (mining and energy).<sup>xxiii</sup> These lucrative enterprises inevitably threaten community land rights and come at enormous environmental and social costs which are often “blithely shunted aside”.<sup>xxiv</sup>

### **The Victims Law 1448: a closer look**

The Victims Law 1448 introduced by the Santos administration and passed by Congress on 11<sup>th</sup> June 2011, an important step forward in

recognising the need to restore land to Colombia’s victims.

### **‘Legal’ loss of land could render land restitution irrelevant under the Victims Law.**

Even those who staunchly support the EU-CAN Agreement recognise that there will be **both ‘winners’ and ‘losers’** under this Agreement. The losers are likely to be the small rural producers and those living on communally owned land. The same groups which have been most affected by the conflict. It is their subsistence farming that would come under threat from the predominant economic goals proposed by the EU-CAN Agreement and which form a major part of the Colombian National Development Plan.

Subsidies provided to European macro-agriculture<sup>xxv</sup> will put farmers out of business before they have even re-established the farms from which they were violently displaced to working order; with the end result that they could ‘legally’ lose their farms. **In these cases land restitution under the Victims Law would be irrelevant.**

A rigorous investigation by Colombian economists of the EU-CAN agreement revealed that the enormous subsidies received by European agriculture would distort the advantages of free trade. It’s analysis of the indicators of competitiveness found that ‘the European Union has greater possibilities of increasing and diversifying actual trade flows to Colombia and benefiting from the potential Colombian market in **small-scale farm products** than vice versa, 15.2% of small-scale producer’s area and 7.2% of their production would therefore be put at risk by the EU-Colombia FTA.’<sup>xxvi</sup> According to many analysts, the EU-CAN Agreement will impact particularly heavily on small scale peasant farmers in the dairy sector due to ‘subsidies, both direct and indirect, given by the EU to dairy farmers’<sup>xxvii</sup>. For subsistence farmers this would mean pushing many into the only alternatives available, namely coca growing or joining the illegal armed groups. A similar scenario can be seen with the US-Colombia FTA, which would result in a 16 per cent fall, on average, in net agricultural income for 1.8 million small farmers; and a loss of between 48

and 70 percent of income for approximately 400,000 small farmers.<sup>xxviii</sup> The net result is that potentially both these agreements would fuel the war economy.

*“What happened with maize here was that imported maize started to come in at very low prices and we small producers could not lower our prices so much, so this motivated many producers to start to grow coca” Subsistence farmer from Cauca.*

The EU’s own principles recognise that in trade it is essential to take into account human rights and vulnerable communities, and that these communities have a right to expect trade with justice and protection of their rights, the EU ‘*shall contribute to peace, security, the sustainable development of the Earth ...free and fair trade, eradication of poverty and the protection of human rights, [and] ... respect for the principles of the United Nations Charter*’ (Treaty of Lisbon, Article 2:5).

But the EU-CAN agreement could actually force the poor into even greater poverty, create economic incentives to forcibly displace vulnerable communities, thus having the potential to further de-stabilise Colombia.

### **Sustainability of returns: a key issue**

The Victims’ Law makes provision for initial funding for resettlement, however there is little clarity or planning for long term sustainable returns.

Restoring land to agricultural productivity and sustainability takes a considerable amount of time. Therefore, it will be necessary for returning farmers to receive long-term support to enable them to re-establish working farms, to make the land productive and to provide a sustainable livelihood for them and their families. Infrastructure to get their produce to market will also be a key component of this sustainability. Whilst there is initial funding for returnees this is

only short-term funding rather than funding to ensure a sustainable return. Currently, there appears to be a *lack of coherence between Colombia’s National Development Plan (NDP) and Law 1448* with the emphasis in the NDP on macro-projects such as extractives and support for agro-industrial sector. It lacks a strong component for sustained support to re-establish small scale agriculture.

### **Are European Union companies likely to be complicit in the legalisation of stolen lands?**

There are concerns that the language of the Victims Law could lead to the *de facto* recognition of the spoils of land theft. The law only discuss restoration of land from 1991, whereas it offers reparation to victims from 1985. It further narrows the numbers of people who are likely to have their land restored through *Article 99*. It states that land which is in the hands of the major cultivators *with an agro-industrial project developed on it* will not be restored to the victims (*Article99*).<sup>xxix</sup> Agro-industrial development and exploitation of mineral resources have been major factors linking forced displacement and illegal appropriation of land.<sup>xxx</sup>

**The EU-CAN Agreement would continue to promote agriculture on an industrial scale, serving to further facilitate and benefit extractive industry, which will inevitably put small-scale farmers’ livelihoods and consequently food security at risk. It could also mean that the economic incentives for displacement are increased.**

The UN High Commissioner for Human Rights stated: *“There often appears to be a clear correlation between continued paramilitary action and ongoing land theft.”*<sup>xxxi</sup> The UN Independent Expert on Minority Issues Gay McDougall, in her 2010 report, refers to economic interests and specifically the development of large-scale mining projects as propelling factors in forced displacement in Colombia. This does not appear to have changed in the last 10 years since the then Representative of the United Nations Secretary-General on Internally Displaced Persons, Francis Deng stated *“It is therefore not a coincidence that the areas where guerrilla and*

*paramilitary activity is most intense tend to be rich in natural resources*” (Report 2000). Illegal armed groups continue to exert influence over legal sectors of the economy - extractive industries, palm oil, mining, and development projects.

Seeking to uphold ones rights in the face of foreign and national investment in Colombia is a dangerous business. Death threats have been sent to various human rights defenders and community leaders who have organised to contest the rights of mining companies in their territories, with threats like *“You are the ones that will not allow development in this country ... therefore you are on our death list.”*<sup>xxxii</sup> On September 1, 2011 Father José Reinel Restrepo Idárraga was murdered in Marmato, Antioquia. Father Restrepo was an outspoken critic of a Canadian-based open-pit gold mining venture. **European businesses are therefore in danger of benefiting from land where human rights abuses have taken place and thereby assisting in finally legalising the land theft.**

### **Impunity and the rule of law**

There have been a couple of notable convictions recently due to the efforts of human rights lawyers; the former head of Colombia's intelligence services was been jailed for 24 years (14 September 2011). Jorge Noguera Cotes who was accused of passing black lists of human rights defenders and trade unionists to paramilitaries, many of those named on these lists were subsequently killed. He was convicted of homicide, abuse of authority and conspiracy to commit a crime.

Coronel Alfonso Plazas Vega was found guilty of forced disappearances in the case of the Palace of Justice (*Palacio de Justicia*). Throughout the trial the Judge María Stella Jara and her son received multiple death threats; she was finally forced into exile at the end of the trial for her family's safety. The sentence is currently under appeal.

On the same day that Noguera was sentenced, the Commander of the Colombian Military Forces General Alejandro Navas, discussing the Palacio de Justicia case on public television, referred to Coronel Plazas Vega as a “national hero” and

stated that he had the “support of the Colombian military”. These kinds of public statements are likely to encourage the life threatening intimidation that the Judge experienced and they discourage the implementation of the rule of law.

Impunity for human rights violations continues to be a serious concern that requires serious measures to address it; unless such measures are taken the cycle of violence and killings is likely to continue. The only sustainable way to reduce the level of threats and violence is to bring the perpetrators to justice. Failing to do so sends a signal that attacks against defenders and violations of human rights will go unpunished. The current Colombian government has done little to alter this perception. There were significant setbacks in 2010 related to collaboration between the Military Justice System and the Civil Justice System, human rights cases failing to be handed over from the military to the civil justice system, or being dismissed due to the time limits on the cases being processed allowed to expire, cases of soldiers convicted of serious infractions of International Humanitarian Law continuing in service, and the absence of measures to protect the families of victims, witnesses, lawyers and judges.<sup>xxxiii</sup> Of the more than 50,000 supposedly demobilised combatants taking part in the Justice and Peace process under Law 975 of 2005, there has **only been one definitive conviction** made by the Supreme Court of Justice. When President Santos entered into office there were approximately 19,000 paramilitaries in legal limbo<sup>xxxiv</sup>, instead of insisting on processing them he passed a law granting them a pardon. Impunity for human rights violations continues to stand at approximately 98%.

### **Impunity continues for a broad range of human rights violations:**

Paramilitaries taking part in the *Justice and Peace* process have confessed to a total of 70,780 crimes, of which 69 refer to sexual violence. **Not one single conviction has been made related to the crimes of sexual violence.**<sup>xxxv</sup>

Impunity in cases implicating security forces personnel is high; between 2002 and March 2010,



**only 3.1 per cent** of the cases held by the Attorney General's Human Rights Unit **resulted in conviction.**<sup>xxxvi</sup> The status of judicial investigations in cases of extrajudicial executions has shown poor results achieved in relation to the total number of cases reported to date. Former military personnel under investigation for violations of human rights, including extra-judicial executions, are being held in military prisons in luxurious conditions e.g. in Tolemaida military prison.<sup>xxxvii</sup>

Since 1986, 2,861 trade unionists have been assassinated in Colombia; more than 11,000 violent acts have been committed against them. **Meanwhile, the level of impunity stands at 94% for crimes against trade unionists, which contributes to the extremely serious situation for trade union and labour rights in the country.**<sup>xxxviii</sup>

The UN High Commissioner for Human Rights reported (2011) on the lack of progress in advancing investigations into attacks and threats against human rights defenders:

*"Most criminal investigations initiated by the Attorney General in cases where the victims were human rights defenders have had limited results. Furthermore, the Procurator General's Office (Inspector General) has **not obtained visible results in its disciplinary investigations, despite public commitments to make progress. Serious and urgent efforts are needed to clarify these cases and establish responsibilities.**"<sup>xxxix</sup>*

The killings, threats and forced disappearances of human rights leaders, trade unionists, and community and church leaders continue: 29 killed in the **first six months of this year** (2011) compared to 32 in the **whole 12 months of 2010.**

**This briefing examines the actions taken by the new Colombian administration in relation to the human rights agenda and finds that these changes do not currently hold up to scrutiny.**

**Date: 5 October 2011**

**End Notes**

<sup>i</sup> The Group of 24 - G24 - comprises various EU countries, the US, Japan, Canada, Argentina, Chile, Brazil and Mexico and was formed during the London-Cartagena-Bogota conference in London in 2003. The British Ambassador is the Chair of the

G24 throughout 2011. For more details on the London-Cartagena-Bogota conference see

<sup>ii</sup> The reform programme, as well as land restitution to displaced people and compensation for the victims, also includes new legislation to combat corruption and judicial reform.

<sup>iii</sup> This figure is a calculation by ABColombia from the statistics provided by Programa Somos Defensores, from July 2010-August 2011 (President Santos entered office on 1 August 2010 at <http://www.somosdefensores.org>

<sup>iv</sup> In 2011 alone there have been 6 priests killed (though the reason behind all of the killings is not yet clear)

<sup>v</sup> **Report** on the European Union's trade relations with Latin America (2010/2026(INI)) to the Committee on International Trade by Rapporteur: Helmut Scholz

<sup>vi</sup> President Santos came into office on 7 August 2011 so the year is taken from July - June rather than Jan - Dec in order to demonstrate the changes that have occurred between administrations over a 12 month period

<sup>vii</sup> This represents 145 cases, of these: 29 defenders were killed, 93 threatened, 10 attacked, 8 arbitrary arrested and 3 registered forced disappearances. Programa Somos Defensores, Press Release, 8 August 2011 'Human Rights Defenders in 2011: Threats carried out' at [http://www.somosdefensores.org/index.php?option=com\\_content&view=article&id=88:amenazas-cumplidas&catid=8:novedades&Itemid=3](http://www.somosdefensores.org/index.php?option=com_content&view=article&id=88:amenazas-cumplidas&catid=8:novedades&Itemid=3)

<sup>viii</sup> *ibid*

<sup>ix</sup> FCO Human Rights Report Update on Countries of Concern June 2011.

<sup>x</sup> <http://colombiareports.com/colombia-news/news/16304-colombia-has-met-us-fta-requirements-govt.html>

<sup>xi</sup> 'Annual survey of violations against trade union rights in the world', 8 June 2011 (figures for 2010).

<sup>xii</sup> International Trade Union Confederation's (ITUC) Annual Survey of Violations of Trade Union Rights, <http://survey.ituc-csi.org/Colombia.html#tabs-5>; also see: <http://www.ituc-csi.org/ituc-annual-survey.html?lang=en>

<sup>xiii</sup> Speaking to Colombian newspaper Colombia Reports, Francisco Ramirez Cuellar: "25 years ago when there were 14% of workers affiliated to trade unions...on average a trade unionist was murdered every 3 days. <http://colombiareports.com/colombia-news/news/16602-violence-impunity-undermine-facade-of-human-rights-progress-colombian-labor-unions.html>

<sup>xiv</sup> Gimena Sanchez-Garzoli, Senior Associate, Washington Office on Latin America (WOLA), Labor Action Plan: Just Paper or Real Changes

<sup>xv</sup> *Ibid* they are now apparently called Simplified Stock Companies (SAS)

<sup>xvi</sup> Comisión de Seguimiento a la Política Pública Sobre el Desplazamiento Forzado, "Proceso Nacional de Verificación de los Derechos de la Población Desplazadas: Primer Informe a la Corte Constitucional," January 28, 2008, pp. 31-32. Attributes 37 percent paramilitary violence

<sup>xvii</sup> Economic Commission for Latin America and the Caribbean (ECLAC), *Social Panorama of Latin America, 2009. Poverty and inequality in the context of the economic crisis.* Figures taken from: 'Table I.1a Latin America (18 Countries): Poverty and Indigence Indicators, 1990-2008 (Percentages)', page 48

<sup>xviii</sup> The figures quoted in the 2010 report refer to the year 2006

<sup>xix</sup> ELAC Social Panorama of Latin America, Poverty and inequality in the context of the economic crisis. Figures from 'Table I.A-1 Latin America (18 Countries): Poverty and Indigence Indicators, 1990-2008 a (Percentages)', page 50

<sup>xx</sup> Breaking the Silence: *In search of Colombia's disappeared*, by Lisa Haugaard and Kelly Nicholls, LAWG and USOC page 3

<sup>xxi</sup> UNHCHR representative, Christian Salazar Volkmann's, speech at launch of the "Plan de Investigaciones para el Delito de Desaparición Forzada de Personas" (Plan for the Investigation of the crime of forced disappearance) Bogotá, March 2011.

<sup>xxii</sup> For a full explanation see ABColombia 'Returning Land to Colombia's Victims', May 2001 at

<http://www.abcolombia.org.uk/subpage.asp?subid=408&mainid=23>

<sup>xxiii</sup> Bases del Plan Nacional de Desarrollo 2010-2014, Departamento Nacional de Planeación, Republica de Colombia.

<sup>xxiv</sup> Zoë Amerigian and Lindsey Pace, 'Inside Latin America: Latin America Faces a New Gold Rush and Modern Conquistadores', Council on Hemispheric Affairs, 14 February, 2011.

<sup>xxv</sup> Oidhaco report 2011, Trade at any price: The conditions for the Trade Agreement between the European Union and Colombia do not exist.

<sup>xxvi</sup> Ibid, emphasis added by the author

<sup>xxvii</sup> <http://www.semana.com/economia/leche-amarga-del-tlc-entre-colombia-ue/139068-3.aspx>

<sup>xxviii</sup> Luis Jorge Garay Salamanca, Fernando Barberi Gómez, Catalina Barberi Torres, *Trade negotiations with the European Union and the small-scale farm economy*, Bogotá D.C., February 2010

<sup>xxix</sup> For a full explanation of this and other Articles within the law that are leading to concerns see ABColombia 'Returning Land to Colombia's Victims', May 2001 and 'Further analysis of the Victims Law 1448 of 2011' at <http://www.abcolombia.org.uk/subpage.asp?subid=408&mainid=23>

<sup>xxx</sup> For a full explanation and further information on UN reports referring to this phenomena see ABColombia 'Returning Land to Colombia's Victims', May 2001; also Report of the Representative of the UN Secretary-General Walter Kälin's report January 2007 para 19; Concluding Observations of UN Committee on Economic, Social and Cultural Rights, May 2010

<sup>xxxi</sup> Annual Report, UN High Commissioner for Human Rights on the Situation of Human Rights in Colombia, 2009 para.84 "Entre las causas del desplazamiento en algunas zonas, se encuentran las acciones de grupos armados ilegales surgidos del proceso de desmovilización de organizaciones paramilitares que pretenden despojar a la población civil de sus tierras."

<sup>xxxii</sup> December 11, 2010, Martha Lucía Giraldo of the National Movement of Victims of State Crimes (MOVICE), received a death threat texted to her mobile phone signed by the paramilitary group the Black Eagles: *Ustedes son los que no dejan que este país progrese apoyando a familias de guerrilleros [sic] y a los que depimen [sic] con esas ideas estúpidas de libertad por lo tanto son declarados objetivos de muerte nuestros.*

<sup>xxxiii</sup> Centre Grassroots Research & Education, Peace Program (*Centro de Investigación y Educación Popular, Programa por la Paz -CINEP/PPP*)

<sup>xxxiv</sup> Under the Justice and Peace Law, 'most paramilitaries escaped effective investigation through Decree 128 and Law 782, which granted de facto amnesties to those not under investigation for human rights abuses and who admitted to being members of paramilitary groups, an offence known as "conspiracy to commit a crime". However, in July 2007 the Supreme Court of Justice ruled that membership of paramilitary groups was not a political crime and, as such, amnesties were not applicable. This left some 19,000 paramilitaries in legal limbo' Amnesty International Report 2008. Not taking their testimonies will impact on victims learning the truth about what happened to their loved ones.

<sup>xxxv</sup> Figures taken from '300 días de gobierno de Santos: Las buenas palabras no frenan la violación de los derechos humanos en Colombia' May 2011.

<sup>xxxvi</sup> Joint letter by a coalition of UK, European and US Organisations, including ABColombia to President Santos 'Open Letter to President Juan Manuel Santos regarding Human Rights in Colombia', 20 December 2010.

[http://www.abcolombia.org.uk/downloads/110207\\_FINAL\\_JMS\\_Open\\_Letter-English.pdf](http://www.abcolombia.org.uk/downloads/110207_FINAL_JMS_Open_Letter-English.pdf)

<sup>xxxvii</sup> <http://colombiareports.com/colombia-news/news/15547-mod-and-military-scrutinized-over-luxury-prison-controversy.html>

<sup>xxxviii</sup> Figures taken from '300 días de gobierno de Santos: Las buenas palabras no frenan la violación de los derechos humanos en Colombia' May 2011.

<sup>xxxix</sup> United Nations High Commissioner for Human Rights, United Nations High Commissioner for Human Rights report on the situation of human rights in Colombia, 3 February 2011, p. 4.

5 October 2011