



Human Rights During the Juan Manuel Santos Administration's First Year in Office

This report provides an analysis of the Juan Manuel Santos' administration first year in office on key issues of human rights including protection of human rights defenders, extrajudicial executions, forced disappearances, rights of ethnic communities and others. Its goal is to document advances made in terms of policies and measures taken by the Colombian government on these key rights issues, as well as to point out where the effective promotion, respect and protection of human rights in Colombia is not taking place.

1. Human Rights Defenders

A space for dialogue is opened and public discourse is changed

It is evident that President Juan Manuel Santos' administration has distanced itself from the stigmatizing discourse used by the prior administration against human rights defenders. During ex-president Alvaro Uribe Vélez's tenure, public declarations by State officials and the ex-president himself frequently signaled out human rights defenders of supposedly collaborating with the guerillas. Vice President Angelino Garzón has promised on numerous occasions that the Santos administration will "disarm" its words and that their official discourse will recognize the legitimate work of the country's human rights defenders. We believe that the change in discourse towards defenders is an important advance in efforts to protect and give credibility to their work. Furthermore, the Santos government has re-initiated dialogue with defenders and civil society. Various meetings have taken place between Vice President Garzón and different Ministers with national and regional human rights groups. Interior Minister Germán Vargas Lleras has reopened the Guarantees Roundtables on Human Rights Guarantees (*Mesas de Garantías*), a consultation process involving the government and national and regional human rights defenders. With this he has shown a degree of commitment with this process. The Prosecutor General and Defense Ministry have also participated in these meetings.

Yet despite the changes in discourse and the willingness to dialogue, the murders, threats, and illegal surveillance of human rights defenders

continue. Furthermore, there has not been any progress in reducing the levels of impunity for these cases.

Threats and attacks against defenders continue

In the first year of the Santos administration there were no major advances in the implementation of public policies or concrete measures towards the effective protection of human rights defenders beyond the change in discourse and attitude. **In 2010, there were 174 cases of aggressions against members of human rights organizations. In the first five months of this year 145¹ cases of violence committed against defenders were recorded, including 93 threats and 29 murders of defenders and social leaders. During the first six months of President Santos' administration the number of aggressions against human rights defenders increased by 129% compared to the same period in 2010.** According to the We Are Defenders Program,² the groups principally responsible for these aggressions continue to be paramilitary groups, followed by unidentified perpetrators, the guerillas, and lastly the armed forces.

The majority of registered murders are of land restitution leaders. These include the cases of Hernando Pérez, Martha Gaibao, and David de Jesús Goetz who were killed in the last year. Threats continue to come principally from paramilitaries who have re-armed such as the Black Eagles and the Rastrojos. Illegal surveillance of human rights defenders also continues under the Santos administration. Such is the case of Rafael Barrios, a lawyer with the José Alvear Restrepo Lawyer's Collective (CCAJAR) and his Kimberly Stanton, a U.S. citizen that works for the international agency PCS in Bogotá. In May 2011, these defenders reported to the Prosecutor General that they had received an anonymous phone call in which a conversation that Barrios and Stanton had sustained was played back to them. This conversation had taken place in a car given to them by the Interior Ministry as part of their security measures. Another case included the illegal interception of the cell phone of David Martínez, the Vice President of the Trade Union of Independent Agriculturalists of Meta (SINTRAGRIM). On August 12 and 14, Caracol Radio published a private conversation that Mr. Martinez had a few days prior on the cell given to him by the Interior Ministry. In its report, Caracol affirms that this was a conversation that took place between two members of the FARC guerillas.³

Impunity

The appointment in December 2010 of Viviane Morales as the new Prosecutor General ended the vacancy limbo of one of the most important positions in the country. It also ended the clash between the executive and judicial branches of government.⁴ During the first six months of the new Prosecutor General's tenure, some advances have taken place in human rights and corruption cases involving officials from the prior administration. These

include the illegal wiretapping case of the DAS and the Agro Ingreso Seguro corruption case. Despite this, the new Prosecutor General is confronting some major challenges. These include the restructuring of the Prosecutor General's offices, the exit of hundreds of prosecutors due to a court ruling, and an impunity rate of over 90% in grave cases of human rights abuses.

The administration of justice in cases of violations against human rights defenders remains tragic. The majority of investigations remain in the preliminary phase. Most cases are investigated in an isolated and decentralized manner. A repeated recommendation from Colombian and U.S. human rights groups is to centralize these cases within the Human Rights and International Humanitarian Law Unit of the Prosecutor General's office in Bogotá. The groups also recommend that sufficient personnel and resources are assigned in order to facilitate these processes. Up until this point the Prosecutor has not taken these steps.

The Office of the Prosecutor General has advanced in ending some cases of spurious criminal proceedings against human rights defenders. This was the case with the termination of the wrongful legal proceedings against human rights defenders Carolina Rubio and Alexander López. However, We Are Defenders (*Somos Defensores*) continues to register spurious criminal proceedings against human rights defenders. In the first six months of 2011, they registered eight cases of arbitrary detentions involving human rights defenders and one baseless court proceeding.⁵ This group also states that the practice of utilizing "intelligence reports" and the testimonies of demobilized armed actors as evidence in cases continues despite the fact that it violates due process in cases against human rights defenders. This is seen in the cases of David Rabelo, Carmelo Agamez, Winston Gallego, and Principe Gabriel González.

The Protection Program

On June 15, Vice President Garzón⁶ publicly admitted that the State could have prevented the murder of the Afro-Colombian human rights defender Ana Fabricia Córdoba that took place on June 7, 2011. Córdoba was a well known leader from a neighborhood in northeast Medellín. She arrived there after her displacement at the hands of the paramilitaries from Apartadó, Antioquia. One of her sons was disappeared, and the other son was allegedly murdered by the national police when he resided in Medellín.⁷ The threats against her life increased as a consequence of her constant pronouncements and effort to obtain justice in the case of her son. Ana Fabricia repeatedly asked the government and Prosecutor's office that they investigate these threats. She even denounced these hostilities in the media. On June 7, she was killed while on a public bus in Medellín.⁸ Ana Fabricia's case is emblematic of the situation faced by many social leaders throughout the country who find themselves under threat and who do not receive a quick response by the government that corresponds with the level of risk they face.

In a November 16 meeting with María Paulina Riveros, Director of Protection for the Ministry of the Interior, human rights groups presented a report that included an analysis of problems with the protection program, their concerns about the privatization of the program, and their recommendations for improvement.⁹ According to statements by the government the newly created Ministry of Justice (headed by Juan Carlos Esguerra, former Minister of Defense), will have among its responsibilities to administer the protection program for human rights defenders who do not want to accept the privatized protection program. This is a positive step that follows what was recommended by the defenders.

In several meetings with Minister of Interior Germán Vargas Lleras and Director of the Protection Program María Paulina Riveros, human rights defenders expressed their opposition to Decree 1740 of 2010, which was passed by the previous administration. The decree modifies the protection program by reducing important measures such as subsidizing transport, relocation expenses, among others. In these meetings, Minister Vargas Lleras promised to reestablish the measures and go over the decree with the organizations and leaders covered by the protection program. To date, the measures have not been reestablished, and various human rights organizations have denounced on various occasions that the protective measures have been decimated or completely removed. For example, Javier Dorado, President of the Permanent Committee on Human Rights in Nariño, is one of the most threatened social leaders in the department. His protective measures for transportation and communication were recently taken away.¹⁰ There are many other cases of human rights defenders that are in high-risk circumstances and their protective measures have been reduced or eliminated.

The problems with the protection programs continue. There are still delays in the processing of applications, problems with risk evaluations, and when the protective measures are finally authorized they are not compatible with the level of risk that the human rights defender faces. On the other hand, the programs continue to exclude a gender focus and do not respond to the needs of Afro-Colombian and indigenous leaders. In many cases, neighborhood, community, and territorial leaders need collective and differential protective measures that are not considered in Decree 1740 of 2010. Land leaders confront a similar situation.

2. Administrative Department of Security

Under the leadership of the Prosecutor General there have been advances in the investigations concerning the illegal wiretapping activities carried out by the Administrative Department of Security (DAS), Colombia's intelligence and customs agency.

Nonetheless, the investigation suffered a substantial setback in October of last year; the ex-director of DAS, María del Pilar Hurtado—a key player in the

investigations—received asylum in Panama thanks to the efforts of ex-president Uribe. Even in spite of the Panamanian government's unwillingness to retract Maria del Pilar Hurtado's asylum, the Prosecutor General filed an international arrest warrant for the ex-director for charges of conspiracy, illegal use of communications, abuse of a public post, failure to fulfill her responsibilities to the public, and the falsification of documents. The Prosecutor General also filed the same set of charges against ex-Secretary General of the Presidency Bernard Moreno. The magistrate of Bogotá's Supreme Tribunal in charge of the case passed an injunction of preventive arrest of Mr. Moreno at the request of the victims. Moreover, the Inspector General banned Moreno from holding public office for eighteen years due to his involvement in the DAS scandal.

In January of this year, the Prosecutor General filed a detaining order against Jorge Noguera, the ex-director of DAS, for alleged involvement in the wiretapping scandal. Noguera has been convicted to 25 years in prison for aggravated homicide and alleged collaboration with paramilitary groups. He now faces the accusations of conspiring to commit a crime, illegal use of communications equipment, and abuse of power.

In total there are around twenty people in prison who are being tried for their involvement in the wiretapping scandal, in addition to two others that have already been convicted for their participation in the illegal wiretappings. These convicted individuals are the former directors of intelligence and counter-intelligence, Fernando Tabres Molina and Jorge Alberto Lagos, respectively. They were convicted to 8 years in prison after reaching an agreement with the Prosecutor General that allows them to continue serving as witnesses.

The status of the legal process against ex-president Uribe for his participation in the illegal wiretappings is worrisome. The Congressional Commission for Accusations, the entity responsible for investigating the ex-president, lacks transparency and reliability. Since the start of the process there have been many representatives that have left the investigation, either because their ability to be impartial was called into question by the victims and the ex-president as well, or because of threats against them. For example, Congressman Camilo Andres Abril resigned after receiving the following text message: "don't mess with Uribe."¹¹ The new members of congress that are now members of the Commission include Yahir Acuña, who has allegedly had ties with paramilitary groups, and Hector Vergara, who is being investigated for fraud, falsified public documents, and perjury.¹² More than 6 months after the hearing started, neither the witnesses, nor Uribe have been able to provide their testimony. Prosecutor General Viviane Morales and the Supreme Court of Justice have been forced to call upon the Commission to move forward with the process.

Included within the proposal by the administration of President Santos to restructure the State is the motion to dismantle the DAS. A new agency will

be created, and its only function will relate to intelligence. It will no longer be responsible for judicial policing and immigration responsibilities. Another component of the proposal brings a part of the DAS proposal under the Office of the Prosecutor General. This is worrisome because DAS agents have been implicated in grave violations of human rights. There is no guarantee for independence, impartiality, and reliability in investigations.

The government has proposed that the restructuring of DAS will be done once the Congress approves the legislation that seeks to regulate the gathering and use of intelligence within the country. The legislation was approved by the Senate last June and is awaiting the conciliation stage between the two chambers of the legislative branch. Human rights groups were not consulted on the law, even though they were the main victims of the abuses of the intelligence agencies.

Similarly, it is troubling that the government has decided to keep Felipe Muñoz as Director of DAS, despite investigations against him while holding that post.

3. Labor Rights

The Labor Action Plan, which is part of the pending US-Colombia Free Trade Agreement (FTA), provides some welcome commitments to improving the labor rights situation in Colombia. However, the Labor Action Plan alone is insufficient to improve the situation of workers' rights in Colombia. Colombia continues to be the most dangerous country in the world for trade unionists; 51 unionists were murdered in 2010 alone—more than the rest of the world combined. At least 20 trade unionists have been killed in 2011; 10 of whom after Presidents Obama and Santos signed the Labor Action Plan on April 15, 2011. Only six percent of investigations into the cases of murdered unionists since 1986 have reached a conviction, which represents a 94 percent impunity rate for the perpetrators.¹³

The Plan, while not legally bound to the pending Free Trade Agreement, is being used as an indicator by the United States to measure Colombia's progress in regards to labor rights. The Labor Action Plan commits Colombia to creating a Ministry of Labor that should be better equipped to handle labor abuses. The Labor Action Plan also designates 100 labor inspectors to investigate abuses in the Associative Labor Cooperatives (CTAs). The CTA model enables companies to subcontract workers through third-party intermediaries in labor-intensive industries without the responsibility of providing contracts and basic benefits to employees. However, while the Labor Action Plan provides some advances, it does not require a reduction in labor-related violence.

Despite the Labor Action Plan's call to investigate abuses in CTAs, the CTA model of subcontracting labor continues to be used to employ over 800,000 Colombians in the sugar, palm oil, health, mining, and port industries, among

others. Given the increased attention on CTAs, many companies have simply changed the name of the subcontracting entity in order to preserve a system where there are no contracts between workers and companies. For example, some of the CTAs have been replaced by similar models that use the name Simplified Stock Companies (*Sociedades por Acciones Simplificadas*, SAS). Workers in CTAs and other sub-contracting models have no collective bargaining rights, and companies have no incentive to uphold basic labor standards. Meanwhile, the government has not been able to improve the labor environment outlined by Vice President Angelino Garzón on November 4, 2010: "The principle violators of labor rights are these Cooperatives ... It is unjust that the workers who loan their labor services through the Associative Labor Cooperatives are not protected by labor laws but by the commercial regime; it is a retrogression of more than 200 centuries for our country [*sic*]."

Labor rights defenders in Colombia continue to be stigmatized and intimidated. For example, the ongoing case against four sugarcane cutters and two activists for allegedly conspiring to commit a crime, sabotage, and inflict harm during a 2008 strike is evidence of the continual persecution of labor rights defenders. The baseless evidence used in the case and its continuation puts the defendants at more risk and makes their work in defense of labor rights more difficult.¹⁴ We hope that the case against the workers is resolved in a just manner, respects due process, and gives them a right to upkeep their name. The majority of unionists and labor rights defenders in the country are routinely, stigmatized, murdered, and threatened for working to build a more just labor environment.

4. Extrajudicial Executions

The delay in investigations into extrajudicial executions committed by members of the Armed Forces, in addition to the lack of cooperation on behalf of the military to transfer human rights cases to the civilian justice system, has created an environment of impunity. This has given troops the wrong message, and as a result, there has been an increase in the number of cases of extrajudicial executions in the country. Even if they have not reached the levels of 2006-2008, there was an alarming increase in the number of cases reported in 2010. According to the human rights organization CINEP, in 2010 there was a 58% increase in the number of cases and an increase of 68.5% in the number of victims when compared to 2009.¹⁵ There have been 29 cases of extrajudicial executions reported during the administration of President Santos.¹⁶

More than 1,400 cases of extrajudicial executions committed by members of the armed forces were reported to the Human Rights and International Humanitarian Law Unit of the Prosecutor General between 2002 and 2010. These cases represent 2,701 victims, 135 of whom were boys and girls. The courts have reached a sentence in only 82 of the cases, and the majority of the other cases languish in the preliminary investigation stage.¹⁷

Until February of this year, 448 cases of extrajudicial executions were being tried in the military justice system. This goes against the direct mandates of the Constitutional Court and other international tribunals that signal that these cases can only be tried in the civilian justice system.

Prosecutor General Morales has warned that delaying tactics employed by defense attorneys have been the primary cause of the lack of progress in the proceedings. She has asked that there should be an investigation into these practices which she characterized as "repeated and systematic."¹⁸ The delaying tactics include the frequent replacement of the attorneys in charge of the defense and the declaration of fictitious illnesses by the defendant or the attorney. In many cases this has provoked the expiration of the terms and the subsequent release of the accused persons. Of the 60 members of the armed forces detained in 2009 for supposed participation in cases of extrajudicial executions, only five are still under arrest.¹⁹

The defense attorneys in charge of cases of extrajudicial executions are part of a private legal defense institution that was created with support from active members of the armed forces. The Military Defense (*Defensoría Militar*, DEMIL) is dedicated to providing legal defense for the members of the armed forces that are accused of crimes committed while in service. Despite the fact that it is a private institution, DEMIL's offices are found within military garrisons and high-ranking officials are part of its board of directors.

In the case of the 22 young people from the municipality of Soacha and southern Bogotá that were disappeared and murdered by members of the Army, there have been advances in some of the cases. On June 13, 2011, a judge from the city of Bucaramanga condemned eight members of the armed forces to 28 to 55 years of jail time for their participation in the murders of Andrés Pesca Olaya and Eduardo Garzón Páez. Wilson Javier Castro, the Commander of the Rafael Reyes Battalion in Cimitarra, Santander, was among those sentenced.

Most of the other cases involving the victims from Soacha remain in the preliminary stages because of the delaying tactics used by the military defense. In the case of Elkin Gustavo Verano, the judge has attempted to close the penal investigation for more than a year and a half; however, every time that a new date is designated to begin the proceedings, the defense uses a new tactic to impede the realization of the hearing on the predetermined date. These tactics force the hearings to be postponed for months at a time. In closing, the other Soacha cases remain in impunity, and the mothers and families of the victims have faced several threats, in addition to economic hardships, all because of their struggle for justice in these cases.

In addition to the lack of results in these investigations, the few individuals sentenced for these crimes are jailed in military garrisons where they enjoy extensive privileges.

Benefits for Convicted Criminals

An article published by *Semana* magazine in April revealed the luxurious conditions in the Tolemaida Military Prison. Many of the officials sentenced for grave human rights abuses reside in Tolemaida.²⁰ The article reports that the officials who were imprisoned for murders, massacres, torture and kidnapping come and go as they please; own business inside and outside the prison; and their cells are equipped with televisions and air conditioning. The article confirms an even more worrisome issue: 179 of the 261 prisoners sentenced continue to be active members of the military, which is to say that they continue to receive their salary, promotions, and some have even received pensions while in prison.

Due to the scandal, President Santos' government designated a new director who took measures to reduce the number of permits to leave the prison and use vehicles within the prison. However, the prisoners' business, luxurious cells, and use of cellular phones continue inside the prison. Furthermore, members of the armed forces who were recently sentenced for human rights violations continue to be sent to military installations similar to the Military Prison of Tolemaida despite calls for the Santos government to change this practice by multilateral organizations such as the Inter-American Commission for Human Rights.

5. Forced Disappearances

Colombia has one of the highest levels of forced disappearances in the world. More than 55,000 people have been registered in official databases as disappeared, a statistic that includes disappeared people that may be alive. In 2010, 8,000 more cases of disappeared peoples were entered into the database.²¹ Even though official statistics on forced disappearances vary, the Prosecutor General's Office reports that there may be more than 35,000. However, this number may actually be much higher since new cases are entered every day into the data base, as well as cases reported before 2007. Furthermore, the Office of the Prosecutor General estimates that between 60 and 65 percent of the cases of forced disappearances are not reported in regions with an active presence of the armed conflict.²² Very few cases of forced disappearances are investigated in Colombia. According to the final declaration of the National Seminar on Forced Disappearances, 99% of the cases of forced disappearances remain in impunity.²³

The creation of the National Unit for Crimes of Displacement and Forced Disappearances within the Prosecutor General's Office in December of 2010 is an important advancement in the search for justice for cases of forced

disappearances in the country. It is of vital importance that the government provides the Unit with sufficient personnel and financial and technical support to carry out its mandate efficiently.

Law 1408 of 2010 could also become an important mechanism for defending the rights of the families of the victims of forced disappearances. The law's objective is to "provide homage for the victims of forced disappearance and establish mechanisms for their location and identification." However, it is important that the law is effectively implemented and supported by all government agencies.

The Santos government announced that the Institute of Legal Medicine and National Registry are comparing the registry of unidentified bodies from the Institute of Legal Medicine with the National Registry's fingerprint database. This process has found matches in almost 10,000 cases. This identification process has not ended. We believe that it is an important advancement in the identification of disappeared people in the country, and we hope that the government will continue to support it. We also hope that the exhumation and identification of thousands of bodies buried in mass graves or unidentified graves throughout the country will continue.

Palace of Justice

On April 29, 2011, a judge in Bogotá sentenced General Jesús Armando Arias Cabrales to 35 years in prison for the disappearance of eleven people during the military takeover of the Palace of Justice in 1985. The decision by the court marks an important milestone in the history of administering justice in the cases of forced disappearances in the country. It also dignifies the victims and their families. However, a little while after the sentence was announced President Santos spoke publicly against the decision of the court. He alleged that it was unjust and that he hoped the court would grant Arias Cabrales' appeal.²⁴ The statement by President Santos contradicts previous declarations where he spoke of respect for the independence of the judicial branch and its decisions. Furthermore, by questioning the decision of the court, President Santos puts people at risk including the families of the victims, the lawyers defending the victims, and the government employees that impart justice.

6. Afro-Colombian and Indigenous communities

Afro-Colombian and indigenous communities are disproportionately affected by the internal armed conflict. In many cases these communities' basic human, territorial, and cultural rights are not taken into account when large scale infrastructure and development projects are implemented.²⁵ Under the Santos administration, this scenario has not changed, and cases of abuses committed against ethnic groups continue in impunity. In the first six months of 2011, the number of murders of indigenous persons has increased by 38%, compared to the same period in 2010.²⁶

The National Indigenous Organization of Colombia (ONIC) registered the assassination of more than 51 indigenous persons between December 2010 and June 2011.²⁷ Afro-Colombian organizations like the National Association of Displaced Afro-Colombians (AFRODES), Black Communities' Process (PCN), COCOCAUCA, COPDICONC, and various community councils were subject to threats, murders, robberies, and other forms of intimidation. The legal and illegal armed groups continue to violate IHL and use these communities as human shields. In Buenaventura, the murders of Afro-Colombian women known as *femicidas* deepened. Internal displacement persists and has deepened in Afro-Colombian and indigenous areas such as Guapi (Cauca),²⁸ Medio Atrato (Chocó),²⁹ and Toribío (Cauca).³⁰

We view the appointments of Oscar Gamboa Zuñiga as the Director of the Presidential Program for Afro-Colombian Issues and Gabriel Muyuy Jacanamejoy as the Director of the Presidential Program for Indigenous Issues as positive. One positive step taken by these directors is the promotion of a law that penalizes racial discrimination. Despite their efforts, the Presidential Programs for Afro-Colombian and Indigenous Issues have not mobilized the necessary political will of other governmental entities responsible for defending and protecting the rights of Afro-Colombian and indigenous communities. It is important that these programs receive the budgetary and political support necessary to effectively guarantee the fundamental individual and collective rights of Afro-Colombian and indigenous peoples.

The Santos administration has not advanced in efforts to protect the internally displaced Afro-Colombian and indigenous populations, or in the prevention of new displacements of these groups. Constitutional Court Orders 004 and 005 of 2009 order the Colombian government to adopt a series of measures to: a) prevent new displacements of Afro-Colombian and indigenous communities from taking place, b) guarantee their protection, and c) assist the victims of displacement and confinement. The Court ordered the authorities to develop a differentiated strategy to guarantee the protection of ethnic groups affected by internal displacement and the risk of displacement. It also ordered the government to adopt emergency action plans for 35 indigenous peoples and 72 Afro-Colombian areas at high risk of displacement. Even with the explicit directives given by the Constitutional Court in both orders, few recommendations were implemented.

Emblematic cases including those of La Toma (Cauca) and Curvaradó and Jiguamiandó (Chocó) are evidence of the difficulties of the authorities have had in protecting Afro-Colombian and indigenous communities, guaranteeing their right to free, prior, and informed consultation and consent. The Constitutional Court has issued orders in both of these cases. Both have also received attention from the Inter-American Human Rights System of the Organization of American States (OAS) and other international institutions. In the case of Curvaradó and Jiguamiandó, the government has not been

able to materially return the usurped territories to the rightful owners, despite arrests and investigations against the illegal occupiers of bad faith and the official recognition of the rights of these communities. The government has not guaranteed the safety of the Afro-Colombian victims. Oil palm companies, cattle ranching enterprises, and paramilitaries continue to operate with impunity in Curvaradó and Jiguamiandó. Illegal mining and illegal armed groups continue to threaten the autonomy of the Community Council of La Toma. Threats, murders and hostilities against the leaders of both of these communities continue.

The protective measures defined by the government for Afro-Colombian and indigenous communities, their organizations, and leaders are insufficient. They have not advanced in the creation of effective protective measures that are consulted with the affected communities and that take into account the specificities of their ethnicity and the collective nature of their communities. Threats against high profile Afro-Colombian and indigenous leaders have continued under Santos, and efforts to improve protective measures have deteriorated. For example, the Ministry of the Interior and Justice took away protective measures for the President of AFRODES who has received multiple death threats from the Black Eagles paramilitary group. Three indigenous leaders were murdered in Córdoba in the first week of July even though they had publicly denounced their security situation.³¹ Indigenous and Afro-Colombian peoples' lives are constantly under threat and caught in the crossfire between the military and illegal armed groups. This was demonstrated in recent armed confrontations in Toribío and Guapi (Cauca).

The Santos administration has not truly met its obligations to guarantee ethnic minorities' right to previous, transparent and informed consultations in the adoption of laws that affect them. The laws regarding victims, land restitution, territorial planning, security and royalties were not consulted. The National Development Plan in its entirety was not consulted. Indigenous peoples publicly denounced that the government denied their request to revise the mining engine of the economy, despite the fact that this will generate impacts in their territories and communities.³² The consultation process with Afro-Colombian communities was equally flawed.

The government's new legislative agenda includes items such as rural development, land titling for ethnic groups, environmental reforms, and reforms to the concept of traditional knowledge, in addition to others that gravely affect Afro-Colombian and indigenous communities. Since FPIC with indigenous and Afro-Colombian peoples was not respected in the formulation of the Victims' Law, Article 125 of this law grants the President extraordinary powers to implement various decrees before the end of 2011. These decrees will regulate assistance and integral reparations to the indigenous, afrodescendants, raizales, palanqueros and gypsy communities. For draft legislation, as well as decrees, the Santos government is obliged to guarantee integral consultation processes. Such processes are considered integral if they are done in an informed manner, with good faith, with the

legitimate authorities of the communities concerned, and taking into account the customs of the ethnic peoples in Colombia.

Ethnic communities were also not consulted in the reformulation of the Territorial Consolidation Plan for Democratic Prosperity which combines military and civilian efforts. This has not occurred despite the increase of armed forces in ethnic territories that have deepened human rights violations and infractions of international humanitarian law. In particular, militarization has deepened abuses against women (sexual violence, mistreatment, and prostitution) and recruitment of girls, boys and adolescents. Finally, in accordance with international norms, before battalions and military installations are established in collective territories the consent of the communities involved is required.

7. Internal displacement and refugees

Colombia has the largest displaced population in the world. It is closely followed by the Sudan, Afghanistan and Iraq. Since the 1980s, hundreds of thousands of families were displaced as a consequence of violence, aerial fumigations of illicit crops, and illegal usurpation of lands that favor agro-industrial and mining companies. The government of President Santos has taken steps to recognize the rights of the displaced population through the approval of the victims law—a law that will be further analyzed later in this report. The law, however, faces important obstacles because it is being implemented in the middle of an armed conflict, and threats and attacks against internally displaced leaders are systematic.

On the other hand, the State's actions are particularly weak in preventing new displacements and guaranteeing protection measures for displaced communities and their leaders. The state has not implemented a differentiated approach to address the particular concerns of displaced Afro-Colombians, indigenous and women. As a result, new displacements continue to be registered; these new displacements disproportionately affect ethnic minorities and women. The United Nations Office for the Coordination of Humanitarian Affairs (OCHA) reported that between January and June 2011, 59 new mass displacements took place that affected an estimated 17,500 persons.³³

National and international efforts to confront the problem of internal displacement during the first year of the Santos administration were affected by the need to assist persons affected by the floods provoked by the winter storms linked to the climate phenomenon known as La Niña. These displacements that began in April 2010 and experienced peaks within April and November 2010 affected some three million persons. While Colombia was able to obtain \$500 million dollars in resources to help persons affected by the rains, much of this aid was distributed in an inefficient manner. The NGO Refugees International reports that there were coordination problems due to "(the creation of) a new parallel system with new actors [named

Colombia Humanitaria] and that this led to a slow process that left thousands of desperate and vulnerable persons to survive on their own."³⁴

Advances in the implementation of the Constitutional Court orders on displacement in the first year of Santos' administration remain incipient³⁵. It is important to point out that the policy to assist the displaced population found in the National Development Plan for 2010-2014 (PND) is focused on prioritizing budgetary allocations to contribute to overcoming the state of unconstitutional affairs declared in sentence T-025 of 2004. The PND restates existing efforts at prevention including the Early Warning System (EWS), the public prevention policy and the protection of displacement. However, the draft law for the PND **does not include any concrete measures of prevention of displacement nor protection for this population during its displacement, return or reintegration.**

The creation of a National Unit for Crimes of Displacement and Forced Disappearances in the Office of the Prosecutor General under Santos is a positive step. According to the Office of the Prosecutor General, on June 2011 "the Unit is investigating 31,419 cases for crimes of disappearances and forced displacements, 284 of which are in the investigation stage and the rest are in the inquiry stage."³⁶

Colombia is the country that generates the largest number of refugees in Latin America. Approximately 117,000 Colombians have obtained refugee status in more than 20 countries. Colombian refugees are mainly concentrated in Ecuador (54,000), U.S. (33,455), Canada (15,511), Panama (1,328), Venezuela (1,304), Spain (1,500) and Brazil (589).³⁷ The incipient international law regimes for the refugee populations in Ecuador, Venezuela and Panama require more attention and support by the international community. These countries have received between 270,000 and 500,000 Colombians, and their capacity to provide them with attention is not sufficient given such high demand. This lack of capacity translates into obstacles for processing in an effective manner such a high number of applications and the ability of these governments to provide these refugees with long-term assistance for their integration. The refugee population that resides in the areas along the border with Colombia continues to be victimized by attacks perpetrated by Colombian illegal armed groups. Women and girls are particularly vulnerable to sexual violence and recruitment into trafficking networks.

8. Victims' Law and the Restitution Pilot Project

During the first months of the Santos administration, the government announced that it would take a series of measures that would seek to repair the historical debt that the State has with the victims of Colombia's violence, in particular victims of forced displacement. These measures included the implementation of a land restitution pilot project, the presentation of a draft land restitution law for displaced victims, and the formulation of a rural

development law that seeks to find solutions to multiple problems in rural Colombia.

The Land Restitution Pilot Project was launched in October 2010, and the Victims' Law was presented before the congress in November 2010 and approved in May 2011. The Rural Development Law has not been presented to the congress, and it must be previously consulted with Afro-Colombian and indigenous communities before it is introduced.

Victims' Law

Three months after the inauguration of President Santos, he submitted two law projects before the Colombian Congress. These seek to provide reparations for the victims of the violence and displacement by restituting abandoned and usurped lands to these people. The congress joined these two legislative initiatives into one and called it the Victims' Law.

After various debates in the House and Senate and multiple changes to the initial draft law presented by the executive branch, the law was finally passed by President Santos on June 10, 2011, in a public ceremony that included the participation of the United Nations Secretary-General Ban Ki-Moon.

Implementation of the Victims' Law provides a clear opportunity to advance the obligations of the Colombian State to overcome the historic debt it owes to the victims of the internal armed conflict. It can lead to an eventual process of national reconciliation. However, the challenges the government faces in implementing this law are huge. It will require a strong political will to effectively implement this law, particularly with regards to restituting lands to the victims of internal displacement.

Positive aspects of the law include the recognition by the State that an internal armed conflict persists in the country, a fact that was denied repeatedly by the Uribe government. The law also recognizes that victims of the violence have rights and that the State is obligated to provide reparations for them. It includes a gender perspective and recognizes same sex couples as family members with rights to reparations. The law includes victims of agents of the state, a positive advancement. The articles of the law referring to the restitution of lands to the displaced includes: the change in the burden of the proof in favor of the victims; the responsibility of the state to accompany victims during their land reclamation process; and it obliges the government to give priority to women in its programming and policies on rural development.

Negative aspects of the law include a lack of consultation with victims, their associations and human rights organizations in the drafting and final version of the law.³⁸ We hope that the government meets the obligations stated in the law and that it guarantees the participation of victims and civil society in the different phases of its implementation. It is also of concern that the law

itself does not include the recommendations made to the State by the Constitutional Court with regards to internal displacement. Due to the Unconstitutional State of Affairs declared in Sentence T-025 of 2004, the Constitutional Court has produced a series of orders that define clear parameters with respect to how to provide reparations for the displaced population. The Constitutional Court orders establish indicators that help measure the effective implementation of those rights for the displaced and how to effectively determine the cessation of the status of being “internally displaced.” These indicators were not included in the law.

Protection for Leaders Reclaiming Their Land Rights

At least 18 internally displaced leaders and leaders of communities that seek their territorial rights were murdered since the start of the Santos administration.³⁹ The majority of these leaders had solicited protective measures from the government on multiple occasions. Most were denied such measures or did not receive a response from the government in spite of the fact that they had received multiple threats against their lives and the communities they represent. Such is the case of Hernando Pérez who was previously mentioned. Mr. Pérez formed part of the same land restitution process as Albeiro Valdez, who was murdered four months before Mr. Pérez. Both of these men had solicited protective measures from the Ministry of the Interior who diminished the threat against them by qualifying it to be of an “ordinary” level of risk. Similar to Hernando, Albeiro, Yolanda Izquierdo (the first person to fall victim after the launch of the Justice and Peace law), there are hundreds of leaders throughout the country that are under threat and do not receive any type of protection from the Colombian state.

It is of great concern that the law does not sufficiently guarantee a protection program for the victims, witnesses and public servants that assures the life and integrity of the persons and families reclaiming their land rights. It just orders a reformulation of the programs that already exist. It is broadly demonstrated that the current protection programs do not respond to the security needs of the displaced population and victims. As they stand, these programs cannot guarantee the protection of communities that wish to return to their lands in their places of origin.

It is imperative that the Colombian government design these protection programs in consultation with leaders, their associations and human rights organizations and that the programs meet the different needs of communities in the various regions of the country. It is indispensable that victims participate in the formulation and adoption of decrees and Conpes documents (an instrument utilized in Colombia to define investments and competencies for institutions) that regulate the Victims’ Law. These programs should include differentiated components for addressing gender, ethnic, sexual orientation, disability, and age issues as defined by the Constitutional Court.⁴⁰

Law Decrees to Provide Reparations for Ethnic Groups

The process of consultation on the decree laws that will regulate the reparation to ethnic groups (indigenous peoples, afrodescendant communities, raizales and palanqueros and gypsies-rom) is underway.

Currently indigenous representatives and the government are in the conciliation stage of the project which is being formed by the Permanent Consultation Table for Indigenous Peoples (MPC). Indigenous representatives have insisted that reparations cannot be given solely on the basis of actions related to the internal armed conflict since the damages caused to their peoples did not come just from the armed groups. Their communities were also victimized by policies and non-armed actors of the state imposed upon their territories and their natural resources. Specifically, they refer to economic development projects including mining and hydrocarbon concessions granted by the government to national and international companies. They also refer to infrastructure projects where it is common practice to omit the free, prior, and informed consultation process that must be followed in accordance with Constitutional Court rulings.⁴¹

The consultation process with Afro-Colombian communities has not yet started.

Restitution Pilot Project

In October 2010, Minister of Agriculture Juan Camilo Restrepo announced that he would put in place a Pilot Project for the Restitution and Formalization of Lands and Territories. The plan contains various components that include the titling of barren lands to rural farmers that have worked the land for more than five years but still do not have the title to the property. It also includes fostering the rural farmer reserve zones that are already in place or about to be put into place; broadening the collective territories of Afro-Colombians and indigenous communities; and the assignation of properties to rural residents that were recuperated by the State through land seizure proceedings. The Project also includes the reactivation and creation of rural farmer zones, clarifying property rights of the National Agrofishing Fund (FNA); and restituting land in cases that are documented by the Land and Patrimony Project (that used to be under Social Action and is now under MADR).

The outcome of the Restitution Pilot Project has shown results when it comes to the titling of barren lands (more than 71,000 hectares); the constitution and broadening of ethnic territories (4 indigenous reservations and 5 afrodescendant collective territories); the creation of rural farm zones; and evaluating lands that can be considered legally seized by the government (information regarding 114 property titles was turned in and 33 were purged).⁴²

The government states that the restitution processes are not advancing quickly because of security conditions in the regions. According to the government, advances were made in the formalization of titles but not in the formal handover of property because they cannot guarantee security and sustainability in these return processes. The Pilot Plan is quite small when compared to the land restitution goals of the Victims' Law. The Pilot Plan, however, can serve as an indicator of the obstacles that will be faced during the implementation of the law. According to Law 1448, implementation will begin in January 2012.

9. Demobilization, the Justice and Peace Process and Paramilitary Groups

Contrary to statements made by the Uribe and Santos administrations, the paramilitary demobilization process that began with the approval of the 2005 Justice and Peace Law and the partial handover of arms from the Self-Defense Forces of Colombia blocs did not result in a real dismantling of paramilitary structures in the country.

Human rights organizations, victims, and the associations that represent them continue to document cases of human rights and international humanitarian law violations committed by blocs that were negotiating with the government. In many municipalities throughout the country, armed structures continue to exercise their control over the local population and territories. They do so through armed actions against the civilian population, vulnerable groups, and social leaders. These structures support illegal land usurpation processes that benefit transnational and domestic companies that seek to exploit natural resources. They also seek political control by controlling mayoral and gubernatorial offices. Reports of active collaboration with members of the armed forces continue.

A 2011 report from the National Reconciliation and Reparations Commission (CNRR) provides evidence that the demobilization process of the paramilitary groups is very far from being a success. It reports that 15% of demobilized paramilitaries have regrouped and rearmed.⁴³ That is to say, if you count the number of paramilitaries that demobilized, which according to official data is around 34,000, this would translate to 5,000 men who rearmed. This report also points out that most mid-level commanders that did not participate in the Justice and Peace hearings are now the heads of the new groups.

Official data and human rights organizations confirm that these "new" groups exercise their presence throughout the country. According to the Human Rights Ombudsman's Office, paramilitaries are present in 188 municipalities within 23 departments. The National Police estimates that they are present in 159 municipalities in 18 departments.⁴⁴ Human rights organizations like INDEPAZ find that the "new" groups are active in 314 municipalities in 20 departments.⁴⁵

The relationship between the “new” paramilitary groups and members of the army and public officials continues. The May 31, 2011 arrest of 24 persons in Chocó (including 7 police, one council member and a judicial authority) for links to the Rastrojos places doubt on the government’s theory that these groups are simply common criminals whose sole objective is to benefit from narcotics trafficking. This is just one example of many cases that evidences that “new” paramilitary groups’ structures and modus operandi continue. The groups continue to attempt to co-opt state institutions as part of their strategy to control territories, populations and resources. The Office of the Inspector General and the Office of the Comptroller have warned that there is a latent risk in the vast majority of mayors’ and gubernatorial offices that may fall into the hands of “new” illegal armed structures in this October’s local and regional elections.⁴⁶

The Office of the Prosecutor General affirmed that approximately 700 members of the armed forces are being investigated for ties to paramilitary groups. The National Police have removed 300 police, and the DAS have expelled 30 agents from the institution for the same reason.⁴⁷

Due to threats from paramilitary groups, the Santos administration responded with *Operación Troya* (Trojan Operation) which combines counter-narcotics operations and police and military operations with legal action. The objective is to dismantle the new armed groups’ structures in the departments of Córdoba, Sucre and Antioquia. Similarly, the D6 strategy attempts to dismantle these structures with the creation of a Joint Forces Task Force that includes the army, navy, and air force units that are used to combat the guerrillas. The Colombian Army’s website reports that 301 presumed members of the “criminal groups” have been arrested, in addition to the confiscation ammunition, weapons, and drugs, since April of 2011 thanks to *Operación Troya*.⁴⁸

Despite the efforts of the Santos administration to develop a new strategy to combat illegal armed groups, it is important that these actions are accompanied by effective investigations that unravel the ties of these structures to civilians and members of the armed forces in Colombia. It is clear that political will to dismantle these groups will fail if it depends solely on military action. Therefore, the willingness of the Colombian state is needed in order to clarify ties between these groups and government officials at the local, regional, and national level, in addition to businesses, land owners, and especially members of the military.

The Justice and Peace Process that began under the Uribe administration have led to some important results in terms of revealing the truth regarding the ties of paramilitary groups. It has also contributed to clarifying the connection of paramilitaries with certain sectors of Colombian society, as is the case of the para-politics, para-economic, and para-institutional scandals. However, 6 years after the implementation of the Justice and Peace Process,

the results in terms of truth, justice, and reparations for the victims continue to be precarious.

Of the 31,671 paramilitaries that demobilized, only 3,635 participated in the Justice and Peace Process hearings.⁴⁹ Of the 3,635, only 621 have continued to participate in the proceedings. Another 313 paramilitaries have been called on by the Office of the Prosecutor General to provide testimony, but they have not responded.⁵⁰ The Office of the Prosecutor General has confirmed that they do not know why. Currently, the Justice and Peace Process has only resulted in five sentences against former commanders and members of the AUC: Wilson Salazar Carrascal alias 'El Loro', of the Héctor Julio Peinado Becerra Front; Edwar Cobos Tellez, alias 'Diego Vecino'; Úber Banquez Martínez, alias 'Juancho Dique' of the Montes de María block; Jorge Iván Laverde Zapata alias 'El Iguano'; and Aramis Machado Ortiz, alias 'Cabo Machado' of the Catatumbo Block.

The extradition of paramilitary leaders to the United States has made investigations in the Justice and Peace Process very difficult and led to the suspension of participation by the extradited in hearings. The participation of paramilitary leaders is fundamental in clarifying the truth behind human rights violations committed by the paramilitary groups. It is necessary in order to understand the ties between paramilitaries and certain sectors of Colombian civil society and the military.

Similarly, murders, threats, and attacks against the families and lawyers of paramilitary leaders that were extradited have been denounced as a plan to silence them. This intimidation has practically paralyzed the process in several of these proceedings.

The approval of Law 1424 is very worrisome. It attempts to resolve the juridical limbo of almost 20,000 demobilized paramilitaries that weren't covered by the Justice and Peace Process. Law 1424 was proposed by the Santos administration in November 2010 and approved in the record time of one month. It provides legal benefits akin to amnesty for paramilitaries that did not have public hearings for crimes against humanity in exchange for voluntary confessions. According to the law, testimony cannot be used against them in cases against them or third parties that are mentioned in the voluntary confession.⁵¹ The Colombian Commission of Jurists (CCJ), José Alvear Restrepo Lawyers Collective (CCAJAR), and Representative Ivan Cepeda have questioned the constitutionality of the law by arguing that it will violate victims' rights to truth, justice and reparation.⁵² The Constitutional Court accepted their plea in March, and it is currently being investigated.

10. Sexual Violence against Women in the Context of the Internal Armed Conflict

Sexual violence against women has been used as a weapon of war by all of the actors of the internal armed conflict, both legal and illegal. Despite the

magnitude of the problem, sexual violence has remained an invisible crime for the state and civil society in general until recently. The situation has changed thanks to the tireless work of women's organizations that have managed to document thousands of cases, bring them into the public light, and demand an effective response from the state.⁵³

However, the response of the Santos administration continues to be insufficient in regards to the magnitude of sexual violence in the country. Despite legislation in Colombia intended to eliminate all forms of violence and discrimination against women – such as Law 1257 of 2008 – the legislation has not been regulated by the executive branch. The legislation has not resulted in the creation of a public policy that responds to the need for prevention, protection, and the elimination of violence against women in Colombia. Different agencies, such as the Ministry of Education and the Ministry of Defense, have raised awareness about the rights of women by spreading word about the law – an advance that is positive in any light. However, these programs are isolated cases that do not reflect a concerted strategy by the state. They are limited to the diffusion of the law and capacity building, instead of forming a clear policy for the prevention and elimination of sexual violence.

It is more worrisome in the case of the Ministry of Defense, where there is no sign of a determined disposition to investigate and sanction members of the military accused of crimes of sexual violence. Official figures from the Ministry of Defense establish that only 8 cases of sexual violence attributed to members of the military have resulted in sentences. This is an absurd figure if it is compared to the number of cases reported by the Institute of Legal Medicine, which shows that the armed forces are responsible for 232 cases of sexual violence between 2005 and 2009.⁵⁴ Furthermore, the cases that manage to reach civilian justice confront huge obstacles. Such is the case of the Army's Second Lieutenant Raúl Muñoz, accused of raping two minors in Arauca and murdering one of the girls and her two brothers. The DEMIL, which is carrying the second lieutenant's defense, has postponed the start of the trial on several occasions through multiple lawyer changes. The trial will resume next September.

The Constitutional Court, along with the Inter-American Commission on Human Rights, has made multiple recommendations to the Colombian government to advance the protection and elimination of gender-based violence in the country, in particular sexual violence in the context of the armed conflict. In the IACHR's 2009 report, it recommends the creation of a standardized information system on violence against women.⁵⁵ The Commission claims that one of the greatest obstacles to the elimination of violence against women is the lack of a reliable statistics that demonstrate the magnitude of the problem. The Constitutional Court made a similar recommendation to the Office of the Prosecutor General in Order 092 of 2008. Although the Office of the Prosecutor General responded with Resolution 266 of 2008, which ordered the creation of a standardized register

for cases of sexual violence, said register does not appear to be functioning yet. The Prosecutor General continues to present progress reports that provide outdated, non-standardized information.⁵⁶

The Justice and Peace Process with paramilitary groups has not clarified crimes of sexual violence committed by paramilitaries. According the Office of the Prosecutor General's website, they have documented 55 cases of sexual violence in the Justice and Peace process up to July 2011.⁵⁷ None of the 55 cases have reached a sentence. On the other hand, the Office of the Inspector General's Unit on Human Rights and International Humanitarian Law reports that they investigated 83 cases of sexual violence, which have resulted in only one sentence since March 2011.

The lack of the state's attention regarding women's issues in the context of the armed conflict under the current administration is alarming. As was discussed above, Law 1257 continues is not regulated, and the director of the Presidential Advisor for Women's Issues was appointed almost a year after the inauguration of the new administration. It was the last position to be filled in the cabinet.

On the other hand, Prosecutor General Viviane Morales has made several public declarations condemning sexual violence as a weapon of war in the country. The Prosecutor General affirmed that sexual violence in Colombia should be considered a crime against humanity. Similarly, she has said that it is imperative that the investigations of sexual violence extend farther than discovering the individual directly responsible. The Office of the Prosecutor General must uncover their superiors who permitted the sexual violence to occur during the conflict through action or inaction.⁵⁸ We hope that in light of her statements we will see real progress in the investigations, sanctions against those responsible, and, above all, more serious attention to victims of sexual violence in the country in the judicial branch.

Conclusion

It is important to recognize the Santos administration's willingness and efforts to dialogue with human rights organizations and victims' associations, in addition to other sectors of civil society. It is also important to recognize advancements in the formulation of policies that take steps towards addressing the victims of the armed conflict through the passage of the Victims' Law. Nevertheless, we consider that these positive changes have yet to result in tangible improvements in the protection of human rights in the country.

Instead, in some cases we see quite the opposite. There has been a deterioration in the human rights situation of certain sectors of civil society, such as human rights defenders, leaders of afro-descendent and indigenous communities, and particularly those who defend the rights of displaced populations. It is evident that the actions of illegal armed groups, especially

paramilitaries, continue to dramatically affect civil society. Paramilitary groups continue to target human rights organizations, leaders of displaced populations, and Afro-Colombian and indigenous victims' associations. This is reflected by the increase in the number of threats and attacks that have been reported in the past year.

The level of impunity in cases of human rights violations continues to be alarming. We understand that the Prosecutor General faces huge obstacles and that it will require time, resources, and political support from the government. We are concerned that the Santos' administration continues to question court orders in cases that involve members of the government, especially in cases involving members of the military. It is necessary for the Santos administration to respect legal decisions and support victims and the organizations that represent them.

The Victims' Law that is supposed to go into effect in 2012 presents an opportunity and challenge for the current government. The restitution of millions of hectares of land to hundreds of thousands of displaced families requires determined action by the Santos administration. It will need to provide protection for returning communities and, most of all, a strong commitment to investigate and sanction the actors (legal and illegal) responsible for displacement and the illegal usurpation of land. The law offers an opportunity to provide reparations for a sector of Colombian society that has been disproportionately affected by the internal armed conflict. By providing reparations, Colombia will make up for its historical debt to the victims of forced displacement. In this regard, it is important for victims to participate in the regulatory decrees and the court's actions in regards to the matter. The rights of free, prior, and informed consultation of Afro-Colombian and indigenous peoples must be respected in the implementation of the law.

The effective implementation of the various measures adopted by President Santos requires a high level of political will on behalf of all of the government. Most of all it will require observation, follow-up, and support from the international community, including the United States and civil society in the U.S. and Colombia.

The Santos government provides an important opportunity to advance the human rights agenda in the country. Support and oversight from the international community is essential in ensuring that the political will that has been shown by the administration translates into real and sustainable change in the human rights situation in the country. This is necessary to establish the solid base for an eventual national reconciliation process.

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This report was written by USOC and WOLA. The information in this report covers the period up to August 15, 2011. For more information, please visit our websites: www.usofficeoncolombia.org and www.wola.org

¹ The organizations we are Defenders, speaks of 145 attacks against defenders that include: 93 threats, 29 assassinations, 10 assassination attempts, 8 arbitrary detentions, one defender was wounded and a one case of baseless prosecution.
http://www.somosdefensores.org/index.php?option=com_content&view=article&id=88:amenazas-cumplidas&catid=8:novedades&Itemid=3

² We are Defenders is a civil society organization that has as an objective to monitor and report on the situation of human rights defenders in Colombia

³ <http://ipsnoticias.net/nota.asp?idnews=98982>

⁴ This term was used to refer to the confrontation between the judicial and the executive branch, during Uribe's administration.

⁵ http://www.somosdefensores.org/index.php?option=com_content&view=article&id=88:amenazas-cumplidas&catid=8:novedades&Itemid=3

⁶ Vice-Presidente dice que muerte de líder de desplazados pudo evitarse

http://www.elmundo.com/portal/noticias/nacional/vicepresidente_dice_que_muerte_de_lider_de_desplazados_pudo_evitarse.php

⁷ Verdad Abierta. "A Ana Francisca la persiguió la violencia", en:

http://www.verdadabierta.com/index.php?option=com_content&id=3313

⁸ El Tiempo. *En un video, Ana Fabricio Córdoba advirtió que su vida corría peligro.* <http://m.eltiempo.com/colombia/medellin/en-un-video-ana-fabricia-cordoba-advirtio-que-su-vida-corría-peligro/9561625/1/home>

⁹ The Uribe administration began a process of privatization of the protection program, despite the opposition from the beneficiaries of the program. The company hired by the government is VISE Ltd.

¹⁰ Coordinación Colombia-Europa-Estados Unidos. *Boletín sobre la situación de derechos humanos en Colombia de la coordinación Colombia-Europa-Estados Unidos.* July 2011.

¹¹ Colombia Reports. *Uribe's wiretap investigation becomes saddest joke of the decade.* June 5, 2011.

<http://colombiareports.com/opinion/from-the-editor/16757-uribes-wiretap-investigation-becomes-saddest-joke-of-the-decade.html>

¹² Un Presunto para-político investigará a Uribe en la Comisión de Acusaciones

<http://www.razonpublica.com/index.php/recomendado/2093-un-presunto-parapolitico-investigara-a-uribe-en-la-comision-de-acusaciones.htm>

¹³ Escuela Nacional Sindical. "Cuaderno de Derechos Humanos no.22". October 2010

¹⁴ WOLA. "Workers without Rights." January 2011.

¹⁵ 7 cases and 16 victims in 2009, and 12 cases and 23 victims in 2010. CINEP, *Falsos Positivos 2010 Clamor por la Verdad y la Justicia.* May 2011.

¹⁶ Organizaciones Españolas. *300 Días de gobierno de Santos*

¹⁷ Colombia Reports. *82 Convictions out of 1,486 'false positive' cases prompt investigation.* July 1, 2011.

<http://colombiareports.com/colombia-news/news/16677-82-convictions-out-of-1486-false-positive-cases-prompt-investigation-into-delays.html>

¹⁸ *Ibid.*

¹⁹ El Tiempo. *Casi dos años de falsos positivos en Soacha y solo avanza un caso.* May 31, 2011.

<http://www.eltiempo.com/justicia/atrasos-de-la-justicia-en-falsos-positivos-9506065-4>

²⁰ *Semana. Tolemaida Resort.* April 2, 2011. <http://www.semana.com/nacion/tolemaida-resort/154427-3.aspx>

²¹ Presentation by the National Searching Commission during the Seminar on Forced Disappearances. Bogotá, May 23, 2011.

²² Comisión de Búsqueda de Personas Desaparecidas, *Instrumentos de Lucha contra la Desaparición Forzada*, February 2010, p. 92, footnote 155.

²³ Seminario Nacional: La Protección y Defensa del Derecho a la Verdad de las Víctimas de Desaparición Forzada en el Ámbito Jurídico Nacional e Internacional. *Declaración Final.* May 24, 2011.

²⁴ Santos Califica de Injusta condena contra Arias Cabrales <http://www.elespectador.com/noticias/judicial/articulo-266423-santos-califica-de-injusta-condena-contra-arias-cabrales>

²⁵ See: Constitutional Court orders 218 de 2006, 092 de 2008, 004 y 005 de 2009, 382 y 384 de 2010.

²⁶ <http://www.derechoshumanos.gov.co/Observatorio/Paginas/Observatorio.aspx>

²⁷ ONIC. "Informe sobre la crisis humanitaria y violación a los derechos de los pueblos indígenas". August 2011

²⁸ OCHA. "Colombia, Desplazamiento masivo Comunidad de Caimito (Guapi, Cauca), Informe de Situación N° 1." July 22, 2011.

²⁹ OCHA. "Colombia, Desplazamiento Medio Atrato, Chocó. Informe de Situación No. 1." February 28, 2011.

³⁰ WOLA. "Cauca's Nasa Indigenous People Caught in the Crossfire." July 15, 2011.

³¹ Herrera Durán, Natalia. *El Espectador.* "El Asedio de los indígenas". 5 de July de 2011.

³² Letter sent to the Minister of Interior by members of the Permanent Roundtables of Negotiations. January 25 de 2010.

³³ UNOCHA, Boletín Humanitario Tendencias – Primer semestre de 2011, July 2011.

³⁴ [Surviving Alone: Improving Assistance to Colombia's Flood Victims](http://www.wola.org), Refugees International, May 19, 2011

³⁵ Interview with CCJ by WOLA August 2011.

³⁶ *Ibid.*

³⁷ Día Mundial de los Refugiados: víctimas que cruzan las fronteras, CODHES, Quito, June, 2011.

³⁸ This section was based on different analysis made by Colombian organizations, especially with the help of the Comisión de Seguimiento and Yamile Salinas. Comisión de Seguimiento Balance Aproximativo de la ley de víctimas aprobada por el Congreso de la República, June 2011.

³⁹ This is taken of US Office on Colombia's own database.

⁴⁰ See orders 218/06, 092/08, 004, 005, 007 y 008/09, entre otros

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- ⁴¹ See Court Rulings C-175 de 2009, T-769 de 2009 y T-129 de 2011
- ⁴² See: Verdad Abierta. En qué va el Plan de Choque de tierras <http://www.verdadabierta.com/paraeconomia/3427-en-que-va-el-plan-de-choque-de-tierras>
- ⁴³ La Reintegración Logros en medio de rearmes y dificultades no resueltas <http://www.cnrr.org.co/descargas/Informe%282%29.pdf>
- ⁴⁴ Instituto de Estudios para el Desarrollo y la Paz, Resumen del Cuarto Informe sobre grupos narco-paramilitares, Primer Semestre 2010. Bogotá 2010
- ⁴⁵ Instituto de Estudios para el Desarrollo y la Paz, *Ibidem*.
- ⁴⁶ La Contraloría General alerta sobre graves riesgos en campañas electorales, <http://www.nuevoarcoiris.org.co/sac/?q=node/1123>, Semana, Elecciones con Alto Riesgo de Cooptación de grupos ilegales, <http://www.semana.com/politica/elecciones-alto-riesgo-cooptacion-grupos-ilegales/153814-3.aspx>
- ⁴⁷ <http://www.verdadabierta.com/rearmados/50-rearmados/3308-ineoparamilitares>
- ⁴⁸ <http://www.ejercito.mil.co/?idcategoria=281056>
- ⁴⁹ Comisión Colombiana de Juristas, La Metáfora del desmantelamiento de los grupos paramilitares, segundo informe de balance sobre la aplicación de la ley 975 de 2005. Bogotá 2010
- ⁵⁰ Comisión Colombiana de Juristas, *Ibidem*
- ⁵¹ Law 1424 December 29, 2010.
- ⁵² http://www.ambitojuridico.com/BancoConocimiento/N/noti-110414-05_%28corte_constitucional_admite_demanda_contra_disposiciones_que_buscan_definir_la_situ%29/noti-110414-05_%28corte_constitucional_admite_demanda_contra_disposiciones_que_buscan_definir_la_situ%29.asp
- ⁵³ The Campaign *Rape and Other Kinas of Violence: Get My Body out of the Conflict* includes the participation of several women's organizations. The campaign had a national survey that revealed that 489,687 women were victims of sexual violence in Colombia between 2001 and 2009. The *First Survey on Prevalence: Sexual Violence against Women in the Context of the Colombian Armed Conflict 2001-2009* was held in 407 municipalities where the military, guerrilla, and paramilitaries had an active presence. The survey discovered that 18% of women in these municipalities have been victims of some kind of sexual violence.
- ⁵⁴ Information request made by the Working Group on Court Order 092.
- ⁵⁵ CIDH, *Informe Anual de la Comisión Interamericana de Derechos Humanos 2009*, Capítulo V Informe de seguimiento – Las mujeres frente a la violencia y discriminación derivadas del conflicto armado en Colombia, OEA/Ser.L/V/II Doc. 51 corr. 1, 30 diciembre 2009
- ⁵⁶ Cuarto Informe de la Mesa de Seguimiento al Auto 092, 2011.
- ⁵⁷ Prosecutors' Office web site <http://www.fiscalia.gov.co/justiciapaz/index.htm>
- ⁵⁸ Violencia de Género puede tratarse como delito de "lesa humanidad": Fiscal General <http://www.minuto30.com/?p=36552>