



**COLOMBIA, HUMAN RIGHTS UNDER THE SANTOS ADMINISTRATION:
BETTER WORDS, BUT VIOLENCE STILL UNCHECKED**
Latin America Working Group Education Fund, January 2011

Colombian President Juan Manuel Santos has adopted a welcome change of tone on human rights issues from the Uribe Administration, which left office in August 2010. Rather than using harsh rhetoric that puts human rights defenders in real danger, the Santos Administration has lowered the charged tone, initiated dialogue on human rights issues, chosen a vice president with a labor background, and appointed a new, qualified attorney general. The Santos Administration has also advanced legislation that would, if approved by the Congress and effectively implemented, provide many victims of violence by all armed actors some limited reparations and return land to a subset of those who have been violently displaced.

However, positive rhetoric, new appointments and pending legislation have yet to translate into effective actions to address Colombia's past and present human rights violations. It is too early to judge the new administration's commitment and capacity to resolve these challenges. **But it is the right moment to encourage the Santos Administration to match its words with deeds.**

As Vice President Angelino Garzón visits Washington, DC the week of January 24th, it is important that the Colombian government commit to significant new advances in protecting human rights defenders, dismantling paramilitary groups, achieving reparations and sustainable, safe land returns to victims of violence, and securing justice for abuses committed by security forces.

Colombia's still-severe human rights situation demands action. **Disturbingly, violence against human rights defenders—particularly land rights advocates, as well as union leaders, local human rights activists, Afro-Colombian and indigenous leaders—continues at a brutal rate since the new government took office.** Human rights challenges inherited from the previous administration, in which President Santos served as defense minister, are far from resolved, including achieving justice for thousands of extrajudicial executions by members of Colombia's security forces; successfully prosecuting those responsible for massive illegal wiretapping and replacing the notorious DAS intelligence agency; and bringing under control and dismantling the paramilitary and criminal networks that have regrouped and expanded since the partial demobilization of the AUC paramilitary organization in 2005. And the pending land and victims legislation, while a positive development, has serious limitations. Below, a review of some of the human rights challenges facing the Santos Administration.

HUMAN RIGHTS DEFENDERS IN PERIL. Violence against human rights defenders continued at a brutal rate in the first 75 days of the new administration, according to a [report](#) by the human rights observatory of the Colombia-Europe-United States Coordination, a network of several hundred Colombian human rights and nongovernmental organizations.¹ Among those most affected by assassinations and threats were land rights activists, local human rights defenders, union leaders, indigenous and Afro-Colombian community leaders, and LGBT leaders. **Between June and October 2010, 33 human rights defenders were killed**, according to the Colombian Human Rights Defenders Campaign.²

The National Labor School (ENS) reports **46 murders of union leaders in 2010**, as well as 19 attempted murders. This may put 2010 in a slight decline from the 47 unionists killed in 2009, but keeps Colombia's unenviable place as a world leader in anti-union violence. Teachers union members are among the most affected. For example, according to the US Labor Education in the Americas Project, from January 28 through early May 2010, four teachers affiliated to the teachers' association of Córdoba, ADEMACOR, were assassinated in the province by unknown assailants, close to their workplaces.

The national debate over land return **appears to have escalated peril for leaders of internally displaced communities who are advocating for land rights**. Among those killed since the start of August 2010 are: Hernando Pérez, leader of the Association of Restitution of Property and Land of Urabá Antioqueño, killed after a Colombian government ceremony returning land to his community in which USAID participated; Oscar Maussa, to whose community land was returned in 2005 but who faced continual threats and new displacement; Edgar Bohórquez Palma, leader of the Association of United Displaced People of Sarare; the coordinator of Nueva Florida Organization Beto Ufo Pineda; Ana María Moreno, representative of the Afro-Colombian Community Council of Asti; and Andrés Alfonso Arenas Buelvas and brothers Yonnel and José Alfonso Delgado Villamil, three young members of the Land Rights Working Group in Tolima department. Paramilitary or successor armed groups appear to be behind this wave of violence. Government action to protect such leaders is lacking. The Inter-American Commission on Human Rights, which had issued precautionary measures for Oscar Maussa, asserted that the Colombian government had failed to adopt "the necessary measures to protect [his] life." Edgar Bohórquez Palma had sought protection from the Ministry of Interior and Justice after he received threats, but according to his association, never received it.

On August 26, 2010, two LGBT leaders were shot and killed in Medellín, and the same day, two other LGBT activists disappeared in Yarumal, Antioquia, found dead two days later.

In November, Interior and Justice Minister Germán Vargas Lleras issued a statement calling nongovernmental human rights defenders "valid interlocutors with the National Government" and rejecting "any act of aggression... or stigmatization for their activities as defenders of human rights." **However, this welcome declaration has not yet been accompanied by significant advances in investigating and prosecuting the threats and attacks against human rights**

¹ Coordinación Colombia-Europa-Estados Unidos, *Las Palabras y los Hechos: Los primeros 75 días del gobierno de Juan Manuel Santos y la situación de la defensa de los derechos humanos*, October 2010, Observando series no. 12.

² Colombia Human Rights Defenders Campaign, December 6, 2010, <http://www.somosdefensores.org/noticias.htm?x=76>.

defenders. Virtually no effective investigation of threats has ever taken place, although threats often turn into violent reality. Hundreds of organizations have received threats from paramilitary successor groups in the last several months, including the U.S.-based Washington Office on Latin America. Even prosecutions of murders of trade unionists, which have seen some advances with resources and attention dedicated to these cases, have advanced only slowly in recent years, with new cases outpacing progress on successful prosecution of the backlog of cases, as detailed in this U.S. Labor Education in the Americas [report](#).

Moreover, investigations of human rights defenders on apparently baseless charges, carried out extensively by the previous administration, continue. **At least 130 human rights defenders were detained, investigated or were the subject of judicial proceedings in Colombia in 2010,** according to the Colombian Human Rights Defenders Campaign.³

PARAMILITARY AND CRIMINAL NETWORKS SPIRAL OUT OF CONTROL. Behind this wave of violence is a stark reality that the previous Colombian administration sought to deny: that **paramilitary and successor groups, only partially demobilized in 2005, continue to exert deadly control over large sections of Colombia's countryside and some urban areas, and indeed have expanded their reach in the last three years.** In December 2010, the government's National Reparations and Reconciliation Commission (CNRR) acknowledged that there are now at least **6,000 members of paramilitary or successor criminal bands (BACRIM), up from their estimate of 4,000 in 2008.**⁴ Paramilitary or successor criminal bands now are present in 151 municipalities of the country and are "very powerful, very dangerous," according to current Defense Minister Rodrigo Rivera. According to Human Rights Watch, official statistics reveal that the number of massacres in 2010 reached the highest level since 2005, with the 38 massacres taking place between January-November 2010 a 41 percent increase compared to the same period in 2009.⁵

In January, the brutal murder of two Bogotá biology students visiting Córdoba brought the daily violence in that province home to the capital and sparked a national debate on resurgent paramilitary violence. Over 600 people were killed in Córdoba in 2010; 36 were killed in the first two weeks of 2011. The Ombudsman's office had issued several dire risk assessments in July and August 2010 regarding Córdoba calling for an "early warning" to be issued that would prompt government action, but the early warning taskforce headed by the Ministry of Interior and Justice refused to act.⁶

The Colombian government's National Reparations and Reconciliation Commission in August 2010 reported that although the rate of murders nationally had declined from 2002 to 2008, the murder rate increased in Córdoba, Antioquia, Arauca, Chocó, Guainía, La Guajira and Risaralda, areas with heavy presence of illegal armed groups. Massacres and collective murders declined

³ Colombian Human Rights Defender Campaign, December 9, 2010, <http://www.colombiadefensores.org/noticias/item.asp?n=11783>.

⁴ Sally Palomino, "Las Bacrim tendrían unos seis mil hombres, en seis estructuras," *Semana*, 18 January 2011, <http://www.semana.com/noticias-nacion/bacrim-tendrian-unos-seis-mil-hombres-seis-estructuras/150361.aspx>.

⁵ José Miguel Vivanco, Human Rights Watch, Letter to Vice President Angelino Garzón, January 2011.

⁶ La advertencia que el Mininterior no escuchó," Silla Vacía, 17 January 2011, <http://www.lasillavacia.com/historia/la-advertencia-que-el-mininterior-no-escucho-sobre-cordoba-21104>

nationally but increased in 2007-2008 in Antioquia, Chocó, Valle and Bogotá.⁷ The CNRR further reported that the paramilitary or successor groups “between 2008 and 2009 strengthened their structures and developed alliances with guerrillas and other groups, recruiting young people and consolidating groups with considerable capacity to intimidate and harm.”⁸

According to Álvaro Villarraga, the Colombian government’s CNRR coordinator on demobilization, “this isn’t a question just of common crime. They still have characteristics of paramilitarism because they have military structures, they control territory, and, **what is worse, there still are links with some sectors of the government, security forces**, and to a lesser degree, there are networks linked to allied politicians.”⁹ The CNRR in an August 2010 report characterized the violence as not just “settling scores” between competing illegal groups. Instead, as with prior paramilitary violence:

the great majority of threats and many of the murders, disappearances, attacks and forced displacement have been directed against community leaders—campesinos, indigenous, union members, women’s leaders, opposition politicians, human rights defenders, NGO members and social leaders.... For this reason we infer that these groups are aiming to prevent the consolidation of organized community networks and grassroots social sectors, especially those that organize for their rights. Therefore, they attack their leadership, the communal processes in which they participate, and in particular, [attack] victims, given that it is they who are demanding the restitution of their lands, the possibility of return and attention to their rights.... those who had victimized them frequently reappear leading the rearmed groups.¹⁰

To date, the government has not launched an effective response to rein in this spiraling violence. Responsibility had been shifted to the police, rather than military, under the Uribe Administration, although the scale of the violence in a number of areas is beyond the capacity of a police force. The Santos Administration has begun to use joint military-police task forces, resulting in a few significant captures, but has yet to make sustained gains against these groups’ escalating control. Moreover, the government continues to fail to vigorously suspend and punish security force members that collaborate with or tolerate these groups. In areas such as Argelia, Cauca, human rights organizations report security force collaboration with or tolerance of paramilitary violence, with large bands of paramilitary troops passing easily through areas with heavy military or police presence. In the port city of Buenaventura, which has heavy presence both of illegal armed groups and official security forces, disappearances have skyrocketed since 2007.

LAND AND VICTIMS BILL: A POSITIVE FOCUS, BUT A COMPLICATED PICTURE. The Santos Administration has backed legislation that provides reparations for victims and land restitution to internally displaced persons. The legislation, which still must go through another round of debate in the Congress, may be approved before the end of this legislative session in June. While the legislation is groundbreaking, there are critical problems with the current bill.

⁷ National Reparations and Reconciliation Commission, “La Reintegración: logros en medio de rearmes y dificultades no resueltas,” Bogotá, August 2010, p. 14.

⁸ Ibid, p. 73.

⁹ “Las Bacrim tendrían unos seis mil hombres, en seis estructuras,” *Semana*, 18 January 2011, <http://www.semana.com/noticias-nacion/bacrim-tendrian-unos-seis-mil-hombres-seis-estructuras/150361.aspx>

¹⁰ Ibid, p. 61.

- **Lack of consultation with victims.** The bill was not widely consulted with victims and their associations. Although the Santos Administration attempted to remedy this with regional hearings, these are taking place after the bill has advanced.
- **Afro-Colombian and indigenous persons are excluded from this bill.** Because the Constitutional Court has required “previous consultation” with these minority communities, the bill does not address land return and reparations for these communities, which have suffered disproportionately from violence. The Santos Administration has promised to consult with Afro-Colombian and indigenous communities and then issue an administrative decree addressing their situation once the victims/land bill is passed. However, it is a risk to trust that this crucial question will be satisfactorily addressed via administrative decree once political capital has been spent ensuring the bill’s difficult passage through the Congress.
- **Universe of victims is limited.** Land will be returned only to specific geographical areas chosen by the executive branch. Chronologically, the victims covered now start in 1991, not the mid-1980s as originally proposed, excluding many victims of displacement and violence during the 1980s.
- **Different treatment for victims of state violence.** The current bill does include victims of state violence, and President Santos, in direct contrast to former president Uribe, expressly endorsed their inclusion. However, only victims of state violence must have their cases reviewed by a special tribunal.
- **Lack of protection for those who have land returned.** One of the most serious limitations of the current bill is that **it fails to include mechanisms or funding for protection for those who have their land returned.** The spiralling violence against land rights activists as the bill is simply being debated underscores how important it is for the government to design and implement effective protection.
- **Lack of legal assistance to victims to ensure their rights.** Victims’ associations have urged that this accompany reparations programs to ensure victims’ rights are protected.
- **Lack of mechanisms to ensure economic survival for returnees.** The bill does not contain funding or specific mechanisms for aid or credit to ensure a successful transition for those returning to their lands, although the bill mentions there is an obligation to create a plan, and the Agricultural Ministry may be contemplating additional programs.

While the Santos Administration’s focus on land return is commendable, it must be done in a way that protects the people it intends to assist. A land bill that returns people to their land only to have them be killed, face new displacement or lose their land quickly due to lack of transitional assistance is not the kind of justice that these victims, who have suffered so much, deserve. **Land return and victims’ reparations must appropriately cover Afro-Colombian and indigenous communities, and must be accompanied by adequate funding and mechanisms for protection and transitional assistance.**

Finally, victims’ associations emphasized that even more vital than material reparations is that the truth about the violence must be revealed, which is not a focus of this legislation. As one victims’ association declared, [“First, the truth”](#): without the full truth and societal and governmental acknowledgment about why these atrocities took place, they may occur again.

EXTRAJUDICIAL EXECUTIONS: INVESTIGATIONS STALL. During the Uribe Administration, soldiers regularly killed civilians outside of combat, dressed them up in guerrilla clothing, and used their bodies to up their body counts. In many cases, such as the notorious Soacha cases, young men were lured with promises of jobs and then killed simply to meet the body count or receive cash bonuses or vacation days. Cases involving some **3,000 civilians allegedly killed by soldiers** are in Colombia's civilian justice system.

Justice is still out of reach for the vast majority of these crimes. **Indeed, progress in certain ways has stalled significantly. Advances in transferring cases from military courts, where they went nowhere, to civilian courts, which had advanced in 2008, slowed dramatically in 2009-2010.** The director of military justice who had presided over these advances resigned in mid-2009. "It was like putting on the brakes and returning to the past," an anonymous source told *Semana* magazine. "Threats and pressures not to transfer cases to civilian courts began to increase...."¹¹ Of 30 military officials who were suspended from their posts in reaction to the extrajudicial execution scandal, as of September 2010, not one has been charged in a judicial investigation. **Moreover, although convictions were reached in some cases, most cases in civilian courts proceeded slowly.** Even the most notorious set of cases, Soacha, has proceeded with difficulty, beset by delays and judicial roadblocks. The Human Rights Unit's case overload and problems in the transition to the accusatory justice system are two technical reasons for this lack of progress, but so is the ingredient of political will.¹²

Far fewer new cases of extrajudicial executions have been reported since the end of 2008. However, Colombian human rights groups report an increase in forced disappearances, some of which could be extrajudicial executions by security force members. Colombia's governmental National Search Commission reports 1130 forced disappearances in the last three years, with many more going unreported. New official estimates of forced disappearances in Colombia exceed 32,000, putting Colombia in the company of Argentina (see the Latin America Working Group/US Office on Colombia's new report, [Breaking the Silence: In Search of Colombia's Disappeared](#)).

Colombian soldiers allegedly were responsible in October 2010 for the rape of a 14-year-old girl and the subsequent murder of the girl and her two younger brothers, 9 and 6. The initial response of the Colombian government to this horrific crime was prompt and appropriate, suspending seven soldiers, including officers for failing to control their troops.

Those who denounce extrajudicial executions by the security forces continue to be subject to threats and assassinations. In just two of many examples, on October 13, 2010, lawyer Leonardo Jaimes Marín, who represents families of extrajudicial execution victims, was approached by a demobilized insurgent claiming to speak in name of the army's GAULA unit who told him that there were "orders from above" to kill him and the victims' family members. Norma Irene Pérez,

¹¹ "Los casos olvidados de los 'falsos positivos,'" *Semana*, 17 July 2010, <http://www.semana.com/noticias-nacion/casos-olvidados-falsos-positivos/141863.aspx>

¹² U.S. Office on Colombia reports that of extrajudicial execution cases assigned to the Human Rights Unit of the Attorney General's office, 1,354 cases involving 2,321 victims were assigned to the unit between 2002 and March 2010, of which 1240 are under investigation, 3 are in pre-trial, 2 cases have been recluded, 66 are in trail and 43 cases have resulted in convictions, according to information provided by the Human Rights Unit as of September 2010. (Additional cases are assigned to regional branches of the AG's office.) Kelly Nicholls and Diana Arango, US Office on Colombia, [Still Waiting for Justice](#), September 2010.

president of the Human Rights Committee of La Unión and one of the organizers of a public audience on disappearances and unmarked graves found in La Meta that may contain extrajudicial execution victims, which was convened by Colombia's congressional human rights caucus, disappeared and was found dead on August 13, 2010, three weeks after the hearing.¹³

By Lisa Haugaard, Latin America Working Group Education Fund, January 24, 2011.

¹³ Coordinación Colombia-Europa-Estados Unidos, *Las Palabras y los Hechos: Los primeros 75 días del gobierno de Juan Manuel Santos y la situación de la defensa de los derechos humanos*, October 2010, Observando series no. 12.