

ABC Colombia

CAFOD, Christian Aid, Oxfam GB, SCIAF, Trócaire
Working for Peace and Human Rights in Colombia



Civil Society Voices: Agendas for Peace in Colombia



Contents

Executive Summary	1
Recommendations	5
1.0 Peace Talks in Colombia	7
1.1 Civil Society Organisations	
1.2 Women and the peace talks	
1.3 Proposals from victims' delegations	
1.4 Truth as part of a process for sustainable peace	
1.5 Transitional justice policies	
1.6 Socioeconomic exclusion	
1.7 Social protest	
2.0 Human Rights Defenders	15
2.1 Investigation Units in the Attorney General's Office	
2.2 National Roundtable on Security Guarantees for Defenders	
2.3 Victims' Roundtables	
2.4 National Protection Unit	
3.0 International Support for the Peace Process	21
3.1 International norms on conflict-related sexual violence	
3.2 International intervention to create enabling spaces for dialogue	
3.3 International Labour Organisation Convention 169	
4.0 Business, Human Rights and the Peace Process	24
4.1 UK Bi-lateral Investment Treaty with Colombia	
4.2 EU Free Trade Agreement	
Endnotes	26

ABColombia's member organisations have around 100 partner groups in Colombia, many of whom are from some of Colombia's most marginalised sectors: women, peasant farmers, Indigenous Peoples and afro-Colombian communities. Much of the information in the case studies featured in this report comes from these partner groups and from interviews carried out by ABColombia between 2012 and 2014. The National and International CSOs interviewed by ABColombia include legal groups, the Social Action Department of the Catholic Church (SNPS) and NGOs, many of whom accompany these communities. ABColombia also met with local and national government bodies and officials, the UN and the Human Rights Ombudsman's Office (Defensoría).

Executive Summary

In order to build a sustainable peace, it is essential to involve those who have suffered the impact of the conflict in the peace-building process. For this an enabling environment needs to be created; an environment where participative democracy and human rights are respected and promoted.

Colombia is facing a crucial and complex moment in its history. President Juan Manuel Santos officially started peace talks on 5 October 2012 with the aim of ending over 50 years of conflict with the guerrilla group the Fuerzas Armadas Revolucionarias de Colombia (FARC). Bringing an end to the conflict with the FARC guerrilla will be an immense step forward for Colombia but is only one of many steps in the process of building a sustainable peace. Despite peace talks the conflict continues and there are other armed groups that will prove an obstacle to peace. These include the second largest guerrilla group, the ELN, and the Post Demobilised Paramilitary Groups (PDPGs)

This report is intended to highlight the critical role of civil society in Colombia at this crucial moment and to outline how civil society groups and organisations can be supported. It gives an update on many of the most relevant human rights concerns, the obstacles to a sustainable peace and the perspectives of civil society on key issues in the peace process. It also makes a series of recommendations for the International Community and the Colombian Government.

Whilst recognising and reaffirming that civil society groups and organisations are diverse in Colombia, as they are in other countries, this report will focus on the voices of marginalised groups, namely women, peasant farmers, Indigenous Peoples and afro-Colombians. These groups have been most affected by the conflict.

The EU Agenda for Change,¹ the UK's 'Big Society' agenda,² and the Irish Government's Civil Society Policy³ all emphasise the importance of creating enabling spaces for the active participation of Civil Society Organisations (CSOs). These agendas view CSOs as fundamental to the promotion of democracy and good governance and vital for the construction of policies on development with social justice.

CSOs are able to provide knowledge gained at the grassroots combined with the ability to engage critically in order to contribute effectively to policy construction. CSOs also provide the collective organisation and access to technical skills that are required to balance the inequality of power and facilitate dialogue between victims and the State and between citizens and corporations. People working in these organisations are vital for: promoting human rights, supporting people to claim their rights, shaping development policies and monitoring implementation.⁴ Therefore, CSOs have a vital role to play in the construction of democracy. Despite, or perhaps because of the importance of their role, human rights defenders (HRDs) continue to be attacked and killed in very high numbers.

In 2014 Colombia was still the most dangerous country in the world for HRDs. Their defence of the rights of others have led to them being labelled by government officials and others as 'the enemy'. This has contributed to a polarising effect within society. However, the critical voice of HRDs has not been about undermining governance and stability, but rather strengthening it. As such, they have a crucial role to play in helping to guarantee non-repetition, good governance and a sustainable peace.

The EU recognises the importance of CSOs and their role in ensuring a sustainable peace: '[w]hile Government efforts are vital in post-conflict peace-building, they are not sufficient, in and of themselves'.⁵ Incorporating victims' representatives and CSOs into the delegations that travelled to the peace talks in Havana (Cuba) to present their proposals to the peace negotiators is an important first step in reframing the essential nature of CSOs in the establishment of a sustainable peace. The UN Secretary General highlighted the importance of the participation of women's CSOs in the peace talks, he stated '[a]s a result ... conflict-related sexual violence has

been raised at the negotiations by both survivors and stakeholders; this is an innovation that not been seen in any prior peace process.⁶ However, for CSOs to continue to play a vital role, they will need the International Community to provide funding and political support.

Civil society has responded to the peace talks in a variety of ways. The majority have engaged in this process and consider these talks as the best chance for Colombia to end the conflict between the State and the FARC guerrillas. However, for some, mainly those in rural areas, the talks in Havana are viewed sceptically, in many cases due to previous experiences of demobilisation processes. Others are unconvinced or against the talks because they believe that the FARC should be defeated militarily. Many have invested considerable hope in the peace talks achieving an end to the conflict with the guerrillas, but they fear this may mean an increase in violence in their territories, something they experienced following the demobilisation of the right-wing paramilitary force, the Autodefensas Unidas de Colombia (AUC) in 2005.



'We found four factors that constitute the scenario of risk for the civilian population. One of those factors is the presence of armed groups, which in the majority of cases are led by demobilised paramilitaries. Another factor that we found is the conflict over land, which is linked to the presence of multinational companies. Another factor is the drug trafficking. And the last factor is the integration of paramilitaries in the municipal administration by means of cooptation.'

Human Rights Ombudsman's Office, Bolivar.⁷

The talks have also received opposition from powerful groups, including the previous Colombian President – now Senator – Álvaro Uribe Vélez. This opposition by Uribe divided the traditional support base on the Right during the June 2014 Presidential elections – between the incumbent President Juan Manuel Santos and the presidential candidate supported by Uribe. It was finally the support from the popular social movements and left-wing politicians that enabled the re-election of Santos for a second four-year presidential term on 15 June 2014, because of his commitment to continue the peace talks and end the conflict with the guerrilla groups.

One of the main challenges in the construction of a sustainable and lasting peace is the length of the war and the unfulfilled promises of the State. If the negotiators achieve a final peace agreement it will need to be backed by the Colombian people for its legitimacy and because the engagement of the civilian population is fundamental for the construction of any sustainable peace. It will therefore be essential that those who have been most marginalised and affected by the war see that peace signifies tangible improvements in their lives. For this to be the case, the Colombian State will need to ensure there is rapid development of public services (health, education, infrastructure etc.) as well as development policies that support local agricultural economies.

The peace talks have encouraged a tentative opening-up of democracy with 60 representatives taking part in victims' delegations to Havana.⁸ This participation of victims (of crimes perpetrated by guerrillas, paramilitaries

Executive Summary continued

and by the State) suggests recognition of civil society as a contributor to, and constructor of, peace in Colombia. Importantly, victims must not be seen as passive recipients in this process – which the terminology of ‘victim’ can engender – but as survivors, rights holders and active contributors to the construction of peace.

The decision to hear the testimonies of 60 victims of human rights violations was unprecedented.⁹ The impact of this important step forward will need to be evaluated, by victims and CSOs, when they see how far these proposals are incorporated into the final agreements. If the Colombian Government is to demonstrate to civil society that it is breaking with its past reputation, it will not only have to show it has incorporated victims’ proposals into the agreements, but that there is also an implementation strategy – and that this includes consultation with CSOs. According to Colombian CSO CINEP, in this peace process for the first time ‘the ruling class, or at least a significant portion, is willing to negotiate what has so far been non-negotiable in the history of the country: access to and control of land and territories’.¹⁰

Some of the anxieties around whether or not the final agreements will reflect the issues victims presented in Havana can be seen in the increasing social unrest in Colombia. In 2013 there were 1,027¹¹ protests in Colombia – the highest number of protests in one year since 1975. The main focus points of the protests were national development policies linked to international trade and investment policies, as well as the failure on the part of the government to implement previously made agreements. The pre-eminence of mineral extraction by multinational companies in Colombia’s economic development plan 2010 to 2014 is reflected in the Government’s designation of it as a ‘public utility’. This generated considerable protest, as did the lack of focus on policies to support small and medium-scale agriculture.¹² In order to avoid further confrontation on these issues the government will need to engage CSOs in the construction of future development policies and ensure that these policies reflect social justice.

Another of the major obstacles to peace in Colombia is the continuation of a large section of right-wing

paramilitaries following the 2005 AUC demobilisation process. A large middle ranking section of the AUC did not demobilise. They are referred to today as Criminal Gangs (BACRIM) by the Colombian Government and Post-Demobilised Paramilitary Groups (PDPGs) by others. They continue to operate at times in collusion with the Security Forces and local officials. These alliances make the implementation of the Victims and Land Restitution Law 1448 very difficult. The highest number of threats, attacks and killings are directed at land claimants and community leaders making land restitution extremely dangerous. If Colombia is to manage a transition from conflict to a sustainable peace it will have to ensure security and non-repetition for victims.

To achieve security and non-repetition for women in any peace process it will require that negotiators tackle the issue of justice in relation to conflict-related sexual violence. UN Security Council Resolution (UNSCR) 1325 (2000) states that it is the ‘responsibility of all States to put an end to impunity and to prosecute those responsible for genocide, crimes against humanity, and war crimes including those relating to sexual and other violence against women and girls, and in this regard stresses the need to exclude these crimes, where feasible, from amnesty provisions’.¹³

According to the Deputy UN High Commissioner for Human Rights, Flavia Pansieri, women have been one of the groups most impacted by the armed conflict and ‘[i]n view of this, but also because they constitute half of the population, it is of the utmost priority to include them in decision making and to listen and adopt their positions on peace, the country’s development and public policy on human rights’.¹⁴

Victims also see the establishment of an official Truth Commission as an essential ingredient for non-repetition. They consider it should be in addition to, and not instead of, judicial processes. The remit of such a commission should include: revealing the truth about the authors of the violence and chain of command, why crimes were perpetrated and what happened to those who have disappeared.¹⁵ UN Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-

Since the start of the peace talks, approximately 169 defenders have been killed (October 2012 to March 2015)

recurrence, Pablo de Greiff, supports the view that truth commissions should not be a substitute for judicial bodies: 'the contributions criminal prosecutions make to transitional processes are manifold. At the most general level, criminal prosecutions provide recognition to victims as rights holders. They also provide an opportunity for the legal system to establish its trustworthiness.'¹⁶

The high levels of impunity and lack of trust in the Colombian judicial system make it crucial for Colombia to carry out effective prosecutions; this will help to strengthen the Rule of Law. Congress has approved the Legal Framework for Peace (Marco Legal para la Paz) which allows for those seen as having been 'most responsible' for human rights abuses to be prosecuted. However, CSOs have concerns as to whether this will be sufficient for addressing the issues of justice given difficulties related to the legal criteria for defining 'most responsible'.

Multinational corporations and other nations' governments have a role to play in ensuring that they exercise due diligence with their trading agreements and investments in order to promote the rights of victims and to prevent further violations. The massive forced displacement of over 5.7 million people during the conflict, ongoing displacements, and the implementation of a land restitution process, make due diligence in investments crucial for a sustainable peace with justice and non-repetition in Colombia. The former UN Special Representative on Human Rights and Transnational Corporations emphasises that it is the responsibility of States to protect human rights; however, if the State is unable or unwilling to protect human rights, the responsibilities of corporations increase, and they must ensure that they respect human rights and avoid complicity in violating human rights and the rights of communities.¹⁷ This would suggest that the onus is on the companies to do thorough and independent research before embarking on their investment. There are some worrying trends, explored later in this report, as multinational mining corporations rush to invest in Colombia and other governments sign trade and investment treaties that have the possibility of potentially undermining the peace process in Colombia.

The European Union (EU) and other national governments should ensure that they are monitoring annually the impact of their trade and investment agreements on human rights and on the implementation of transitional justice laws. In addition, they will need to increase their financial support to Colombia, at least in the medium term, if they are to help to sustain peace in Colombia. This support must include funding the work of CSOs as an independent and critical voice in the construction of peace with social justice. They should also provide political support in order to help create enabling spaces for CSOs to participate in the construction of public policies that contribute to overcoming social, political and economic inequalities. A vibrant and strong civil society is essential in order to contribute to, and provide incentives for, social and democratic change that will support a sustainable transition to peace in Colombia.



Anna Vogt/JustaPaz

Recommendations

To the Colombian Government:

Peace Process

- The establishment of an official Truth Commission, in addition to and not instead of, judicial processes; and establish separate commissions to specifically address the issues of forced disappearances and conflict-related sexual violence.
- Develop mechanisms to ensure greater involvement of CSOs in decision making processes. Set up official consultative groups on specific issues with the aim of allowing voices of the poor and marginalised to be heard when policies are being formulated, at both local and national levels.
- Ensure that there are official consultations with CSOs following the peace agreements in order that they can participate in the formulation of policies related to the agreements and monitor their implementation.
- Ensure and build spaces of participation for the victims of forced displacement by encouraging their input in the design, execution and follow-up to the land restitution policy.
- Ensure the rapid development of public services in rural areas, including health, education and infrastructure, as well as the development of local farmers markets and local economies.
- Ensure that victims receive adequate, differentiated, transforming and effective reparation for the damage they have suffered. For reparation to be adequate and transformative there have to be guarantees of non-repetition and reparation should be sufficient for the victim to re-establish their livelihood.
- Inclusion in the peace processes of regulatory and public policy frameworks aimed at determining the situation and the real impact of acts of sexual violence, given that women who for various reasons have not reported this crime are also entitled to restitution and reparation.

Protection and Prosecution

- Dismantle illegal alliances, including those between the PDPGs (BACRIM) and the Security Forces so that there are guarantees of non-repetition and investigate and prosecute officials who collaborate with illegal armed groups.
- Ensure that the eviction orders for occupiers of 'bad faith' are implemented rapidly and that there are adequate collective protection mechanisms for returning land claimants.
- Ensure access to justice for women survivors of sexual violence, refrain from granting any type of amnesty or pardon for conflict-related sexual violence crimes.
- Prioritise and ensure that sufficient resources, which include dedicated judges and investigators, are provided to the Human Rights Unit in the Attorney General's Office to move forward on the investigation and prosecution of those responsible for crimes against human rights defenders, including land restitution leaders and claimants, in order that results are achieved.
- Improve the capacity of the National Protection Unit to respond immediately to requests for risk analysis and rapid delivery of allocated protection measures that incorporate a differentiated approach to gender and ethnicity, including support for the Indigenous Guard (Guardia Indígena) as part of the security measures offered.
- Strengthen prevention and protection measures in order to raise the level of security and make protection more effective for victims, human rights defenders and other persons linked to the process of land and territorial restitution.
- Step up the pace of investigations and the clarification of incidents linked to threats and murders of persons involved in the process of restitution.

To the European Union (EU):

- Hold processes of consultation with CSOs in order to identify the priorities for EU funding and political support post-signing of any peace accords.
- Increase EU donations over the medium term to Colombia to support the construction of a sustainable peace.
- Provide EU aid and political support to civil society organisations and groups¹⁸ that have been marginalised in the conflict as substantial stakeholders in the construction of peace:
 - EU Funding to CSOs and victims groups should be independent (without conditions of working with the State or other actors) and accompanied by political support;
 - Financial Resources should be targeted at the reduction of poverty and inequality and the strengthening of human rights and democracy;
 - EU aid should be targeted at the development of public services in rural areas, including health, education and infrastructure, as well as the development of local farmers markets and local economies.
- Support the United Nations Human Rights Office (OHCHR) to remain in Colombia.

To the UK Government:

- Annually monitor the human rights impact of the UK-Colombia Bi-lateral Investment Treaty and the EU Association Agreement with Colombia and Peru. The results should be recorded in the FCO Annual Human Rights Report.
- Ensure that the UK Embassy continues to monitor specific emblematic cases on land rights.
- As part of the G24 and EU, encourage and undertake observational visits to emblematic cases, regions and organisations, and specifically those mentioned in this report.
- Ensure that in all funding provided by the EU and by individual governments there is a broad thematic line that specifically provides funding to support the victims of the conflict and land restitution processes, and ensure independent funding for CSOs is included.

- Prioritise diplomatic relations with the Colombian Government, emphasising the importance of ending impunity for human rights violations and protection for human rights defenders.
- Support the United Nations Human Rights Office (OHCHR) to remain in Colombia.

To the Irish Government:

- Annually monitor the human rights impact of the EU Association Agreement with Colombia and Peru, including holding a Dáil debate and setting realistic and quantifiable goals to evaluate progress and make both the goals and the results public.
- Develop and publish clear and specific human rights guidelines for Irish companies doing business in Colombia as part its commitment to the UN Business and Human Rights framework and develop a monitoring plan.
- Ensure that in all funding provided by the EU and by individual governments there is a broad thematic line that specifically provides funding to support the victims of the conflict and land restitution processes, and ensure independent funding for CSOs.
- Prioritise diplomatic relations with the Colombian Government, emphasising the importance of ending impunity for human rights violations and protection for human rights defenders.
- Support the United Nations Human Rights Office (OHCHR) to remain in Colombia.

To the Scottish Government

- Develop and publish clear and specific human rights guidelines for any Scottish companies doing business in Colombia as part of its commitment to the UN Guiding Principles on Business and Human Rights and develop a monitoring plan.

1.0 Peace Talks in Colombia

1.1 Civil Society Organisations

Colombia is facing a crucial and complex moment in its history. President Juan Manuel Santos officially started peace talks on 5 October 2012 with the aim of ending over 50 years of conflict with the guerrilla group the Fuerzas Armadas Revolucionarias de Colombia (FARC). Bringing an end to the conflict with the guerrillas will be an immense step forward for Colombia but is only one of many steps in the process of building sustainable peace. Despite peace talks the conflict continues and there are other armed groups that will prove an obstacle to peace.

The importance for civil society groups of addressing social exclusion and development as integral parts of a sustainable peace process is reflected in statements by Colombian civil society leaders: '...peace is not a ceasefire, peace is not a negotiation between the government and the insurgents, peace is the welfare and improvement of decent living conditions for society'.¹⁹

According to the UN Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, Pablo De Greiff, development, justice and security are interconnected and interdependent elements when it comes to the rights of victims in an internal conflict.²⁰ He explains that the conflicts that broke out during the Arab Spring demonstrated that an integrated approach to rights which includes economic opportunities, security, decent governance and access to justice are not only essential but that these rights cannot be 'either traded off against one another or ordered in a sequence that allows for the indefinite postponement of some'.²¹ Postponing or sequencing the rights mentioned has led to social conflict in other parts of the world. Colombian civil society has been raising similar issues in social protests and in their recommendations to the peace talks in Havana, for example, the need to address the root causes of the conflict of socioeconomic exclusion, security, good governance and justice. Preliminary agreements from Havana would suggest that the talks will address some of the structural issues of poverty and exclusion.²²

The preliminary agreements have been made on the basis that 'nothing is agreed until everything is agreed'. This means the preliminary agreements will be revisited and finalised once all of the items on the agenda have been agreed. The peace talks have covered four points of a six point agenda: rural development, FARC integration into the political process, drug-trafficking and transitional justice and the rights of victims. Preliminary agreements have been

made on the first three items; the fourth, on transitional justice and the rights of victims, is still under discussion (April 2015). The final items are the laying-down of weapons by potentially 8,000 FARC guerrillas, and issues of 'implementation, verification and countersigning'.²³ A technical sub-commission has been formed to address the bilateral and definitive ceasefire and termination of the hostilities and laying down of arms. This sub-commission has started by reviewing and analysing national and international best practices.²⁴

The government and the National Liberation Army (Ejército de Liberación Nacional – ELN) are working to agree an – as yet undefined – agenda that will focus on the most crucial themes.²⁵ They will also need to join in the discussions on the laying-down of weapons and verification if a negotiated settlement is to be achieved with the ELN as well as the FARC.

When any agreements have been signed they will need to be ratified by Congress. The political block that supports former President Uribe – who opposes the talks – may pose some difficulties to their passage through Congress. The original structure for the peace talks and agreements outlined at the initiation of the talks stated that in addition to Congressional approval, '[i]t will be the Colombian people who will have the last word'.²⁶ Various methods for achieving this approval have been discussed; two of the possibilities are a referendum or a Constituent Assembly.

1.2 Women and the peace talks

The UN Security Council has drawn attention to the role of women in peace talks and peace-building processes through a variety of different Resolutions, starting with UN Resolution 1325 (2000) on Women, Peace and Security, followed by Resolutions 1820 (2008), 1888 (2009), 1889 (2009), 1960 (2010), 2106 (2013) and 2122 (2013). These Resolutions cover a wide spectrum of issues including the participation of women at all levels of decision-making in conflict resolution, the peace process and the implementation of peace agreements. Amongst other elements they specifically refer to measures to support local women's peace initiatives, the prevention of conflict-related sexual violence and justice for the victims of these crimes.

Although the Colombian State recognised that 'women have been the vortex in which the pain of the conflict has focused with immense intensity',²⁸ women's CSOs struggled for over a year to ensure that they were represented in the frontline negotiating team in Havana. This struggle culminated in a Summit in Bogota on

3 October 2012 Selatiel Méndez Secue Indigenous leader from ACIN, killed by FARC in Vereda Los Chorros-Caloto, Cauca.	6 October 2012 Jesús Alberto Uribe Arboleda Community leader of the Junta de Acción Comunal (Community Action Council) Ochali, killed by FARC in Yarumal, Antioquia.	16 October 2012 Luis Eduardo García Solarte Youth leader from Confederación AGROSOLIDARIA Colombia, killed by unknown persons in El Tambo, Cauca.	20 October 2012 Leovigildo Cunampia Quiro Indigenous leader and President of the Cabildo Mayor Indígena de la Costa Pacífica-municipio de Nuquí (Camizcop), killed by unknown persons in Jagua, Chocó.	30 October 2012 Elider Varela Cultural leader from Red de Hip Hop La Elite, killed by paramilitaries in Medellín, Antioquia.
HUMAN RIGHTS DEFENDERS KILLED IN COLOMBIA, OCTOBER 2012 – MARCH 2015				
4 October 2012 Luis Carlos Mosquera Youth leader from Comuna 8 Medellín, killed by unknown persons in Medellín, Antioquia.	7 October 2012 Luis Alberto Benítez Rojas Community leader of the Junta de Acción Comunal Vereda Candelaria Baja, killed by FARC in Ituango, Antioquia.	17 October 2012 Néstor Fabio Lara Community and Union leader from the Confederation of Colombian Workers and the SINTRAIECALI, killed by unknown persons in Cali, Valle.	27 October 2012 Eduardo Patiño Sáenz Community leader of the Junta de Acción Comunal Barrio Bosques Molino, killed by unknown persons in Bogotá.	



It hasn't been easy for us to reach these spaces;
it has been a battle and required tenacity.'

Female participant of the Victims Roundtable in Bolivar.²⁷

'Women and Peace' in October 2013 where over 400 women called on the government to appoint women to the negotiating team and to give women a leading role in the construction of peace.²⁹ In November 2013 the government appointed María Paulina Riveros and Nigieria Rentería to their negotiating team, as until then, all the main negotiators had been male.

On 7 September 2014, the FARC and the National Government officially installed the gender sub-commission of the peace talks. This was set up to guarantee 'a gender perspective in the partial agreements achieved and in an eventual final agreement'.³⁰ To date, three delegations of women have been to Havana to address the Gender Sub-Commission.

However, to achieve security for women in any peace process it will require that negotiators tackle the issue of justice in relation to conflict-related sexual violence. UNSCR 1325 (2000) states that it is the 'responsibility of all States to put an end to impunity and to prosecute those responsible for genocide, crimes against humanity, and war crimes including those relating to sexual and other violence against women and girls, and in this regard stresses the need to exclude these crimes, where feasible from amnesty provisions'.³¹ In human rights and humanitarian law, States have a duty to investigate and prosecute these violations which constitute crimes under national or international law.³² According to Colombian NGOs, to achieve any sustainable peace, Colombia needs to 'adhere to international standards and exclude conflict sexual violence from amnesties'.³³

Case Study 1: CSOs and policy change on conflict-related sexual violence

Conflict-related sexual violence is a major issue for women in Colombia. In 2008 NGOs presented evidence to the Colombian Constitutional Court on the situation of women and conflict-related sexual violence. The Court found that conflict sexual violence was a 'generalised, habitual, extensive, systematic and invisible practice carried out by all groups in the armed conflict' (Decision T-25 Auto 092 of 2008).³⁴ As a result, the Court ordered the Attorney General's Office to accelerate legal procedures and open investigations into 183 conflict-related sexual violence cases presented by NGOs and requested strict oversight of their investigation and prosecution by the Inspector General's Office (Procuraduría).³⁵ In addition to this the Court set up a monitoring committee to report at regular intervals on the progress of these cases.

In 2009 a group of nine national women's and human rights organisations supported by Oxfam published a survey covering ten years of statistical data that they had collected and collated on conflict-related sexual violence. This revealed extremely high levels of conflict-related sexual violence, along with the reasons for the silence surrounding this crime and the near total impunity in cases where it had been reported. The survey was launched with the campaign 'Leave my body out of the war',³⁶ which, together with a national campaign started a few years later – 'Now is not the time to remain silent' (No es hora de callar) – have raised awareness amongst Colombian society of what is happening to women in the conflict. These actions by Colombian CSOs found a response in the international arena with Oxfam advocating internationally on the 'Now is not the time to remain silent' campaign and ABColombia/ SISMA Mujer launching a report in November 2013 on conflict-related sexual

violence in Colombia.³⁷ These initiatives combined with the launch of an Amnesty International Report, a visit by the UN Special representative on conflict-related sexual violence to Colombia and the work of UN Women in Colombia, amongst others, helped to raise awareness nationally and internationally of this issue.

As a result of the advocacy work carried out by ABColombia with the Foreign and Commonwealth Office (FCO), Colombia featured as one of only a handful of priority countries for discussion at the Global Summit to End Sexual Violence in Conflict, held in London in June 2014, and a 10 person Colombian civil society delegation was invited to participate in the Summit.

The content of Law 1719 passed on 18 June 2014 reflects consultation with a wide range of stakeholders, including experts from Colombian civil society and United Nations entities. Law 1719 defines crimes of sexual violence as war crimes and crimes against humanity, and sets out criteria for investigating sexual crimes and protecting survivors. There is no statute of limitations for crimes against humanity. However, whilst Law 1719 is an important step forward some lawyers have expressed concerns that under Colombian law it would only be applicable to crimes committed after the date of its approval. However, others argue that as conflict-related sexual violence crimes were recognised as crimes against humanity for many years before Law 1719 was approved; therefore, crimes committed before its approval should still come within its remit. It also clarifies that sexual violence crimes should not be tried in military courts.³⁸

This was followed in August 2014 by Decree 1480, which established 25 May as the 'National Day for the Dignity of Women Victims of Sexual Violence caused by the Internal Armed Conflict'.³⁹ This was one of the collective reparation measures proposed by Colombian journalist Jineth Bedoya Lima, who leads the campaign 'Now is not the time to remain silent'.

9 November 2012

Robert Steven Barrera

Cultural leader from Escuela Kolacho, killed by paramilitaries in Medellín, Antioquia.

12 November 2012

Filiberto Calderón

Community leader of the Junta de Acción Comunal Barrio El Edén, killed by unknown persons in Bogotá.

11 December 2012

Milton Enrique Rivas Parra

Community and Union leader of the Junta de Acción Comunal del Barrio Villa Ortiz, killed by unknown persons in Puerto Gaitán, Meta.

15 December 2012

Rosa Helena Bernal Pinto

Community leader from Asociación Campesina de Morcote y la Provincia de la Libertad, Trabajadores Campesinos Protectores de la Tierra y el Territorio (ASOCAM-PROV-LIBERTAD), killed by unknown persons in Paya, Boyacá.

2013

3 November 2012

Marina Vásquez

Community leader from Asocomunal, killed by unknown persons in Segovia, Antioquia.

10 November 2012

Edgar Sánchez Paredes

Community leader of the Junta de Acción Comunal Barrio Divino Niño y Marcha Patriótica, killed by unknown persons in Soacha, Cundinamarca.

1 December 2012

Miller Angulo

Victims leader from Mesa Municipal de Víctimas de Tumaco, killed by paramilitaries in Tumaco, Nariño.

12 December 2012

Jesús Dalmoro López

Indigenous leader of the Awá People, killed by FARC in Puerto Caicedo, Putumayo.

1 January 2013

Mario Álvaro Estrada

Youth leader killed by unknown persons in Medellín, Antioquia.



Colombian survivors of sexual violence and human rights defenders speak at the Global Summit to End Sexual Violence in Conflict, in London in June 2014.

1.3 The proposals from victims' delegations

The victims' delegations participating in the peace talks raised a range of issues, including: the need for an immediate and definitive ceasefire; the importance of truth, the recognition of responsibilities, restitution of rights and guarantees of non-repetition as the basis of reconciliation and forgiveness; justice, not revenge, as a right in order to construct peace; the immediate need to remove landmines laid by all the groups; the truth about why they were forcibly displaced and who the authors of these crimes were and the need to return land to indigenous, campesino and afro-Colombian communities.

In December 2014 the FARC declared a permanent unilateral ceasefire. In January 2015 Santos instructed his negotiators to initiate discussions on the last item on the agenda, that of a bilateral and definitive ceasefire.⁴⁰ In March 2015, in response to this announcement by the FARC and in an effort to de-escalate the conflict, the State committed to stop aerial bombings of FARC locations for one month (this would then be reviewed and, provided the conditions exist, extended). During the first days of April 2015 several clashes between the Army and the FARC took place which broke this trend towards 'de-escalation', though peace talks continue. However, there was no such halt announced in relation to the ELN.

On 7 March 2015 an important step forward was taken to start de-mining operations ahead of the signing of the final peace accords. Victims' delegations to Colombia had highlighted the importance of de-mining for citizen security. There have been approximately 11,000 landmine casualties⁴¹ in Colombia since 1990. Colombia held first place in the world rankings between 2004 and 2008, and since 2009 Colombia has been in second place after Afghanistan. These landmines have had a terrible impact on the rural population, either confining them in their territory or preventing them from tending to their cultivations. Norwegian People's Aid is to lead and coordinate a clean-up and decontamination operation for mines in rural areas.

1.4 Truth as part of a process for sustainable peace

In August 2014 the Government and the FARC created a new Historical Commission on the Conflict and its Victims (Comisión Histórica del Conflicto y sus Víctimas). Its mandate is to address the following three topics: the origins and multiple causes of the conflict; the main factors and conditions that have facilitated or contributed to the persistence of the conflict; and the most notorious effects and impacts of the conflict on the population. Victims have stated that an essential ingredient for non-repetition is a Truth Commission. The Historical Commission is a step forward but the Truth Commission that the victims are requesting is one where they learn the truth about the authors and chain of command related to the human rights abuses they have suffered, why these crimes were perpetrated against them, what happened to their loved ones and where their bodies are now. This is not only essential for peace and reconciliation but also for restoring dignity to victims and enabling them to move forward. According to the victims, 'the truth, acknowledgment of responsibility, restitution of rights and guarantees of non-repetition are the foundation of reconciliation and the way to obtain forgiveness.'⁴²

Communities Constructing Peace in the Territories (CONPAZ), a network made up of 120 grassroots organisations,⁴³ have been developing a proposal for a Truth Commission. International research supports the idea that truth commissions can help to prevent repetition, especially in situations where there have been high levels of impunity in violent conflicts.⁴⁴ Having not just one truth commission based in Bogota but a series of regional truth commissions could facilitate local participation and address the events that occurred in local contexts. Furthermore, knowing the truth about the authors of the crimes helps to prevent repetition. One of CONPAZ's proposals is that truth commissions should have a legal basis; this could be achieved via a presidential decree. However, they do not see truth commissions as substituting, but rather being used in addition to, the judicial system.⁴⁵ Both the National Movement for Victims of State Crimes (Movice)⁴⁶ and CONPAZ's proposals for non-repetition include – in addition to a Truth Commission – the establishment of a sub-commission specifically related to the crime of forced disappearance. This would examine how these crimes were commissioned and by whom, the victims and the impacts on CSOs. For women victims of conflict-related sexual violence it is important to have a separate Truth Commission that will examine what has been, according to the Colombian Constitutional Court, a 'habitual, extensive, systematic and invisible practice in the context of the Colombian conflict.'⁴⁷

These proposals are supported by the internationally respected lawyers group the Colectivo de Abogados de Jose Alvear Restrepo (CCAJAR), who also propose an official Truth Commission: '[The] Commission should distinguish between breaches of international humanitarian law and serious violations of human rights, establishing differentiated responsibilities in the commission and in the case of State crimes should identify the doctrines, practices, domestic and foreign policies that led to these crimes.'⁴⁸ On the basis of this, the

1 January 2013
Reinaldo Domicó

Indigenous leader of the Embera killed by paramilitaries in Dabeiba, Antioquia.

20 January 2013
Rafael Mauricio Girón Ulchur

Nasa indigenous leader, killed by a guerrilla group in Jambaló, Cauca.

25 January 2013
Didier Alberto Marulanda
Community leader and member of the Junta de Acción Comunal of Caño del Tigre, killed by paramilitaries in Remedios, Antioquia.

30 January 2013
Elizabeth Gutierrez
Union leader from SUTEV, killed by unknown persons in La Victoria, Valle del Cauca.

3 February 2013
Jairo Herrera
Community leader of the Junta de Acción Comunal Barrio Libertad de la Comuna 7 de Popayán, killed by unknown persons in Popayán, Cauca.

8 January 2013
Julián Andrés Taborda
Cultural leader of Red Cultural Casa Arte, Belén Altavista, killed by paramilitaries in Medellín, Antioquia.

22 January 2013
Elkin Alberto Mozo Hincapié
Community leader of the Junta de Acción Comunal (Community Action Committee) of barrio La Paz, killed by unknown persons in Santa Marta, Magdalena.

28 January 2013
Juan Carlos Muñoz
Union leader from Sintrainagro - CUT, killed by unknown persons in Corinto, Cauca.

31 January 2013
Héctor Malagón
Community leader of the Junta de Acción Comunal, Nueva Argentina, killed by paramilitaries in Bogotá.



Photos of some of Colombia's victims of disappearance and assassination are displayed at the 'March for Peace' in Bogotá on 9 April 2015.

Commission should then make recommendations and these should be incorporated into public policy on human rights.⁴⁹

UN Special Rapporteur De Greiff supports the view that Truth Commissions should not be a substitute for judicial bodies: '[t]he contributions criminal prosecutions make to transitional processes are manifold. At the most general level, criminal prosecutions provide recognition to victims as rights holders. They also provide an opportunity for the legal system to establish its trustworthiness. Effective prosecutions in systems that respect due process guarantees, strengthen the Rule of Law and finally, in doing all of the above, contribute to social reconciliation'.⁵⁰

However, the Legal Framework for Peace, approved by Congress in June 2012,⁵¹ poses some challenges to ensuring that those who have committed human rights abuses are prosecuted. The Legal Framework for Peace will allow Congress to limit criminal trials to those 'most responsible' for human rights abuses. It will also be able to suspend prison sentences handed down to paramilitary, guerrilla and security force combatants convicted of such human rights crimes.⁵² However, sentences for those 'most responsible' cannot be suspended if they are responsible for crimes against humanity, genocide or war crimes. The difficulty arises with the lack of clarity on the definition of 'most responsible' or any criteria for determining this.⁵³

The CCAJAR lawyers propose that whatever process is used for holding to account 'those most responsible', in the case of state officials this should not be lower than those set out in the Justice and Peace process.⁵⁴ Unless the Rule of Law proves to be effective it will not provide a deterrent or a basis for non-repetition. Additionally if this law proves to be ineffective Colombia could expose itself to an investigation by the International Criminal Court.⁵⁵

1.5 Transitional justice policies

'[Either] Colombia makes effective land restitution or we will not be a decent or viable democracy'

Rodrigo Uprimny, former Colombian Constitutional Court Judge⁵⁶

Land has been at the heart of the conflict, this has resulted in 5.7 million people⁵⁷ being forcibly dispossessed of their land. Between 2011 and 2014, on average, each year 250,000 citizens were newly forcibly displaced and this continues.⁵⁸ The Victims and Land Restitution Law 1448 (Law 1448), passed in June 2011, was a major step forward in recognising the rights of victims. Law 1448 is a transitional justice law for reparation for victims and land restitution. It was passed ahead of the official

start of the peace talks with the FARC guerrillas and is being implemented in the midst of an ongoing conflict. According to the then Agricultural Minister Juan Camilo Restrepo '...the policies of restitution and return for those displaced from land constitute a huge, outstanding debt that Colombian society is urgently obliged to repay'.⁵⁹

Law 1448 states that victims should receive integral reparation: 'victims have the right to receive adequate, differentiated, transforming and effective reparation for the damage they have suffered...'.⁶⁰ For reparation to be adequate and transformative there have to be guarantees of non-repetition and reparation should be sufficient for the victim to re-establish their livelihood. Whilst Law 1448 provides resources for those returning to their land, victims report that the lack of coordination is preventing its effectiveness. However, the major obstacle to the implementation of this law at the moment remains the lack of guarantees for non-repetition and the security of land claimants. The Secretary General of MAPP-OEA identified the principle challenge to the success of land restitution as the security and protection of those involved in the process: victims, community leaders, government officials and judges.⁶¹

As of December 2013, 5,966,211 victims of the armed conflict were registered in the Single Registry for Victims, of whom 5,155,406 were victims of forced displacement. It took approximately two years for the framework and all of the institutions for the implementation of land restitution under Law 1448 to be established. As of 2014, 20,000 hectares of land had been restored to victims.⁶² This law has just a ten year life span and the slowness of its implementation is causing anxiety amongst victims. In addition, the security risks for those seeking to reclaim their land are immense because of structural impunity⁶³ linked to continued PDPGs and the economic and political elite interests. As Colombian academic Roberto Vidal explains: 'there is not a lot of land being restored because people are scared to death of the people that are intimidating them and trying to stop them gaining access to restitution'.⁶⁴

7 February 2013

Alba Mery Chilito Peñañiel

Victims leader from Asociación de Familiares y Víctimas de Trujillo (Afavit), killed by paramilitaries in Trujillo, Valle del Cauca.

22 February 2013

Orlando Soto

Community leader and president of the community of Carmen del Piñuña, killed by FARC in Puerto Asís, Putumayo.

24 February 2013

Demetrio López

Afro-Colombian leader from the Cauca Community Council, killed by unknown persons in Buenaventura, Valle del Cauca.

21 March 2013

Ermes Enrique Vidal Osorio

Victims leader of the Organización de Víctimas del Desplazamiento de San Rafael del Pirú, killed by paramilitaries in Valencia, Córdoba.

6 February 2013
Jhon Faver Díaz

Campesino leader from Asociación de Trabajadores Campesinos de Nariño, killed by the National Armed Forces in Leiva, Nariño.

14 February 2013
Leonardo García Morera

Union leader from SUTEV, killed by unknown persons in Bolívar, Valle del Cauca.

24 February 2013
Javier Gonzáles Bernaza

Indigenous leader of the Emberá Chamí, killed by unknown persons in Mistrató, Risaralda.

12 March 2013
María Angélica Grajales Ramirez

Victims leader from the International Foundation for the Human Rights of the Displaced and Victims - Nuevo Amanecer, killed by unknown persons in Cartago, Valle del Cauca.

22 March 2013
Daniel Niza González

Indigenous leader from the Emberá Chamí, killed by paramilitaries in Trujillo, Valle del Cauca.



'Truth, Justice and Reconciliation': Colombians marched for peace on the National Day of Memory and Solidarity with Victims of the Armed Conflict, 9 April 2015.

According to Amnesty International, '[t]here has been an insatiable appetite amongst numerous actors in Colombia to gain and maintain control over land ... [they] include the security forces and paramilitaries ... guerrilla groups, some political and business elites ... [and] drug traffickers'.⁶⁵ Particularly devastating to the Rule of Law is the collusion of the Security Forces with the Post-Demobilised Paramilitary Groups (PDPG).⁶⁶ Violent displacement and land grabs were frequently motivated by economic interests.⁶⁷ Many of those forcibly displaced were peasant farmers, indigenous and afro-Colombian communities living on land rich in natural resources, or on land of strategic economic importance which was sought after for large-scale developments, such as mining, oil and gas extraction and agro-industrial development (including cattle-ranching, palm oil plantations, and the cultivation of illicit crops, principally coca).⁶⁸

The land that was grabbed was in many cases legalised in collusion with public officials (judges, registry office officials, mayors, local politicians, etc.).⁶⁹ As a result, much of the land from which paramilitaries forcibly displaced people is now in the hands of third parties.

The Colombian Constitutional Court in sentence T-025, Auto 299 (2012), indicated that one major threat to returning communities was the occupation of their territories by third parties – or occupiers of 'bad faith'. These are powerful individuals who moved onto the land after the original occupants were forced out by paramilitaries. This was often done in collusion with the Security Forces (see Case Study 2 on Curvaradó). UN Special Representative Francis Deng saw displacement as '...a tool for acquiring land for the benefit of large landowners, narco-traffickers, as well as private enterprises planning large-scale projects for the exploitation of natural resources....'⁷⁰ Occupiers of 'bad faith' often set up agro-industrial and

cattle-ranching businesses. The links with economic interests still continue: 'authorities have (intelligence) reports that demonstrate... there are cattle ranchers, businessmen and women, politicians, members of the security forces and companies that are interested in financing the [PDPG] Urabeños violence'.⁷¹ The lack of security of land claimants is further exacerbated by State Security Forces and local authorities being implicated in supporting or colluding with PDPGs.⁷² Particularly vulnerable are land claimants because of the continuing links between elite land grabbers and PDPGs.⁷³ With the prosecution of only approximately 1 per cent⁷⁴ of those responsible for land grabs there is a lack of any legal deterrent or guarantees for non-repetition.

The dismantling of these complicit networks will be essential for any sustainable peace. A number of PDPG leaders have been arrested over the last 12 months.⁷⁵ However, the short term impact on communities is an increase in violence as the removal of leaders results in internal struggles for leadership. A far more comprehensive plan for the dismantling of these structures is needed.

According to the CSO CINEP (Centro de Investigación y Educación Popular), between 2011 and 2014 338 people were victims of human rights violations in relation to land restitution. Areas prioritised for land restitution have to undergo a process called macro-focalisation and micro-focalisation. Micro-focalisation is undertaken by the local Land Restitution Operative Committees (Comités Locales de Restitución de Tierras) who make a decision on whether to micro-focalise an area on the basis of security information provided by the Defence Ministry's Integrated Intelligence Centre for Land Restitution (Centro Integrado de Inteligencia para la Restitución de Tierras, CI2RT).⁷⁶ Only with micro-focalisation and approval by the CI2RT on security grounds can land officially be restored under Law 1448. However, research by CSOs has revealed that these micro-focalised areas, despite being given security clearance by the CI2RT, are particularly dangerous for land claimants; 82 per cent of the human rights violations that CINEP refers to above occurred in areas prioritised for land restitution.

The difficulties for land restitution claimants are caused by the networks of illegality that continue to exist in the regions and how they operate in support of those who have grabbed the land. According to Human Rights Watch, authorities rarely prosecuted the people who originally displaced claimants and stole their land. The slowness of the justice system and the apparent lack of political will to address this are also factors. There are over 17,000 open investigations into forced displacement in the justice system.⁷⁷ Between January 2012 and September 2013 over 700 displaced land restitution claimants and their leaders reported receiving threats. Despite this high volume of reported crime no one has yet been charged.⁷⁸ For some, just registering or talking about registering their land dispossession generates threats.⁷⁹ One land claimant told ABColombia 'I am going to register my land but we are too afraid to return'.⁸⁰

24 March 2013

José Alonso Lozano

Campeño leader from ASOCATRAGUA GUAVIARE, killed by paramilitaries in San José del Guaviare, Guaviare.

31 March 2013

Luz Johana López

LGBTI human rights defender from Corporación El Faro, killed by unknown persons in Manizales, Caldas.

9 April 2013

Isnelda Gutierrez

Community leader of the Junta de Acción Comunal Los Robles, killed by unknown persons in Bogotá.

17 April 2013

Seferino Dominicó Majoré

Indigenous leader from the Embera Katío, killed by unknown persons in Tierralta, Córdoba.

26 April 2013

Gilberto Argüello Beltrán

Community leader of the Junta de Acción Comunal Vereda la Gira, killed by unknown persons in Barrancabermeja, Santander.

25 March 2013

Gustavo Adolfo Pizo García

Campeño leader from the Campeño Association Gabriel López de Totoró, killed by paramilitaries in Totoró, Cauca.

8 April 2013

Aldemar Martínez

Campeño leader involved in the coffee farmers strike, killed by unknown persons in Tarquí, Huila.

9 April 2013

Elver Cordero Oviedo

Victims leader from Mesa de Víctimas de Valencia, killed by unknown persons in Valencia, Córdoba.

18 April 2013

Venancio Taquinas

Indigenous leader of the Jambaló Resguardo, killed by guerrilla in Jambaló, Cauca.

The Women's Association of Rural Producers (Asociación de Mujeres Productoras del Campo-ASOMUPROCA) are claiming restitution of the Playones de Pivijay land in Magdalena Department. On 27 June 2014, 66 women of ASOMUPROCA placed their claim for their land to be returned with the Register for Forcibly Dispossessed and Abandoned land. Two months later a representative of ASOMUPROCA, Sol Carranza, was participating in a meeting at the Unit for the Attention and Reparation of Victims (UARIV). Her phone rang and the caller told her: "If you show up on the land, we will kill you."⁸¹

Impunity is a major factor allowing the continued existence of local paramilitary networks that include politicians, members of the Security Forces, business owners, and public officials. These structures are deeply embedded and powerful. They are behind the continuing crimes committed against land restitution claimants. Real guarantees of non-repetition include the need to break alliances between the Security Forces, occupiers of 'bad faith' and PDPGs, and assurances that the local police uphold the Rule of Law.

Case Study 2: Attempts to evict occupiers of 'bad faith' in the Bajo Atrato

In 2012, the Constitutional Court ordered that various occupiers of 'bad faith' identified by the Colombian Institute of Rural Development (INCODER) be evicted from the Bajo Atrato region (Lower Atrato River Basin).⁸³ Some of these eviction notices were finally issued in 2014.

According to the Colombian CSO, the Inter-Church Commission of Justice and Peace (CIJP), which works with the afro-descendant communities of Curvaradó, Chocó, there were three eviction notices issued for occupiers of 'bad faith'. One was served by EMCAR (Escuadrones Móviles de Carabineros – special mobile police unit) on 4 November 2014 to William de Jesus Ramirez Castaño,⁸⁴ a cattle rancher and occupier identified by INCODER as being of 'bad faith'. The notice explained that he had been ordered to leave the land as it belongs to the afro-descendant communities of Curvaradó under a collective land title issued under Law 70 of 1993.⁸⁵

One of the difficulties in processing and sustaining the eviction order in certain regions of the country is the complicity between the occupiers of 'bad faith' and the Security Forces. If eviction orders are to have a long term benefit, the local police will need to ensure that the occupiers of 'bad faith' do not return. In areas where there is complicity by the Security Forces with occupiers of 'bad faith' there are no guarantees that this will happen.

Some of these occupiers of 'bad faith' have widespread interests in Bajo Atrato and are named in various cases of land reclaimants. Close to the community of Curvaradó are the collective territories

The lack of security and mistrust of the police force is an issue that will have to be addressed if confidence is to be developed in the Rule of Law. This situation has led to many afro-Colombian and indigenous communities developing and/or relying on self-protection measures. One of these is the use of the Indigenous Guard (see Case Study 3).

'The land is not for campesinos, that's quite clear. It is all for the big projects... [like] ...the African palm... The campesinos are now day labourers on their own land. They stopped being the owners of the land to become day labourers. They are now working for the ones that have occupied their own lands... they have no salary, no insurance, no benefits, they have nothing.'

Member of the Victims Roundtable in Bolívar explains the situation for campesinos in the region.⁸²

of Pedaguita and Mansilla, also collectively owned under Law 70. Community members have also returned following their displacement to this territory. In March 2015 members of the Community Council of the Afro-Colombian Collective territories of Pedaguita and Mansilla were attacked by 60 armed men, many of whom were wearing balaclavas (encapuchadas), entering the collective territory and firing indiscriminately. Marlene Benítez's son, Felipe Triana and two other men were beaten and injured, their homes destroyed and their cattle stolen.

These armed men then forced Marlene Benítez, her four-year-old granddaughter, her son, Felipe Triana and two other men onto a truck and took them to the local town of Belén de Bajirá. The truck stopped at the police post in Belén de Bajirá. Marlene Benítez shouted to the police to help them but they failed to intervene. The community members were later released.

The families of Benítez and Triana have since been displaced. Despite this Marlene and Felipe continue to receive threats which state that 'if they come back they will be dead'. Furthermore, the Police Inspector from Belén de Bajirá was also threatened after his visit to Pedeguita and Mansilla to investigate the attack.⁸⁶

27 April 2013
Luis Irlá Siágama Caisales
Indigenous leader of the Embera Chamí, killed by unknown persons in Mistrató, Risaralda.

28 April 2013
Belarmino Chocue
Indigenous leader of the Canoas Resguardo, killed by unknown persons in Santander de Quilichao, Cauca.

19 May 2013
Oscar Everto Isaza
Community leader from Proceso Organizativo del Centro Comunitario CEPJA / Aguablanca, killed by unknown persons in Cali, Valle del Cauca.

29 May 2013
Sócrates Paz Patiño
Afro-Colombian leader and member of the Consejo Comunitario Cuenca Rio, killed by unknown persons in Iscuandé, Nariño.

27 April 2013
Álvaro Queguan
Community leader of the Junta de Acción Comunal de la Vereda de Mugui, killed by the National Armed Forces in Tumaco, Nariño.

27 April 2013
José Ireneo Palacios Palacios
Afro-Colombian leader from the Carrillo-Cocomacia community, killed by guerrilla in Bojayá, Chocó.

4 May 2013
Iván Darío Restrepo
Land leader from the Bello Community of victims and land claimants, killed by paramilitaries in Bello, Antioquia.

27 May 2013
Elio Faber Giraldo Correa
Community leader of the La Virginia Community, killed by unknown persons in La Virginia, Risaralda.

4 June 2013
Eduar Enrique Cordozo Flórez
Campesino leader from AHERAMIGUA, killed by the National Armed Forces in El Bagre, Antioquia.

Case Study 3: Zenú Indigenous People of the Alto San Jorge resguardo in Córdoba



Member of the Indigenous Guard of the Zenú Indigenous Peoples from the Alto San Jorge Resguardo.

The Zenú Indigenous People have experienced threats, assassinations and forced displacements. All armed groups operate in the region and they have frequently brought that conflict into Zenú Territory and the Zenú have found themselves caught in the midst of combats between the different armed groups. The Zenú are one of the 34 Indigenous Groups the Colombian Constitutional Court in Auto 004 of 2009 declared at risk of physical and/or cultural extinction. The Zenú have also been raising the issue of the alleged impacts of the nearby BHP Billiton Cerro Matoso mine on the health of the Zenú People and the contamination of the environment.

Between 2008 and 2014 the Zenú increased their efforts to obtain the land title to their resguardo. During this time 46 indigenous leaders and members were assassinated; crimes which still remain in impunity. The situation continues to be very insecure and leaders continue to be targeted and threatened. In May 2014 the Zenú received their land title.

In order to increase their security the Zenú People have made concrete proposals to the Government which involve the use of the traditional Indigenous Guard for their protection. The Indigenous Guard is an institution in each resguardo that is used to protect the indigenous tribe. They patrol their territory armed only with batons. Colombian law recognises the Indigenous Guard, which is an unarmed body of people appointed by the Indigenous People to protect their territory (resguardo). The concept of security invested in the Indigenous Guard is based on traditional teachings aimed at abstaining from violence whilst asserting the communities' rights. For this the Indigenous Guard rely on their strength-in-numbers approach to confronting armed actors, and do not carry arms.

The Zenú People have requested special collective protection measures from the government. These requests related to individual protection measures for threatened leaders and equipment for the Indigenous Guard (uniforms, mobile phones, radios and small motorbikes to rapidly cover the extension of their territory) to protect the resguardo.

On 1 December 2013 the National Protection Unit agreed to provide collective protection measures to the Indigenous Guard. However, these measures have not been implemented – with the exception of five mobile phones received in March 2014 but three of these were no longer working by July 2014. The rest of the agreed measures have not been implemented despite the precarious situation of the Zenú Peoples.

1.6 Socioeconomic exclusion

*'Peace is only sustainable insofar as it is just, insofar as it respects the dignity of all.'*⁸⁷

According to Colombian CSO CINEP, the peace talks have opened a small window of opportunity: 'the ruling class, or at least a significant portion, is willing to negotiate what has so far been non-negotiable in the history of the country: access to and control of land and territories'.⁸⁸

As many of the land claimants are peasant farmers and ethnic communities that focus on sustainable small scale farming, it is vital

that regional development plans address the needs of small scale farmers. In addition, local governments will have a responsibility in relation to the provision of resources for claimants to restart their farms – such as seeds, fertilisers, etc. Strong institutional structures are needed for the coordination of these resources.

In Bolívar, one peasant farming community reported to ABColombia that in their mountainous region of the country only certain seeds were likely to be successfully cultivated. Despite explaining this to the Department for Social Prosperity (Departamento para la Prosperidad Social – DPS), they had been given seeds unsuited to the conditions. Due to lack of coordination the fertiliser had also arrived too late. As a result their crops had failed.

6 June 2013

James Darío Tapasco Tapasco

Community leader from the Barrio San Diego - Dosquebradas Community, killed by unknown persons in Dosquebradas, Risaralda.

22 June 2013

Oscar Eduardo Sandino

Youth leader from the Fundación Juan Manuel Bermúdez, killed by unknown persons in Bogotá.

14 July 2013

Jhon Alverio Chapal Pascal

Indigenous leader of the Awá People, killed by unknown persons in Puerto Caicedo, Putumayo.

24 July 2013

Maria Olivia Alzate Perez

Community leader from the community of El Jardín at El Prado neighbourhood, killed by unknown persons in Medellín, Antioquia.

29 July 2013

Emel Antonio Varela Tuberquia

Campeño leader and member of the Junta de Acción Comunal of La Estrella Village in Zaiza, killed by guerrilla in Tierralata, Córdoba.

20 June 2013

Eugenio Ramírez Porras

Campeño leader from the Movimiento por la Defensa y la Dignidad de los Cafeteros, killed by unknown persons in Jardín, Antioquia.

11 July 2013

José Segundo Turizo

Campeño leader and member of the Junta de Acción Comunal of El Tigre - Bella Doris village, killed by paramilitaries in Tiriquito, Bolívar.

15 July 2013

Belisario Aya Montaña

Community leader and member of the Junta de Acción Comunal of the Chapinero neighbourhood in Bogotá, killers unknown.

26 July 2013

Elmer Antonio Serna Usuga

Community leader of the Junta de Acción Comunal of La Gloria Village, killed by paramilitaries in Tierralta, Córdoba.

1.7 Social protest

The structural issues of land concentration, socioeconomic exclusion, trade and Colombia's development model⁸⁹ were major focus points of the 1,027 social protests which took place in Colombia in 2013. The protests in 2013 generated high levels of citizen participation and mobilised a wide variety of sectors in different geographical regions behind an agenda which was seeking development with social justice. At one of the Victims' Forums, SNPS expressed this in terms of, 'the need for an integral human development model which recognises and allows for the participation of local economies.'⁹⁰

For victims, dignified living conditions are an essential element in the construction of peace. It is therefore vital that existing public policies on health, education, adequate housing and sustainable livelihoods are implemented quickly in order for marginalised and excluded groups to see that peace really will make a difference to their daily lives. The structural nature of poverty, inequality and land concentration have all been intensified in the conflict and by corruption at a local level. Guillermo Perry, the World Bank's former chief economist for Latin America, reinforces the victims' proposals for improvement in the 'health and education systems as well as the need to boost rural development' as key factors 'in any successful peace process... if one wants to consolidate peace, one has to create opportunities for the people.'⁹¹



Community in Chocó

Case Study 4: Socioeconomic exclusion in Chocó

Chocó is the poorest department in Colombia and is an example of extreme socioeconomic exclusion. The poverty rate in Chocó increased in 2012, with 68 per cent of people living in poverty and 40.7 per cent in extreme poverty, compared to 64 and 34.3 per cent respectively in 2011.⁹² These indices for poverty are double the national rate of 32.7 per cent.

The situation is so concerning that the Bishops of the Dioceses of Quibdó, Apartadó and Istmina-Tadó issued an alert regarding the serious humanitarian crisis in Chocó. They point out that the local populations are suffering due to: hunger, which is compounded by the aerial fumigation intended for illicit crops falling on agricultural production and destroying staple food crops; lack of clean drinking water; the poor health system, resulting in the death of children from preventable diseases; poor education; and the environmental and health implications of mining in the region. In addition, they specifically warn of the dangers arising out of mining concessions granted to multinationals in the Chocó.⁹³

UN Human Rights High Commissioner Todd Howland also expressed his concern regarding the levels of ongoing violence in Chocó and the violations of the rights of Afro-Colombian and Indigenous Peoples. Like the Bishops, he highlighted how the humanitarian crisis goes far beyond ending the conflict and requires changes regarding the economic activity in the area: 'There is so much illegal activity in Chocó that the problem is not going to be resolved with the demobilization of the ... [guerrilla groups], but rather the government must ... make changes to the economic activity of the area.'⁹⁴

4 August 2013

Francisco Javier Ocampo Cepeda

Victims leader from Grupo Calibra, killed by the National Police in Cali, Valle del Cauca.

9 August 2013

Luis Albeiro González Morales

Embera indigenous leader from Totumal Resguardo, killed by unknown persons in Belalcázar, Caldas.

26 August 2013

Juan Carlos León

Youth leader of Pasca sports community, killed by ESMAD in Fusagasugá, Cundinamarca.

8 September 2013

Aurith Bravo Brun

Community leader and member of the Junta de Acción Comunal of La Bonga village, killed by unknown men in Puerto Libertador, Córdoba.

1 August 2013

Nelson Cartagena García

Community leader of the Junta de Acción Comunal of Aguas Frías Village, killed by paramilitaries in Apartado, Antioquia.

5 August 2013

Gerardo Pinzon Arevalo

Community leader and member of the Junta de Acción Comunal of El Cauce, Bosa, killed by unknown persons in Bogotá.

15 August 2013

Climaco Pernia

Indigenous leader of the Embera Katío, killed by guerrilla in Tierralata, Córdoba.

7 September 2013

John Alexander Valencia

Campesino leader, killed by unknown persons in Tumaco, Nariño.

11 September 2013

Edison Alberto Molina

Human Rights lawyer, killed by unknown persons in Puerto Berrio, Antioquia.

2.0 Human Rights Defenders

Community leaders are essential to the peace process. They are the ones defending rights and building reconciliation between local populations. Colombia was the most dangerous country in the world to be a Human Rights Defender prior to 2010 when President Santos was elected. However, since that date there has been an unprecedented increase in the number of attacks, threats and killings of Human Rights Defenders (HRDs).

For HRDs and community leaders there are deep-rooted structural problems that must be addressed if prevention, protection and a safe environment are to be generated for their work. Some of these structural issues relate to: extreme levels of impunity for crimes against HRDs, the persistence of paramilitary activity linked to economic and political sectors at a regional level,⁹⁶ slowness and inadequacy of the justice system and the lack of strong investigative techniques on the part of the police.

The lack of adequate investigation into the threats against defenders and the lack of any real progress by the National Context Analysis Unit (Unidad Nacional de Contexto) and the Human Rights Unit in the Attorney General's Office on crimes against HRDs are major obstacles to the security of HRDs.

*As ABColombia were told by representatives of the Victims Roundtable in Bolivar, 'A woman that gets involved with the issue of land is a woman that will be killed. The same applies to men.'*⁹⁷

In 2014, 55 human rights defenders were killed in Colombia; this was a decrease on previous years (see Tables 1 and 2). Despite this welcome reduction, Colombia remains the country with the highest number of HRDs killed annually.⁹⁸ The first three months of 2015 once again saw a rise in the killings of HRDs compared to the same period in 2014 (19 in 2015 and 16 in 2014). This critical situation is impacting on communities and organisations; by restricting the space available for democratic engagement and fulfilment of rights. HRDs working on peace, land and victims issues have been particularly targeted. Death threats have also been directed at victims' representatives who participated in the delegations to Havana.⁹⁹ The polarisation caused by 50 years of conflict means that the civilian population have been labelled 'allies' or 'enemies'. This attitude in rural areas continues to generate attacks against defenders.¹⁰⁰ Since the start of the peace talks approximately 169 defenders have been killed (October 2012 to March 2015).¹⁰¹

'Through its various monitoring mechanisms, the [Inter-American Human Rights Commission] has noticed the persistence of murders, threats and harassment against human rights defenders in Colombia. These attacks are intended to silence their denunciations, mainly related to human rights violations occurred in the context of armed conflict. The persistence of these attacks, coupled with the lack of substantial progress in the elucidation, investigation and punishment of those responsible for human rights violations perpetrated against human rights defenders, constitute an obstacle to the free exercise of the right to defend human rights, fuelling impunity and impeding the full realization of the rule of law and democracy.'

Inter-American Human Rights Commission, January 2015.¹⁰²

The 2015 Report of the Secretary-General to the UN Security Council highlighted how sexual violence has been used by illegal armed groups as a 'strategy to assert social control and to intimidate ... in particular women leaders and human rights defenders'.¹⁰³ The Defensoría also highlighted how sexual assault had been used as a tactic against women defenders who raised their voices in support of land restitution.¹⁰⁴

2.1 Investigation Units in the Attorney General's Office

The National Context Analysis Unit in the Attorney General's Office was initially a proposal from the HRDs on the Mesa de Garantías (a roundtable set up by the Colombian Government with CSOs, the diplomatic corp. and the UN to agree policies and measures on the protection of HRDs and community leaders). The Unit employs a range of professionals – investigators, anthropologists and analysts, among others – and aims to group similar cases in order to analyse patterns and identify the perpetrators. Among the crimes being analysed by this Unit are threats against HRDs. Having taken the initial step of placing these crimes for investigation in the Context

17 September 2013
Nelson Giraldo Posada

Land leader from the Rios Vivos Movement, killed by unknown persons in Ituango, Antioquia.

6 October 2013
Nancy Vargas

Campesino leader and member of the Red de Mujeres Algeciras por la Paz y el Desarrollo, killed by unknown men in Algeciras, Huila.

6 October 2013
Carlos Eduardo Olmos

Land leader and member of the Municipal committee for transitional justice, killed by paramilitaries in Los Palmitos, Sucre.

22 October 2013
Diana Marcela Morales Arenas

Leader of victims and member of the Mesa Municipal de Participación de Víctimas de Medellín, killed by unknown persons in Angostura, Antioquia.

31 October 2013
Silvino Lopez

Community leader and member of the Junta de Acción Comunal of the Vista Hermosa neighbourhood, killed by unknown persons in Bogotá.

30 September 2013
Adelina Gomez Gaviria

Campesino leader and member of the organisation Proceso de Mujeres Macicenas del CIMA, killed by unknown persons in Almaguer, Cauca.

6 October 2013
Milciades Cano

Campesino leader and member of the Union Patriótica and MOVICE, both killed by unknown persons in Algeciras, Huila.

10 October 2013
Ricardo Rodriguez Cajamarca

Human rights lawyer from MOVICE, killed by unknown persons in Acacias, Meta.

30 October 2013
Edier Otero

Community leader from Marcha Patriótica, killed by unknown persons in Genova, Quindío.

In 2014 Colombia was the most dangerous country in the world to be a Human Rights Defender⁹⁵

Table 1: Killings of Human Rights Defenders in Colombia, 2010-2014

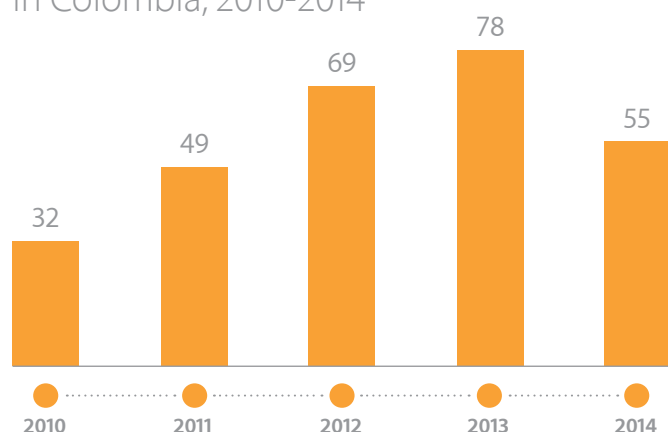
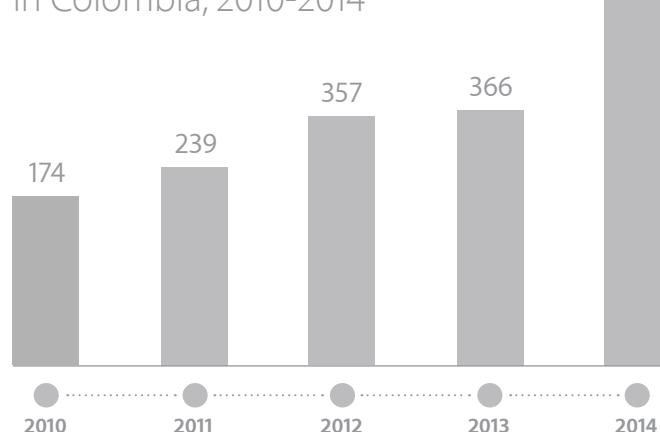


Table 2: Attacks against Human Rights Defenders in Colombia, 2010-2014



Source: Annual reports of Somos Defensores, 2010-2014.

Case Study 5: Macayepo

Montes de María is made up of 15 municipalities in the departments of Bolívar and Sucre and is one of the regions in Colombia most affected by the conflict. During the height of the conflict in this region – between 1999 and 2001 – more than 50 massacres were committed in this region. These massacres involved businessmen, politicians and paramilitary groups.

Macayepo is one of the villages in the Alta Montaña. Following the violent forced displacement of the community they formed an organisation Asociación de Productores Agrícolas de Macayepo (ASOPRAM) which was set up to negotiate a planned return to their community. Macayepo community members returned in 2004, accompanied by the Marine Infantry (Primera Brigada de Infantería de Marina) who provided security by setting up a camp on the perimeter of the village.

When the families returned they initially received death threats from the guerrilla and later they started to receive threats from a PDPG. In September 2013 pamphlets were distributed signed by PDPG group Los Urabeños. The pamphlets were distributed in Macayepo accusing the leaders of being guerrillas and declaring them military targets. Protection measures of a bulletproof vest, mobile phone and a transport subsidy were insufficient in these circumstances. According to the threatened leaders, the bulletproof vest draws attention to them (increasing rather than decreasing their risk) and the mobile phone rarely works in rural areas where the signal is difficult to obtain. The transport subsidies did not cover a return trip from Macayepo to the local town.

There is no local police station in Macayepo and the community reported that the Marine Infantry just disappeared over night with no explanation. When the community communicated their concerns about their vulnerability to the authorities, their concerns were ignored and they were off-handedly told the troops were close by.

8 November 2013

Samuel Ortiz

Community leader, member of the Junta de Acción Comunal of San Jose de los Campos, killed by unknown persons in Cartagena, Bolívar.

15 November 2013

Miguel Conda

Leader of the Nasa Indigenous community, killed by the guerrilla in Jambalo, Cauca.

17 November 2013

Gildardo Padilla Ortega

Land leader of Asociación Tierra y Vida, killed by paramilitaries in Valencia, Córdoba.

29 November 2013

Juan Alvaro Nastacuas Pai

Indigenous leader of the Awá People and the Resguardo Inda Guacaray, killed by unknown persons in Tumaco, Nariño.

2 November 2013
Cesar García

Campesino leader from the Environmental Committee Conciencia Campesina, killed by unknown persons in Cajamarca, Tolima.

10 November 2013
Arley Artunduaga

Campesino leader from the corregimiento San Rafael, killed by guerrilla in Tulua, Valle del Cauca.

17 November 2013
Sergio Ulcue Perdomo

Campesino leader in Caloto Cauca, killers unknown.

18 November 2013
Roberto Córtez

Campesino leader from Marcha Patriótica, killed by unknown persons in Campoalegre, Huila.

30 November 2013
Robinson David Mazo

Land leader from the Rios Vivos movement, killed by unknown persons in Toledo, Antioquia.

Analysis Unit, there has been almost complete silence with respect to any advances in prosecuting those responsible. In January 2014 the UN Office of the High Commissioner for Human Rights (OHCHR-Colombia) concluded that progress was 'insufficient' on cases they were monitoring of crimes perpetrated against HRDs. They identify lack of coordination across departments in the Attorney General's Office as being the main cause of this.¹⁰⁵

A special investigation and prosecution unit was set up to investigate the killings and attacks against Trade Unionists in the Attorney General's Office, with dedicated judges and investigators. International observation and monitoring of this process was carried out via a report to the International Labour Organisation (ILO). Since the initiation of this process, prosecutions and convictions in the cases of attacks and killings of trade unionists have increased. The Colombian Government has also set up a special Sub-Commission in the Attorney General's Office for the investigation of crimes against HRDs. It will be essential to ensure that the same level of resources is dedicated to the investigation of HRDs as it is to Trade Unionists.

2.2 National Roundtable on Security Guarantees for Defenders

The National Roundtable on Security Guarantees for Defenders (Mesa Nacional de Garantías para Defensores de Derechos Humanos, Líderes Sociales y Comunes) is an initiative for high level dialogue between the Government and civil society regarding the security needs of HRDs and how to ensure the right to defend human rights in Colombia. Despite establishing this formal space for dialogue in 2008, the OHCHR expressed concerns that it had yet 'to produce tangible results for better prevention and protection mechanisms or, in particular, a public policy to guarantee the defence of human rights ... the process should focus on the development and subsequent implementation of such a policy as a matter of priority'.¹⁰⁶

2.3 Victims' Roundtables

Many community leaders representing victims groups also take part in regional roundtables called Mesas de Víctimas (Victims' Roundtables). As a result of taking part in these discussions many of them have seen their level of risk increase. In October 2014, the Human Rights Ombudsman (Defensoría) reported that 109 participants in the Mesas de Víctimas had been threatened.¹⁰⁷ In the 21 month period from January 2012 to September 2013, over 700 displaced land restitution claimants and their leaders reported receiving threats; no one has been charged yet with these crimes.¹⁰⁸ As a result, there is little to dissuade the perpetrators of these attacks. Investigation and prosecution of perpetrators and dismantlement of the structures supporting crimes against defenders are keys to preventing new threats and attacks.¹⁰⁹

There appears also to be a lack of coordination or political will to support the Mesas de Víctimas: *'The majority of municipal and district Mesas don't have the basic elements needed to function, such as a computer, chairs, a room or a space. On many occasions the Mesas have to hold their meetings under a tree, on the beach or in shopping centres, because we don't have anywhere to meet. But if you go to the Victims' Unit they have rooms, computers and good air conditioning.'*¹¹⁰

In direct contrast to the delays and lack of investigation and prosecution of those who perpetrate crimes against HRDs is the rapid initiation of judicial processes against HRDs on the basis of little, if any, independent evidence. According to the OHCHR, '[c]riminal investigations of community leaders for their alleged connection with armed groups, despite insufficient grounds for prosecution, were recurrent. In the context of the peace talks, this questionable strategy reduces the pool of community leaders.'¹¹¹

2.4 National Protection Unit

The State provides protection measures to HRDs at risk through the National Protection Unit (Unidad Nacional de Protección – UNP). The UNP replaced the former discredited Colombian Intelligence Service (Departamento Administrativo de Seguridad – DAS).¹¹⁶ In the first 10 months of 2014, the UNP provided protection to 1,775 defenders.¹¹⁷ The Human Rights Ombudsman's Office (Defensoría) has highlighted some of the problems in the functioning of protection schemes, including the lack of resources needed for equipment granted under these protocols.¹¹⁸ Whilst issues of bureaucracy have played a part, the failures of the UNP go beyond this.¹¹⁹

- One community, Cacarica, had been awarded measures for their protection which included transportation for its members. A year later they were still waiting for this to be implemented.
- In Curvaradó, community leader Manuel Ruiz was assassinated whilst the Committee of Risk Evaluation and Recommendation of Measures (Comite de Evaluación de Riesgo y Recomendación de Medidas – CERREM) were still evaluating his level of risk.¹²⁰
- In 2014, having analysed the security risk of a HRD, the UNP determined that he faced no extraordinary danger. However, soon after this the HRD was killed.¹²¹
- By not receiving the full amount of fuel and toll charges, HRDs are forced to choose whether to stay indoors or be exposed to risk and carry-out their daily tasks. One defender had this to say: 'When they silence a leader they silence 20,000 families...I have not received my transport subsidies for the last 5 months and they have also cut off my emergency phone...I have not been able to move.'¹²²

<p>3 December 2013</p> <p>José Luis Rolon</p> <p>Indigenous leader of the Zenú, killed by unknown persons in Tuchin, Córdoba.</p>	<p>4 December 2013</p> <p>Lida Olivero Mejía</p> <p>Community leader from the Sacarias community council, killed by unknown persons in Buenaventura, Valle del Cauca.</p>	<p>12 December 2013</p> <p>Jesús Rodríguez Cortes</p> <p>Community leader killed by unknown persons in Samaniego, Nariño.</p>	<p>1 January 2014</p> <p>Berlain Sagama Gutierrez</p> <p>Indigenous leader of the Embera Chami, killed by paramilitaries in El Dovio, Valle del Cauca.</p>	<p>4 January 2014</p> <p>Giovany Leiton</p> <p>President of the Junta de Acción Comunal and member of Mesa Nacional de Interlocución y Acuerdo Agropecuaria, killed by unknown persons in San Jose del Palmar, Chocó.</p>
<p>4 December 2013</p> <p>Carlos Edmundo García Herreros</p> <p>Union leader from Fondo de Empleados Fenaser, killed by unknown persons in Cucuta, Norte de Santander.</p>	<p>6 December 2013</p> <p>Pedro Alejandrino Campero</p> <p>Union leader from Fondo de Empleados Fenaser, killed by unknown persons in Sadinata, Norte de Santander.</p>	<p>1 January 2014</p> <p>Jhon Brulio</p> <p>Indigenous leader of the Embera Chami, killed by paramilitaries in El Dovio, Valle del Cauca.</p>	<p>4 January 2014</p> <p>Gerson Martinez</p> <p>Youth leader, killed by unknown persons in Distrito Capital.</p>	

2014

- For defenders in rural areas the standard allocation of a bulletproof vest, emergency mobile phone and transport subsidies is inadequate. Community leaders have repeatedly told ABColombia that in many areas there is no signal for the mobile phones, bulletproof vests only draw attention to HRDs and mark them out and that the transport subsidies are only sufficient for half of the return journey to the local town.
- Indigenous leaders are particularly vulnerable in remote rural regions. Many indigenous leaders have suggested alternative measures that provide both collective protection to the community and individual protection for leaders – for example in the form of the Indigenous Guard (see Case Study 3). Having put forward these suggested measures, the Zenú Indigenous Peoples from the Alto San Jorge Resguardo in Córdoba experienced similar problems of slowness, lack of communication and only partial provision of the measures awarded.
- As one defender explains, 'If a car granted by the UNP is out of gas, you cannot move; in the same way, if the per diem payments and travel authorisations for escorts are not paid, the protection mechanism cannot function normally and therefore does not protect'. In this scenario the defenders are forced to carry out their activities without its protection, or accept the physical security measures but have no budget to carry out their normal activities. 'This is worrying because if one moves around without the protection scheme allocated by the UNP it can be considered a poor use of the scheme and the scheme will then be removed.'¹²³
- One human rights defender in Bolívar told ABColombia that he had recently received a death threat via a text message. The defender said he had been given a booklet from police about dealing with threats, but 'I don't see this as protection – this is just a piece of paper.'¹²⁴



A land restitution leader from Curvaradó has been given a mobile phone and bulletproof vest as protection measures.

Case Study 6: David Ravelo – Criminalisation of HRDs

David Ravelo Crespo, ex-president of Colombian human rights organisation Credhos (Corporación Regional para la Defensa de los Derechos Humanos), was jailed for 18 years in 2012. The human rights lawyers representing Ravelo, CCAJAR (Colectivo de Abogados de Jose Alvear Retrepo), and international organisations have highlighted several irregularities in his case.

In 2008 demobilised paramilitary leaders accused Ravelo of having ties to guerrilla groups and of having planned the killing of political leader David Nuñez Cala.¹¹² As soon as Ravelo became aware of these accusations, he presented himself voluntarily in the Public Prosecutor's Office in Barrancabermeja in order to assert his innocence with his own testimony. Despite this, he was arrested in September 2010 and has been in prison ever since.

Some of the irregularities about the case include: that the charges against Ravelo were based exclusively on the statements of demobilised paramilitaries who receive benefits under the Justice and Peace Law; a witness in the case reported an attempt to bribe them; other witnesses for the prosecution have constantly contradicted themselves and their testimonies have reportedly been false; and

the Prosecutor closed the investigation phase without examining all the defence evidence and before receiving all of the testimonies. In addition, there were issues regarding the eligibility of the Prosecutor to hear the case. According to Colombian lawyers, Prosecutor William Pacheco had been investigated for his involvement in the forced disappearance of a youth when he was a police lieutenant; under Colombian law this made him ineligible to prosecute cases.

Death threats against Ravelo's family increased from the start of the investigation. In March 2011, the UN Special Rapporteur on the Independence of Judges and Lawyers, Gabriela Knaul, and the Special Rapporteur on the Situation of Human Rights Defenders, Margaret Sekaggya, sent a combined communiqué to the Colombian Government expressing their concern because the 'criminalisation of David Ravelo occurs in the context of increasing prosecutions against human rights defenders in Colombia'.¹¹³ The Inter-American Human Rights System (IACHR) also expressed concerns regarding illegal or unjust prosecution of HRDs in Colombia.¹¹⁴ At the time the UN highlighted that '[d]espite a ruling of the Constitutional Court that testimonies from reintegrated witnesses cannot be used as evidence for opening judicial proceedings, human rights defenders have also been prosecuted on the basis of unreliable witness testimonies from demobilized individuals or informants in exchange for legal and/or pecuniary benefits'¹¹⁵

10 January 2014

Alberto de Jesús Díaz Mercado

Community leader of the population of Plato Magdalena, shot by an unknown killer in Plato Magdalena, Magdalena.

25 January 2014

Miguel Segundo Díaz Soto

Community leader from the La vereda Cemelias Community, killed in Puerto Asis, Putumayo.

26 January 2014

Duvis Antonio Galvis

Campeño leader from the Asociación Campesina del Catatumbo – ASCAMCAT, killed in Sardinata, Norte de Santander.

1 March 2014

Juan Alberto Causado Priolo

Land restitution leader, shot by an unidentified killer in Barranquilla, Atlántico.

4 January 2014

Ever Luis Marin Rolong

Union leader from Cerveteria Bavaria, killed by paramilitaries in Soledad, Atlántico.

22 January 2014

Heriberto Mora Muñetón

Community leader of the Junta de Acción Comunal Vereda Minas Blancas, killed in San Vicente del Caguán, Caquetá.

26 January 2014

Carlos Enrique Ruíz Escarraga

Social leader from the Organización cultural Entre Redes, killed in Bogotá.

5 February 2014

Luis Alberto Restepo Vallejo

Community leader of the Junta de Acción Comunal of the village Arcacai, killed in Mistrató, Risaralda.

3 March 2014

Epifanio Latin Nuscue

Leader of the Nasa Indigenous people, killed by the FARC in Miranda, Cauca.

'They give us six months of relocation accommodation, but after six months you have to return to the same place where the threats are still latent. There are no guarantees at all.'

Member of the Victims Roundtable in Bolivar explains the protection measures offered for those who receive threats.¹²⁵

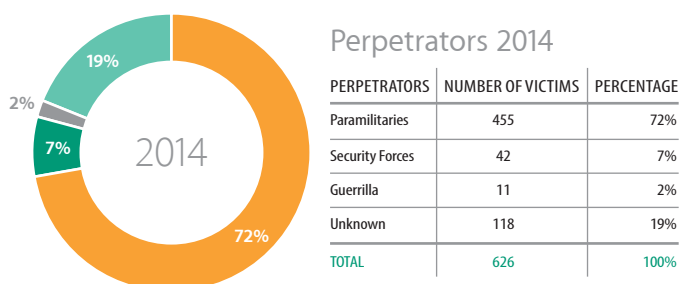
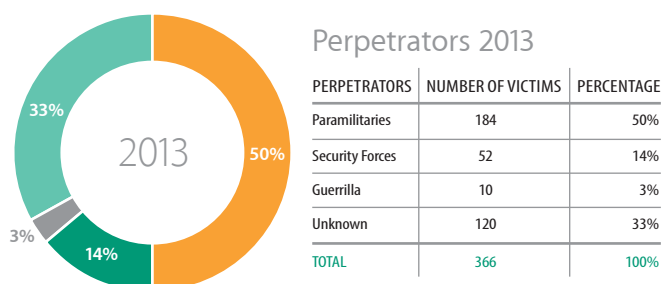
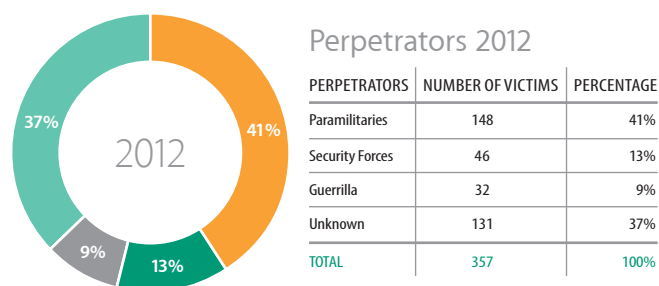
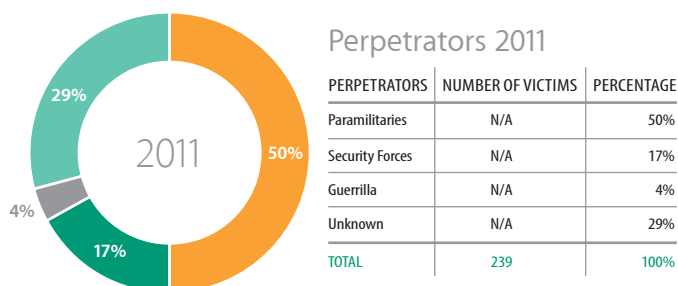
Between 2011 and 2013, of the known perpetrators of attacks against HRDs, the Security Forces were responsible for between 13 and 17 per cent (in 2014 this fell to 7 per cent). Between 2011 and 2014 the guerrillas perpetrated between 2 and 4 per cent of attacks. The PDPGs, who have consistently been the worst perpetrators, were responsible for 72 per cent of attacks in 2014 (see Table 3).¹²⁶

Table 3: Alleged perpetrators of attacks against Human Rights Defenders (2011-2014)

Case Study 7: Protection Measures for Women Human Rights Defenders

The dangers faced by women human rights defenders are demonstrated by the case of community leader Claudia.¹²⁷ Claudia was allegedly receiving death threats against herself and her four children due to her work as a community leader representing the victims of a massacre that had taken place in the Montes de Maria, Bolivar. Claudia was active in the process of seeking justice for the victims of the massacre and had received several phone calls urging her to abandon the town or she would be killed. She reported these threats and a risk analysis was carried out which led to her receiving a bulletproof vest. However, Claudia could not use the bulletproof vest as it was too small, and the mobile phone she had been promised never arrived. She was also told by the authorities to leave for one of the big cities such as Bogota, Cali, Medellin or Cartagena, but she was not offered any support for her children. This made it impossible for her to leave. Despite staying, Claudia lost her job as a teacher because the death threats meant that she posed a danger to the children if the attack was carried out at the school.

Paramilitaries Security Forces Guerrilla Unknown



11 March 2014
Evelio Obando Campo
Community leader of the Junta de Acción Comunal of El Placer, killed in Tambo, Cauca.

6 April 2014
Faustino Acevedo Gaitán
Community leader of El Morro in Yopal, killed by the ELN in Yopal, Casanare.

10 April 2014
Douglas Zuluaga
President of the Junta de Acción Comunal of the village Cartagenita in Norte de Santander and member of ASCAMCAT, killed by unknown persons in Convención, Norte de Santander.

14 April 2014
Olmedo Jimenez Guamanga
Campesino leader and member of 'Comite de Integración del Macizo Colombiano -CIMA', killed by unknown persons in Santa Rosa, Cauca.

26 April 2014
Patricio Fernando Mejía Urzola
Community leader from the Asociación de Usuarios de Servicios Públicos y de la Salud, killed in Barranquilla, Atlántico.

6 April 2014
Miguel Ángel Parra
Community leader from the Comunidad Localidad de Kennedy, killed in Bogotá.

9 April 2014
Jesús Adán Quinto
Land restitution leader of the displaced community of Cacarica-Chocó, killed by two hitmen in Turbo, Antioquia.

10 April 2014
Luis Albeiro Guetio
Senior Advisor of the Association of traditional authorities of the Nasa Cxancha indigenous group, killed by unknown persons in Puerto Asís, Putumayo.

21 April 2014
Luis Javier Campo Méndez
Indigenous leader from the Movimiento Juvenil Álvaro Ulcué Chocue, tortured and killed in Suárez, Cauca.

National Protection Unit (Unidad Nacional De Protection – UNP)

The process for obtaining protection measures is as follows:

- Service Management (Gestión del Servicio) receives the application and ensure it falls within the remit of the UNP. It is then passed to the CTRAI.
- Technical Unit for Compilation and Analysis of Information (Cuerpo Técnico de Recopilación y Análisis de Información - CTRAI) make a field visit to verify the information. Their report passes to the Preliminary Evaluation Group.
- Preliminary Evaluation Group (El grupo de valoración preliminar), which consists of nine entities, they analyse the level of risk and submit their findings to CERREM.
- Committee for the Evaluation of Risk and Recommendation of Measures (Comite de Evaluación de Riesgo y Recomendación de Medidas – CERREM). CERREM has a membership of 13 entities. They make the final decision and notify the director of the National Protection Unit, the body responsible for the implementation of the measures.

Case Study 8: Community leaders Enrique Cabezas and Yomaira Mendoza

In 2006, the Curvaradó community reclaimed their land from which they had been forcibly displaced. Following their displacement from Curvaradó by the AUC paramilitary forces (Autodefensas Unidas de Colombia), cattle-ranchers and agro-industrialists moved onto their land. Enrique Cabezas is one of the community leaders seeking full restitution of their land from the State. However, much of their land continues to be occupied by the cattle-ranchers and others, and community members like Enrique receive threats and attacks for their work defending their community's rights.

In 2014, Enrique Cabezas was in the Caño Manso community in Curvaradó when he received a text message which warned him that he would be killed that night. Enrique managed to escape through the back door just before armed men entered the house through the front. This was one of a number of threats that he has received.

Another Curvaradó leader with numerous threats against her life is mother-of-two Yomaira Mendoza. For pursuing her land claim and justice for her husband's murder, Yomaira has received threats against herself and her son – she was told 'the order from the boss is to kill you'. There were seven assassination attempts on her life between March and August 2014.

Both Enrique Cabezas and Yomaira Mendoza were eventually forced to leave the Curvaradó River Basin and moved to Bogotá. However, the threats continued along with surveillance, forcing them to leave the country. They left not only for their own security but also because members of their families were being threatened as a result of their work.¹²⁸ Both these leaders had special protection measures from the National Protection Unit. In August 2014, the Inter-American Commission on Human Rights had ordered the Colombian Government to provide Yomaira Mendoza and Enrique Cabezas with adequate protection.¹²⁹

<p>9 May 2014</p> <p>Tomas Rodríguez Cantillo</p> <p>Union leader of the 'Sindicato Nacional de Trabajadores de la Industria Agropecuaria – SINTRAINAGRO'; killed by unknown persons in Ciénaga, Magdalena.</p>	<p>16 May 2014</p> <p>Pablo Emilio Aponte</p> <p>Union leader from 'Sindicato de Trabajadores y Empleados de Servicios Públicos, Corporaciones Autónomas, Institutos Decentralizados y Territoriales de Colombia –SINTRAEMSEDES'; killed by unknown persons in Cartago, Valle del Cauca.</p>	<p>24 July 2014</p> <p>Reinel de Jesús Cano</p> <p>Community leader from Asociación de Usuarios Campesinos - ANUC, killed in La Virginia, Risaralda.</p>	<p>14 August 2014</p> <p>Eduardo Alarcón Díaz</p> <p>Campesino leader from the Comité Permanente por la Defensa de los Derechos Humanos (CPDH), killed in Campoalegre, Huila.</p>
<p>26 April 2014</p> <p>Édgar Bravo González</p> <p>Community leader of the Junta de Acción Comunal of Barrio Reinaldo Matiz, killed in Neiva, Huila.</p>	<p>12 May 2014</p> <p>Wilson Hernando Guanga Nastacuas</p> <p>Indigenous leader from the the Awá Indigenous group, killed by paramilitaries in Barbacoas, Nariño.</p>	<p>17 June 2014</p> <p>José Arlex Avendaño Arango</p> <p>Campesino leader of the Junta de Acción Comunal of la Siria, killed by unknown persons in Tuluá, Valle del Cauca.</p>	<p>27 July 2014</p> <p>Pablo García Llano</p> <p>Community leader of the Asociación de Usuarios Campesinos - ANUC, killed in La Virginia, Risaralda.</p>
<p>18 August 2014</p> <p>Carmelo Gutiérrez Padilla</p> <p>Community leader of the Comunidad del Barrio Nuevo éxito - Colegio Francisco de Paula Santander de Galapa, killed in Soledad, Atlántico.</p>			

3.0 International Support for the Peace Process

3.1 International norms on conflict-related sexual violence

The International Community recognises the importance of including women in peace-building work (UNSCR 1325 of 2000), along with the obligations to prosecute persons responsible for sexual violence, to ensure all victims have equal protection and access to justice (UNSCR 1820 of 2008) and the importance of equal representation of women in all aspects of formal peace-building and post-conflict reconstruction (UNSCR 1960 of 2000).¹³⁰ Countries expressed their concern regarding sexual violence in 2013 during Colombia's UN Universal Periodic Review Process, where 19 recommendations were made on sexual violence.

The G8 declaration on preventing sexual violence in conflict, promoted by the UK during its presidency of the G8 in 2013,¹³¹ draws on a variety of UNSCRs and states that no amnesties should be given for crimes of sexual violence in conflict. It stresses the importance of ending impunity for perpetrators of rape and other forms of sexual violence in armed conflict.

EU documents also stress there should be no amnesties for conflict-related sexual violence: 'the EU... will fight vigorously against impunity for serious crimes of concern... including sexual violence committed in connection with armed conflict...'¹³² recognising that 'in conflict and post-conflict situations it is crucial... to raise the issue of gender-based violence, including sexual violence, impunity and the enforcement of judicial measures against perpetrators of such atrocities.'¹³³ The EU, in its Action Plan on Human Rights and Democracy, sets out its intentions of encouraging third party countries through political dialogue and demarche campaigns to implement UNSCRs 1325 and 1820 on Women, Peace and Security in consultation with women's rights networks and organisations.¹³⁴

The crime of sexual violence has no justification in any conflict or domestic situation. If left unpunished, it has repercussions for truth, justice and reparation, as well as for gender equality in the reconstruction process. If subject to amnesties sexual violence against women will become entrenched in a post-conflict society.

3.2 International intervention to create enabling spaces for dialogue

If Colombia is to achieve a sustainable peace then international financial aid and political support for CSOs is going to be a key component. With huge resources being invested into reintegration there is the danger that little money will be given in an independent manner to CSOs (without the conditions of having to work with the State). If, as happened with many other countries, the majority of international aid is channelled through the State to CSOs it could reduce CSOs to mere service deliverers: 'to accept government funding in [a] ... polarised political context could compromise ... work ... on democratisation and human rights promotion. This could weaken their role and purpose by pushing them into service delivery and away from their work on governance and democracy.'¹³⁵

CSOs are essential for promoting dialogue with government as critical voices on issues of democracy and human rights, contributing to the construction of public policies and defending rights. CSOs provide collective organisation and access to technical skills that help to rebalance the inequality of power between citizens and the State, and between people and corporations.

The peace agreements being made in Havana are at the moment very general and open to interpretation. Therefore, if international aid is to be used effectively in order to implement these agreements, it will be essential for national governments and the EU to consult with CSOs as they will be able to indicate priorities for a sustainable peace, help construct public policies based on these, and monitor implementation.

The construction of any new social pacts will rely on challenging the high level of polarisation in Colombian society and the tendency to see those who hold different political views as 'the enemy'. Any new social pacts must recognise and guarantee the right to participation in the peace building process for all sectors of Colombia's civil society, specifically guaranteeing the participation of women and sectors of society that have been historically marginalised, namely peasant farmers, Indigenous and Afro-Colombian Peoples.

One of the main challenges in the construction of a sustainable and lasting peace is the length of the war and the unfulfilled promises that have generated high levels of scepticism regarding the negotiations in Havana. ABColombia partner organisations have expressed concerns¹³⁶ that this scepticism in itself can be an

26 August 2014
Diego García

Community leader of the Comunidad de la vereda El Morro, killed in El Peñón, Antioquia.

2 September 2014
Joaquín Gómez Muñoz

Community leader for the Nasa Indigenous Peoples, killed in Caloto, Cauca.

12 September 2014
Miguel Becheche Zarco

Indigenous leader of the Asociación de Cabildos Indígenas de Alto Baudó - ACIAB, killed in Alto Baudó, Chocó.

13 September 2014
Miguel Angel Rodríguez

Community leader from the San Miguel neighbourhood in Soacha, killed in Soacha, Cundinamarca.

26 September 2014
Wilber Chamarra Carpio

Indigenous leader from the Wounaan Resguardo Bella Vista Pitalito, killed in Pizarro, Chocó.

29 August 2014
Edith Santos

Community leader of the Asociación Comunitaria CEJAID and trade union SINPROSEG, killed in Acacias, Meta.

6 September 2014
Flor Nibe Rodríguez Rocha

Community leader from the community of El Cable o La Cabaña, killed in El Castillo, Meta.

12 September 2014
Emelio Pacheco Tunay

Indigenous leader of the Organización Indígena del Chocó - OICH, killed in Alto Baudó, Chocó.

14 September 2014
Ancizar Ruiz Ceballos

Displaced leader from the Comité Patriótico Departamental from the Partido Verde, killed in Armenia, Quindío.

obstacle to peace, given that the peace accords must be backed by the Colombian people for them to be legitimate and because the engagement of the civilian population is essential for the construction of a sustainable peace.

If the most marginalised of the civilian population are to suspend their scepticism about the peace process it is extremely important that – in the shortest period of time possible after peace agreements have been signed in Havana – public services (health, education and infrastructure, etc.) quickly reach those who have been most marginalised and affected by the war, so that they can see that peace signifies tangible improvements. In order for rural populations to see they have a future it will be essential that development policies support local economies, small scale agriculture and access to local markets for farmers.

‘Respect for human rights is one of the political priorities of the EU ... In this regard, it is necessary to implement the Victims and Land Restitution Law in order to contribute to the construction of peace in Colombia. It is essential to accompany its implementation, as indeed the EU is doing, and support efforts to defend the lives of land restitution leaders and claimants’

EU Ambassador to Colombia, María Antonia Van Gool.¹³⁷



Transporting produce to the local market

29 September 2014
Pedro Augusto Arisala

Afro-Colombian leader from the Comunidades Afrodescendientes en Barbacoas, killed in Barbacoas, Nariño.

7 October 2014
Daniel Humberto Sánchez Avendaño

Environmental leader from the Colectivo Social Ambiental Juvenil Cajamarcuno COSAJUCA, killed in Cajamarca, Tolima.

17 October 2014
Nelson Medina Ortega

Union leader from the Asociación Sindical Petrolera Arcas, killed in Acacías, Meta.

28 October 2014
Fabio José Alegría Dagua Conda

Indigenous leader of the Nasa People and for the Colombian Red Cross, killed in Caloto, Cauca.

29 September 2014
Nair Edilia Tay Torres

Murui indigenous leader from the Organización Indígena Murui del Amazonas – OIMA – OPIAC, killed in Puerto Legízamo, Putumayo.

7 October 2014
Norman Ortiz

Community leader, Fundación Impulsar – ASOJUNTAS de Maguí Payán, killed in Policarpa, Nariño.

15 October 2014
Johanna Quintero Pabón

Community leader from the Asociación de Vivienda, killed in Ocaña, Norte de Santander.

24 October 2014
Álvaro Osnas

Indigenous leader, Resguardo Nasa Jerusalén San Luis Alto Picudito, killed in Villagarzón, Putumayo.

5 November 2014
Manuel Tumiñá

Nasa Indigenous leader, killed in Toribio, Cauca.

3.3 International Labour Organisation Convention 169

One mechanism for the protection of the rights of citizens in relation to land is Prior Consultation (Consulta Previa). In Colombia this only applies to Indigenous and Afro-Colombian Peoples. The mechanism of Free, Prior and Informed Consent (FPIC) officially gives these groups a voice and helps protect their right to self-determination in development. The Colombian Constitution of 1991 grants the right of prior consultation and this right is also contained in the International Labour Organisation Convention 169 (ILO 169), signed by Colombia. The UN Declaration on the Rights of Indigenous People has also been endorsed by Colombia.

If Indigenous People such as the Emberá Katío of the Alta Andagueda (see Case Study 9) are to have their rights upheld, then ILO 169 must be respected. Not all decisions by land restitution judges supported the protection of this right. The afro-Colombian communities of COCOMOPOCA had a similar request for the suspension of the concessions granted to British-registered Mining Corporation Anglo-Gold Ashanti turned down.

International covenants and laws – as well as recent judgements by the Colombian Constitutional Court have created precedence – have determined that Free, Prior and Informed Consent should be obtained prior to the approval of the use by private companies of Indigenous and Tribal Peoples' land when it is considered that the mega project will have a major impact on the economic, social and cultural rights of these communities.



Afro-Colombian communities of COCOMOPOCA have been supported by the Diocese of Quibdó in their work campaigning to secure the legal right to their land

Case Study 9: Suspending mining concessions on indigenous land

Some of the dangers for companies investing in land can be seen from what is happening in Chocó. This is a region where the majority of the land is collectively owned by Afro-Colombian and Indigenous Peoples.

Land Restitution Tribunal Magistrates have started to encounter mining concessions on land belonging to victims of the conflict who are seeking land restitution. One such case is that of the indigenous Emberá Katío resguardo in Alto Andagueda, Chocó. They encountered 80 per cent of their territory concessioned by the Ministry of Mines to multinational mining corporations.¹³⁸

The magistrate in the Land Restitution Tribunal ruled in favour of protecting the territorial rights of 50,000 hectares for over 7,000 Emberá Katío.¹³⁹ These had been granted by the State to multinational corporations. The Court order included suspending the mining concessions granted in their territory (resguardo) to the British registered company Anglo-Gold Ashanti amongst others and to halt the issuing of any further concessions requested by other companies. The magistrate also ordered that in the future the Emberá Katío's fundamental rights to Free, Prior and Informed Consent in their territory must be upheld.

5 November 2014

Daniel Coicue

Indigenous leader, killed in Toribio, Cauca.

26 November 2014

Leydi Milena Méndez

Community leader of the Junta de Acción Comunal of Puerto San Salvador, killed in Fortul, Arauca.

26 November 2014

Edgar Fernando Gómez Burbano

Campeño leader of the Asociación de Trabajadores Campesinos Pro constitución de Zona de Reserva Campesina del Municipio de Caloto, killed in Caloto, Arauca.

7 January 2015

Cenén Namundia

Indigenous leader and traditional doctor of the Embera Chamí indigenous people in Risaralda, killed by unknown persons in Risaralda.

19 January 2015

Carlos Alberto Pedraza Salcedo

Social leader from Proyecto Nunca Más/ Movimiento de Víctimas de crímenes de Estado, killed by unknown persons in Bogotá.

23 November 2014

Ángel Antonio Muñoz Villalarga

Community leader of the Junta de Acción Comunal of Vereda de Buenos Aires, killed in San Juan de Arama, Meta.

26 November 2014

Amalia Fernanda Meza

Community leader of the Junta de Acción Comunal of Barrio Boyacá, killed in Fortul, Arauca.

9 December 2014

Elkin Darío Mompotes Quira

Indigenous leader of the Kokonuco Reguardo de Purace, killed in Popayán, Cauca.

9 January 2015

Camila Flores

LGBT activist from Mecanismo Coordinador de País (MCP) / Fondo Mundial de prevención de VIH/SIDA, killed by unknown persons in Sucre.

2015

4.0 Business, Human Rights and the Peace Process

With no accurate land register and over 5.7 million people internally displaced, businesses (especially those in extractives and agro-industry) have a role to play in ensuring that they do not invest in lands that belong to the victims of land grabs or forced dispossession and thereby inadvertently benefit from human rights violations. The UN Guiding Principles on Business and Human Rights stress that due diligence is required by companies when undertaking investment. This is particularly the case in countries in conflict or post-conflict situations. It may even require companies to hold back from investing in projects involving land if they are unable to undertake adequate due diligence.

In 2011 the UK and Colombia brought out a joint human rights statement in which important commitments were made on human rights and the security of human rights defenders.¹⁴⁰ These included ensuring that the UN Guiding Principles on Business and Human Rights were implemented in their respective countries. The UK has been a staunch supporter of guidelines at the UN. ABColombia contributed to consultations on the UK National Action Plan and has worked with the FCO to improve advice that the UK Department of Trade and Investment have on their website for businesses looking to invest in Colombia.

The UK National Action Plan – ‘Good Business’ – made commitments for the UK to regulate its economic activity in order to promote human rights, and states ‘that agreements facilitating investment overseas by UK or EU companies ... [should] not undermine the host country’s ability to ... meet its international human rights obligations...’¹⁴¹ Under the Coalition Government (2010-2015) the UK has also promised not to downgrade human rights in its international dealings.¹⁴²

The Irish Government is currently in the process of developing a National Action Plan on business and human rights. While Ireland’s commitment to human rights is internationally recognised, it is unclear to what extent Ireland’s National Action Plan will address the need for companies to adhere to international law and conduct robust due diligence measures, particularly for countries affected by conflict.

According to a report by Colombia’s Comptroller General, a major issue that threatens the possibility of victims recovering their land is the exclusionary nature of the Colombian Government’s



Embera Women

policies on trade and development. These policies are focussed on promoting ‘megaprojects’ – particularly in the area of mineral extraction – which are likely to further consolidate land grabs and worsen land concentration and dispossession, rather than offer a solution to the underlying problems.¹⁴³ Colombia has entered into a plethora of free trade agreements and investment treaties. These have been at the root of social unrest and protests with a notably high number in 2013. Two of these treaties have been approved by the UK and one by Ireland: a UK Bi-lateral Investment Treaty with Colombia (BIT) and the multilateral EU Association Agreement with Colombia and Peru.

4.1 UK Bi-lateral Investment Treaty with Colombia

The UK has recently taken a regressive step by downgrading the protection of human rights to business interests. In 2014 the UK ratified a Bi-lateral Investment Treaty (BIT) with Colombia which potentially contradicts their policies on business and human rights, as set out in their ‘Good Business’ Action Plan. The agreement is vaguely written and could obstruct the Colombian Government from regulating in favour of human rights due to the excessive

25 January 2015

José Joaquín Herrera Utría

LGBT activist from La Brigada LGBT, killed by unknown persons in César.

30 January 2015

Jaminton Andrés Ávila

Social leader of the Junta de Acción Comunal of El Porvenir, killed by unknown persons in Antioquia.

4 February 2015

Heriberto Narváez Hoyos

Political leader from Agropemca, killed by unknown persons in Cauca.

8 February 2015

Emiliano Silva

Indigenous leader of the Nasa Indigenous People, killed by Aguila Negras in Cauca.

23 January 2015

Isaías Moreno Cabrera

Cultural leader, killed by unknown persons in Antioquia.

26 January 2015

Nicasio Sánchez Guanay

Community leader from Comunidad de la Vereda Puerto Gaitán - Tame, killed by unknown persons in Arauca.

3 February 2015

Arturo Juanias

Indigenous leader from Comunidad de la Localidad de Usme y Tolima, killed by Los Rastrojos in Bogotá.

8 February 2015

Gerardo Velasco

Indigenous leader from the Nasa Indigenous People, killed by the Aguila Negras in Cauca.

10 February 2015

Héctor William Cabrera Suárez

Community leader from Asociación de Parceleros Brisas de San Pedro, killed by unknown persons in Caquetá.

protections the BIT offers to British investors in Colombia. The UK BIT includes the controversial Investment to State Dispute Settlement (ISDS) mechanism.

The Investment to State Dispute Settlement (ISDS) mechanism allows foreign investors to sue the host state directly through investment arbitration. This is a powerful tool that enables corporations investing in a country to challenge a wide range of government conduct, including measures to protect the environment and health, as well as many other public interest measures.

BITs are supposed to provide protection to foreign investors from government action (originally expropriation, in the days of newly independent former colonies) which could reduce the monetary value of their investment. However, they now grant investors the right to sue democratically elected Governments in private international arbitration tribunals whilst neither the host Government nor communities affected by such investment have reciprocal rights to challenge that investment.

In addition, these agreements do not impose actionable responsibilities on foreign investors to operate to acceptable standards that reflect international law, for example, adherence to international labour, human rights and environmental standards.

There are clear arguments to suggest that BITs are dangerous for human rights protection, especially when they are implemented during an ongoing internal armed conflict or when a country is in transition from a conflict. If ratified with countries with a poor human rights record the reparation to the victims may be hampered by disproportionate investor protection. The very prospect of claims being filed against the Colombian Government for human rights improvements could create a 'regulatory chill' and – in this case – hold Colombia back from regulating in the public interest for fear of litigation.¹⁴⁴

It is therefore essential to implement human rights monitoring of the UK-Colombia BIT in order to ensure that human rights impacts are monitored and mitigated and the BIT does not close down space for participative democracy of Colombia's most marginalised groups.

human rights mechanisms within the treaty would not adequately safeguard human rights the treaty was approved.¹⁴⁶

Professor John Ruggie, the former UN Special Representative on Human Rights and Transnational Corporations, emphasises that where the State is not protecting human rights the responsibilities of corporations increase, and they must ensure that they respect human rights and avoid complicity in violating human rights and rights of communities.¹⁴⁷ If companies are to carry out adequate due diligence they will need to carry out thorough and independent research before embarking on their investment in land in Colombia (see Case Study 9 on suspending mining concessions on indigenous land).

Colombia has a very poor human rights record. Despite an ongoing conflict, the country has introduced transitional justice and land restitution policies. The country needs to be able to regulate in favour of the civilian population if it is to be able to bring about peace. Having its hands tied in terms of making changes in policies and its regulatory framework will not help to obtain a sustainable peace with social justice. Instead of promoting policy changes to improve human rights, this BIT could obstruct Colombia's ability to promote policies that achieve improvements in human rights.



Human Rights Defenders from northern Colombia raise human rights concerns with representatives of the European Union in November 2014

4.2 EU Free Trade Agreement

The UK and Irish Governments recently ratified the EU Association Agreement with Colombia and Peru despite strong reservations from civil society. In the Irish Parliament the committee responsible for evaluating trading agreements – Oireachtas Committee on Jobs, Enterprise and Innovation¹⁴⁵ – voiced their concerns regarding the implementation of such an agreement in Colombia given its ongoing human rights record. Despite concerns that the

14 February 2015

Luis Antonio Peralta Cuellar

Human Rights activist from Linda Stereo Radio Station, killed by unknown persons in Caquetá.

27 February 2015

Gersaín Fernández Rivera

Indigenous leader from the Nasa Indigenous People (Resguardo Pitayó), killed by the National Armed Forces in Cauca.

5 March 2015

Ever López

Campesino leader from Sindicato de Trabajadores Agrícolas Independientes del Meta, killed by the National Armed Forces in Meta.

24 March 2015

Elizabeth Méndez Sánchez

Community leader from the Barrio Egipto Community, killed by unknown persons in Bogotá.

15 February 2015

Jesús David Pérez Luján
(Juliana Andrea Pérez Luján)

LGBT activist from the LGTBI community San Pedro de los Remedios, killed by unknown persons in Antioquia.

2 March 2015

Édgar Quintero

Human Rights activist from Radio Luna, killed by unknown persons in Valle del Cauca.

17 March 2015

Luis De Jesús Rodríguez Parada

Campesino leader from Comunidad de la Española - Zona de Reserva Campesina Perla Amazónica, killed by unknown persons in Putumayo.

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³ Irish Aid, Civil Society Policy, 2008.

⁴ Busan Partnership for Effective Development Co-operation: Fourth High Level Forum on Aid Effectiveness, Busan, Republic of Korea, 29 November - 1 December 2011, paragraph 22.

⁵ Statement by Ambassador Richard Ryan, Permanent Representative of Ireland to the United Nations, on behalf of the European Union, to the Security Council, The Role of Civil Society in Post-Conflict Peace-Building, 22 June 2004.

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⁸ CINEP/PPP, Informe Especial: Luchas Sociales en Colombia 2013, April 2014.

⁹ Annual report of the United Nations High Commissioner for Human Rights, Addendum, Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Colombia, 23 January 2015.

¹⁰ CINEP/PPP, Aportes a los Diálogos de paz, December 2012, page 9.

¹¹ CINEP/PPP, Informe Especial: Luchas Sociales en Colombia 2013, April 2014.

¹² Declaring mining a public utility restricts regional development plans in that it gives mining precedence over every other economic development activity.

¹³ UN Security Council Resolution 1325, 31 October 2000.

¹⁴ UN OHCHR, Opening remarks by UN Deputy High Commissioner for Human Rights Flavia Pansieri at a press conference during her mission to Colombia, 21 April 2015.

¹⁵ CCAJAR, Ccajar propone juicios y penas diferenciadas para crímenes de Estado y de guerrillas, 30 March 2015; CONPAZ, Propuesta de CONPAZ: Comisión de la Verdad, July 2014; Move, Propuestas mínimas sobre verdad, justicia, reparación y garantía de no repetición, March 2013.

¹⁶ UN Human Rights Council, Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, Pablo de Greiff, 27 August 2014, paragraph 22.

¹⁷ For more information see: ABColombia, Giving it Away: The Consequences of an Unsustainable Mining Policy in Colombia, November 2012.

¹⁸ Here we are referring to women, peasant farmers, Afro-Colombian and Indigenous Peoples.

¹⁹ Ricardo Herrera, Coordinador Nacional Agrario, in an interview with ABColombia in Spanish (October 2014): "...porque la paz es la solución de los problemas, de los cambios estructurales, la paz no es el cese del fuego, la paz no es la negociación entre el gobierno y la insurgencia, la paz es el bienestar y el mejoramiento de las condiciones de vida digna para la sociedad y para las organizaciones sociales y populares de Colombia".

²⁰ UN General Assembly, Note by the Secretary-General, Promotion of Truth, Justice, Reparation and Guarantees of Non-Recurrence, 23 August 2013, pages 6-7.

²¹ UN General Assembly, Note by the Secretary-General, Promotion of Truth, Justice, Reparation and Guarantees of Non-Recurrence, 23 August 2013, paragraph 14.

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²³ Acuerdo General para la terminación del conflicto y la construcción de una paz estable y duradera, Firmado a los 26 días del mes de agosto de 2012, en Havana, Cuba.

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²⁵ Carlos Velandia, Public Dialogue on Peace and Reconciliation in Colombia, SOAS, University of London. This "Public Dialogue on Peace and Reconciliation in Colombia" SOAS, University of London, 17 February 2015.

²⁶ Office of the High Commissioner for Peace, Learn about the Peace Process in Colombia, June 2014, page 19.

²⁷ Interview carried out by ABColombia in Bolívar in March 2014: 'No ha sido para nosotros fácil llegar a estos espacios, ha sido de lucha y tesón.'

²⁸ Presidencia de la República, Declaración del jefe del Equipo Negociador del Gobierno Nacional, Humberto de la Calle, 7 June 2014.

²⁹ Rosa Emilia Salamanca, Keynote Remarks UN General Assembly: "Ensuring Stable and Peaceful Societies", 24 April 2014.

³⁰ Secretaría Distrital de la Mujer, 'Coloquio Mujeres, Cultura y Paz: Mujeres de la Subcomisión de Género, asesora para la mesa de La Habana comparten su experiencia', 19 March 2015. 'que tiene como objetivo incluir la voz de las mujeres y la perspectiva de género en los acuerdos parciales ya adoptados, así como en un eventual acuerdo resultado de esos diálogos de paz'.

³¹ UN Security Council Resolution 1325, 31 October 2000, page 3.

³² These include: genocide, war crimes, crimes against humanity, or other gross violations of human rights, including summary or extrajudicial killings, torture and other forms of cruel, inhuman or degrading treatment, slavery, enforced disappearance, rape and other forms of sexual violence, and other serious violations of international humanitarian law.

³³ Statement made by Claudia Mejía Director of Sisma Mujer, Los derechos de las mujeres víctimas en el centro de los derechos de las víctimas para una paz sostenible y duradera, August 2014.

³⁴ Corte Constitucional de Colombia, Decisión T-25 Auto 092 de 2008, paragraph III.1.1.1.

³⁵ For further information see ABColombia et al report, Colombia: Women, Conflict-related Sexual Violence and the Peace Process, November 2013.

³⁶ Campaign 'Rape and other Violence: Leave my Body Out of War', Oxfam International, 2010.

³⁷ ABColombia et al, Colombia: Women, Conflict-related Sexual Violence and the Peace Process, November 2013.

³⁸ However, there are still concerns that wording in the Military Criminal Code and bills reforming the military justice system, if passed into law, could still offer opportunities for the military justice system to secure jurisdiction over at least some conflict-related cases of sexual violence. Press Statement by the Special Representative of the Secretary-General on Sexual Violence in Conflict Zainab Hawa Bangura, Colombia: Historic Law Offers Survivors of Sexual Violence Hope for Justice and Redress, 24 June 2014.

³⁹ 25 May was the day in 2000 when Jineth Bedoya was kidnapped, raped and tortured whilst carrying out her work as an investigative journalist.

⁴⁰ El Espectador, Santos ordena discutir cese al fuego bilateral con las Farc, 14 January 2015.

⁴¹ Dirección Contra Minas, Estadísticas, Situación de víctimas Colombia 1990 - marzo 31 de 2015.

⁴² Public statement by victims that took part in the second delegation to Havana: Comunicado a la opinión pública Segundo Encuentro de víctimas con la Mesa De Diálogos De la Habana, 10 September 2014.

⁴³ CONPAZ, Who we are: a network made up of families, community groups, rural, afrodescendant, indigenous and mestizo organisations from Antioquia, Atlántico, Cauca, Chocó, Putumayo, Magdalena, Meta, Nariño, Valle. (Quiénes Somos: una red conformada por familias, grupos comunitarios, comunidades y organizaciones rurales afrodescendientes, indígenas, mestizas, multas de Antioquia, Atlántico, Cauca, Chocó, Putumayo, Magdalena, Meta, Nariño, Valle).

⁴⁴ International Alert, Code of Conduct: International Transformation Work, 1998, page 10.

⁴⁵ CONPAZ, Propuesta de CONPAZ: Comisión de la Verdad, July 2014.

⁴⁶ Move, Propuestas mínimas sobre verdad, justicia, reparación y garantía de no repetición, March 2013.

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⁴⁸ CCAJAR, Ccajar propone juicios y penas diferenciadas para crímenes de Estado y de guerrillas, 30 March 2015.

⁴⁹ CCAJAR, Ccajar propone juicios y penas diferenciadas para crímenes de Estado y de guerrillas, 30 March 2015.

⁵⁰ UN Human Rights Council, Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, Pablo de Greiff, 27 August 2014, paragraph 22.

⁵¹ In August 2013, the Constitutional Court upheld the constitutionality of the Legal Framework for Peace, approved by Congress in June 2012.

⁵² Amnesty International Report 2014/15: The State of the World's Human Rights, 25 February 2015.

⁵³ Amnesty International Report 2014/15: The State of the World's Human Rights, 25 February 2015.

⁵⁴ CCAJAR, Ccajar propone juicios y penas diferenciadas para crímenes de Estado y de guerrillas, 30 March 2015.

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⁵⁷ UN OCHA, Monthly Humanitarian Bulletin, Colombia Issue 16: 1-31 May 2013.

⁵⁸ Annual report of the United Nations High Commissioner for Human Rights, Addendum, Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Colombia, 23 January 2015.

⁵⁹ BBC Mundo, Colombia busca atacar el vínculo entre conflicto de tierras y violencia (Colombia seeks to deal with the link between conflict of land and violence), 7 February 2011.

⁶⁰ Article 25 of Law 1448. Original in Spanish: 'Las víctimas tienen derecho a ser reparadas de manera adecuada, diferenciada, transformadora y efectiva por el daño que han sufrido...'

⁶¹ Décimo Séptimo Informe Trimestral del Secretario General al Consejo Permanente Sobre la Misión de Apoyo al Proceso de Paz en Colombia (MAPP/OEA) February 2013, page 2.

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- ⁷⁴ Human Rights Watch, The Risk of Returning Home, September 2013.
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- ⁸² Interview carried out by ABColombia in Bolívar in March 2014: 'Tierra no hay para los campesinos. Eso es claro. Todo está en los macro proyectos, en los canales, en la palma Africana... Ellos (campesinos) ya son jornaleros en su propia tierra. Dejaron de ser propietario de la tierra para ser jornaleros. Han quedado trabajando para quien ocupo su tierra... No tiene sueldo, no tiene seguro, no tiene prestaciones, no tiene nada'.
- ⁸³ The eviction order is based on the report of 'legal characterization and remediation of collective land of Curvaradó Jiguamiandó' made by the Colombian Institute of Rural Development (Incodec) in 2012 in compliance with the judgment T-025 of 2004 of the Constitutional Court.
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About us

ABColombia is a group of leading UK and Irish organisations with programmes in Colombia. We work on questions of human rights, development and forced displacement. ABColombia's members are CAFOD, Christian Aid (UK and Ireland), Oxfam GB, SCIAF, and Trócaire. Amnesty International and Peace Brigades International are observer members. ABColombia develops the collective advocacy work of members. Our members work with around 100 partner organisations in Colombia, most of them with little access to decision-making forums nationally or internationally.

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