

## Hearing on Human Rights in Colombia - November 27, 2013

### *Impacts of free trade agreements on human rights*

#### Introduction

The Trade Agreement between the EU, Colombia and Peru, signed in June 2012 and subsequently ratified in December of the same year by the European Parliament, provisionally entered into force on August 1, 2013, in a context of high social and political tension reflected in significant social demonstrations during 2013.

The Trade Agreement has led to **serious questions on the situation of human rights, the lack of specific and efficient labour, social and environmental standards, the continuing violence in Colombian regions, and the potential impacts of the Agreement on sectors of the Colombian economy.**

Given this reality, the European Parliament called for the development of a road map on human rights, labour rights and environmental rights, which “*should be aimed essentially at safeguarding human rights, enhancing and improving trade unionists’ rights and protecting the environment*”<sup>1</sup>. The Parliament noted on several occasions that both the Trade Agreement and its accompanying roadmap could serve as **tools for monitoring the human rights situation in Colombia. We therefore call upon the European Parliament to use the Roadmap and to take appropriate measures in light of the current situation.**

This document details the current situation, and outlines the concerns which still exist about the main focuses set out in the Roadmap ([human rights](#) and [labour rights](#)), as well as the [potential impacts of the Trade Agreement](#).

#### Summary – Conclusions

The general human rights situation in Colombia remains of serious concern:

- Murders continue to be committed against human rights defenders, land restitution leaders, small farming and indigenous leaders fighting for their land and opposing dams or mining projects. Between January and September 2013, at least 52 defenders were killed.
- The criminalization of social protest continues to affect freedom of expression and assembly. There are reports of stigmatisation by high officials, and violent repression, resulting in up to 15 killings during the last national strike.
- Several legislative initiatives could promote impunity and have been strongly questioned by UN mechanisms.
- The number of displaced people is increasing every day, with over 250,000 new cases in 2012. Today in Colombia 5.7 million displaced people are registered. There is a 99.5 % rate of impunity for this crime.

The labour situation does not show substantial improvements:

- Violence against trade unionists remains in almost total impunity (93%).
- The existing Labour Action Plan (LAP) under the FTA between Colombia and the United States has failed. During the first two years of the implementation of the LAP signed in April

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<sup>1</sup> Resolution of the European Parliament on the Trade Agreement between the European Union, Colombia and Peru (2012/2628(RSP)).

2011, 47 unionists were killed, 18 were attacked, 6 were forcibly disappeared and there were reports of around 760 death threats<sup>2</sup>. Between January and September 2013 at least 11 trade unionists were killed.

- Out of 22 million workers only 8 million have an employment contract<sup>3</sup>.

The FTA between the EU and Colombia could have negative effects for Colombia:

- In 2012, exports to the EU were centred on the following products, notably the primary sector: 86% traditional products, including 42.4% coal and 30% oil<sup>4</sup>.
- Imports of agricultural products have grown from one million to ten million tonnes, and between 2000 and 2012, one million agricultural hectares were used for other purposes, affecting negatively the rice, milk, oilseeds, potatoes, sugar, vegetables and coffee sectors.
- Between 2012 and 2013, the volume of imports of primary goods increased by 45.6%, while exports fell by 1%. Consequently, the prices paid to Colombian agricultural producers fell by 8%.
- Europe produces in 14 days the amount of milk that Colombia produces in a year. In line with the SPS/WTO regulations, industrial milk is being imposed as the only kind permitted to be marketed which would mean the demise of the Colombian milk market.

The Oidhaco network therefore considers that neither the human rights situation nor the labour situation in Colombia is improving. In addition, the FTA with the European Union could have negative effects on many sectors of the Colombian economy and deepen an export model based on the export of natural resources which does not allow for inclusive or sustainable development.

## Recommendations

In light of the ratification by the European Parliament of the EU - Colombia Free Trade Agreement and the adoption of a resolution calling for a roadmap and Human Rights, Labour Rights and Environmental Rights, we ask the European Parliament to:

- Implement a monitoring system on the issues mentioned in the Road Map and not just the direct impacts of the trade agreement.  
This monitoring system should:
  - be transparent via public hearings and periodic reports;
  - include sectors of Colombian society, both directly affected by the implementation of the agreement, and also human rights organisations, environmental organisations and trade unions;
  - be implemented by the Parliament as a whole and in particular by the sub - committee on human rights (DROI), the environment committee (ENVI) and the international trade committee (INTA)
- Fulfil its commitment to labour rights to use the trade agreement and the roadmap to publicly demand that the Colombian government implement effective measures for the protection of human rights, labour rights and the environment.
- Demand that the European Commission and the Council of the European Union develop a regular monitoring mechanism, with a transparent and inclusive approach in line with the human rights clause included in the agreement.
- Demand that the European Commission and the Council of the European Union specify the criteria and measures which apply in the case of violations of human rights and labour rights and environmental rights in Colombia.

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<sup>2</sup> Escuela Nacional Sindical, "[A dos años del Plan de Acción Laboral](#)"

<sup>3</sup> "[The U.S.-Colombia Labor Action Plan: Failing on the Ground](#)"; A Staff Report on behalf of U.S. Representatives George Miller and Jim McGovern to the Congressional Monitoring Group on Labor Rights in Colombia"

<sup>4</sup> [Ministerio de Comercio](#) (Colombian Trade Ministry)

## I. Human Rights

### Human Rights Defenders

The Roadmap mentions several measures which have been adopted to strengthen the protection of persons at risk, particularly human rights defenders, trade unionists and land claimants. These reforms have not been effective to date.

**The security situation for human rights defenders in Colombia continues to be highly disturbing.** Defenders, like farmers and community leaders continue to be targeted for their work monitoring, reporting and preventing serious human rights violations.

| <i>Killings of Defenders</i> |
|------------------------------|
| 2011: 49                     |
| 2012: 69                     |
| January-September 2013: 52   |

Comparing the first half of 2012 to the first half 2013 shows that **murders have increased by 27%**<sup>5</sup>. That is to say, the lives of human rights defenders in Colombia are increasingly attacked and with fatal consequences. Similarly, there continue to be reports of **unfounded criminal proceedings against defenders** based on testimonies from demobilized combatants from illegal armed groups without respect for due process.

**Latest reported murder case:** On Sunday 17 November 2013, at 13:0, small farming leader **Sergio Ulcue Perdomo** was murdered in the town of Caloto – Cauca. Mr. Perdomo was spokesperson with the Colombian Government on Precautionary Measures granted by the Inter American Commission on Human Rights (IACHR) to 179 rural families. Sergio Ulcue Perdomo, had been a prominent small farming leader since 2009, denouncing atrocities and crimes committed by the army against the civilian population, contributing to the prosecution of more than 46 human rights violations and breaches of international humanitarian law. On June 9, 2012 SERGIO ULCUE PERDOMO was arrested and brought before the courts for the crime of rebellion, charges based on testimonies by demobilized FARC combatants. The peasant leader was imprisoned for four months until the preliminary investigations of the criminal process were declared null and void. The case was later closed in favour of Mr Perdomo.

**Emblematic case of unfounded criminal proceedings:** Renowned human rights defender **David Ravelo** was sentenced on appeal to 18 years in prison after a judicial process lacking fair trial guarantees.

The privatisation of the National Protection Unit led to a significant investment in terms of security. However, this strong economic investment has not led to an increase in security measures or in the number of protected persons. By contrast, **it has been observed that the budget increase has been accompanied by a decrease in the number of protected persons**<sup>6</sup>.

|      | Budget (in millions of USD) | Number of people protected |
|------|-----------------------------|----------------------------|
| 2008 | 4                           | 9.000                      |
| 2013 | 165                         | 7.500                      |

There has been concern over the slowness of risk assessment studies and in the implementation of approved protection schemes, the lack of coordination of actions, lack of clear criteria when defining risk, the lack of a true differential approach, the lack of collective measures and the lack of inclusion of family members in the protection schemes (particularly acute for women defenders).

**After the “chuzadas” scandal** (wiretapping of social organisations, judges and opposition politicians) and illegal intelligence activities, surveillance and attacks on defenders by the Administrative Department of Security (DAS – a state intelligence body), this institution was disbanded. Nevertheless, apart from legal proceedings against its former Directors, the institution was never purged. **Its officers were transferred to institutions such as the Attorney General’s Office and the Technical Investigation Corps, the National Police, and even the National**

| Institution                           | Officials    |
|---------------------------------------|--------------|
| Attorney General’s Office             | 3.218        |
| Special Administrative Migration Unit | 853          |
| National Protection Unit              | 601          |
| National Police                       | 317          |
| Civil Defence                         | 21           |
| <b>TOTAL</b>                          | <b>5.010</b> |

<sup>5</sup> [Report “Heroes Anonimos” \(Enero – Junio 2013\) – Sistema de Informacion sobre agresiones a defensores de DDHH en Colombia \(SIADDHH\), programa Somos Defensores.](#)

<sup>6</sup> *ibid*

**Protection Unit for human rights defenders.** These concerns are all too real if we take into account that defenders continue to report surveillance, wiretapping and other illegal activities carried out against them by the intelligence services.

**Case of Danny Stewart Usam Monsalve, former DAS agent:** Danny Stewart Usam Monsalve, a former DAS agent questioned by the victims in the wiretapping scandal, was named as the person in charge of prevention, protection and security of the Land Restitution Office. Seven years ago, he was the coordinator of the Group on Defence, Terrorist and Criminal Networks in the DAS and the group known as GAME, the Group for the Analysis of Terrorist Organisation Methods<sup>7</sup>.

Beyond the protection system, we are concerned about the **lack of progress in the fight against the root causes of such attacks** such as impunity and the continued presence of paramilitary power structures in the regions.

### **Criminalisation of Social Protest**

**Recent months have been marked by important social mobilisations:** protests by small-scale farmers in the Catatumbo region (June 2013); the National Mining Strike (July 2013); the National Agricultural Strike (August 2013); and the Social Indigenous ‘Minga’ (October 2013). During these protests, there were reports of multiple and serious human rights violations, particularly by the state security forces, and an initially adverse attitude by the authorities towards the protesters. The response of the Colombian State to these protests was characterized by **stigmatisation** - even by President Juan Manuel Santos himself - and by marked **physical and symbolic repression. This repression left a toll of 902 victims** of some form of aggression. Of the total cases, **15 people were killed**; there were 7 victims of some form of torture or cruel act, including a case of sexual abuse; and 315 people were arbitrarily arrested. There were also reports of harassment, threats, sexual violence, assaults with guns and knives, looting and occupation of property protected under international humanitarian law by members of the security forces.

The **Public Safety Law** (June 2011) facilitates the **criminalization of social protest**, by punishing acts such as “the disruption of official actions” and “obstructing public roads affecting public order” with several years in prison. In September 2013, in response to the national agricultural strike, the government introduced a bill that expands the crime of “obstructing public roads affecting public order” and increases the penalty and the fine imposable for this crime. New offenses have been added, raising the penalty by a third in the event that a person is hooded, or in case of “use of minors, persons with disabilities or elderly people”.<sup>8</sup>

Negotiations at the end of August between government and farmers led to some agreements. However, they remain superficial and do not respond to the precarious situation of the farmers. Similarly, there was a strengthening of the protests because of a lack of compliance with these agreements.

### **Justice**

The November 2012 *report of the Office of the Prosecutor of the International Criminal Court* **highlights that** there is a “reasonable basis” to believe that crimes against humanity and war crimes have been committed by various armed actors (State actors, guerrillas and paramilitary groups). These include forced displacement, sexual violence, murder (extrajudicial executions or “false positives”), enforced disappearances, torture and cruel treatment. The report highlights the almost total impunity for these crimes and advises that the Office of the Prosecutor will particularly monitor several issues. However, the Colombian government continues to promote reforms that would consolidate impunity for crimes committed by different actors in the conflict.

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<sup>7</sup> [La Silla Vacía, El sospechoso pasado del encargado de seguridad de la restitución de tierras, June 4, 2013](#)

<sup>8</sup> See [Draft bill](#) and [its approval process](#) (in Spanish)

## Constitutional Reform of Military Criminal Jurisdiction

In December 2012, the Colombian Congress adopted a constitutional amendment extending Military Criminal Jurisdiction, promoted by the government of President Santos despite numerous warnings from the United Nations and other international organisations<sup>9</sup>. In June 2013, Congress adopted the Law for the Statutory Regulation of the Constitutional Reform of Military Criminal Jurisdiction which interpreted and distorted international humanitarian law<sup>10</sup>.

In October 2013, the Constitutional Court **declared that the amendment to Military Criminal Court was unconstitutional, particularly due to irregularities in the way it had been approved. However, even after the norm had been rejected, the government has expressed its intention to keep this amendment on the table**<sup>11</sup>. After hearing the ruling, the government announced it would introduce a petition for review to the Court for its decision, and that if the decision is not retracted, the government would present new reform to Congress. In addition, the government also announced that it is preparing a bill that seeks to create a special unit for legal protection for the military, so as to counteract the effect of the invalidation of the reform by the Constitutional Court<sup>12</sup>.

## Reform to the Justice and Peace Law

After more than seven years, Law 975 or the 'Justice and Peace' Law on the demobilization of illegal armed groups has not obtained the results originally announced when it was passed. By January 2013, only 14 convictions had been made. And while important progress has been made in this process regarding the right to the Truth - according to the Attorney General's Office, the paramilitaries have confessed to 39,546 crimes involving 51,906 victims, including 25,757 murders and 1,046 massacres -, this legal framework has actually resulted in a de facto amnesty for almost all of those who demobilized and the few who have been convicted, with sentences that do not meet the test of proportionality with respect to the serious nature of the crimes committed (sentences fall between 5 and 8 years under the Justice and Peace Law) .

Colombian Congress adopted in December 2012 a reform which states that it aims to improve on Law 975. However, except for the introduction of procedures for the termination of the proceedings under the Justice and Peace Law and for the repeal of alternative sanctions and legal benefits, far from correcting the deficiencies of Law 975, **this reform compounds impunity and makes it even more difficult for victims to access their right to truth, justice, reparation and guarantees of non-repetition. The reform also reinforces and widens a system whose inability to meet the standards for justice and the struggle against impunity and the right of victims to truth, justice and reparation has already been well documented.**

## Legal Framework for Peace

The constitutional reform known as the "Legal Framework for Peace" on transitional justice, approved on June 19, 2012, includes the possibility of amnesty for human rights violations committed by armed actors (guerrillas, paramilitaries and the Colombian Armed Forces), even in cases of crimes against humanity.

This reform could incorporate impunity into the constitution. As underlined by the Colombian Commission of Jurists (*Comisión Colombiana de Juristas*), "it is noteworthy that some of the proposed measures have already been being approved by the Congress, without the existence of the necessary constitutional provisions to authorize them". Also of concern is the fact that there is no time limit for the implementation of these "transitional justice" provisions. As was stated by the representative in Colombia of the UN High Commissioner for Human Rights: "Evading responsibility

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<sup>9</sup> Oidhaco, Expansion of Military Criminal Jurisdiction: a "historic setback" for Colombia. Analysis - April 2013

<sup>10</sup> Oidhaco, Legal Framework for Peace' - Amnesty for Human Rights violations committed by the different actors in the armed conflict Analysis - November 2012.

<sup>11</sup> [El Espectador, El fuero militar existe: Presidente Santos, October 24, 2013](#)

<sup>12</sup> [El Espectador, Mindefensa radica plan B ante caída del fuero militar, October 29, 2013,](#)

for violations committed in a conflict through the manipulation of laws and procedures does not work in the long term and instead, it weakens the chances of achieving real and lasting positive changes”<sup>xi</sup>.

**These reforms seriously hamper the administration of justice and violate the right of victims to truth, justice and reparation. They present a serious risk of further compounding impunity, which is already widespread, and provide a permissive signal for the actors in the conflict, who are already responsible for crimes against humanity and war crimes, to go on committing further abuses.**

**Forced Displacement**

Colombia, along with Sudan, has the highest population in the world of victims of forced displacement. In 2012, **256,590 new cases of displacement** were reported, bringing the total number of displaced people to **5.7 million** - more than 10% of the total population in Colombia.

At the end of March 2013, the UN Office for the Coordination of Humanitarian Affairs (OCHA), **warned about an increase in forced displacement in Colombia during the first quarter of 2013.** They also warn that there is a risk of “the persistence and possible worsening of armed violence and its humanitarian impact” during a post- conflict scenario<sup>13</sup>.

The Constitutional Court reports that in every 200 cases, less than one reaches the stage of indictment – that is to say, there is a **more than 99.5% rate of impunity.**

Within this context there is concern about the **lack of security for people leading land restitution cases.** Indeed in 2013, there were at least 6 murders of leaders of land claims processes, and many more threats.

**Mining and energy activities and their implications for human rights violations, in particular, causes of displacement.**

The report of the Comptroller General of the Republic “*Mining in Colombia: Basics to overcome the extractive model*” of May 2013, highlights in particular the overlap between areas where serious human rights violations occur and areas of mining and oil extraction. The report highlights the militarization and deepening socio-environmental conflicts caused by the mining and energy policy. These violations also occur in cases of lawful projects (such as coal mining in La Guajira and Cesar and the construction of hydroelectric power plants in Antioquia and Neiva).

**Human Rights Violations in Mining and Oil municipalities (35% of the National territory)**

- 80% of human rights violations
- 87% of forced displacement
- 78% of crimes against trade unionists
- 89% of crimes against Indigenous people and 90% against Afro-descendants

The report also highlights the fact that “almost all municipalities targeted for restitution coincide with places where there are existing mining rights”. The extractive industry also generates pollution

and the destruction of land and water sources, putting pressure on the territories of Afro-Colombian and indigenous communities, in particular. This could aggravate the

|                            | % of land with mining titles granted | % of land with mining titles applied for |
|----------------------------|--------------------------------------|--|
| Afro-Colombian territories | 6,02                                 | 16,50                                    |
| Indigenous territories     | 1                                    | 13,58                                    |

displacement of these communities.

<sup>13</sup> OCHA Colombia, Monthly Humanitarian Bulletin. Forced Displacements increase during first quarter. March 2013

**Cases of murders of land claimants:** Leaders *Éver Antonio Cordero Oviedo* and *Ermes Enrique Vidal*, on March 23 and April 9 respectively; on April 12 *Narciso Teherán*; on March 25 *Gustavo Adolfo Pizo*, president of the small farming organisation ASOCAT, part of the Fensuagro trade union; on May 29 the son of a land claimant in northern Colombia was found dead.

**Case of disappearance of leaders struggling against mining or hydroelectric projects:** Disappearance of **Miguel Angel Pabón Pabón**, from the Living Rivers Movement (*Movimiento Ríos Vivos*) and leader of the resistance against the construction of Hidrosogamoso. He was last seen on October 31, 2012. Killing of 36 year-old **Adelinda Gómez Gaviria** on September 30, 2013. Adelinda Gómez was a member of the Process for Macizo Women in the Committee for Integration of the Colombian Macizo Region (*Proceso de Mujeres Maciceñas del Comité de Integración del Macizo Colombiano*) and had received threats for her work related to mining projects in the region, when unknown individuals told her to “stop messing about in this mining stuff, it’s risky and you’ll get yourself killed” (*deje de joder con esa cosa de la minería, eso es riesgoso y se va a hacer matar*).

## II. Labour Rights

No significant changes have been observed in the labour rights of Colombian workers, or in the lack of free exercise of trade union rights. Indeed, basic labour protection such as the right of association and collective bargaining, are being violated on a national scale<sup>14</sup>.

In particular, **violence against trade unionists continues to be a major obstacle to union activity**. According to the report “*The US- Colombia Labour Action Plan: Failing on the ground*”<sup>15</sup>, most labour rights violations and acts of violence, including threats to trade unionists, remain unpunished. According to data presented by the National Trade Union School (*Escuela Nacional Sindical - ENS*) in Colombia, “**over 93% of cases of violence against trade unionists do not lead to a conviction**”.

While the number of trade unionists killed has dropped in recent years, as noted by the UNDP, “**since 2007 threats have increased**”. Therefore, rather than a reduction of violence, this could be a “transformation of its manifestations”. Indeed, during the first two years of the implementation of the Labour Action Plan (LAP) in April 2011 under the framework of the FTA between the U.S.A. and Colombia<sup>16</sup>, numerous cases of violence against trade unionists were reported, showing that the plan is not has been successfully implemented. These include **47 killings of trade unionists, 18 attempted murders, 6 forced disappearances, and around 760 death threats**. Between January and September 2013 at least 11 trade unionists were killed.

**A recent case:** Nestlé worker, **Oscar López Triviño** was murdered by 4 gunshot wounds at 8:30 pm on November 9, 2013. The incident took place in the Barrio Municipal area of Bugalagrande. Oscar had worked for Nestlé in Colombia for 25 years and was a member of the union Sinaltrainal. The national and international community was informed that on November 8 at 4:42 PM, Sinaltrainal received a text message from mobile phone No. 3145550150, with the following threat: “*son of a bitch guerrillas stop fucking with Nestlé, no more pardon we will cut up into pieces all Sinaltrainal communists and Urabeños*” (*guerrilleros hp siguen jodiendo a Nestlé no mas perdón los picaremos muerte a todos los comunistas de Sinaltrainal Urabeños*). Since 8 am on 5 November, Sinaltrainal had been holding a hunger strike in Nestlé and the multinational had refused to start a dialogue.

While it is positive that violence against trade unionists has declined, “this change has not resulted in greater rights for workers”. In fact, only 30% of the working population in Colombia has working conditions that could qualify as “decent”.

### Employment

During 2011, employment grew in the self-employed and informal sectors by 6.23%, while formal employment grew by (5.05%). **In fact, of the 22 million workers, only 8 million have an employment contract and 14 million lack labour rights** such as the right to union organisation. Furthermore, it is important to note the lack of enforcement and implementation of new legislation, which contributes to the continuity of the numerous violations of labour rights. Similarly, **indirect employment is**

<sup>14</sup> Wola – Washington Office on Latin America, “Labor rights violations persist in Colombia”, Article of October 30 2013.

<sup>15</sup> U.S house of representatives – Committee on Education and Workforce Democrats. “The US-Colombia Labor Action Plan: Failing on the ground. Report October 2013.

<sup>16</sup> Action plan which aims to confront labour rights violations in light of the bilateral free trade agreement which was ratified in 2010.

**widespread**, via Associated Workers' Cooperatives (*Cooperativas de Trabajo Asociado - CTA*), temping agencies and union contracts. These forms of recruitment exclude coverage in health and social security. However, although the actions of "*labour cooperatives*" (CTA) have been regulated, similar new forms of business organisation have been popping up which seek to circumvent labour laws and prevent the formation of unions, such as the so-called Societies for Simplified Actions (*Sociedades por Acciones Simplificadas - SAS*)<sup>17</sup>.

**The roadmap emphasizes the training of officials on fundamental labour rights**, however, such training has not been carried out with support from trade unions in line with their viewpoints.

In conclusion, although the goals for labour and trade union rights are positive, they are also insufficient to allow any real changes. Therefore measures such as "*the adoption of voluntary actions by companies in favour of human rights*" are highly inadequate in a situation in which not even the basic standards on labour issues covered in the ILO Conventions are being respected<sup>18</sup>.

### III. Possible Effects of the Trade Agreement

In 2012, exports to the EU were centred on the following products, notably the primary sector: 86 % traditional products, of which 42.4 % were coal and 30% oil; and 6.5% industrial products, including agribusiness.

#### Agriculture

**Colombia is one of the most severely unequal countries in the world in terms of the distribution of land ownership.** This inequality is the source of internal conflict. Indeed, "the historical spatial occupation of the territory, the processes of agricultural colonization and population settlements, and the absence of the state, have led to a high concentration of land and have caused violence" (Third Peace Laboratory)<sup>19</sup>.

**The Gini index<sup>20</sup> on land in Colombia stands at 0.87, one of the highest in the world.** It is estimated that 3% of landowners own more than 75 % of the land.

It is also important to note that **land with agricultural potential is under-used** in Colombia. Indeed, the area devoted to agriculture and forestry amounts to 4.9 million hectares, although it is estimated that 21.5 million are suitable for agriculture. That is to say, only 22.7 % of the area with agricultural potential is used for growing crops. **This under-use of land is worrying considering that it is estimated that small-scale farmers feed 70% of the world population.** In Colombia, the proportion of people suffering from hunger is 12.6% (higher than the average for Latin America and the Caribbean which is situated 8.3%)<sup>21</sup>.

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<sup>17</sup> [Oidhaco, Comments to the Roadmap, November 15, 2012.](#)

<sup>18</sup> [ibid](#)

<sup>19</sup> [Campesinos, tierra y desarrollo rural, Reflexiones desde la experiencia del Tercer Laboratorio de Paz, April 2011.](#)

<sup>20</sup> Gini Index: the closer to 1, the greater the land concentration in the hands of the few.

<sup>21</sup> [Oidhaco, Land in Colombia – Between usurpation and trade. Presentation of the current situation of a problem at the centre of the armed conflict. March 2013.](#)

## Trade policy and agrarian and mining conflicts



In Colombia, the close relationship between large landowners and political powers could explain why there has not been an effective land reform program<sup>22</sup>. This is linked to the deepening and accelerating collapse of traditional agriculture and the depopulation of rural areas, encouraged by the socio-political and socio-economic violence in the country, in favour of the consolidation of the mining and energy sector and large-scale livestock farming.

According to informed the Historical Memory Group (*Grupo de Memoria Histórica*), between 1958 and 2012, **land grabbing affected 7 million hectares of productive land**. Similarly, the implementation of enterprise schemes for planting large areas with monoculture plants is one of the main focuses of the rural development policy promoted by the Colombian government, mainly via the planting of palm, rubber and cocoa. **The rural development policy has favoured agribusiness and the mining industry over small-scale agricultural production**, via subsidies and the strong promotion of large-scale agro-industry, which tacitly favours land grabbing.

**Within this situation, the rural population has seen its existence threatened by the increasing number of agricultural and mining megaprojects implemented by transnational corporations, the expansion of large-scale livestock farming and the implementation of Bilateral Free Trade Agreements .**

According to the National Colombian Institute for Statistics (DANE)<sup>23</sup>, **imports of agricultural products have increased from one million to ten million tonnes, and between 2000 and 2012**, one million agricultural hectares were used for other purposes, affecting negatively the rice, milk, oilseeds, potatoes, sugar, vegetables and coffee sectors. These are the core products of the Colombian staple diet, which implies that there is an **increasing dependence on foreign trade** to ensure food supply in the country<sup>24</sup>.

**Between 2012 and 2013, the volume of imports of primary goods increased by 45.6%, while exports fell by 1%. Consequently, prices for Colombian agricultural producers fell 8%.** Thus, the income of rural residents covers little more than their production costs, causing the ruin of many farmers who are forced to grow crops for their own food needs.

This situation is the reason behind the large demonstrations held by the agriculture sector in the summer of 2013. Colombian farmers face structural problems such as lack of infrastructure in water supply, sewerage, roads and lack of means of transport to bring their products to market, high input costs and the lack of health and education provision. These were part of the agricultural sector's demands which resulted in different agreements and roundtables with government. However, the demonstrations became stronger when the farmers noted that these agreements were not being formally met.

It is important to remember that rural poverty currently stands at 65% with extreme poverty at 33%.

<sup>22</sup> Mantilla, Alejandro. *La tragedia y la farsa : del Pacto del Chicoral al Pacto de Compensar. Palabras al Margen. September 16 2013.*

<sup>23</sup> DANE, Sistema Estadístico Nacional de Colombia. *Boletín de Prensa* : Comportamiento de las importaciones en la economía Colombiana. July 2013.

<sup>24</sup> Sarmiento Anzola, Libardo. « *Conflicto Agrario : Campo de discordias* » October 2013.

## **Extractive industry**

In recent years, Colombia has experienced an intense debate about the role of mining in the national development process. The country is experiencing a boom in extractive activities. In almost a decade coal mined in the country doubled, rising from 38,242 million tonnes in the year 2000 to 74,350 tonnes in 2010; while the surface area granted mining titles has soared in recent years. Mining concessions rose from 1.1 million hectares in 2002, to 8.4 million hectares in 2009. In parallel, the country is experiencing a period of social resistance to increased mining activities, represented in the emergence and deepening of social conflicts related to exploration and development activities in rural areas. Between January 2001 and December 2011, 274 social struggles associated with the extraction of oil, gold and coal were reported. These protests were subject to repression and criminalization.

From an economic point of view, the report “Mining in Colombia: Basics to overcome the extractive model” published by the Comptroller General of the Republic in May 2013, shows that this activity does not generate significant economic benefits because it is concerned with raw materials destined for export. To this are added substantial tax losses to the State. The report also highlights the practices of tax avoidance by mining companies, which causes loss of royalties and other resources, for example from income tax and VAT.

The report also highlights the fact that there is a close link between mining, conflict and human rights violations, including forced displacement, requiring the implementation of standards of transparency and due diligence in both business activities in the field, and in consumer countries. Similarly, in the mining regions and municipalities the economic, social and cultural rights of the population have not been guaranteed, nor has structural poverty been overcome.

Open-pit mining violates the right to land and territory for many rural communities and increases the risk of climate change. Indeed, mining exploration activities often ignore the legal requirement to gain an environmental license and to carry out prior consultations with a view to obtain the free, prior and informed consent of indigenous and afro-descendant communities as highlighted by the United Nations High Commissioner for Human Rights in Colombia

Large-scale mining is incompatible with guaranteeing the right to water for a large number of citizens, by putting pressure on essential ecosystems that regulate the hydrological cycle and undermining constitutional principles which call for the guarantee of a healthy environment.

Most coal is extracted in Colombia in the departments of Guajira and Cesar, and 67% of coal is extracted by European multinationals. Almost 100% of Colombian coal underground is extracted by foreign companies<sup>25</sup>. These figures help us to understand our responsibility as Europeans in the human rights situation in Colombia.

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<sup>25</sup> [‘Dossier Colombia’](#), TNI, May 2012