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Paro Nacional Nacional Agrario

# OIDHACO Newsletter

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## Peace Dialogues - A year after their announcement, the negotiations are moving forward, but with little transparency and a lack of civil society participation

August 26, 2013 marked one year since the initiation of the General Agreement for the Termination of the Conflict and the Construction of a Stable and Lasting Peace between the Colombian government and the FARC, which paved the way for the dialogues that began in the month November 2012.

According to the parties in the dialogue, negotiations are moving forward and are on track. However, no access has been given to any further information since the publication on June 21, 2013, of the "First Joint Report" in which the parties shared elements of the agreement on agricultural issues (item 1 of the agenda). It is unknown whether there has been progress on other items on the agenda, in particular points on political participation and the end of conflict, which cover topics such as impunity and victims' rights.

It is important to recall that the dialogue table between the Colombian government and the FARC is governed by the principle of confidentiality, which has been applied in a way that has not allowed for transparency with regards to the issues negotiated. And the parties have not communicated about how and to what extent civil society input will be taken into account.

**The lack of participation of victims and civil society is worrying, since this is a key element to reaching a lasting and sustainable peace.** Based on recent reforms (the Legal Framework for Peace and the expansion of Military Criminal Jurisdiction) and the statements of the parties, there is in particular a fear that both the government and the FARC may be looking for a pact of impunity to the detriment of the victims. Impunity would also involve a serious risk of crimes being repeated.

**Both the Colombian government and the ELN guerrillas have expressed an interest in opening a joint dialogue for peace and the possibility of this occurring is becoming more real.** As announced by President Santos, Norway has offered its good offices for eventual peace negotiations between the government of Colombia and the ELN guerrillas, while Uruguayan President Jose Mujica, offered his country to host negotiations.

**Oidhaco welcomes these statements and hopes that this dialogue will be formalised promptly, and that negotiations take due account and include the participation of victims and civil society in general.**

### The International Office for Human Rights - Action on Colombia - OIDHACO

A network of 35 organisations based in the EU Member States, Switzerland and Norway, working with the four main coordination groups of Human Rights, Development and Peace organisations in Colombia. Based in Brussels, OIDHACO promotes the Rule of Law, democracy, and comprehensive respect for human rights, peace and sustainable development in Colombia.

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## Massive social mobilisations and criminalisation of social protest

Recent months have been marked by **important social mobilisations**. During these protests, multiple serious human rights violations were reported, particularly by the security forces, and the attitude of the authorities towards the protesters was initially hostile.

### Social demands

- Thousands of small-scale farmers marched in the **Catatumbo region** in Norte de Santander from 12 June to early August to demand decent living conditions and legal recognition as a Rural Reserve Zone (*Zona de Reserva Campesina*).

- On July 17, 2013 a **national strike of artisanal, small and medium-scale miners** began, and was joined by thousands of people. The miners were protesting to defend their labour rights and for their work to be formalized. These protests occurred after the government adopted a decree authorizing the destruction of machinery used for illegal mining extraction. Although it is necessary to combat illegal mining, the authorities must ensure they correctly differentiate between illegal mining and artisanal mining, to ensure that they do not criminalize the latter. It is also important that the State offer viable alternatives to families who are supported by mining activities. The miners denounced in a [public statement](#) that *"the government has consistently failed to comply with two national agreements made in December 2011 and July 2012"*.

- Since August 19, tens of thousands of people of different agricultural and grassroots sectors have been mobilized in the **Agrarian and Grassroots National Strike** throughout the country, with the purpose of expressing dissatisfaction with social and economic inequality, both in the countryside and in the city. Different sectors joined the small-scale farmers, to show their solidarity and protest about the government's failure to comply with previous agreements. Sectors included coffee growers, health and transport workers.

The **protesters demands include**: the implementation of measures and actions related to the crisis in agricultural production, including the *"suspension and review of Free Trade Agreements with the United States, European Union, China and other countries"*; access to the land; the recognition of lands for small-scale farming; effective participation of communities and traditional small miners in the formulation and development of mining policy; the adoption of measures and compliance with *"real guarantees for the political rights of the rural population"*; social investment in the rural and urban population in terms of education, health, housing, public services and roads.

The EU-Colombia Free Trade Agreement (FTA) is in the process of ratification by the national parliaments of the EU Member States. It has been implemented on an interim basis since August 1, 2013.

### The response of the Colombian State to the mobilisations

As noted by human rights defender Winston Gallego, representing the Colombia-Europe-United States Coordination Group ([CCEEU](#)), during meetings with representatives of the institutions of the European Union in late September, **the Colombian State's response to these protests was characterized by stigmatization and repression**.

**There were reports of shots being fired by the security forces as well as harassment, threats, checkpoints and registration of protesters and community inhabitants.** Assaults and direct threats were also reported, carried out by members of the security forces against journalists and communicators. There were also reports of cases of sexual violence, assaults with guns and knives, looting, and the occupation of civilian objects protected by international humanitarian law by members of the security forces.

During the national agrarian strike, this repression left a balance of at least 12 dead, 4 missing, 262 arbitrary arrests and 485 injuries. Tens of people had criminal charges brought against them during the mining strike. During the protests in Catatumbo, the State's violent response resulted in the deaths of 4 people, at least 2 people were

arrested and dozens were injured in clashes between security forces and protesters.

**In light of each of these protests, high-ranking Colombian government officials - including President Juan Manuel Santos - and from the state security forces made statements which claimed that the protests were infiltrated or linked to the guerrillas.**

**Such statements seriously jeopardize the lives and safety of the demonstrators and small-scale farming leaders, as well as the human rights defenders accompanying them;** because they expose these people to attacks by the security forces and paramilitary groups.

Moreover, before the National Agrarian Strike, President Santos warned that people who blocked roads would have criminal charges brought against them. Indeed, the *Public Safety Act* of June 2011 facilitates the criminalization of social protest and punishes such acts as *"disturbing official acts"* and *"obstructing public roads affecting public order"* with several years of prison. This warning, added to the repression of the strike in Catatumbo and the mining strike, could have deterred people at the outset from demonstrating for their rights.

The negotiations in late August between the government and the small-scale farmers led to some agreements. However, these are superficial and do not respond to the farmers' precarious situation. The government agreed not to implement decree 970 of 2010 on intellectual property, which was adopted in relation to the FTA between Colombia and the United States, and requires the destruction of farmers' native seeds. Nevertheless, the decree still remains in force. Similarly, the government agreed to compensate farmers for imported pre-cooked frozen potato products and powdered milk, for a period of two years, which is also a temporary measure.

**Oidhaco considers it is essential, that the Colombian government respects freedom of expression and assembly and takes into consideration demands made by the different sectors of Colombian society , particularly in the context of the current peace talks.**

## Extractive industries and human rights

On September 17, 2013 the Development Committee of the European Parliament held a hearing entitled "*Promoting development through responsible business practices, including the role of extractive industries in developing countries*" to which Sergio Coronado, Representative of the [Colombian Platform for Democracy, Development and Human Rights](#) was invited.



During his [intervention](#), Mr. Coronado commented on several aspects of the impacts of large-scale mining in Colombia, in relation to human rights, poverty and environmental rights.

**The country is experiencing a boom in mining activities:** in a decade the coal mined in the country has almost doubled, from 38,242 million tons in the year 2000 to 74,350 million tons in 2010; in addition, the area of land given titles for mining has soared in recent years. In 2002 there were mining concessions over 1.1 million hectares, while in 2009, concessions had been awarded over 8.4 million hectares. **This boom has led to the emergence and increase of social conflicts linked to the presence of mining companies** conducting exploration and development activities in rural areas. Between January 2001 and December 2011 there were 274 social struggles associated with the extraction of oil, gold and coal. These social struggles take place in a context of repression and criminalization of protest.

Mr. Coronado underlined **the links between mining, conflict and human rights violations, in particular forced displacement.** He showed how in the mining regions and municipalities, the economic, social, cultural and environmental rights of

the population have not been guaranteed, nor has structural poverty been overcome. On the contrary, studies show that open pit mining violates the right to land and territory for many rural communities and increases the risk of climate change. Likewise, large-scale mining is incompatible with guaranteeing the right to water for a large number of citizens.

He recommended the EU to make further progress on the design and implementation of binding tools and mechanisms to enable access to justice for people and communities who have suffered violations of their rights, and to request transparency and due diligence for both the companies' activities in the field, and also in consumer countries.

(For more information see [Document on Extractive industries, natural resources and human rights in Colombia](#); [Report of the Colombian Comptroller General](#))

## Colombia and international human rights mechanisms: the adoption of the UPR report and concern over the Colombian government's attitude to facing the International Criminal Court and other mechanisms

On September 19, 2013, the UN Human Rights Council adopted the report on the Universal Periodic Review (UPR) of Colombia. Under this mechanism, a total of 160 recommendations were made to Colombia by States from five continents, expressing concern at the human rights situation in Colombia. However, Colombia rejected 26 of the recommendations, including the ratification of instruments that allow access of victims to international mechanisms, including recommendations on torture, the ratification of the competence of the Committee on Enforced Disappearance and on the protection of economic, social and cultural rights. Colombia also rejected the reference to the necessary comprehensive implementation of the recommendations made by the Office of the High Commissioner for Human Rights (OHCHR) in Colombia, which is troubling.

Moreover, although in the month of April, during the session of the UPR, the Colombian Vice - president announced a comprehensive renewal for three years of the **mandate of**

the Office in Colombia of the United Nations High Commissioner for Human Rights, in August 2013 President Santos changed this position and declared that the mandate would be renewed for one year only. This not only questions the seriousness of the announcements made by the government to the Human Rights Council but also leaves the Office weakened against future pressures on its mandate. The OHCHR in Colombia has been a key element for the monitoring and documentation of human rights violations in the country, in particular by publishing an annual report on the situation in Colombia which is presented before the UN Human Rights Council each year. **Oidhaco believes that the presence of the OHCHR in Colombia is also essential to allow international support for the peace process.**

Equally, **the declarations by President Santos that aim to evade the jurisdiction of the International Criminal Court (ICC)** in order to, according to his own words, avoid interference by the ICC in the peace process,

are extremely worrying. President Santos made this statement after the Office of the Prosecutor of the ICC expressed doubts regarding the recent reforms, in particular the Legal Framework for Peace and the expansion of military criminal jurisdiction. The Colombian government's reaction is of particular concern, given that the mandate of the ICC only aims at ensuring that the most serious crimes, such as crimes against humanity and war crimes, do not remain unpunished.

## Continued increase in killings of human rights defenders and multiple threats against them

The situation of human rights defenders in Colombia continues to be dramatic.

According to the We Are Defenders Program (*Programa Somos Defensores*) murders of human rights defenders increased by 27% in the first half of 2013 (from 29 cases in 2012 to 37 in 2013). This leads to the conclusion that **"the lives of human rights defenders in Colombia are being increasingly attacked and with fatal consequences"**. During the administration of the current government there has been a steady increase in killings of defenders: in 2011 there were 49 killings and 6 forced disappearances; in 2012 were 69 killings and 5 disappearances; and **with 37 killings in six months, it seems that this increase continues unabated in 2013.** ([Report \(In Spanish\) January-June 2013, We Are Defenders Program](#))

Moreover, in the last three months, the murders have continued, especially against land restitution leaders and people working for the protection of economic, social, cultural and environmental rights. For example, on July 11, small farming leader José Segundo Turizo in the municipality of Tiquisio, region of Sur de Bolívar, was killed by the paramilitary group Gaitanista Self Defence Forces of Colombia (*Autodefensas Gaitanistas de Colombia*); on July 22 and 26, two leaders from the Small Farmers' Association for the Development of Alto Sinu (*Asociación Campesina para el Desarrollo del Alto Sinú - ASODECAS*) were killed in the Alto Sinu region, Córdoba Department ([Amnesty International](#)).

Two weeks ago Nelson Giraldo was killed. Mr. Giraldo was a leader from the Antioquia Living Rivers Movement (*Movimiento Ríos Vivos Antioquia*). According to the Inter-American Commission on Human Rights (IACHR), "available information indicates that

*the body of Nelson Giraldo was found on September 17, 2013, with his throat cut and with bullet impacts in the Cauca River Canyon in Ituango. Giraldo was spokesman for approximately 50 people who took refuge at the University of Antioquia, after claiming to have received threats due to their opposition to the construction of the hydroelectric project".* ([IACHR](#))

**There are also constant threats against defenders. The high level of killings demonstrates that these threats must be taken seriously.**

### Threats and attacks related to mining activities

On August 4 this year, the paramilitary group "Los Rastrojos - National Urban Commandos", circulated a pamphlet declaring members of the unions SINTRAMIENERGETICA, FUNTRAENERGETICA and SINTRAIME as military targets and accusing them of having links with the guerrillas. They demanded, among other things, "the lifting of any activity disturbing social order such as strikes or demonstrations", and accused them of "attacking the good and noble intentions of the high government of Dr. Juan Manuel Santos for peace and democratic prosperity, and stopping the progress of multinational companies such as Glencore, Drummond, Pacific Rubiales, AngloGold Ashanti". The threat came within the context of the mining strike and a strike by workers from the Drummond transnational corporation.

In the months of July and August 2013, the NGO Network of Brotherhood and Solidarity with Colombia (*Red de Hermandad y Solidaridad con Colombia - Redher*) organized several hearings in different parts of

Colombia as part of a political and ethical trial against transnational corporations for human rights violations. During this time there were several attacks, particularly in relation to the hearing held in Puerto Gaitán, in the Meta department. During this hearing trade unionists, indigenous people and small-scale farmers spoke of human rights abuses resulting from oil exploration in the area, headed by the transnational company Pacific Rubiales. After the hearing, death threats and harassment were reported against participants, and the offices of Redher were attacked.



Adelinda Gómez Gaviria, a 36-year-old mother of three children, human rights activist and small-scale farming leader, was murdered on September 30, 2013.

Adelinda Gómez Gaviria was part of the Process of Women from the Macizo in the Integration Committee of the Colombian Mazico (*Proceso de Mujeres Maciceñas del Comité de Integración del Macizo Colombiano - CIMA*) and had recently been promoting, among other things, a mining and environmental forum in the municipality of Almaguer involving around 1,500 farmers and indigenous people. Adelinda Gómez Gaviria had received telephone threats one month earlier, in which unknown individuals said to her "stop messing with this mining stuff, it is risky and you are going to get yourself killed".