20 years working for peace and human rights in Colombia
Introduction

The International Office for Human Rights-Action Colombia (Oidhaco) is celebrating its 20th anniversary. As a network of European and international organisations, Oidhaco engages in advocacy before the institutions of the European Union, its Member States, Switzerland, Norway and the United Nations to promote the rule of law, democracy, full respect for human rights, peace and sustainable development in Colombia.

We work for the full enjoyment of all human rights, understood as interdependent and indivisible, to overcome impunity and the structural causes of violence. We demand that the Colombian government fulfil its international obligations on civil, political, economic, environmental, social, cultural rights and we also call upon the State and the other armed actors in the conflict, to respect international humanitarian law. We insist on a negotiated political solution to the armed conflict that opens up pathways to peace with social justice. We believe that both the United Nations, through its various mechanisms, and the European Union, Switzerland and Norway, through their political, cooperation and trade with Colombia, can contribute directly to full respect for human rights and international humanitarian law, and to a negotiated political solution to the internal armed conflict.

Oidhaco is the result of joint efforts and the work of many people, organisations and institutions in Europe and Colombia. It is difficult to reflect in a publication on 20 years of activities, all the areas of work, advocacy actions and awareness-raising activities that have been carried out with intergovernmental organisations, European states and their societies.

This is a collective publication written by a number of different authors who together describe how international solidarity has been created through Oidhaco’s mandate, within a context of political and institutional changes in Europe and the United Nations. We also discuss guarantees for the defence of human rights and for building a negotiated solution to the armed conflict in Colombia, the situation of human rights defenders, guarantees for the right to peaceful demonstration and for justice, in the context of the peace talks. Special mention is made regarding the situation of violence against women. The publication also considers the problem of land distribution, which forms the basis of the Colombian conflict and affects small-scale farmers, indigenous people and Afro-Colombian communities. We also reflect on the impact of the economic model on the issue of land.
Finally, we reflect on the search for peace, one of the most topical issues in the country and of great interest to the international community, and the challenges brought by this crucial moment for the human rights of the population, to ensure lasting peace with social justice and to resolve the structural problems of violence.

Oidhaco acknowledges all the people and institutions that have made this work possible over two decades. We cannot mention them without the risk of leaving out many friends and collaborators who have contributed over the last 20 years. We especially acknowledge the victims of the armed conflict in Colombia, many of them active human rights defenders and builders of Oidhaco’s work in Colombia and in Europe.

Christiane Schwarz
President of Oidhaco

Brussels, September 2015
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Oidhaco: 20 years working for peace and human rights in Colombia

I. 20 years building pathways and international solidarity

In the mid nineties, an ICRC delegate described the Colombian conflict by saying: “In Colombia a forgotten conflict rages on. Largely ignored by the international media, the armed struggle in this South American country will soon be entering its fifth decade”1. Indeed, in Europe, the Colombian social and armed conflict hardly figured on the agendas of states and the European institutions. European solidarity movements and political actors sensitive to the humanitarian and human rights crises in the region had been monitoring the end of the armed conflicts in El Salvador and Guatemala, in the nineties, and the fall of the dictatorships in Argentina and Chile in the eighties.

Origins

The Colombia Solidarity Committees, together with European and international NGOs, had made significant efforts to raise awareness of the Colombian situation in their own countries: the situation of workers in the Urabá banana plantations and the flower factories around Bogotá enabled these organisations to link the human rights situation in the country with products consumed in Europe. The European vision of Colombia as a country where the violence had mainly been caused by drug trafficking began to give way to more complex readings, which had at their centre the pattern of gross and systematic human rights violations and the persistence of the social and armed conflict.

In 1992, the book ‘State Terrorism in Colombia’ was published in Brussels by several Belgian and international organisations, revealing the specific responsibility of state agents in serious crimes against human rights and showing an alternative reality to that described in official discourse that blamed human rights violations on dark forces fighting against the government. Then, in 1994, Amnesty International began its ‘Human Rights Violations: Myth and Reality’ campaign, which also helped to change this viewpoint.

On 9 and 10 February 1995, organisations from eight European countries joined together as the ‘European Coordination on Human Rights in Colombia’\(^2\) to organise the European Conference on Human Rights in Colombia\(^3\). In the lead up to the Conference, several Colombian and European organisations promoted the ‘Colombia-Human Rights Now!’ campaign (Colombia: Derechos Humanos ¡Ya!), creating an operational secretariat that was vital for the organisation of the event. The conference was held in the European Parliament, and was attended by over 350 people, including a delegation of some 20 representatives from the Colombian government. The Colombian government feared being included on the ‘black list’ of countries with a high level of serious human rights violations, and the subsequent appointment of a United Nations Special Rapporteur for the country.

This conference set the tone for the acknowledgment of the Colombian State’s responsibility in the human rights situation and also enabled a different international working dynamic for Colombian and European human rights organisations, showing the importance of coordinated working groups and networks, with synergies agreed between the two continents.

The result of this joint effort, in June 1995, was the creation of the International Office on Human Rights - Action Colombia, with the participation of 18 European organisations\(^4\), with the aim of influencing the institutions of the European Union and European countries, and promoting the concerns of Colombian organisations with the then existing United Nations Commission on Human Rights. Currently, Oidhaco has 36 members\(^5\) including 4 international organisations and 32 European organisations from Austria, Belgium, Spain, France, Great Britain, Norway, Netherlands, Sweden, Switzerland and Italy. Since 2012, Oidhaco has had special consultative status with the United Nations Economic and Social Council (ECOSOC).

**Colombian Coordination Groups**

Meanwhile, in Colombia a group of organisations created and promoted the Colombia-Europe-United States Coordination Group (Coordinación Colombia-Europa-Estados Unidos - CCEEU)\(^6\), joining together to inform the international community, to coordinate with Oidhaco advocacy work with the United Nations, European Union and European states, and to prioritise issues to streamline reporting efforts\(^7\). The CCEEU began with 13 members and now has 265 member organisations.

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2. This coordination had formerly been known as the International Working Group, between 1992 and 1993.
3. Coordinación Belga por Colombia, “Conferencia Europea sobre los Derechos Humanos en Colombia”, Ed. SAGO- Coordinación Belga por Colombia, Bruselas, Primera Edición, June 1995
4. Oidhaco worked as a coordination space and acquired legal registration as an ‘ASBL’ in Belgium on 17 February 2009.
5. See www.oidhaco.org, ‘About Us’ section
7. In 1998 the US Office on Colombia was created, and for a number of years accompanied this international work, especially through its important advocacy work with the United States Government and Congress.
Over the following years, three new Colombian coordination groups joined the effort to coordinate with Oidhaco:

- Firstly, the Alliance of Social and Likeminded Organisations for International Cooperation for Peace and Democracy in Colombia (Alianza de Organizaciones Sociales y Afines por una Cooperación Internacional para la Paz y la Democracia en Colombia), grouping together ten sectors of Colombian society: six large social sectors with a presence in all regions of the country (unions, indigenous, peasant and Afro-Colombian organisations, the community action movement and women’s organisations) and four sectors of specialist organisations (development, environmentalists, peace initiatives and human rights).
- Secondly, the Permanent Assembly of Civil Society for Peace (Asamblea Permanente de la Sociedad Civil por la Paz), an educational process for training on social issues, aimed at strengthening the social peace movement and expressions of citizen’s power with the aim of building a new country. The group works for a negotiated political solution to the armed conflict and peace with social justice, joining different sectors of society and regions, seeking consensus and making proposals on various issues and aspects that contribute to peacebuilding.

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8 See www.oidhaco.org, ‘About Us’ section
9 The Alliance’s website can be consulted at http://www.laalanza.org.co/
10 The Assembly’s website can be consulted at http://www.asambleaporlapaz.com/spip/
• And thirdly, the Colombian Platform for Human Rights, Democracy and Development (Plataforma Colombiana de Derechos Humanos, Democracia y Desarrollo)\textsuperscript{11}, conceived as an autonomous, plural, diverse network of more than 100 social, community and non-governmental organisations, across the country, which seeks to promote strategic partnerships between various social and institutional actors working on the construction of a style of development based on democracy and the promotion and full respect of human rights.

For 20 years, this partnership between Oidhaco and the Colombian Coordination Groups has positioned the concerns of Colombian social and human rights organisations before the European Union, the European states and the United Nations. It has also been a space for ongoing coordination among many of the European and international agencies and organisations working for Colombia. Oidhaco has enabled a continuous collective reading of EU policy towards Colombia, identifying advocacy opportunities and undertaking specific activities.

**Achievements**

This international strategy has made a number of achievements. At the United Nations, it helped keep Colombia under Item 3\textsuperscript{12} on the agenda of the Commission on Human Rights until the creation of the Human Rights Council in March 2006, contributing from this date onwards to nourishing the study of Colombia in the Periodic Universal Review. Significant joint contributions have been made to the supervisory bodies of treaty obligations, and to the working groups and special rapporteurs in the Universal System. Undoubtedly, one of the main achievements of this joint work was to contribute to the establishment, on 29 November 1996, of the Office in Colombia of the United Nations High Commissioner for Human Rights\textsuperscript{13}, with its mandate for observation, assistance, cooperation and dissemination\textsuperscript{14}.

This strategy has also helped to emphasise, in the agenda of the European and United Nations, the need for a negotiated political solution to the internal armed conflict, via actions to counter governmental discourse that at some points has even denied the very existence of the armed conflict\textsuperscript{15}. Oidhaco has insisted on the need for full compliance with the international human rights and humanitarian law obligations of all

\textsuperscript{11} The Platform’s website can be consulted at http://www.pcdhdd.org/index.shtml
\textsuperscript{12} Item 3 of the agenda of the Commission on Human Rights, aimed to organise the work of each session. It was there that the case of Colombia was presented and the report of the United Nations Human Rights High Commissioner was discussed. As a result, each year a statement was issued on Colombia by the Presidency of the Commission on Human Rights.
\textsuperscript{13} www.hchr.org.co
\textsuperscript{14} See more on the process of the creation and establishment of the Office in Colombia of the United Nations High Commissioner for Human Rights, at http://www.ddhhcolombia.org.co/sites/default/files/files/pdf/boletin_2_version_virtual.pdf
\textsuperscript{15} Former President Álvaro Uribe maintained this version of events during his presidential mandate (2002-2010) and also afterwards, arguing that this was a war against terrorists.
Parties in the armed conflict, and the need to guarantee victims’ rights including the rights to truth, justice, reparation and guarantees of non-repetition.

Partnerships and joint projects have been established with European networks related to trade relations and human rights, in the knowledge that other peoples in the region and the world are, like the Colombian people, experiencing the effects of trade relations which are disrespectful to the rights of peoples and human rights. Oidhaco and its members in Europe have played an important role in positioning the messages of Colombian coordination groups and organisations with governments, national European institutions and civil society. At the level of the European Union, Oidhaco has permanently interacted with Members of the European Parliament and EU institutions, and more recently, with the Euro-Latin American Parliamentary Assembly. It has also carried out advocacy before the European Commission and the Council of the European Union. In recent years, Oidhaco has become part of the thematic DismantleCorporatePower network and joined an initiative calling for a binding treaty to control the power of transnational companies: the Treaty Alliance. In addition, the European Union included Oidhaco in the official civil society advisory group to monitor the Sustainable Development Chapter under the trade agreement with Colombia and Peru.

**Work continues**

The commitment of international, European and Colombian organisations to an international coordination space has been a success, enabling joint awareness-raising and advocacy action on the human rights and humanitarian situation in the country. The very differences of member organisations have built a diverse and plural collective for over 20 years. There are still many challenges, and the initiatives and commitment of individuals and communities offer inspiration to continue working for the respect for human rights, the end of the armed conflict and the start of peace, built to be inclusive, strong and long-lasting, with the enjoyment of human rights for everyone at its very centre.
II. 20 years influencing European Union policies towards Colombia

Relations between the European Union (EU) and Colombia have been marked by both the dynamics inherent in the interests of each side and those relating to the characteristics of each period over the last 20 years. On the one hand, the EU is not, nor ever has been, a monolithic actor due to its intergovernmental nature and to the differences that may exist amongst its Member States in terms of relations with Colombia and Latin America. In addition, the Colombia dossier has never figured among the EU’s priorities. On the other hand, the Colombian State has historically given priority to its international relations with the United States and to the regional integration processes, with the latter being revitalised over the last decade.

Getting the serious human rights situation in Colombia onto the agenda has been the result of efforts made by many non-governmental actors, starting with the collective determination shown by people who, since the 1980s and 1990s, have been connected with Colombian solidarity committees right up to the actions of Non-Governmental Organisations, networks and solidarity groups with influence at various levels in Europe. The Colombia dossier in the 80s and 90s was mostly concerned with the fight against drug production and trafficking. The EU then developed a policy of cooperation with Colombia within the framework of the System of Tariff Preferences (GSP) by extending the list of Colombian products with GSP advantages, thereby supporting the Barco Plan against drug trafficking (named after President Virgilio Barco, 1986-1990). The EU, however, gradually abandoned this view in order to begin addressing the situation...
of victims, beginning, in 1993, to support the victims of natural disasters before moving on, from 1997 onwards, to supporting the population displaced by the internal conflict. It was against this background that the EU distanced itself from Plan Colombia, a war plan that successive United States governments have been implementing since 1999.

It was the impact on European policy, caused by the 11 September 2001 attacks in the United States and by the subsequent arrival to power in 2002 of President Álvaro Uribe Vélez (2002-2010) with his doctrine of “democratic security”, which led to the Colombian armed conflict being viewed from the perspective of the international fight against terrorism. In 2002, the FARC and ELN guerrillas were included on the EU terrorist organisation list and they still remain on it. Over the course of this decade, the EU would find itself torn between following the US-led policy of the ‘war on terror’, and maintaining its traditional position of opposing a military solution to the Colombian conflict and favouring a negotiated political solution. Against this background, the London Donor Conference was held in July 2003, in which the EU distanced itself from the military approach and placed its emphasis on technical and humanitarian cooperation. For the most part, the EU was hesitant to back its traditional position but continued to provide its strong support for regional peace initiatives through the Peace Laboratories.

Thus, the EU has, within its priorities, continued and reinforced its search for international support “for the establishment of a solid and sustainable basis for peace” alongside the fight against drugs, respect for human rights and conservation of biodiversity. These priorities have taken on greater relevance in the current context of peace negotiations between the current Colombian government and the FARC and ELN guerrillas, especially in the five EU-defined focus areas for Colombia, namely: 1. Support for the rule of law; 2. Defence of human rights and of International Humanitarian Law; 3. Fight against the causes of violence, and assistance for the victims of violence; 4. Protection of biodiversity and the environment and; 5. Enhancement of consultation and regional cooperation. This last focus area became more relevant with the creation of the Euro-Latin American Parliamentary Assembly (EUROLAT) in 2006.

Since the Office UN High Commissioner for Human Rights (OHCHR) was established in Colombia in 1996, the support given by the EU to the High Commissioner’s recommendations and to the operation of its office in Colombia has been particularly valuable.

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16 See website of the European Delegation in Colombia at http://eeas.europa.eu
17 “Colombia y Europa: el papel europeo en un futuro proceso de paz”; Separata de Papeles de Cuestiones Internacionales, otoño 2003, nº83; Centro de Investigación para la Paz (Spanish version only).
18 It was through this forum that the Alliance of Social Organisations for International Cooperation for Peace and Democracy in Colombia, an Oidhaco partner in Colombia, was born.
19 “European Union Cooperation in Colombia. Contributions from the European and international civil society organisations members of the platforms DIAL, PODEC and OIDHACO”
20 See website of the European Delegation in Colombia at http://eeas.europa.eu
21 See website of the European Delegation in Colombia at http://eeas.europa.eu
Trade relations

After the US, Europe is the second largest market for Colombian exports and in 2011, China replaced the EU as the second largest source for Colombian imports. Overall, trade between Colombia and the EU has been growing steadily since 2004. The Trade Agreement between the EU and Colombia provisionally came into force on 1 August 2013 and is currently in the process of being ratified by EU Member States. The debate in the European Parliament led to the establishment of a road map on human, environmental and labour rights. As a civil society demand, this initiative was a success but it ultimately proved inadequate to fulfil its objectives. Two years later, social conflicts in sectors with high levels of exports and/or investment by the EU still remain and some have intensified. Afro-descendant and indigenous communities suffer from the impacts of the extractive industry, especially pollution of their water sources, whilst rural workers suffer from low prices for their products combined with high production costs and the workforce still find themselves victims of the informal labour market. Community and trade union leaders, as well as communities demanding their rights, are attacked and murdered, prosecuted or suffer repression when they hold peaceful demonstrations. Despite the arguments claiming that the Trade Agreement would be a means for the EU to demand an improvement in the human rights situation, European institutions have publicly maintained an attitude of silence towards the high levels of human rights violations in Colombia, although some voices have made themselves heard in the European Parliament.

The European Union should develop clear and transparent mechanisms to monitor the human rights clause, bearing in mind that Section 1 of the Trade Agreement between Colombia and the European Union imposes the obligation to respect human rights as an “essential element” of this Agreement. In order to achieve this, it is imperative for the EU to re-examine the economic model that was built during the years of armed conflict through massive displacements of the population who had been dispossessed of their lands. The role of the European Parliament is vital in asking the Council of the European Union to adopt concrete mechanisms to monitor the human rights clauses.

Today, in a potential post-conflict context, the EU along with its Member States, Switzerland and Norway should give some thought to how their policies encourage, or possibly constitute an obstacle to, a sustainable peace in Colombia. In reality, the

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22 “Acuerdo Comercial Colombia Unión Europea”; European Union Delegation in Colombia, May 2012, pp 10 to 17 (Spanish version only) en http://eeas.europa.eu)
23 See the box “Bilateral trade between Colombia and the EU” in http://eeas.europa.eu (Spanish version only)
24 “EU-Colombia trade agreement takes effect on 1 August”; European Commission, Press release, Brussels, 26 June 2013
25 Through parliamentary questions, several MEPs have requested specific and concrete mechanisms to enforce the human rights clause.
pressure exerted by the extractive industry on land (coal and oil account for more than 75% of Colombian exports to the European Union), the economic imbalance between the two economies and the negative impact of the Trade Agreement on weak industrial sectors and the small farming sector, will not allow social equality to be built in the country and, consequently, these factors will add to the difficulty of building a sustainable peace.

In the 1980s, information about Colombia (with the exception of the drug “scandal”) was limited in Switzerland, despite the large number of Swiss NGOs operating in the country. In 1987 the Switzerland-Colombia Working Group was founded and shortly afterwards, a new consortium of NGOs, the Swiss Coordination of NGOs for Colombia, was set up, thereby diversifying information about Colombia. This consortium engaged in a dialogue about human rights with the Swiss Federal Chancellery, enabling Switzerland to improve its commitment in terms of human rights and peacebuilding. Colombia is a priority country for peacebuilding and human rights, humanitarian aid and, increasingly, economic cooperation. Switzerland played an important facilitating role in various peace talks and refused to label the guerrilla groups as terrorists. Since 2001 there has been a multi-track project for building peace from the ground up (SUIPPCOL, the Swiss Programme for the Promotion of Peace in Colombia) and there is an official responsible for human rights and Peace at the embassy. In 2011, Switzerland ratified the Free Trade Agreement between EFTA and Colombia and made Colombia a priority country for economic cooperation.

Stephan Suhner, ask! - Arbeitsgruppe Schweiz-Kolumbien
III. Guarantees for demanding the fulfilment of human rights

Defending the population’s human rights or demanding the full implementation of these rights, often involves enormous risks in Colombia. The following are some reflections on the situation of human rights defenders, the right to peaceful demonstration, the issue of justice and impunity, and the situation of violence against women.

1. The defence of human rights, a high-risk activity in Colombia

Ana Vicente Moreno, Peace Brigades International

Between 2009 and June 2013, 219 human rights defenders were killed in Colombia. Despite progress in regulations and physical protection, each year the attacks against this group increase: in 2010, 174 attacks (32 murders) were recorded; in 2011, 239 attacks (49 murders); in 2012, 357 attacks (69 murders); in 2013, 366 attacks (78 murders); in 2014, 626 attacks (55 murders); and in the first quarter of 2015, 295 human rights defenders were attacked, (19 murders).

Many of the most at-risk defenders are beneficiaries of physical protection measures from the State; however, the Colombian social movement has warned again and again that until these measures are combined with ‘political’ measures, the protection of fundamental rights will remain a high-risk activity in Colombia.

Stigmatisation

Stigmatisation is one type of aggression that has been constantly used against the Colombian social movement over the last 20 years. State officials have used the media as a platform to attack the legitimate work of human rights organisations, accusing them, amongst other things, of being close to and even of being members of guerrilla and paramilitary groups, of being the legal wing of the guerrilla, or of harbouring these groups.

Although Colombian organisations feel that the National Guarantees Process has helped to highlight and legitimise the work of defenders, they recognise that this is an

26 El Colombiano: En 2013 asesinaron en Colombia a 78 defensores de derechos humanos, según ONG, 23 February 2014
entirely different matter at the regional level; Colombian human rights coordination groups consider that statements made nationally are worthless if they are not translated into actions requiring regional authorities to implement the agreements made. Indeed, they have drawn attention to the lack of compliance with official directives prohibiting stigmatisation and affirm that while no action is taken against state officials who do not respect the directives, there is little incentive to comply with them.

Prosecutions Some of this stigmatisation leads to lawsuits against defenders. In some cases these proceedings are identified as having a weak, or in “many cases non-existent” legal basis.

The latest report on Colombia by the Office of the United Nations High Commissioner for Human Rights (OHCHR) notes that “claims that activists have links with insurgency are often given more attention and resources than cases in which they are victims.” Indeed, the former Special Rapporteur on the situation of human rights defenders recommended that states “ensure that defenders can conduct their work in a conducive legal, institutional and administrative framework. (...) abolish all administrative and legislative provisions that restrict the rights of defenders, and ensure that domestic legislation respects basic principles relating to international human rights law and standards.”

**Illegal wiretapping**

In early February 2014, it was once again reported that an illegal intelligence centre existed in Colombia, and was being used to infiltrate the communications of the members of the negotiating delegations in Havana, human rights organisations, politicians and journalists, among others. This new scandal brought to mind once again the wiretapping scandal involving the Administrative Department of Security (DAS) and the lack of compliance with commitments such as the purification of the files that the now defunct DAS had obtained illegally. In 2008, this scandal had broken out in Colombia, and became known as the ‘DAS wiretapping’ scandal. The DAS organised a special group responsible for carrying out operations to monitor and obstruct the work of human rights defenders, opposition politicians, judges and journalists, among others. This surveillance was so extensive that it was conducted against the family members, friends and anyone else who had something to do with the ‘intercepted people’.

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28 We Are Defenders Programme (Programa Somos Defensores): Informe especial “Protección al Tablero”, February 2014
29 PBI Colombia: La falta de medidas políticas de protección y el sueño de su existencia, 22 July 2011
30 We Are Defenders Programme (Programa Somos Defensores): Informe especial “Protección al Tablero”, February 2014
33 Cajar: ¿Alguien espió a los negociadores de La Habana?, 3 February 2014.
34 El Tiempo: Chuzadas la historia sin fin, 5 February 2014
Requests

The Colombian social movement has repeatedly called for a number of political measures, including: the dismantling of neo-paramilitary groups who continue to be the main perpetrators of crimes against human rights defenders\(^{35}\); and progress in investigations into attacks against defenders, where the impunity rate is 100% in relation to threats and 95% for murders\(^{36}\).

Other political protection measures include proposals for comprehensive and collective reparation for peoples and communities who are victims of violence. Compliance with the orders contained in Constitutional Court judgements issued to repair the damage caused to some communities. The adoption of the recommendations of the United Nations system and other international mechanisms, such as the Inter-American Court and the Commission on Human Rights. Debugging state institutions linked to human rights violations. And confronting stigmatisation by members of the security forces. In a democratic, peaceful state it is essential to ensure the free exercise of the defence of human rights. Guarantees for democracy must not merely be promises on paper; they require a strong and sustained commitment by the state. Concrete proposals have been made, that could represent the first steps to finally ending impunity and paramilitarism in Colombia.

A few years ago, thinking about a negotiated solution to the armed conflict in Colombia was a distant dream, yet today it is a goal that seems more attainable every day; but in Colombia there is not only an armed conflict, there is also an economic and social conflict, other armed groups that threaten the social movement, there are large-scale landowners who continue to displace entire populations, women are used as a weapon of war. Above all, there is a group of men and women who every day put their lives in danger for one reason: the defence of the most fundamental rights.


\(^{36}\) We are Defenders Programme (Programa Somos Defensores): Informe Siadhh 2013: D de defensa, 21 February 2014
In recent years in Colombia there has been an increase in different kinds of social mobilisation and protest\(^{37}\), which have taken place without the corresponding guarantees required in a democratic state. In the draft Havana agreements, the second item on political participation\(^{38}\) refers to the need to provide guarantees for mobilisation and social protest, with the aim of “expanding and improving democracy as a condition to achieve a solid foundation for peace”.

The fact that this proposal has been made as part of the peace building process, not only means that social protest is being recognised as a right, but also that steps must be taken to counteract the stigmatisation of these activities, by modifying legislation which restricts or criminalises protest and adopting mechanisms to control and punish the repression of protest and the excessive use of police force.

Social protest involves many rights which are recognised and protected by the Colombian Constitution and international human rights treaties, including freedom of expression, freedom of movement, the right to petition, the right of association, and participation. The Inter-American Commission on Human Rights\(^{39}\), the UN Human Rights Council\(^{40}\) and the UN Special Rapporteur on the rights to freedom of peaceful assembly and association, have stated that these rights are an essential part of democracy\(^{41}\) and are fundamental to enable individuals and groups of individuals to participate in public affairs\(^{42}\).

Mobilisation and protest tend to reflect deep contradictions within the political and economic model and the dissatisfaction of large segments of the population who are unable to access rights, goods and basic services. This understanding requires the development of mechanisms for conflict management and the creation of public policies aimed at ensuring that structural changes can be achieved via peaceful civilian means. This vision sees protest as a social indicator and a scenario for demanding rights, rather than as a problem, leading to the following observation. The possibility of transition from armed struggle to political struggle and of ensuring that the political system is

\(^{37}\) During 2013, the Cinep Database of Social Struggles, recorded 1,027 protests in Colombia, the largest number of protests since 1975

\(^{38}\) Dialogue Table in Havana, joint draft on political participation published in September 2014. Available at: https://www.mesadeconversaciones.com.co


\(^{40}\) Human Rights Council Resolution 15/21 Right to freedom of peaceful assembly and association, October 6, 2010.


\(^{42}\) Ibid, para. 6
more open to public participation is being threatened by laws that criminalise social protest, and by a militaristic response to these social expressions. According to the UN Human Rights Council, States should “promote a safe and enabling environment for individuals and groups to exercise their rights to freedom of peaceful assembly, of expression and of association, including by ensuring that their domestic legislation and procedures relating to the rights to freedom of peaceful assembly, of expression and of association are in conformity with their international human rights obligations and commitments” 43.

Legislation has been passed which unnecessarily and disproportionately limits the right to protest. The Public Safety Law (Law 1453/11), criminalises actions which fall under the right to protest such as obstructing roads or the disruption of the transport system (art. 353 Penal Code) and establishes ambiguous aggravating circumstances such as the disturbance of official acts (art. 15 Penal Code) to increase penalties 44. For its part, the proposed National Police Code imposes unreasonable restrictions such as prior authorisations and policies, in addition to current methods such as “protective custody” 45. In short, citizens’ means of expression which are constitutionally protected are being treated as crimes.

On the other hand, international standards for human rights protection, establish that all use of force by the police must respect the principles of proportionality, necessity, graduality and exceptionality and should be particularly aimed at respecting and protecting people’s integrity and security.

Stigmatisation against social protest is a widespread practice, ranging from alleged public association with guerrilla interests, to contempt for social protest, for example in statements

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43 Human Rights Council Resolution 20/10, April 9, 2013. The promotion and protection of human rights in the context of peaceful protests, para. 3.
44 The number of persons deprived of liberty in the context of social protest in 2013 was close to 3,000 people, while in 2012 the figure stood at around 542. Figures from the Campaign “Defender la Libertad: Asunto de Tod@s”: MOVICE and CCEEU (2013)
45 The National Police Code (Decree Law 1355 of 1970) states in Article 192 “protective custody consists of keeping the offender in a police station or substation for up to 24 hours” and Article 207 establishes that the corrective custody will be applied in cases where “a severe state of excitement could make imminent a violation of criminal law”.

made alleging that “the so-called agricultural strike does not exist”. Moreover, the National Police Riot Squad (ESMAD) has been significant perpetrators of political violence. Since the creation of this police squad, human rights organisations have documented at least 20 extrajudicial executions, 780 arbitrary arrests, 3,000 injuries and 80 cases of torture attributed to the ESMAD.

As noted by the Special Rapporteur on the right to freedom of peaceful assembly and association (2012), Colombia is a dangerous place for those who wish to exercise these rights. Despite the systematic nature of actions taken against social protest, and the volume of complaints, there are few sanctions, most are limited to disciplinary action, and impunity reigns.

A further problem is related to the increasing number of so-called “reduced lethality” weapons. In 2012, free rein was given to the use of mechanical or kinetic weapons, chemical weapons, acoustic weapons, and electric control devices, and in January 2015, others were also permitted, such as the sonic cannon, a long range acoustic device, capable of dispersing crowds who disturb public order. Even though Resolution 02686 of July 31, 2012, orders that “reduced lethality weapons will be employed following protocols for international usage and regulations adopted by the national police,” human rights violations as a result of the use of such weapons have increased.

There must be guarantees for the non-repetition of these violations, including the enactment of a policy based on a nonviolent approach to conflicts, the repeal of restrictive legislation regarding social protest, a strict ban on the use of firearms in social demonstrations, guarantees of justice for victims and the regulation of the use of force in accordance with international standards of protection.

Colombian coordination groups for human rights and peace have expressed the need for the Colombian state to desist from viewing social conflict as a synonym for war, and to understand that in the difficult process of building a cohesive society, multiculturalism, pluralism, the search for equal conditions for full and universal access to rights, are part of an inherent conflictive process towards democracy, in which respect for social protest, and due dialogue and consideration for citizens’ demands is the only way to strengthen the political sphere and deepen democracy with “high intensity” citizenship.

46 Database on Human Rights and Political Violence, CINEP / Programme for Peace, consult the database: March 22, 2015.
49 Released in Barranquilla, its use has been questioned in several countries, since it can produce a noise up to 152 decibels, when the acceptable limit according to the WHO is less than 68 decibels. Cuidado con el ‘cañón sónico’ (January 26, 2015) in www.elheraldo.co
51 Cf. MOVICE and CCEEU (2013).
52 Colombian Coordination Groups for Human Rights and Peace (2015)
3. Reflections on justice in times of peace

Jomary Ortega Osorio and Alberto Yepes Palacio, Colombia-Europe-United States Coordination Group (Coordinación Colombia Europa Estados Unidos)

We Colombian human rights organisations have worked for many years on the development of proposals to reduce the humanitarian impact of the war on the lives of the Colombian people and the search for a negotiated political solution to the social and armed conflict. At the same time, we have devoted our efforts to combating impunity, particularly in relation to State Crimes, and have striven to reveal criminal structures, the highest responsibilities and the beneficiaries of these crimes.

In the current stage of negotiations between the Colombian government and the FARC, the human rights movement has emphasised the guarantee of the rights of the victims as a precondition for peace. Despite this common understanding, we also recognise the plurality of approaches within various human rights organisations, so that rather than agreements related to justice mechanisms, we have reached points of convergence and we reiterate our ethical commitment to the transformation of the structural causes of injustice and war.

Our commitment and call to Colombian society, is for the search for a negotiated political solution to end the armed conflict with all guerrilla organisations (FARC, ELN and EPL). In this process, our peace efforts are focused on gaining guarantees that there are no more victims in the future; guarantees of non-repetition achieved by the laying down of weapons by the insurgent groups and the dismantling of paramilitary structures, and the purging and restructuring of State security institutions and doctrines which have supported victimisation.

This article summarises discussions held during January 29 and 30, 2015 by a group of human rights organisations and victims within the Colombia - Europe - United States Coordination Group, who met to share perspectives on transitional justice formulas to end the armed conflict.
Contrary to those who understand peace as the mere demobilisation of the guerrillas and the application of justice for their actions, we human rights organisations believe that peace building requires the dismantling of all the factors that have given rise to the violence, including the recognition of state crimes, the purging of state structures that have contributed or benefited from these crimes, and the submission to a judicial process of state actors involved in human rights violations and breaches of international humanitarian law.

To prevent crimes from being repeated, we insist on the elimination of mechanisms that have historically led to violations: the National Security Doctrine and the internal enemy, the paramilitary strategy, the use of intelligence reports against the social movement, the expansion of military criminal jurisdiction to investigate state crimes against civilians, etc.

We agree with the need to strengthen the mechanisms that contribute to truth and historical clarification of the facts. To do this, together with the victims we have created proposals for Truth Commissions and the recovery of memory that should be taken into account in the Havana Negotiations and in the implementation of the agreements. The search for and location of more than 45,000 victims of enforced disappearance should be a major concern for the Truth Commission, as should the declassification of intelligence files on social leaders, opposition leaders and human rights defenders who have been victimised and persecuted, as well as the publication and destruction of state doctrine manuals, which have been used to justify both victimisation by the state security forces, and the promotion by the State of paramilitary structures.

Finally, regarding so-called “transitional justice”, human rights organisations have made statements on the limitations of the Legal Framework for Peace, a norm which is in any case unnecessary, as the Colombian Constitution (Article 150.17) provides for the granting of pardons and amnesties for political crimes to facilitate peace agreements. Therefore, the mechanisms for justice and truth must consider the views of victims and be the result of the agreements reached in Havana, and not the imposition of one of the parties. Similarly, concepts like “prioritisation”, “selection” and “waiver of prosecution”, could pose a risk if they are made general in a criminal policy and if they do not include effective mechanisms for clarification and the dismantling of criminal structures that, especially with regards to state crimes, remain intact and unpunished.

Some of the proposals for justice mechanisms that have been discussed among human rights organisations show differences in approach, subjects and benefits, ranging from: a) the broadest possible amnesty to both state agents and guerrillas (symmetrical treatment), and the establishment of a Truth Commission; b) a broad-ranging amnesty for the guerrillas for political and related crimes and the establishment of an international tribunal with jurisdiction to try crimes leading to res judicata decisions in cases that are not applicable for amnesties and pardons; c) the establishment of a special chamber in the Supreme Court for trying state agents involved in human rights violations; and d) the establishment of a mixed court (national - international) for the prosecution of
international crimes, to which all actors can present themselves, with access to benefits depending on the contribution to truth and providing that asymmetries between state agents and guerrillas are recognised (state agents having greater responsibility due to their position as guarantors).

With regard to sanctions resulting from the application of any of these mechanisms, we human rights organisations think that alternative sentences to imprisonment should be considered, as well as restorative justice mechanisms. This comes as part of a wider reflection about the purpose of punishment, the current prison situation and the satisfaction of the victims’ rights.

Moreover, recognising the greater responsibilities of state agents, both in terms of the volume and severity of the crime and the state’s obligation as a guarantor of rights, our proposal for peace based on human rights, focuses on the full guarantee of the rights of victims to truth, the clarification of the responsibilities for victimising structures, reparation for victims and justice mechanisms which are used according to the effective contribution to truth and reparation for victims and society.

4. 20 years fighting against the expansion and abuses of the Military Justice System

Alberto Yepes - Coordination Colombia - Europe - United States
(Coordinación Colombia Europa Estados Unidos)

The strengthening of military power in Colombia, which increased as a result of the Democratic Security policy pursued during President Álvaro Uribe’s eight year term beginning in 2002, has meant that Colombian society has experienced a subordination of judicial power, the power of the State, and the power of society as a whole, to that of the military.

With an armed force numbering half a million armed men – one of the largest armies in the world – the powers that the Colombian State have conferred onto the military in order to confront the internal armed conflict through the use of military force, including powers of self-investigation and self-judgment (by using the Military Justice System), have led to massive human rights violations. These include tens of thousands of forced disappearances, more than 5,000 extrajudicial executions, mostly in the form of “false positives”, and thousands of targeted assassinations and massacres, which have only been possible due to the armed forces’ complicity with and acquiescence to the paramilitary structures which still inflict terror in much of the country.

These mass crimes, for which state agents are responsible, remain in impunity and those responsible for ordering them have not even been investigated. Despite this, a Constitutional reform has recently been imposed to change the law by which members of the armed forces and police accused of human rights violations are investigated and sentenced. The premise of the law means that those who investigate and prosecute the military and police, in both the ordinary and the military courts, cannot apply human
rights laws and standards, but only International Humanitarian Law. These norms are not only intended for very exceptional circumstances, but they are also influenced by a biased interpretation promoted by the Ministry of Defence. Along with this distortion of the rules of war, as a result of this reform, victims of assassinations and other crimes committed by security forces will be told that they are no longer classified as human rights violations, but valid acts in the application of International Humanitarian Law, understood as extensive powers to attack what are loosely considered “legitimate targets”.

For 5 years, human rights organisations have been challenging 10 legislative and constitutional reform initiatives which seek to expand military jurisdiction, change the rules for its investigation and prosecution, or generate different ways to guarantee impunity. These proposals show the enormous weight of military power in Congress and various state bodies, and also parts of the high courts. We have been contesting some of these initiatives that would have provided impunity for these crimes, by presenting claims of unconstitutionality, raising these allegations before international bodies, awareness raising campaigns and citizen mobilisation, as well as advocating with the Colombian Congress and other governments and agencies of the international community.

During the 1980s and 1990s, several important decisions and judgments were made, both in the global and the Inter-American human rights system. The 1991 Constitution decreed that the military could not try civilians under any circumstances. However, it also established that crimes committed by members of the armed forces on
active duty or in connection therewith would be investigated by military courts. For years there was a dispute over which crimes committed by military personnel could be understood as “acts of service”. Various judgments by international courts and high courts of justice in Colombia established a uniform jurisprudence, which found that neither human rights violations nor serious violations of International Humanitarian Law could ever be considered acts of service and could not fall under military jurisdiction.

Since 2000, human rights organisations have struggled to get these criteria codified in Colombian legislation. After more than five years, this was finally achieved in the new Military Criminal Code, which prohibited the consideration of human rights violations and violations of International Humanitarian Law (IHL) as “acts of service” thus keeping them outside the scope of military justice. Issued as Law 1407 of 2010, it was one of the first laws passed by President Juan Manuel Santos.

Surprisingly, less than two months later a cascade of legislative and constitutional reform initiatives once more expanded military jurisdiction and again determined that human rights violations and International Humanitarian Law violations could in fact be considered actions subjected to military justice. The fear that state agents implicated in the aforementioned violations, would be faced with having to respond before a criminal court or being accountable to a Truth Commission, has generated a plethora of initiatives designed to create impunity, thus avoiding the need to face justice as part of a peace process.

Human rights organisations have challenged as unconstitutional the Reform to the Constitution that would prevent the application of human rights norms to military personnel for offences related to the armed conflict. They have also decided to challenge law 1765 of 2015, which has significantly expanded the number of crimes under the jurisdiction of military courts. In this struggle, they have relied upon the support and solidarity of various national and international organisations and hope to gain further support. Human rights organisations believe that the best peace-building efforts are those in which the State does not exempt itself from assuming responsibility for the actions of its agents, exonerate itself by expanding the military justice system, and much less by avoiding the obligation which all States have to apply international human rights norms in order to investigate and punish serious human rights violations, even if they were committed in the context or under the pretext of an internal armed conflict.
The history of women’s achievements in Colombia in terms of protecting their human right to a life free from any form of violence\textsuperscript{54} has much in common with the great triumphs of the global women’s movement, which have implied setting aside barriers or ideological borders and working together. This coalition strategy was used in Colombia in 2007 and 2008 when a coalition formed by the Colombian women’s movement and the women’s caucus in the Colombian Congress managed to push through Law 1257 of 2008, the law on non-violence against women.

This document aims to outline the main scope of the law for the prevention, protection and punishment of violence against women, emphasising that it is the ideal and most effective mechanism to address this violence. It will also briefly note those issues considered to be pending for the effective guarantee of the right of women to live free from discrimination and violence.

The collective work to draft Law 1257 enabled the inclusion of several feminist issues\textsuperscript{55} which had until then been absent from Colombian legislation, to address the problem of violence against women. These could be summarised as three basic principles, which were then translated into different measures in the Law. Firstly, public awareness-raising on the fact that the violence against women is not a private matter, but rather a public concern and should be confronted by society as a whole; secondly, the fact that violence experienced by women is the result of the structural discrimination\textsuperscript{56} they suffer and the unequal power relations that cause this discrimination\textsuperscript{57}; and finally, the need to address violence holistically.

These principles were translated into the measures contained in Law 1257 to prevent, investigate and punish violence against women on the one hand, and on the other, to care for and protect women’s rights in a comprehensive way. The main progress made by the law includes the comprehensive vision of and intervention in violence against women, as conceptualised by the women’s movement. This concept was developed with the aim of confronting and addressing the different forms of violence experienced by women to contribute to their autonomy and, to empower women, going beyond the necessary punishments for offenders. This implies in turn...
understanding that violence against women is a structural problem that manifests itself in different layers and levels of society, and therefore a legal intervention, per se, will not alone solve the problem.

Likewise, Law 1257 of 2008 was established as a specific instrument to address the issue, exceeding the family orientated regulatory approach that emphasised the preservation of the family unit over the human rights of women. In fact, at least on paper it was possible to set aside this vision, although in practice, it continues to prevail when women approach bodies for the administration of justice. This progress was made possible by including the spirit of International Human Rights Law, and particularly, the Convention of Belém do Pará.

Moreover, the Law also recognises that there must be a legal recognition of the violence faced by women in order to confront the problem of this violence. This in turn led to the inclusion of a catalogue of women’s human rights that no other Colombian legal instrument contains. This thereby further promoted the positioning of the human right of women to a life free of violence, as the guiding axis to interpret the law.

Law 1257 considers comprehensive protection measures, so that the different areas of women’s lives can be taken into account when they experience this violation of their human rights. Therefore, measures were established in the fields of protection, health, employment and education, which have been regulated by several decrees\(^58\). Finally, the law gives women the right to choose whether to confront their attacker, in any circumstances that might occur, so that women’s autonomy is strengthened and protected against the power relations that facilitated the violence.

Despite the positive assessment of all the instruments enshrined in Law 1257, whose purpose is to safeguard life, human dignity, personal integrity and the right of women to a life free of violence, in their daily lives, both women themselves and their legal representatives continue to face obstacles when making effective these guarantees which correspond to them as victims. These difficulties and challenges are concentrated on two issues: firstly, the persistence of gender stereotypes\(^59\) affecting the understanding of and access to justice for women; and secondly, the absence of clear and accessible procedures for women, so that they can make real what the regulations say.

With regard to gender stereotypes, the Sisma Mujer Corporation’s experience accompanying women has led us to note that the preconceived ideas of what a woman should be and her behaviour both in society and in public and private spaces, are determining

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\(^58\) The Law has been regulated by National Decrees Nos. 4463 of 2011, 4796 of 2011, 4798 of 2011, 4799 of 2011 and 2734 of 2012.

\(^59\) The term gender stereotypes refers to the social and cultural construct of ‘men and women’, because of their different physical, biological, sexual and social functions. More broadly, they can be thought of as the social conventions that support the practice of gender. It is a general term representing a structured belief about the personal attributes of men and women. Such beliefs may involve a variety of components including personality characteristics, behaviour and roles, physical characteristics and appearance or occupations and assumptions about sexual orientation (Cook, R. J. (2009). Gender Stereotyping: Transnational Legal Perspectives. University of Pennsylvania Press.)
factors as to whether or not she can access the justice system. This obstacle is most evident in the Family Commissions, places where women tend to go when faced with situations of violence. It is worth noting that these spaces continue to favour the protection of family unity and attention to conflicts that arise therein, without regard to violence against women as a structural matter, thereby perpetuating discrimination.

There is still an absence of clear procedures, in services related to work and health, because there are difficulties with applying the measures in some particular cases. This is due to the fact that even though decrees exist to regulate such matters, the procedures to access state services are unclear for both officials and users. This leads to complex procedures that make it difficult for women to benefit from measures designed by law to comprehensively address violence, and cycles continue to be repeated.

Finally, it is necessary to note that the progress made and the results achieved for women to live free from violence has been an arduous process, but it has led to very useful results that must be preserved and strengthened, through our work and through different institutional efforts which are needed to make human rights a reality for women.
The violation of the right to land is at the centre of the social and armed conflict in Colombia. There are around 6 million internally displaced people, a figure that keeps Colombia in an unfortunate second place in the world after Syria. The return of land seized from the displaced is a priority, and the land issue is also on the agenda of the peace talks in Havana. In this chapter we present three reflections on land grabs and land disputes, the situation of communities whose territories are affected by corporate activities, and the struggle of indigenous peoples and Afro-Colombian communities in defending their territories.
1. Dispossession of land and territorial disputes in Colombia

Diego Herrera Duque, President of the Grassroots Training Institute (Instituto Popular de Capacitación–IPC)

An analysis of the social and political reality over the last 20 years in Colombia reveals a number of contradictions surrounding political projects, power structures and regional construction. One of the fundamental problems has been the issue of territory and the mechanisms that have been used to control and consolidate the reconfiguration of territory, as a result of extermination and dispossession and the protection of sectors of power that have benefitted from this. This process of territorial reconfiguration forms the backdrop to current attempts to end the conflict and to build future territorial peace.

There is a contradiction between political projects with a modernising vision of the State and those with a pre-modernist landowner vision. Moreover, the businesses that have most recently settled in areas of the national territory, are disputing other models of territorial development and the potential return of dispossessed and displaced communities.

The majority of land dispossession and disputes over territory in Colombia took place between 1995 and 2015, a period that coincided until 2005 with the expansion of the paramilitary project, bringing with it a process of violent agrarian counter-reform, and a return to primary exportation in the Colombian economy, with extractives and agro-industrial development driven by recent governments in alliance with different business sectors, to the detriment of the agricultural agenda put forward by rural sectors, small-scale farmers, ethnic groups and environmentalists. The scale of the tragedy is clear: threats, death, deprivation, neglect, dynamic land markets for new investors and owners, territorial rearrangement and the criminalisation of communities who claim the right to land and to defend their territory.

In the background of this tragedy for communities, lie disputes between coalitions of power, a reality which the conflict has facilitated, via the military actions of illegal armed groups, drug trafficking, political processes and expansive projects for the accumulation of capital. Political and economic projects have been built within the context of war, but the war has also created its own economy. In this context, illegal actors, national and regional political elites, and national and multinational companies have reorganised the national territory and have taken over land that once belonged to communities, under the complicit gaze of the State.

In Colombia there is a systematic violation of human rights, challenging for a future truth commission with a territorial approach. The dispossession and forced
abandonment of land lies somewhere between 6 and 8 million hectares (7% of the country)\(^6\), 5.5 million people have been displaced by the war, and between 2008 and 2015, 69 land claimants were killed in the country. According to a report in Semana Magazine in 2012\(^6\), the rural Gini index, which measures inequality, rose from 0.74 to 0.88. Currently 77% of the land is held by 13% of landowners, but 3.6% of these own 30% of the land, making Colombia one of the most unequal countries in terms of land ownership in Latin America and in the world\(^6\). The map of land and territory in Colombia showing areas where eviction and killings have been most common, overlaps with areas showing the implementation of the development model, failed policies and the emergence of political and economic elites.

Despite this, resistance and social mobilisation starting in 2013, has demonstrated that there is a common land rights agenda with demands for inclusion, dignity and recognition from the State and Colombian society\(^6\). Although this mobilisation is taking place in a favourable political environment, during the negotiations between the national government and the FARC to end the conflict, paradoxically, it has nevertheless been stigmatised and criminalised.

The contribution of the international community has been fundamental and must continue. The United Nations and the European Union have both expressed their support for the political negotiations to end the conflict, and have also been contributing to the implementation of Law 1448, socio-economic stability, guarantees and reparation for victims and the protection of ethnic territories.

\(^6\) According to Ricardo Sabogal, Director of the Land Unit, “it is estimated that in the last 20 years, something like 4 million hectares were forcibly abandoned and about 2 million hectares were stolen”. Special interview for EL TIEMPO “Política de restitución de tierras es irreversible’: Ricardo Sabogal”; 28 April 2013; http://www.eltiempo.com/

\(^6\) Special Report in Semana.com: “Así es la Colombia rural” en www.semana.com. This report notes that despite the lack of access to land, 70% of the food produced in the country comes from small farmers. Of the 39.2 million hectares used today for this activity, only 21 million are suitable. In contrast, of the 21.5 million hectares of land with agricultural capacity, only 4.9 million are used. However, one hectare of agriculture generates 12.5% more value than one used for livestock. It is estimated that 2.5% of the land suitable for agriculture is planted with sugarcane and biofuels such as oil palm and sugar cane. 5.8 million hectares (more than is sown with food) have been awarded for the existing 9,000 mining titles and there are 20,000 new applications.

\(^6\) According to Ana María Ibáñez, dean of economics at the University of Los Andes, by 2010, 77.6% of the land was held by 13.7% of landowners and the land Gini reached 0.86. The study also reveals that the situation has worsened since 2000, when the ratio was 75.7% held by 13.6%. Between 1984 and 1996 the Gini coefficient increased from 0.85 to 0.88 (IGAC, 2012).

\(^6\) Instituto Popular de Capacitación – IPC - (2013). Boletín Observatorio de Derechos Humanos. Modelo de Desarrollo y Conflictividad social: agendas y territorios en disputa. IPC. Medellín, Colombia. The agenda of the MIA in negotiations with the national government revolved around 6 points: land, recognition of small-scale farmer land ownership, the implementation of policies addressing the crisis in agricultural production, social investment in rural and urban areas, participation of small and medium-scale miners in the formulation of sector policy, and guarantees for the exercise of the political rights of the rural population. Little progress has been made in the agreements, and there is always the possibility of a new mobilization and a new national agrarian strike given the lack of government compliance.
In conclusion, there has been a shift in the movement to defend human rights, towards respect for nature as common property and collective struggles for territory. This movement includes socio-political and economic issues, and is bringing together social movements and building democratic institutions. Looking towards the future, the commitment and observation of the European Community is necessary, to assess compliance with international human rights law, and show support for the strengthening of post-conflict civil society.

**Case: Land Restitution in the Curbaradó River Basin**

*Ana Vicente Moreno, Peace Brigades International*

Between 1996 and 1997, communities in the Bajo Atrato region were the victims of military and paramilitary operations that caused the mass displacement of more than 70% of the population, in addition to murder, torture and forced disappearances. After the communities were displaced, banana and palm oil companies installed themselves in their territory.

In the year 2000, then-President Andrés Pastrana recognised the collective land titles of the communities of Curbaradó and Jiguamiandó in accordance with the provisions of Law 70 of 1993. For his part, President Santos chose this case for the government’s ‘Emergency Plan’ on land restitution, without conditioning it on approval under the Victims’ Law.

Since May 2010, a process has been underway to follow the steps set out by the Constitutional Court in six Judgements (Autos). However, despite the constant orders of the Constitutional Court and other bodies such as the Administrative Tribunal of Chocó and the Ombudsman’s Office, who have insisted on the extreme vulnerability of the communities, it has been observed that this emblematic restitution process is still moving forward without the adequate implementation of a protection plan to guarantee the life and physical integrity of the communities. The Inter-Church Justice and Peace Commission (Comisión Intereclesial de Justicia y Paz – CIJP) has reported that since 2011, the presence of neo-paramilitary groups has persisted along with threats, attacks and killings of leaders from both communities, cases that remain unpunished. And this is even more striking if we take into account that one of the goals between 2010 and 2014 of the roadmap within the Free Trade Agreement between the European Union and Colombia, states that Curbaradó is one of the four communities ‘with a Plan for Prevention and Protection formulated within the framework of the prevention strategy for land restitution’.
2. The implementation of initiatives on Business and Human Rights in Colombia: The constant lack of recognition of affected communities

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Since the beginning of the 2000s, international voluntary regulatory frameworks, together with the embassies of the UK, Holland, USA and Canada, have encouraged the creation of public policy on business and human rights in Colombia. From the signing of the Voluntary Principles on Security and Human Rights (VPSHR) to the United Nations Guiding Principles (Guiding Principles), international actors have been decisive in the way Colombia responds to precarious labour practices, and serious socio-environmental and human rights violations arising from business operations in the country. Although at least five specialised initiatives have been developed in Colombia (see Table 1), they have all had in common a top-down approach, the indirect exclusion of civil society in their design and implementation stages and shortcomings in their content, due to their ambiguous and generalised identification of human rights violations faced by communities affected by business operations.

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69 This short article is adapted from the investigation carried out by Tierra Digna, entitled Seguridad y Derechos Humanos ¿para quién?: Voluntariedad y Militarización, estrategias de las empresas extractivas en el control de territorios (Bogotá, 2015).
The process for putting the VPSHR into operation in Colombia, for example, created spaces for dialogue between the government and mining and energy sector companies around issues of corporate security. The Mining and Energy Committee (MEC), discuss issues and adopt strategies that directly affect local communities where companies operate. One such issue is the signing of agreements between mining / oil companies and the State security forces to safeguard staff and business infrastructure, a strategy which is not common in countries in armed conflict with critical safety situations and systematic human rights violations, which calls into question the responsibility of legal and illegal armed actors. This initiative excludes communities where these businesses

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70 Compiled by the authors from data supplied by the Presidential Council for Human Rights in Colombia, with the addition of a complementary timeline tracing the different instruments and initiatives.
Case: the Cerrejón (Guajira)

Regula Fahrländer, ask! - Arbeitsgruppe Schweiz-Kolumbien

The Cerrejón, located in the Department of La Guajira, is one of the world’s largest open pit coal mines. Its annual production accounts for 4% of the world coal market (32 million tonnes) and its concession extends to 69,000 hectares. While the company, whose owners are equally Anglo American, BHP Billiton and Glencore, state that they conduct responsible mining activities, affected communities describe another reality, of an increase in human rights violations by the mining company. With the arrival of mining, communities have experienced the loss of their territories, the destruction of the foundations of their livelihoods, the depletion of water sources and an increase in pollution-related diseases. The mine, its railway and the port used to export coal have caused the forced displacement of more than a dozen Wayúu, Afro-Colombian and small-scale farming communities, leading to dissatisfactory resettlements with minimum compensation and without productive projects.

Since the destruction of the town of Tabaco in August 2001, affected communities have gathered broad international support. For their resistance, the communities have created many spaces for coordination such as FECODEMIGUA100, la Fuerza de Mujeres Wayúu (Wayúu Women’s Strength) and AACIWASUG101. Communities, often supported by SINTRACARBON, have conducted mass demonstrations blocking roads and the railway line and held autonomous consultations. In August 2014, this resistance culminated in the ‘Days for Life, Autonomy and Resistance in our Territory’; a grassroots justice tribunal which found the Cerrejón guilty of human rights violations. A dozen international organisations attended the event. Several organisations in Europe, members of OIDHACO, support the struggles of communities affected by the Cerrejón, either via awareness-raising and advocacy work, shadow reports, parliamentary interventions, field visits or other solidarity actions. This transatlantic support has been critical to the resilience of communities and has helped to find specific solutions to problems such as water supply, prevented the expropriation of communities, avoided diversions of rivers and improved some aspects of involuntary resettlement.
operate and civil society organisations that accompany these communities, as only the British NGO International Alert participates as a representative of civil society (instead, private meetings are held between companies, state and embassies). Ten years after its inauguration, the CME has still not managed to achieve (or has not aimed to achieve) the full inclusion in agreements of the VPSHR requirements on transparency and comprehensive risk assessments, and worse still, it has ignored constitutional principles, by allowing central issues concerning safety and the guarantee of all human rights to be discussed behind closed doors\textsuperscript{71}. Meanwhile, agreements continue to be made without Colombian society having a complete understanding of the impact they will have on the situation of human rights in the country.

A similar process took place in 2014 when the Colombian government welcomed the UN Guiding Principles by drafting the document entitled Guidelines for a public policy on business and human rights (Guidelines)\textsuperscript{72}. The participation of Civil Society Organisations in the design of these guidelines was insufficient and ineffective. The document states that it collected the perspectives of 21 organisations, interviewed in late 2013. However, these interviews were conducted in a very short time frame (less than two months) and the process was not transparent (there is no traceable document

\textsuperscript{71} Such as the evaluation of risk for communities or the declassification of agreements to the public.

\textsuperscript{72} Produced by the Presidential Programme for Human Rights (today Presidential Council).
with the contents of the interviews or an explanation of why these organisations were selected). Furthermore, only some of the organisations carry out direct work with communities affected by the impacts of business on human rights. Grassroots communities most affected by transnational business activity were not taken into account. Although the Guidelines claim to have incorporated the reflections of six regional workshops in six departments, none of these took place in the departments most affected by business operations, particularly mining operations, even though the Guidelines themselves have recognised the need to design a business and human rights strategy in a particularly vulnerable sector such as the mining and energy sector. In addition, regional forums were held in the major cities of each department and focused on raising awareness of Economic, Social and Cultural Rights and the Guiding Principles. It is evident, then, that the approach in these workshops was to abstractly discuss regulatory frameworks, and their usefulness to public policy and not to find out about community problems associated with business operations.

Given these realities, we believe that the VPSHR and the Guiding Principles in Colombia were implemented top-down via excluding methodologies, which have led to little knowledge of the real problems facing communities. On the one hand, by using transnational standards (the VPSHR and the Guiding Principles) as a ruler to measure and evaluate corporate behaviour, the Colombian government used a narrow view of security (ie, personnel and infrastructure) and human rights (ie, IHRL treaties); visions which are disconnected from politics, reality and local practice in the extraction sites (or business operations in general) and which ignore important progress made in the field of human security and emerging human rights.

While governments in Europe and North America have been crucial in building this policy, we recommend that the international community (1) advocate for more democratic and transparent methodologies in business and human rights initiatives that address the problems from the bottom-up; that is to say, that the communities most vulnerable to human rights violations are among those actors who determine the design and implementation of these initiatives. We also recommend that the international community (2) clarify the scope and usefulness of voluntary initiatives on business and human rights, given that these initiatives may be relevant for the prevention of human rights violations, but are under no circumstances effective or appropriate when violations have occurred. This means that the construction of regulatory and legally-binding mechanisms is necessary in each country and in the international sphere, to bridge the gaps that continue today to keep alive existing inequalities between companies and communities, and to allow many human rights violations to go unpunished.

3. Afro-descendants in Colombia: the struggle for territory and the fundamental right to prior consultation

National Conference of Afro-Colombian Organizations CNOA, Alliance of Social and Related Organisations (Conferencia Nacional de Organizaciones Afrocolombianas CNOA, La Alianza de Organizaciones Sociales y Afines)

In Colombia, when senior representatives of state institutions refer to Afro-descendants and land, their statements are often founded on toxic racial prejudice. This could be described as an apartheid state environment, illustrating the significant gaps in Unsatisfied Basic Needs (UBN) between the Afro-descendant and the non-Afro-descendant population.

In Colombia, Afro-descendants survive and have resisted attacks against them in a country that is led by a political class which supports this apartheid state of affairs. The minority interests of the national and international business sector are favoured over the majority interests of Colombians and over the lives of Afro-descendants in particular.

Firstly, we condemn the fact that the anti-drug policy as well as the mining and energy policy are undermining the possibilities for Afro-descendants to live in their territories. Indeed, more than half of the anti-drug spraying operations with their chemicals - which are unknown to the communities - take place on the Pacific coast, where 90% of the population is of African descent. Medium and large scale mining operations, both legal and illegal, are implemented in a way that is too extreme to allow for any environmental balance in the territories of the Pacific and the Colombian Caribbean. Historically, such mining practices have resulted in at least 30 years of exploitation and natural resource depletion with no positive impact for the lives of people and their territories. Territories have been destroyed and water resources contaminated. In particular, the actions or lack of action by the State have resulted in the destruction of ancient life forms, physical and cultural destruction, worsened by the assassination of leaders and the continuous sustained forced displacement and confinement of the Afro-descendant population. For example, we have found that in the Pacific, no less than 50,000 persons suffer forced displacement each year.

The Afro-descendant organisational process has highlighted and encouraged discussion on what an ethnic group is, when it is not a minority - as we represent 25% of Colombia’s total population. However, the Afro-descendant organisational process has not been able to stop the systematic attack by decision makers responsible for enacting regulations and laws which allow ongoing ‘chemical ethnocide’, and the physical and

74 This information can be verified in the studies developed by the United Nations Development Programme – UNDP - 2011
75 See the annual reports of the Consultancy on Human Rights and Displacement (Consultoría para los Derechos Humanos y el Desplazamiento), years 2011, 2012, 2013 and 2014.
Case: the Awá People

In May this year, Dr. Tica Font, Director of the International Catalan Institute for Peace (Institut Català Internacional per la Pau) in Barcelona, visited several national government agencies on behalf of the International Monitoring Group on the Awá People, together with a delegation from the organisation Indigenous Unity of the Awá People (Unidad Indígena del Pueblo Awá - UNIPA) with the aim of reactivating the commitments that the Colombian government has failed to implement.

During these visits the delegates noted that the state institutions did not know about these commitments (or had even read the minutes), signed by former officials several years ago. They said, “there are no resources to meet these commitments”, despite the fact that they had been included in 2013 budgets. Both the Deputy Minister of the Interior, and senior officials from INCADER, the National Victims’ Unit and the National Protection Unit pledged to conduct further meetings and workshops with UNIPA in the coming months to give continuity to the meetings held.

The Deputy Minister of the Interior was handed a draft project for raising awareness of the victims’ decree, but to date has not responded. She pledged to revive the Awá Roundtable, and then subsequently postponed it twice and in a recent meeting postponed it again. Nor has there been any progress in the titling of indigenous territory to the Awá.

In the midst of these constant breaches, the following events have also occurred since May 2015:

• On May 26 the indigenous territory of Chingurito Mira was bombed.
• Since May, the Los Rastrojos paramilitary group has been threatening the indigenous community and the student population in Predio El Verde and on August 10 they were told that the population would be removed from their homes.
• There have been raids without warrants on the homes of indigenous leaders; and arbitrary arrests and threats have continued against leaders and community members.
• During the breakdown of the FARC’s unilateral ceasefire, they blew up a stretch of the Trans-Andean pipeline and oil spills polluted rivers in Awá territories.

Looking ahead, the challenges for the Awá people are even tougher than those of any other social sector in Colombia: making sure the peace agreements with the guerrillas are complied with in their territories; confronting the various forms of violence that will continue to exist there after the peace agreements; ensuring that the repeated agreements signed with the Government are fulfilled; demanding progress in the Ethnic Safeguarding Plan and the “Urgent Interim and Contingency Response Plan aimed at guaranteeing their physical and cultural life, integrity, security and dignity” ordered by the Constitutional Court in its legal decisions 004 of 2009 and 174 of 2011, which still remain unfulfilled.

To meet these challenges with some chance of success, solidarity networks and the international community must increase their support.

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cultural destruction of Afro-descendent populations caused by legal and illegal armed actors. These are recognised in the framework of the, as yet unfulfilled, Colombian Constitutional Court Order 005 (2009), which was a follow up to its emblematic Decision T025 of 2004. In Colombia, assassinations of leaders continue to take place, the role of Afro-descendant institutions and organisations is being reduced, and there are an increasing number of obstacles restricting political dialogue between Afro-descendants and the national government. The national government systematically refuses any social dialogue with Afro-descendants. The Constitutional Court has repeatedly issued sentences regarding the State’s obligations to recognise and include Afro-descendent populations in policies, so as to guarantee their fundamental and territorial rights. However, very little attention has been paid to this jurisprudence. To the point that, in the last Sentence on the issue (Decision T 576 of 2014), the Constitutional Court asked “What are the legal obstacles that impede the guarantee of territorial rights?”

The analyses of Afro-descendant organisations identify apartheid in institutions and attitudes promoted by the national government of Colombia. There has been systematic action, since the Political Constitution was passed in 1991, to deny the possibility of constitutional recognition of Afro-descendants’ territorial property. This background of denial and systematic disregard for our rights continues to become further engrained every time the regions where people have preserved natural resources arouse the interest of businesses for the extractive economic development model promoted in Colombia’s public policy.
5. The struggle of indigenous peoples for the right to prior, free and informed consent

Joanne Hutchinson, Coordinator, International Caravana of Jurists

For indigenous peoples, Mother Earth is sacred in their worldviews, and the territorial space they inhabit is where they project their life plans, coexisting in harmony with the animals, plants, water, deserts and mountains that also live there. The struggle and resistance of the indigenous peoples of Colombia for the recognition of their territories has lasted more than 500 years since the colonisation of the Americas by the European powers, until what some have called ‘the second colonisation’ today: the implementation of large economic projects for the exploitation of natural resources in indigenous territories.

As a result of their long struggle, indigenous peoples were able to participate in and influence the process of the new Colombian Constitution (1991), which led to significant progress in the formal recognition of their rights, including the right to participate in decisions affecting their territories. In the same year, Law 21 regulated Convention 169 of the International Labour Organisation (ILO) stating that Prior Consultation with indigenous peoples should be carried out through appropriate procedures, in good faith, and through their representative institutions. The United Nations Declaration on the Rights of Indigenous Peoples (2007) developed the concept of the right to prior consultation further, adding that states must gain the “free, prior and informed consent” of indigenous peoples. This implies that for the United Nations, indigenous peoples have the right to be consulted, and also to say ‘no’ (to not consent) to a proposed development or infrastructure project in their territories.

However, these rights are still being widely ignored. According to the 2014 annual report of the Office in Colombia of the UN High Commissioner for Human Rights (OHCHR), regarding indigenous peoples “their right to prior consultation with regard to economic projects implemented in their territories is still widely ignored. Although Colombia recognizes international law, some high-level government officials have also publicly presented prior consultation rights as an obstacle to development.”

The National Indigenous Organisation of Colombia (ONIC) and the Colombian Constitutional Court have warned that at least one third of the 102 different indigenous peoples in the country are at risk of physically and culturally disappearing forever.

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80 The ONIC counts at least 64 peoples at imminent risk: “Sweet Words, Breath of Life; Forging pathways for the survival of indigenous peoples at risk of extinction in Colombia”; ONIC, 2010.
81 In Judgement 004 (2009), the Constitutional Court orders the Colombian State to urgently develop Safeguarding Plans for 35 indigenous peoples at risk of disappearing.
from our planet, because of the armed conflict, government neglect, and the implementation of large-scale economic projects. According to the UN, “large-scale economic activities, such as mining, raise concerns due to their environmental and social impact, including pollution of water sources that affects food production”\(^{82}\). In 2014, the Wayúu People from the Guajira Department reported a sharp increase in infant child mortality affecting Wayúu children because of famine, attributing this to the intensive exploitation of the El Cerrejón coal mine, which affects the water in their territories due to the pollution and diversion of rivers and streams for the use of this mine which runs on transnational capital\(^{83}\). All this was done without the consent of the communities living in the area, who consume the water for their daily supply\(^{84}\).

In recent years, due to the lack of respect for their right to prior consultation and the risk this poses to communities, the indigenous peoples of Colombia have used various social, political and legal measures to express their disagreement and demand a change in this situation. Despite the repression of peaceful demonstrations organised by indigenous peoples, their ‘Resistance Mingas’ and acts of ‘Liberation of Mother Earth’ have captured the interest of civil society both in Colombia and in other countries, and have brought indigenous claims into the public agendas of the Colombian State and international mechanisms for the defence of human rights. However, there is still much to be done before indigenous rights are respected.

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\(^{82}\) See supranote 79, para. 27  
\(^{83}\) With companies registered in the United Kingdom, Switzerland and South Africa  
\(^{84}\) “El arroyo que se le atravesó al Cerrejón”; El Espectador, 07 March 2015 in www.elespectador.com (Spanish version only)
Indigenous people have used other innovative ways to fight peacefully for their rights. In 2008, the Embera People in Jiguamiandó (Chocó department) decided, in the absence of an official prior consultation process, to organise a popular community consultation regarding the Mandé Norte project, a gold mine planned to be implemented by the Muriel Mining Company\(^5\) in the Cerro Careperro, a sacred mountain within the indigenous territory. Without access to their territory and its main sacred site, the Embera clearly stated that they would end up being forcibly displaced. In 2009, the Colombian Constitutional Court echoed this grassroots consultation, ordering the Colombian government to suspend the project until it obtained the consent of the Embera People\(^6\).

More recently, some indigenous peoples have begun to demand a response from the new Land Restitution Court,\(^7\) calling for the recovery of lands expropriated after a lack of consultation. In 2014, the Court issued a landmark ruling in favour of the protection of the territorial rights of 50,000 hectares for more than 7,000 Embera Katío People. Although these lands had been granted in concession by the State to multinational corporations, the Court ordered the suspension of mining concessions granted to the company AngloGold Ashanti\(^8\), and the non-issuance of new concessions sought by other companies. The judge also ordered that in the future, the fundamental right of the Embera Katío People to free, prior and informed consent in their territory must be respected\(^9\).

To ensure they are not contributing to the serious violation of the rights of indigenous peoples and their disappearance as peoples, the European Union (EU) and its member countries should develop binding rules to oblige their companies with projects or investments in Colombia to respect the right to free, prior and informed consultation. Moreover, the EU should at the very least include in all its policies and programmes in Colombia, and in treaties and trade agreements signed with the Colombian State, explicit and binding conditions to gain the consent of indigenous peoples before scheduling any project or other decision affecting their territories.

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\(^5\) Afterwards bought by Sunward Investments Inc. The company Rio Tinto, registered in the UK, was a partner in this project.

\(^6\) Sentence T-769/09

\(^7\) The legal body established under the Law on Victims and Land Restitution (Law 1448 of 2011)

\(^8\) Company registered in the UK

\(^9\) For further information on this case, see: “Civil Society Voices: Agendas for Peace in Colombia”; ABColombia; May 2015; in www.abcolombia.org.uk
V. The search for peace

The peace talks currently under way with the FARC in Havana and the progress that has been announced related to talks with the ELN, have placed a possible negotiated political solution to the conflict at the heart of national and international news. This chapter discusses previous attempts at dialogue in Colombia; we reflect on the contributions to peace made by women’s organisations and human rights defenders; and some of the challenges for the peace process in addressing the situation of children and youth and in assisting victims of torture.

1. Attempts at official peace dialogues

Olivier Lagarde, Coordinator of the France-Colombia Solidarity Network

A negotiated solution to the Colombian conflict has not yet been found. Nevertheless, since 2012, a dialogue process has been underway between the FARC-EP guerrilla and the Colombian Government, in Havana. Reflecting the political situation in Colombia itself, this dialogue process is complex, and is the object of both hope and uncertainty. This is due in particular to the numerous experiences of dialogues which the country has experienced over more than three decades. The international community has not always played an active role in the different processes, with the European Union (EU) positioning itself more strongly since the 1990s onwards.
The roots of the Colombian conflict lie deeper than it may appear in the current scenario. The creation of guerrilla groups in the 1960s responded to a system of inequality, social exclusion and democratic failings on the part of the State. These issues continue to be valid and have been at the heart of the consecutive negotiation processes. Faced with a growing conflict due to an increase in the guerrilla, the creation of paramilitary groups, the narcotics trade and the continued inability of the State to guarantee the population’s human rights, multiple attempts have been made to build peace since the 1980s.

In 1982, a negotiation process was initiated between the Government of President Belisario Betancur (1982-1986) and the FARC. The result of this was the signing of the ‘Uribe agreements’ in 1984, which contemplated a bilateral ceasefire and the search for a negotiated solution to the conflict. As a consequence, the ‘Patriotic Union’ political party (Unión Patriótica - UP) was founded, which included demobilised combatants, members of the Communist Party and other members of civil society. As popular support for the UP began to develop, it became targeted by the State and paramilitary groups. The latter carried out an extermination process which is recognised today as a political genocide (with between 3,000 and 5,000 victims).

One of the main demands of the guerrilla groups at that time was the creation of a constitutional assembly, to give the country a Constitution worthy of a State operating
**Case: Buenaventura**

*Inter-Church Justice and Peace Commission (Comisión Interclesial de Justicia y Paz)*

Buenaventura on the Colombian Pacific Coast, is the clearest example of the inequality that the neoliberal economic model has imposed in Colombia, where the state, protected by the legal use of violence, uses paramilitary violence to consolidate business development according to the demands of the global market, worsening forced displacement and land dispossession for indigenous, Afro-descendant and mixed ethnicity communities in urban and rural areas.

Within the Conpaz processes accompanied by the Inter-Church Justice and Peace Commission in Buenaventura, 700 indigenous people were displaced from their legally-recognised territories (resguardos) by neo-paramilitary structures between November 2014 and May 2015. These indigenous people continue to wait in Buenaventura for guarantees for their return with conditions for their protection and dignity. The situation is getting worse, given that on the San Juan River, despite the presence of the State security forces, neo-paramilitary structures caused ten mass displacements in 2014 and the Woaunaan people who are resisting in their territory are confined there and at risk of displacement.

In the urban area of Buenaventura, 30 displaced families have been resisting since 2003, after paramilitary incursions into their territory by the Calima Bloc who control the territory, encouraging the arrival of outsiders to plant coca, as well as mining activities and the sale of land, with the consent of the local authorities.

Women leaders Nieves Torres and the Aragón Valenzuela family are currently victims of forced displacement, in order to keep their children from being recruited by paramilitaries who control areas of Afro-descendant land reclaimed from the sea, and now to demand truth and justice after they were murdered by known paramilitaries.

In addition to the above cases, forced displacement is a reality that affects all the processes accompanied by our organisation in Buenaventura and the Department of Valle del Cauca, and the victims have not had access to comprehensive reparation. Community activities to restore dignity and to commemorate different events, show the magnitude of displacement for the victims of Trujillo who have resisted being forgotten for 25 years, or by the inhabitants of the Nayero Bridge Humanitarian Space and families in Punta Icaco who are in the process of declaring themselves a humanitarian space due to the intra-urban displacements they suffered during a decade of paramilitary violence in the urban area of Buenaventura. Linked to the phenomenon of forced displacement is the dispossession of collective territories which coincides with the development of projects for road infrastructure, mining and energy, port and agro business.

The cases of land dispossession include; 119 families from the El Crucero community in Bajo Calima, where the Agua Dulce intermodal port is being built, 600 families forcibly relocated from the area of Buenaventura where artesanal fishermen live, to make way for the construction of the Bahía de la Cruz tourist area.

In this context of paramilitary violence and business development, the number of victims of forced displacement and land dispossession are increasing daily, and the public policies adopted under the current victims’ and land restitution law (law 1448) have not brought truth, justice, or reparation, and much less, guarantees of non-repetition.
under the rule of law. The Colombian Government, under President Virgilio Barco Vargas (1986-1990), accepted the proposal. This facilitated the demobilisation of several armed groups at the beginning of the 1990s, such as, for example, the M-19 Group.

As a result of the drafting of the new Political Constitution (1991), other groups formally demobilised between 1992 and 1998. However, a new ‘coalition’ was formed between those guerrilla groups who did not want to hand over their weapons, namely the FARC, ELN and EPL. What followed were a number of failed dialogues, however, new negotiating mechanisms were also invented: in 1995 the Commission for National Reconciliation (Comisión de Conciliación Nacional) was formed and Law 434 of 1998 created the National Council for Peace (Consejo Nacional de Paz). New actors such as the church and the international community began to appear in official processes. International support was most visible between 1998 and 2002 during the Caguán negotiation process, a demilitarised discussion scenario between the FARC and the government of President Pastrana.

Since then, the European Union (EU) has participated in successive negotiations and politically supported them. This had not been the case previously, when the EU had not shown much strategic interest in Latin America. However, the entry of the Iberian countries into the EU in 1986, the fall of the Berlin Wall and the desire of the Colombian government for international involvement in the peace process after 1990, led Europe and the UN to begin to act, little by little, in favour of a negotiation between the parties in Colombia. In contrast, the United States maintained a military strategy as their contribution to conflict resolution.

Despite growing international interest in the peace process in Colombia, the Caguán negotiations failed. In 2002 the dialogue was broken off definitively, after a number of crises. After this, the political context changed drastically. President Uribe (2002-2010), came to power with a purely military strategy to end the conflict. During his mandate general dialogue deteriorated.

Trust between the government and the guerrilla was renewed between 2008-2009 via several agreements including humanitarian exchanges and the release of prisoners. However, it was not until the arrival of President Santos (2012) that a new negotiation scenario was developed. The Santos government held secret talks with the FARC, in order to get to the discussion table which was finally installed in November 2012 in Cuba.

This ongoing process has the political support of the European Union. But beyond that, the role of the EU is fairly passive in the negotiations. The EU proposes a more technical support for the post-conflict phase, however, in general terms, the priority for its relationship with Colombia is more economic than political.

This potted history of the attempts to hold official dialogue shows just how long Colombia has been trying to find political solutions to the conflict. These past attempts have not borne fruit, due to both failures on the part of the State, a lack of political
will by all the parties and high levels of violence and impunity in the country. The Havana dialogues, despite being fragile since the beginning of 2015, offer real hopes that an agreement can be reached. Both the FARC and the government know that their respective strategies for struggle and combat have not yielded definitive results after many years. Public opinion is tired of the war and fruitless negotiations. Social movements are organised to publicly debate and make proposals for society. And finally, the international community, including the United States, have reinforced their support for the process.

All this could mean, on the one hand, that we are close to a negotiated solution to the conflict. However, on the other hand, history itself and the persistence of policies which structurally caused the conflict, threaten to weaken the dialogues. In this context, the EU must play a more active role in the Colombian process, in particular by insisting on the need for all armed actors, including the Colombian State, to respect human rights and international humanitarian law.

Norway and Peace in Colombia

Carolina Maira Johansen, FOKUS

Norway has been involved in various peace efforts in Colombia and in several different initiatives for dialogue between the Colombian government and the guerrillas (FARC and ELN). Norway was one of the friendly nations during the talks in San Vicente del Caguán and was one of the countries visited in 2000 by several leaders of the Colombian government and the FARC during a European tour to present the peace process.

Norway’s decision to be one of the facilitators of the dialogue between the government and the FARC Santos is the result of a foreign policy which has been running for more than 20 years in this country, beginning with the ‘Oslo Agreement’ in which Palestinians and Israelis agreed to a solution to end their conflict. Norway also participates - along with Venezuela, Cuba, Chile and Brazil - in talks with the ELN. The Norwegian diplomatic effort for peace has been active in countries like Sri Lanka, Mali, Nepal, Guatemala, Sudan and the Philippines, with varying levels of success.
2. 20 years supporting peace initiatives

Since its beginnings, Oidhaco has supported initiatives to find a political and negotiated solution to the armed conflict in Colombia, to open up the pathway to peace with social justice and to overcome the structural causes of violence. There have been many valuable initiatives from civil society, from the local to the national level. Organised small-scale farmers, indigenous people, Afro-Colombians, women human rights defenders in general, have acted by boldly waving the flag of peace, often risking their own lives by confronting the actors in the armed conflict. Today in the context of the negotiations in Havana, large networks of social organisations have been formed to support the dialogues, including Social Cry for Peace (Clamor Social por la Paz); Social Common Pathway to Peace (Ruta Social Común por la Paz); Communities Building Peace in their Territories (Comunidades Construyendo Paz en los Territorios – Conpaz) among many others. This proactive diversity of proposals should be supported by European countries, so that long-term peace can be built.

Human rights defenders, in their broadest sense, have become part of the agenda of the EU, Norway and Switzerland. In December 2008, the EU adopted its “guidelines on human rights defenders” to improve its field of action in this field within the framework of its Foreign and Security Policy. The United Nations adopted the “Declaration on human rights defenders” and established a Special Rapporteur on human rights defenders. These instruments and mechanisms of the EU and UN have allowed support for the human rights movement in their search for peace in Colombia.

Below, we present two different perspectives: one from women’s organisations and the other from human rights defenders.
Throughout five decades of armed conflict and amid violent realities in the different regions of the country, women have sought spaces and created processes to resist and build, despite fear, hopelessness and tragedy. In the mid-90s, when the paramilitary escalation intensified and expanded, and added to the existing war between the guerrillas and the State, women from different places and positions took the firm decision to work together at different levels and take action.

Demanding that their own voices as women, mothers, wives and widows be heard, their reasons for organising were multiple, but the common denominator was that they could no longer tolerate life in the midst of war. So they made sure that society, armed groups and the State listened to them, so that they could: search for and demand that their missing and abducted loved ones be returned to them; get back their children who had been recruited by armed actors; make visible the damages they were suffering as women because of the armed conflict, noting that these are different from those suffered by men; demand the guarantee of their rights; demand compliance with IHL; make public their voices against the war and demand a negotiated solution to the conflict; demand truth, justice and reparation; and demand to be included in decisions related to peace, as victims of the armed conflict and citizens of Colombia.

Since that time, women have made their demands heard nationally through mass demonstrations, events in public spaces, interventions in traditional political scenarios, research and documentation processes, among others. They have also been active at the territorial level in their communities by rebuilding confidence, sustaining the social fabric and showing solidarity with other victims. Today over 20 years later, women have managed to show the country that they are also involved in resistance to the armed conflict and peace-building, and that peace can only be built if it is accepted both in daily family and community life, and in the discussions and decisions taken by the various governments at the departmental and national level.

In line with their demands for a negotiated solution to the conflict, women’s organisations have accompanied the peace talks held in the country, in a number of different ways. They undertook support activities and advocacy during the process developed by the government of Andrés Pastrana and the FARC-EP from 1999 to 2002. And today, they are explicitly supporting the peace process launched in 2012 with the same guerrilla, achieving important progress so that a gender perspective and women’s needs are taken into account in the agreements reached.

With the experience of the road already travelled under their belts, women have accumulated fundamental knowledge that gives them the authority and legitimacy to demand that their voices be included in all decisions made in the ongoing peace process, in the spaces arising out of the process and the design of the post-conflict phase. Colombian women can safely say today that peace is sustainable only if it is based on inclusion, partnership, equality, justice and truth.
b) Peace in Colombia, the flag waved by human rights defenders

Diana Sánchez Lara, MINGA Association (Asociación MINGA)

Human rights defenders have always opted for peace in Colombia. Consequently, one of our historical priorities has been the struggle for a negotiated solution to the armed conflict, rather than a military solution. Closing the doors to war and human suffering is part of our agenda. This commitment has brought negative consequences for our work: stigmatisation, smear campaigns and all types of aggression, including murder, disappearance and exile.

Consistent with our position for Peace, is our vehement opposition of the human rights movement to Plan Colombia since 1999, when the United States government decided to cooperate with Colombia by increasing the number of troops and military capacity of the Colombian State in its fight against insurgent groups, under the pretext of fighting drug trafficking. The consequences of this increase in the armed conflict were disastrous in several regions and the victimisation of communities grew in proportion.

In the same period human rights Coordination Groups turned to the countries of the European Union to brandish the flags of peace against the war (2002), requesting that international cooperation given to the Colombian government was conditioned on overcoming violations of human rights and the humanitarian crisis. It was a period of significant political advocacy work, to convince Europe of the value of continuing to support the struggle for human rights and peace. Civil society, in partnership with aid agencies, waved flags calling for Peace in Colombia.

During President Alvaro Uribe’s two terms in office, human rights defenders fought against the national government’s plans calling for the end of the war and against the persecution against the social movement by the same government, always demanding respect for rights and a political solution to the armed conflict. Although we obtained some results with the support of the international community, the response of the government was always contrary to our demands.

More recently, the human rights movement has strongly supported the peace negotiations between the government of President Juan Manuel Santos and the FARC, and the exploration with the ELN, promoting, encouraging and accompanying various civil society peace initiatives for such negotiations and providing analysis, debates and proposals for processes of truth, justice and reparation.

In this long struggle along the road for human rights and peace in Colombia, we have been accompanied by the international community, especially the European Union; and in these times of peace building, we need to reap what we have sown together throughout many years of struggle. We still need European support.
Case: Ríos Vivos
The “Living Rivers” Colombian Movement for the Defence of Land and People Affected by Hydroelectric Projects (Movimiento Colombiano en defensa de los territorios y afectados por las represas “Ríos Vivos”)

The “Living Rivers” Colombian Movement for the Defence of Land and People Affected by Hydroelectric Projects brings together communities affected by hydroelectric projects, who are defending the rivers of Colombia and have been victims of violations of their human rights, to protect their livelihoods and environment. For example, the construction of dams such as Salvajina in Cauca, Urrá I in Cordoba, Hidrosogamoso in the department of Santander, El Quimbo in Huila and Hidroituango in Antioquia have led to the displacement of more than 100,000 people, who have been left without land where they can carry out their life projects, have been left out of work for their basic sustenance and/or have been stripped of their lifestyles and territory affecting their identity and culture. These projects have also led to killings of people who have opposed them, with no progress in the investigations or in finding the perpetrators and on the other hand, the implementation of current projects and new dam projects has caused the victimisation of hundreds of families affected by the armed conflict in Colombia.

Tendering processes carried out in Colombia for the awarding of works related to development projects do not include mechanisms for affected communities to gain access to full information. Instead of strengthening its legal framework on environmental issues, Colombia has weakened its laws by reducing terms related to the processing of environmental permits (Decree 2041 of 2014).

For all these reasons, the Living Rivers Movement has been working to demand the fulfilment of community rights and the right to stay in their territories, including through advocacy at the national and international level as well as demonstrations in the rivers and roads where the hydroelectric projects are situated. These actions have led to a high level of repression and threats against the leaders of the movement. According to Living Rivers, to date the murder of 51 leaders nationwide have gone unpunished, as have threats against 31, unfounded prosecutions against 25, the torture of two and attempted kidnapping of two others.

These struggles are not only local or regional struggles; they are related to global issues. The transformation of energy sources and the defence of rivers must be addressed in order to tackle climate change with social and environmental justice. It is therefore imperative that the peoples inhabiting the river basins are heard, that their rights are respected and - above all - that they do not suffer repression or prosecution for demonstrating peacefully and expressing their disagreements and demands. As global players, the European countries have a responsibility for what happens with these kinds of project (due to European investments or companies involved in these projects).
3. Challenges for peacebuilding

How to ensure a lasting peace with social justice and resolve the structural problems of violence? The challenges to peace in Colombia are enormous, but they are not impossible. By way of illustration, three articles are presented below: one on the challenges of caring for children and young people affected by the armed conflict; another on how to overcome the scourge of torture and how to care for its victims; and a final reflection on the return of Colombian refugees to the country.

a) Challenges in building peace for and with children and young people affected by the armed conflict in Colombia

Coalition against the involvement of children and young people in the armed conflict in Colombia (Coalición contra la vinculación de niños, niñas y jóvenes al conflicto armado - COALICO)

On behalf of the Coalition against the involvement of children and young people in the armed conflict in Colombia (COALICO)\(^{90}\), the following summarises some of the challenges of building peace in Colombia taking into account the opinions, interests and needs of children, adolescents and young people (CAY):

Measures for care and attention: In light of the possible handover of CAY recruited by the FARC and other armed groups, it is fundamental to design and implement actions to ensure and promote social integration processes, especially those with a community approach, created after an objective assessment of the strengths and weaknesses of these actions in the past; to facilitate the active participation of CAY victims in the definition of measures to access the comprehensive protection of their rights; and to resolve the legal status of demobilised CAY considering them as victims of recruitment and not as perpetrators.

Including the situation of children and adolescents in the negotiating table and a mechanism for verifying the cessation of violations against this population: In accordance with Resolution 1612 of the UN Security Council and in particular with its action plans, it is essential that the situation of recruited children is a priority addressed at all stages of the negotiations with armed non-state actors, including the clear identification and agreement of the removal of CAY from armed ranks; the commitment to stop involving them in the armed conflict; as well as the verification of the cessation of the violations perpetrated against them including killings, maiming, sexual violence, attacks on schools and hospitals, abduction, denial of humanitarian access and forced displacement; situations which continue to occur in Colombia.

Full reparation for child victims of the armed conflict\(^{91}\) and guarantees of

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\(^{90}\) Comprised of the Asociación Cristiana Menonita para Justicia, Paz y Acción Noviolenta (JUSTAPAZ), Benposta Nación de Muchachs@, Centro de Desarrollo y Consultoría Psicosocial Taller de Vida, Corporación Casa Amazonía (COCA), Corporación Vínculos, Defensa de las Niñas y Niños Internacional (DNI-Colombia), Fundación Creciendo Unidos (FCU) and the Servicio Jesuita a Refugiados (SJR),
non-repetition: The right to full reparation for child victims involves creating comprehensive conditions for their protection and stability that allow them to develop their potential as active, critical and reflective subjects, who recognise reality, who actively participate in their communities in the process of rebuilding the social fabric and seeking guarantees of non-repetition of the events which have affected them.

_Bogotá, 17 August, 2015._

**b) Challenges for the Peace Process:**

**the Prevention and Punishment of Torture**

_Helena Solà Martín. Human Rights Adviser, Latin America Programme at World Organisation Against Torture (OMCT)_

The prohibition of torture and other forms of ill-treatment is universally recognised and included in major international and regional human rights instruments, which all recognise the absolute and non-derogable nature of the prohibition of torture. Article 12 of the Colombian Constitution establishes that “no one shall be subjected to enforced disappearance, torture or cruel, inhuman or degrading treatment or punishment”. However, human rights organisations fighting against torture in Colombia have found that torture and ill-treatment continue to be a reality in the country. Torture usually does not occur in isolation, but rather occurs repeatedly in certain contexts or is directed against certain social sectors. The UN Committee Against Torture (CAT) recently expressed concern about the serious prison situation; the magnitude and invisibility of sexual violence against women, children and adolescents; the excessive use of force against those demonstrating peacefully; and torture that occurs during enforced disappearances, arbitrary detentions and extrajudicial executions. Considering the magnitude of the problem, especially in the context of armed conflict, an eventual transitional process and in particular, the development and implementation of the legal framework for peace, the following parameters should be carefully observed:

- The processes in place to clarify truth must include a comprehensive register and analysis disaggregated by age, gender and type of torture, among other criteria, for cases of torture and cruel, inhuman or degrading punishment or treatment;
- The right of victims to truth, justice, reparation and non-repetition can only be guaranteed if responsibilities are determined and those responsible are punished with penalties which take into account the seriousness of the crime. Given that torture and ill-treatment are an abominable violation of human dignity and human rights, all obstacles should be
removed to allow the prosecution and punishment of those responsible, because these obstacles frustrate victims in their attempts to obtain redress and contribute to a climate of impunity that inevitably threatens the prospect of a sustainable and lasting peace.

- Under no circumstances should the military courts have jurisdiction to investigate, prosecute and, if applicable, punish those suspected of human rights violations, including torture and cruel, inhuman or degrading treatment.

c) Return of Colombian refugees and people in exile

(Text by Oidhaco, based on interviews with Colombian refugees in Europe)

The United Nations High Commissioner for Refugees (UNHCR) estimates that more than 327,000 people have crossed the Colombian border in search of refuge. Having left the country, Colombian refugees have to restart their lives elsewhere leaving behind their families, their property, their studies or their work. They have had to integrate into new societies in conditions of inequality, starting new jobs or trying to find work in their profession. Many of these people have left the country because of their political, social or trade union activities or opinions, for which they were attacked or had unfair legal proceedings brought against them. As refugees or asylum seekers they have had to reinvent their lives outside their social environment.

In the new context brought about by the peace negotiations, refugees and asylum seekers are considering whether to return. They are calling for a “dignified return”, that is to say, a return with guarantees for their human rights without suffering stigmatisation. But they also expect guarantees for their political rights, to enjoy their freedom of thought and opinion without fear of being victimised again. It is particularly important for those who have been victims of legal proceedings that their criminal or administrative records are reviewed to provide guarantees for their right to defend themselves. In other words, in order for them to be able to return to the country, conditions of safety should be guaranteed so that they can return to their social roles, as active people in their communities and environments.

Given that many refugees were victims of the paramilitaries, the effective dismantling of paramilitary groups is fundamental. The persistence of these armed groups in refugees’ regions of origin represents a serious danger to them restarting their lives, especially in terms of their social roles within their communities where they were often recognised as leaders. On a broader spectrum, it is necessary that the armed groups responsible for the crimes that led to their departure from the country, are effectively dismantled or purged, and that such crimes do not go unpunished.

Refugees who plan to return to the country, wish to participate in the reconstruction of the social fabric and contribute to democracy in Colombian society. Consistent with national and international law, they are also entitled to be considered and treated as victims and to be granted the rights that they are due.

See http://www.acnur.org
Conclusions

The creation of Oidhaco in 1995 and the establishment of a working dynamic with partners in Colombian Coordination Groups, was a result of the need to raise awareness and involve the European Union and the states of Europe in supporting the cause of human rights and the search for peace in Colombia. This helped to change the prevailing vision of Colombia as a forgotten conflict and to better illustrate the real social, economic and political reasons for that conflict. Within the United Nations, this new vision has been discussed in the former Human Rights Commission and the present Council, presenting the view of human rights organisations and echoing the voice of the victims.

Oidhaco has maintained an ongoing dialogue with representatives of the European institutions, thereby contributing to moving the exclusive focus of the fight against drug production and trafficking, to the situation of human rights of the Colombian population and the victims. This dialogue has also ensured that trade relations between the EU and Colombia take into account their impact on human rights, although clear and transparent monitoring mechanisms have yet to be built. Fundamental advocacy work has also been carried out with Norway and Switzerland.

Oidhaco has exposed risks to human rights defenders, and reported the attacks against them, continuing to stress their ongoing risk situation and the impunity for these attacks. The need to provide guarantees for the defence of human rights and for those who exercise the right to peaceful demonstration, remains one of the main demands of our international work.

The opportunity to achieve peace in Colombia, brings with it challenges related to transitional justice and guarantees for the rights of victims. In particular, there is concern over current national government initiatives to expand the scope of military courts thereby ensuring the impunity of state agents. The victimisation of women has led to women's organisations playing a leading role in the search for peace and in the adoption of the Law on Non-violence against women, which is still far from being fully implemented. The issue of land rights has been, is and will remain to be one of the major causes of social conflict in Colombia. The restitution of lands stolen during the war and the responsibilities of companies with activities and interests that affect the rights of communities, including the right to the environment and to water, in particular for Afro-descendant communities and indigenous peoples, are part of the issues and challenges for peacebuilding.

Communities are resisting in their territories and they need international support and solidarity. This is illustrated by the situation of Afro-Colombian communities in Buenaventura; communities in Curbaradó seeking land restitution; the struggles of the indigenous Awá People to be respected by the parties in the armed conflict; communities and trade unions affected by the vast El Cerrejón coal mine; and the struggle of
the Living Rivers organisation, criminalised for exercising the right to social protest. These situations have been assumed by Oidhaco as emblematic cases. After 20 years, the international work of Oidhaco and its partners in Colombia seems to be experiencing an optimistic phase in light of the ongoing peace negotiations. It is fundamental to raise awareness on the challenges identified by Colombian coordination groups, for example, the situation of children and young people, overcoming violence against women, and care for victims of torture, are just some of the challenges that have been illustrated in this publication. These challenges are of huge importance to Colombian society and the international community, so that the oldest armed conflict in Latin America can finally be overcome.

Notes on emblematic cases

93 Publication entitled “Justicia Evasiva: La lucha por la tierra y la vida en Curvaradó y Jiguamiandó”; June 2013; www.colombialand.org
94 “Banacol: A company implicated in paramilitarism and landgrabbing”; a joint project of TNI, IGO in Poland and FDCL in Germany; May 2012; https://www.tni.org
95 Ibid.
96 Incora: Resolution 02809 and 02801, November 2000
97 Court of Administrative Disputes (Tribunal Contencioso Administrativo), Chocó Department, Sentence 0073, 5 October 2009
99 “Paramilitares aseguran que no se irán de Curbaradó”, Inter-Church Justice and Peace Commission (Comisión Intereclesial de Justicia y Paz), 26 April 2011 (article in Spanish).
100 Federation of Communities Displaced by Mining in La Guajira (Federación de Comunidades desplazadas por la Minería en la Guajira)
101 Association of Indigenous Wayúu Authorities and Chiefs in the South of La Guajira (ASOCIACIÓN DE AUTORIDADES Y CABILDOS INDÍGENAS WAYÚU DEL SUR DE LA GAJIRA)
102 Communities building peace in their lands. See: https://comunidadesconpaz.wordpress.com/
103 Between 1986 and 1994, more than 245 people were killed, many after being tortured, in the area of Trujillo, in the department of Valle del Cauca.
The Oidhaco network members are:

**Germany**
- kolko - Menschenrechte für Kolumbien
- Bischöfliches Hilfswerk Misereor e.V.
- Pan para el Mundo - Servicio Protestante para el Desarrollo

**Belgium**
- Broederlijk Delen VZW
- Comité pour le Respect des Droits Humains “Daniel Gillard”
- FOS - Socialistische Solidariteit
- Solidarité Socialiste – FCD (SolSoc)

**Spain**
- Associació Catalana per la Pau
- ATELIER : Asociación de Técnicos especialistas en Investigación y Estudios sobre la realidad Latinoamericana
- Cooperacció
- Federación de Asociaciones de Defensa y Promoción de Derechos Humanos
- Intermon Oxfam
- ISI internacionalista
- Justicia por Colombia
- Pachakuti Soldepaz
- PTM Mundubat
- Taula Catalana per la Pau i els Drets Humans a Colòmbia

**France**
- ACAT - Action des chrétiens pour l’abolition de la torture
- CCFD- Comité Catholique contre la Faim et pour le Développement - Terre Solidaire
- Le Réseau de Solidarité France Colombie

**United Kingdom**
- ABColumbia
- Christian Aid
- OxfamGB
- Colombian Caravana UK Lawyers’ Group

**Italy**
- Rete Italiana di Solidarieta Colombia Vive!

**Sweden**
- Diakonia Suecia
- Plataforma Sueca por Colombia

**International**
- Amnesty International
- OMCT - Organización Mundial Contra la Tortura
- Peace Brigades International - Colombia
- FIDH - Fédération Internationale des Droits de l’Homme -

**Austria**
- DKA - Austria

**Netherlands**
- Cordaid
- MM - Mensen met een Missie

**Norway**
- FOKUS – Forum for Women and Development

**Switzerland**
- Grupo de trabajo Suiza - Colombia
The International Office for Human Rights Action on Colombia (OIDHACO) represents a network of 36 European organisations. From its headquarters in Brussels, OIDHACO supports Colombian social initiatives which work towards the respect of human rights and international humanitarian law, and a negotiated solution to the armed conflict. Since 2012, OIDHACO has held special consultative status within the United Nations Economic and Social Council.