

Human rights situation in Colombia

DROI hearing - 19 March 2012

The Human Rights situation in Colombia remained very serious in 2011 and the beginning of this year was not promising. We would like to offer for your information a number of facts and examples that reflect this situation:

Serious and systematic violations of human rights and international humanitarian law (IHL) continue

Between 2002 and 2007 more than 1,122 extrajudicial executions were committedⁱ and as highlighted by the Office of the UN High Commissioner for Human Rights (UNHCHR) in its latest report *"extrajudicial executions have not been totally eradicated"*ⁱⁱ. In its recent follow-up report, the United Nations Working Group on Enforced Disappearances expressed *"its serious concern given that enforced disappearance continue to be a persistent practice"* in Colombiaⁱⁱⁱ. And the latest report of the Office of the UNHCHR highlights the fact that *"Despite the existence of a legal framework that is rights-based and provides for protection against enforced disappearance, the magnitude of the phenomenon and the level of impunity are disturbing"*^{iv}. According to UNHCHR, *"By October (2011), the National Registry of Disappeared Persons cumulatively recorded 62,745 disappeared persons (...), of which 16,884 are alleged enforced disappearances"*. The Working Group on Enforced Disappearances also expressed its concern regarding threats and public defamation against those who denounce acts of enforced disappearances.

Also of concern is the persistence of the Colombian government in denying the existence of paramilitary groups. **Despite their supposed demobilisation, paramilitaries or "new illegal armed groups" continue to operate.** The Working Group on enforced disappearances *"notice(d) the continuing persistence of paramilitaries groups, their remerging or rearming as well as their criminal actions. This situation is worsened by the lack of a consistent governmental policy of administrative purging of the members of the Public Forces and other State security and intelligence agencies that have links with these groups"*. And as mentioned by UNHCHR in its January 2012 report *"The number of massacres and victims attributed to such groups continues to rise"*. Moreover, UNHCHR *"continues to be concerned about indications that these groups benefit from the collusion of some local authorities and members of security forces"*^{vi}.

As highlighted by the UNHCHR in its report, over 50% of the population lives in areas affected by the armed conflict. This conflict is accompanied by many violations of international humanitarian law. According to this report, the FARC-EP and ELN continue to systematically infringe international humanitarian law by committing homicides, violation of the principle of distinction, and the use of land mines among others. The majority of the violations of the principle of distinction reported by the Office of the UNHCHR in Colombia were attributed to members of the Army.

Impunity for the vast majority of the crimes perpetrated

Impunity has been reinforced by the "demobilization" of illegal armed groups which in reality represents a "de facto" amnesty for the more than 30,000 demobilized combatants^{vii} (only 6 sentences in 7 years of implementation of the 'justice and peace' law 975)^{viii}. **Reforms currently being adopted for the implementation of transitional justice** (part of a "legal framework for peace") **and attempts to increase military jurisdiction could entrench impunity to an even greater extent**, by among other things including an amnesty for members of the state security forces, including in cases of war crimes and crimes against



humanity. This could lead to the perpetuation of these crimes. The reforms also violate international standards for the right of victims to truth, justice and reparation. Recent declarations by President Santos in reaction to a legal ruling which ordered the State to ask forgiveness for enforced disappearances do not indicate an improvement in this regard^{ix}. Both the UNHCHR and the UN Working Group on enforced disappearances have expressed their concern regarding this situation^x.

Deep increase of attacks against human rights defenders and continuation of illegal surveillance

Those individuals who struggle to defend human rights in Colombia (whether victims' organisations, journalists, lawyers, women, trade unionists, community leaders, indigenous peoples, small farmers and Afro-Colombians) continue to be the target of numerous attacks, threats and acts of harassment. **Over the last few weeks, persecution and harassment against the human rights defenders and other forms of social movements** that promoted the mobilization of 6 March to commemorate State's crimes victims **have been particularly strong**. This year, the mobilization aimed at particularly denouncing land grabbing and the lack of a real policy for land restitution. **In the year 2011, 239 human rights defenders suffered attacks, 49 of which were murdered and 6 disappeared**, which represents a deep increase in comparison with 2010 (32 human rights defenders murdered)^{xi}. Those who struggle for the protection of the environment and those who lead land restitution processes are particular targets of these attacks. Of particular concern is the re-emerging of enforced disappearance among modalities of attacks.

Faced with this situation, the Colombian government has not taken appropriate measures. As noted in the report of the International Service for Human Rights¹, those measures which have been taken have not reflected an improvement in the situation of human rights defenders.

As highlighted by the UNHCHR in its recent report, **despite the recent dismantling of the Department of National Security (DAS) human rights defenders continue to report surveillance, interceptions and other illegal activities by the intelligence services against them**. The transfer of the member of former DAS to other institutions such as the Attorney General's Office (Fiscalía), national police, and including the new protection unit for human rights defenders without prior purging is to worry about. While progress has been made in terms of justice with regard to these acts, the purging of the files is not yet effective. And as mentioned by the UNHCHR, huge challenges remain with regard to the implementation of the new intelligence law^{xii}.

Recent attacks against the NGO CAJAR (Colectivo de Abogados José Alvear Restrepo) reflect this situation:

On Wednesday, 1st of February 2012, Diana Maria Barrios Sabogal, daughter of CAJAR lawyer Rafael Barrios Mendivil, was attacked by strange men when she was in a taxi, after leaving her office at the Attorney General's Office (Fiscalía). These events coincided with the confirmation by the High Court of Bogota of the 30 years conviction against Colonel (r) of the National Army Luis Alfonso Plazas Vega, for crimes of enforced disappearance in the case of Justice Palace, and with the above mentioned statements by President Santos against the Court's decision. On 30 January, day of the Court's decision, a police officer who posed as a taxi driver was seen taking pictures of two members of CCAJAR. Likewise, the smear campaign against CCAJAR due to their work on the DAS case continues. Finally, the lawyer Alirio Uribe Muñoz, president of CAJAR, noticed constant blocking and repeated interferences on his cell phone in the context of his participation in the on-going criminal proceedings against former Peace Commissioner Luis Carlos Restrepo for false demobilization.

¹ International Service for Human Rights, Human Rights Defenders in Colombia - How is the Government protecting their rights?, Bogotá, Colombia - December 2011 - <http://www.ishr.ch/council/376-council/1244-ishr-launches-report-on-human-rights-defenders-in-colombia>



Increase of threats against trade unionists

Colombia continues to be the most dangerous country in the world for trade unionists. According to a recent report by UNDP 2.800 trade unionists have been murdered since 1984, 216 disappeared and 163 taken as hostages^{xiii}. The project coordinator, Carlos Miguel Ortiz explained that *"the murder rate is very high from any point of view. There is a decreasing trend since 2003, but we are still worried as it never descends under 30 homicides per year"* (...) *"Threats have increased since 2007. We should ask us whether it is a drop in violence or a transformation of its manifestations"*. Impunity for violence against trade unionists is widespread: Colombia has obtained convictions in only 223 cases, of which only 25% of the decisions identify the material author and 7,8% the intellectual author. De acuerdo con las cifras, grupos paramilitares serían los autores en el 14% de los homicidios, las guerrillas del 5,1% y agentes del Estado del 1,7%. El Sr. Ortiz indicó que *"la delincuencia común tiene un porcentaje bajísimo, casi insignificante, lo que contrasta con la tesis de que los sindicalistas han sido asesinados para robarlos"*^{xiv}. And in the first 2 months of 2012, **at least 5 trade unionists were murdered**^{xv}.

Forced displacement and Law on Victims and Land Restitution

In Colombia the crime of forced displacement continued to occur. **Colombia is one of the countries with the highest population of internally displaced persons in the world**, with between 3.3 and 5.5 million displaced people, including 89,750 newly displaced people during the first six months of 2011^{xvi}. Mass displacements (those that affect more than 10 households or 50 people) increased in 2011; the government agency Acción Social reported 80 cases between January and early November 2011, in comparison with the 59 reported throughout 2010.² It is important to highlight that, **between 2007 and March 2010 1,499 displaced people were killed**^{xvii}. **The magnitude of the crisis of dispossession of land in Colombia has reached between 6.8 and 10 million hectares**^{xviii}. Although the Government has announced that under the new **Law on Victims and Land Restitution** in Colombia (Law 1448 of June 10, 2011) it will recognize the legal ownership of land to victims of forced displacement who reclaim the restitution of their lands, **the law contains many limitations, and if it is not implemented impartially and independently, it could**, as highlighted by the Office of the UN High Commissioner for Human Rights (UNHCHR) in its report of January 31, 2012, **instead "have a re-victimizing effect" and "run the risk of legalizing illegal land appropriation, rather than providing justice for victims"**^{xix}. The lack of protection for people leading processes for the restitution of stolen lands is also of serious concern: **in 2011 alone, 28 people linked to land restitution processes were murdered**. These concerns were also highlighted by High Commissioner for Human Rights Navi Pillay, during the on-going session of the UN Human Rights Council.

CONCLUSIONS

In the face of the lack of guarantees for the fulfilment of human rights in Colombia, continued impunity, the persistence of the armed conflict, as well as the lack of mechanisms in the Agreement to guarantee real protection for human rights, ODHACO considers that the European Parliament should not ratify the Agreement with Colombia while there are not significant changes with regards to these issues. The ratification of the Agreement with Colombia would give out a signal of approval for the policies of the Colombian government, and ignore the serious violations of human rights and international humanitarian law committed in the country.

ⁱ Coordinación Colombia-Europa-Estados Unidos (Colombia-Europe-United States Coordination Group) "Extrajudicial Executions: A reality that cannot be covered up 2007 -2008"

² Human Rights Watch, World Report 2012, <http://www.hrw.org/world-report-2012>



- ii Report of the UN High Commissioner for Human Rights on the situation of human rights in Colombia, A/HRC/19/21/Add.3, January 31, 2012
- iii United Nations Working Group on Enforced or Involuntary Disappearance, 13 February 2012, A/HRC/19/58/Add.4, (non official translation)
<http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session19/Pages/ListReports.aspx>
- iv UNHCHR Report, January 31, 2012
- v Prec. - non official translation
- vi UNHCHR Report, January 31, 2012
- vii Only 136 cases have been transferred to the justice system, of a total of more than 50,000 confessed crimes.
- viii UNHCHR, prec.
- ix See CCEEU - El perdón se le debe pedir a las víctimas, no a los victimarios (*They need to ask forgiveness for the victims, not the aggressors*), February 6, 2012, [http://www.oidhaco.org/?art=1156&title=CCEEU -El perdón se le debe pedir a las víctimas, no a los victimarios&lang=es](http://www.oidhaco.org/?art=1156&title=CCEEU-El%20perd%C3%B3n%20se%20le%20debe%20pedir%20a%20las%20v%C3%ADctimas,%20no%20a%20los%20victimarios&lang=es) (in Spanish)
- x Prec.
- xi Annual Report of the Information system of attacks against human rights defenders in Colombia – SIADDHH of the Somos Defensores Programme, http://www.somosdefensores.org/index.php?option=com_content&view=article&id=105:2011-cada-8-dias-fue-asesinado-un-defensor-de-derechos-humanos-en-colombia-&catid=20:informe-siaddhh-2011&Itemid=11
- xii Informe OACNUDH, prec.
- xiii Semana, Aumentan amenazas contra sindicalistas en Colombia: Pnud, 12 de marzo de 2012, <http://www.semana.com/nacion/aumentan-amenazas-contra-sindicalistas-colombia-pnud/173661-3.aspx>
- xiv Ibid.
- xv Sinaltrainal, Nueva Avalancha De Homicidios De Sindicalistas Colombianos (*A new avalanche in murders of trade unionists*), February 6, 2012, http://www.sinaltrainal.org/index.php?option=com_content&task=view&id=2164&Itemid=48 and http://www.sinaltrainal.org/index.php?option=com_content&task=view&id=2194&Itemid=1 (in Spanish)
- xvi CODHES, Codhes Informa, Boletín de la Consultoría para los Derechos Humanos y el Desplazamiento CODHES, De la seguridad a la prosperidad democrática en medio del conflicto, Número 78, (*Newsletter, Consultancy for Human Rights and Displacement, CODHES, From Security to Democratic Prosperity in the midst of conflict, Number 78*) Bogotá, Quito, September 19, 2011, <http://www.codhes.org/images/stories/pdf/codhes%20informa%20resumen%20ejecutivo%20bolet%C3%ADn%20no%2078.pdf> (in Spanish)
- xvii Report of the UN High Commissioner for Human Rights on the situation of human rights in Colombia, A/HRC/16/22, February 3, 2011
- xviii According to figures from the land protection Project of Acción Social (a state body in Colombia charged with attending to internal displacement), the amount of land belonging to the displaced Population in 2005 was 6.8 million hectares; while according to the National Movement of Victims of State Crimes (Movimiento Nacional de Víctimas de Crímenes de Estado – MOVICE) in their 2007 report *Catastro alternativo, estrategia contra la impunidad herramienta para la reparación integral*, (*Alternative Land Register, strategy against impunity and tool for comprehensive reparation*), the figure is 10 million hectares. See Área de Memoria Histórica, Comisión Nacional de Reparación y Reconciliación, Línea de Investigación Tierra y Conflicto, El Despojo de Tierras y Territorios. Aproximación conceptual, (Historical Memory, National Commission for Reparation and Reconciliation, Investigation into Land and Conflict, Land Grabbing, Conceptual Approximation), July 2009, http://memoriahistorica-cnrr.org.co/archivos/arc_docum/despojo_tierras_baja.pdf (in Spanish)
- xix Report of the UN High Commissioner for Human Rights on the situation of human rights in Colombia, A/HRC/19/21/Add.3, January 31, 2012

