



With FTA Secured, Colombia Takes Steps Backwards on Human Rights

Labor Rights at Risk under Santos Administration

20 Dec 2011



On October 12, the same day that the U.S. Congress passed the U.S.-Colombia Free Trade Agreement (FTA), a group of over sixty Afro-Colombian victims protested in Bogotá. The marchers, internally displaced leaders from the conflict areas of Chocó, Cauca, Valle del Cauca, Nariño and Bolivar, had a clear message, “We are marching for our right to life. The government does not protect us. We are killed, threatened and displaced so that Colombia and outside investors can make a profit off of the natural resources found in our lands. We say no to the U.S.-Colombia FTA.” While it was not uncommon to hear such statements under President Uribe’s reign, it was sobering to hear it under the Santos Administration.

Shortly after Juan Manuel Santos was inaugurated in August 2010, his administration swiftly distanced itself from former President Uribe’s anti-human rights and anti-trade unionist rhetoric, reopening dialogue with civil society. President Santos also set out to pass an important law recognizing the rights of victims. U.S. policymakers and civil society welcomed Santos’ tone and initiatives. Many were hopeful that these actions served as indicators that Colombia was opening a new chapter on human rights and correcting past injustices. Labor rights remained a serious concern in debates over the U.S.-Colombia FTA, and Presidents Obama and Santos presented an April 2011 Labor Action Plan to address the country’s disastrous record of labor abuses. While the new rhetoric, the victims’ law and the Labor Action Plan did not address the ongoing internal armed conflict or root causes of Colombia’s long-standing human and labor rights issues, they were steps forward that facilitated the passage of the U.S.-Colombia FTA in the U.S. Congress.

It has since become clear that Colombia has not advanced as much as many hoped prior to the FTA vote. In fact it is now taking backwards steps on human rights. A recent delegation of international experts from fifteen countries, who participated in a verification commission to analyze the protection of human rights defenders in Colombia in November, reported that fifty-four human rights defenders were killed between July 2010 and May 2011. Land activists, human rights NGOs, lawyers and victims’ representatives’ are routinely subjected to death threats, spurious proceedings, unfounded accusations, illegal surveillance and robberies at their workplaces. Threats received by defenders are not investigated, nor are the perpetrators arrested. Human rights defenders from different regions and backgrounds, including Afro-Colombians and internally displaced persons (IDPs), noted to WOLA that under the Santos administration their protective measures have either been taken away, or that existing measures are failing to protect them. When defenders complain to officials about their security situation they are given the bureaucratic runaround or simply ignored.

Right wing pundits and high-level officials within the Colombian government are meanwhile taking advantage of the controversy generated by the Mapiripán case, in which a victims’ relative rescinded her original testimony, to discredit human rights organizations and the Inter-American Commission of Human Rights. Several persons are jumping on the bandwagon to attack human rights defenders and allege that

human rights organizations and victims are presenting fraudulent claims in order to obtain money from the State. Former Advisor Jose Obdulio Gaviria, for example, newly attacked longtime WOLA partners the Justice and Peace Commission for defending the rights of Afro-Colombians in Curvaradó and founder of the National Victims Movement against State Crimes (MOVICE) and now Congressman Ivan Cepeda. In the Las Pavas, Bolívar, displacement case, the region's Prosecutor General accused the community of defrauding the state by falsifying claims of displacement. This office also accuses Jesuit priests and professors and the Jesuit nongovernmental group CINEP of aiding Las Pavas victims to manufacture fraudulent claims of displacement.

While attacks on human rights defenders continue, Colombia's Congress, with President Santos' blessing, is pushing forward a judicial reform bill that, if approved, will pose a major setback for justice in egregious human rights cases. This bill will change Colombia's Constitution to allow the military to judge abuses of civilians' human rights. This is likely to all but guarantee impunity for the soldiers involved in thousands of extrajudicial killings cases. These include cases where soldiers took innocent civilians, usually poor rural farmers or disenfranchised urban youth, tortured and killed them, dressed the bodies up in guerrilla uniforms, and then presented them as guerrillas killed in combat to inflate the figures of combat kills. If this bill passes its final rounds of voting between March and June 2012, it will undo 15 years of attempts to get human rights cases into the civilian justice system, seriously undermine victims' and their families' rights to truth, justice and reparations, and directly contradict human rights conditions set forth in U.S. foreign aid legislation, which may hold up some military assistance to Colombia.

Colombia is also slipping backwards when it comes to the rights of Afro-Colombian victims. On December 10, President Santos' "special faculties to correct the errors in the development of the Victims' and Land Restitution Law" passed without the State respecting Afro-Colombian communities' right to free, prior, and informed consultation. The Victims' and Land Restitution Law served as a historic opportunity to recognize the rights of countless victims of the internal armed conflict, which has disproportionately affected Afro-Colombian and indigenous peoples. By moving forward with a law without a proper prior consultation process with Afro-Colombian groups, Colombia has, in essence, re-victimized the victims and squandered a key opportunity to right wrongs committed against a marginalized and disenfranchised group. Additionally, it has set a negative precedent on the previous consultation process with ethnic minorities. This is highly problematic, as all previous consultation processes for development projects linked to the FTA in Afro-Colombian lands are likely to follow this model. Likewise, a recent controversy surrounding a photo published by Spanish magazine "Hola," in which two Afro-Colombian servants are pictured as decorative objects alongside one of Cali's upper class white families, indicates that Colombia's recently passed anti-discrimination law is not enough to address racial discrimination in Colombian society.

U.S. policymakers' focus on labor issues, including assassinations of trade unionists and exploitative third-party cooperatives, has led to more attention being paid to these concerns, and to some changes. The number of trade unionists killed in 2011 is fewer than in previous years. Nevertheless, trade unionists continue to be killed and threatened in alarming numbers. After the FTA's passage, WOLA received reports of death threats against members of the CUT, SINALTRAINAL and the USO.

A letter from the United Steel Workers (USW) to Secretary Clinton eerily describes the November 9 attack against the family of SINALTRAINAL Executive Committee Member Juan Carlos Galvis. On that day, two paramilitaries, covered by closed motorcycle helmets, broke into Juan Carlos' home in Barrancabermeja and assaulted his wife and children. One paramilitary pointed a gun at Carlos' daughter, who suffers from Down's syndrome, and threatened to kill her if Carlos's wife screamed. They bound and gagged another child and Carlos's wife and then proceeded to spray paint her face, hair and clothing red. Before leaving the premises they sprayed graffiti throughout the home. The men left with two computers and memory drives. On December 9, the murdered body of another SINALTRAINAL member, John Fredy Carmona Bermúdez, was found in the Aragon de San Antonio neighborhood of Medellín. Last week, Black Eagles paramilitaries sent a death threat to Senator Alexander Lopez Maya, a former trade unionist and a key labor rights defender, as well as to the CUT and former members of the trade union SINTRAEMCALI who are holding a hunger strike. These workers were illegally fired in 2004 for belonging to SINTRAEMCALI. The case has received widespread attention and has come before the International Labor Organization, but the workers still await justice.

Major obstacles remain to fully achieving the labor commitments set forth by the Labor Action Plan. One of the Plan's intents was to do away with the exploitative third party contracting model known as associative labor cooperatives (CTAs), which impede labor organizing and the formation of trade unions. Colombia responded by passing a law banning the so-called CTAs. The reality is that this exploitative model continues to exist in many sectors, including oil palm, sugar, ports, petroleum and others under different names such as "Simplified Stock Companies."

Recent labor conflicts in the oil palm and oil sectors show just how difficult it is for Colombia to change such exploitative labor practices. While some labor activists in these sectors note that they have had meetings with government officials to discuss labor conditions and protective measures, the model itself and the threats against the workers persist. In one of these third-party contracted sectors, an activist confided to WOLA that in early December, after almost a year of national and international advocacy, the government finally sent over a delegate from the Ministry of the Interior to talk to labor activists about their security problems. The meeting resulted simply in a meeting: no concrete actions were taken. By this point, the slow response of the government and lack of guarantees for these activists' security has led several leaders to stop organizing for labor rights. Colombia slipping back on labor and human rights is a major concern as the U.S. moves forward on implementing of the FTA.