

# Armed Conflict and Human Rights in Colombia

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## Colombia

Colombia, a country in South America with a population of around 44 million, is considered to be one of the oldest and most stable democracies in the region. However, alongside democracy in Colombia, there is also an armed conflict, which some consider to have begun at the end of the 1940s. The fact that Colombia has maintained its democratic tradition while experiencing so lengthy a period of armed conflict, in which there have been so many victims and deaths, has resulted in international bodies such as the United Nations and humanitarian and ecumenical organizations devoting particular attention to the human rights situation in Colombia.

As social organizations, churches and national and international ecumenical organizations facing this situation, we have the challenge to strengthen the work of support and accompaniment to those who are working in the defence of human rights, seeking justice and creating conditions to overcome the armed conflict by means of dialogue and political negotiation.

The situation in Colombia, from the human rights perspective in relation to the armed conflict, was described by the United Nations High Commissioner for Human Rights (UNHCHR) in her 2007 report as follows:

Colombia has been seriously affected by an internal armed conflict for more than 40 years. It has also become increasingly evident that the illegal armed groups are directly or indirectly involved in drug-trafficking, and are associated with local and international networks of organized crime and corruption. The complex relationships between all these factors, added to persistent structural problems such as impunity and limitations of access to justice, inequality and discrimination, continue to affect the human rights situation negatively.<sup>1</sup>

## Armed Conflict and Democracy

The armed conflict in Colombia that the High Commissioner refers to originated, according to various analysts, between 1948 and 1958. That decade is known as the period of “the violence”, when more than 200,000 Colombians died in an inter-party civil war between liberals and

<sup>1</sup> Report of the UN High Commissioner for Human Rights on the situation of human rights and international humanitarian law in Colombia (from 1 January to 31 December 2007), to the United Nations General Assembly, A/HRC/7/39. 6.4 <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G08/110/41/PDF/G0811041.pdf?OpenElement> (Accessed 14.12.2010).

conservatives. That war ended with the National Front, which was a negotiated power-sharing agreement between two of the parties that had been in conflict. However, some groups and communities refused to hand in their weapons or recognize the political agreement entered into by the leaders of the two parties. Out of some of those groups and communities that did not accept the agreement there arose guerrilla movements that mounted an armed revolt against the governing liberal-conservative coalition of the 1960s. The families and groups that were part of that coalition have held on to power until the present day by controlling the government, and some of the armed groups that arose at that time have continued to fight against what they consider a restricted democracy that refuses to allow any party or individuals other than those in government to take power.<sup>2</sup> The guerrillas of the Armed Revolutionary Forces of Colombia (FARC) and the Army of National Liberation (ELN) claim that, whenever they have attempted to enter into a peace process, their militants and leaders have been killed. An example of this situation is the Patriotic Union (UP), a party formed out of a peace agreement between the FARC and the government of Belisario Betancur in 1984. The UP took part for the first time in the 1986 elections and obtained substantial results that made it part of the national political scene: 14 congress members were elected to the Chamber and the Senate, 18 deputies and 335 town councillors. Two months later, the UP's candidate for the presidency, Jaime Pardo Leal, obtained 10% of the national vote. However, immediately after its first participation in elections, a plan was formed to eliminate party activists, their family members and their sympathizers. That murderous attack on the UP resulted in the killing of two presidential candidates, nine members of congress, 70 councillors, and dozens of deputies, mayors, leaders of community organizations, trade union and student leaders, persons involved in cultural activities and the administration of justice, professional people and hundreds of local activists. No organ of the state took action to prevent this massacre, nor did anyone take effective action to bring the crimes to light and punish those responsible. This was an alarming and typical case of an attack on an opposition political movement that involved the murder of more than 3000 of its members, thereby weakening it politically.<sup>3</sup>

The war has varied in intensity during all these years. During the 1960s and 1970s, it became a low-intensity conflict between the guerrillas<sup>4</sup> and the state under the doctrine of national security promoted by the United States. However, from the 1980s until the present day, violence has increased, returning to the levels of the 1940s and 1950s. According to official police figures, 484,714 homicides were recorded between 1987 and 2006. Many of them are regarded as the result of common criminal activity, but in Colombia, the dividing line between common violence and political violence is blurred.<sup>5</sup> Many of these crimes have been committed in the form of collective massacres and selective assassinations of social and political leaders by para-military groups organized by landowners with the support of the Colombian army.

<sup>2</sup> Marc Chemick, *Acuerdo Posible. Solución negociada al conflicto armado colombiano* (A Possible Agreement: A Negotiated Solution to the Colombian Armed Conflict), Ediciones Aurora, Bogotá, 2008, pp. 60–61.

<sup>3</sup> El Genocidio contra la Unión Patriótica, 12 October 2006. <http://www.colectivodeabogados.org/EL-GENOCIDIO-CON-TRA-LA-UNION> (Accessed 14.12.2010).

<sup>4</sup> The guerrilla groups formed in the mid-1960s are: Las Fuerzas Armadas Revolucionarias de Colombia (the Armed Revolutionary Forces of Colombia, or FARC), el Ejército Popular de Liberación (Popular Army of Liberation, or EPL), and el Ejército de Liberación Nacional (National Liberation Army, or ELN). In the 1970s, further guerrilla groups arose: M 19 and Quitín Lame.

<sup>5</sup> Marc Chemick, *Acuerdo Posible*, p. 61.

The armed conflict has been maintained by the combination of structural, institutional and social factors that increase the inequality reflected in the concentrated ownership of cultivable land and the absence of the state in large areas of the national territory. In recent years, the sectors in power have united with international economic interests to gain possession of the best land, which is the source of wealth for local communities, thus increasing poverty and exclusion for millions of people and turning Colombia into a country with more than four million internally displaced persons, some 30,000 disappeared persons, and more than 500,000 persons who have sought refuge in other countries. The result is that Colombia has the greatest humanitarian crisis in the southern hemisphere.

## Human Rights and Democracy

The UN High Commissioner for Human Rights has stated on various occasions that, although Colombia is a democracy, the human rights situation in Colombia has been characterized by “grave, massive and systematic violations of those rights,” several of them constituting crimes against humanity.<sup>6</sup> In a report produced in July 2008 by nine Colombian coordinating bodies representing hundreds of social, peace and human rights organizations, the authors show that situations of human rights violations in Colombia continue to be grave, massive and systematic, that in many cases these have become more acute, and that a large number of these violations remain unpunished. These coordinating bodies state that “responsibility for these violations in the majority of cases can be attributed to the Colombian state, either by direct involvement or by connivance or support of para-military groups.” They further point out that at the present time, Colombia is facing a serious crisis socially in the rule of law, consequent upon the executive not respecting separation of powers.<sup>7</sup>

Alongside this situation, Colombia has seen social conditions improving only slowly. In recent years, poverty has decreased five points, from 51% to 46%. Among the poor, the number of those in extreme poverty remains almost the same as in 2002, verging on the scandalous figure of 18%. That means that almost one in five Colombians does not have sufficient income to cover their basic caloric needs, which is the formal way of saying that they are suffering hunger. In round numbers, that means that almost 21 million Colombians are poor; some eight million are in extreme poverty. Economic growth at an average of 5.5% in the gross domestic product between the years 2002 and 2008 further widened the gap between rich and poor in Colombia, according to the Economic Commission for Latin America and the Caribbean (ECLAC). At the beginning of the 21st century, Colombia was among the countries with the highest levels of inequality, and along with Peru and Brazil was almost the worst in Latin America.<sup>8</sup>

<sup>6</sup> “Recommendations for Colombia 2003”, United Nations High Commissioner for Human Rights, [http://www.hchr.org.co/documentoseinformes/documentos/recomendaciones2003/recomendaciones2003\\_EN.pdf](http://www.hchr.org.co/documentoseinformes/documentos/recomendaciones2003/recomendaciones2003_EN.pdf), p. 11 (Accessed 14.02.2010).

<sup>7</sup> *Informe para el Examen Periódico Universal de Colombia. Plataformas y organizaciones de derechos humanos* (Report for Universal Periodic Examination of Colombia: Coordinating Bodies and Human Rights Organizations), Bogotá, July 2008 <http://derechos.humanoscolombia.org.co/> (Accessed 14.12.2010).

<sup>8</sup> María Teresa Ronderos, “Por qué Colombia no sale del club de los pobres?” (Why is Colombia not coming out of the club of the poor?), 13 March 2010 <http://www.semana.com/noticias-nacion/colombia-no-sale-del-club-pobres/136288.aspx> (Accessed 14.12.2010).

This situation has resulted in four United Nations special rapporteurs visiting Colombia in 2009: the rapporteur on extra-judicial, summary or arbitrary executions; the rapporteur on the human rights situation and the fundamental freedoms of indigenous peoples; the rapporteur on the situation of defenders of human rights; and the rapporteur on the independence of the judiciary and lawyers.<sup>9</sup>

## Extra-judicial Executions

The report of the rapporteur on extra-judicial executions<sup>10</sup> indicates that the FARC and ELN guerrillas continue to carry out significant numbers of homicides, particularly to control and spread fear among rural populations, intimidate elected officials, and punish those whom the guerrillas suppose to be collaborating with the government, or for criminal ends. The indiscriminate and inhuman use of anti-personnel mines also instills fear into many people, and kills many.

With regard to extra-judicial executions attributed to the security forces of the Colombian state, the overriding concern of the rapporteur was the incidence of the so-called *falsos positivos* (false positives),<sup>11</sup> and the examples that have received most publicity, such as the killing of young people in Soacha in 2008.

According to the rapporteur, these killings are a phenomenon that takes the following form. A “recruiter” tricks the victims by making false promises, and then takes them to a remote location. Shortly after their arrival, members of the army kill the victims. Then the place where the deed has taken place is rearranged to give the appearance that the victims were legitimately killed in a fight. Often those killed are photographed wearing guerrilla uniforms and holding a weapon or grenade. The victims are usually buried anonymously in common graves and the killers are rewarded for their efforts in the fight against the guerrillas. The rapporteur states in his report that there are two problems with these “false positives”:

The first is that the term provides a sort of technical aura to describe a practice which is better characterized as cold-blooded, premeditated murder of innocent civilians for profit. The second is that the focus on Soacha encourages the perception that the phenomenon was limited both geographically and temporally. But while the Soacha killings were undeniably blatant and obscene, my investigations show that they were but the tip of the iceberg. I interviewed witnesses and survivors who described very similar killings in the departments of Antioquia, Arauca, Valle del Cauca, Casanare, Cesar, Córdoba, Huila, Meta, Norte de Santander, Putumayo, Santander, Sucre, and Vichada. A significant number of military units were thus involved.<sup>12</sup>

<sup>9</sup> Annual Report of the United Nations High Commissioner for Human Rights on the human rights situation in Colombia. A/HRC/13/72, March 2010.

<sup>10</sup> Statement by Professor Philip Alston, United Nations Special Rapporteur for arbitrary executions. Mission to Colombia, 8–18 June 2009. Press release.

<sup>11</sup> The name given by the government and the army to this type of extra-judicial executions.

<sup>12</sup> Statement by Professor Philip Alston, United Nations Special Rapporteur for Arbitrary Executions. Mission to Colombia, 8–18 June 2009. Press release.

The rapporteur further said that some government officials continue to state that many of these are cases of legitimate killings of guerrillas or others. However, the evidence – including ballistic and forensic reports, eyewitnesses' statements, and soldiers' testimonies – clearly indicates that this is not the case, since the “dangerous guerrillas” killed have included youth aged 16 or 17, a young man with a mental age of nine, a respectable father whose two brothers-in-law are in active military service, and a young soldier on holiday leave visiting his family. He states:

I cannot rule out the possibility that some of the falsos positivos were, in fact, guerrillas, but apart from sweeping allegations, I have been provided with no sustained evidence to that effect by the Government. Evidence showing victims dressed in camouflage outfits which are neatly pressed, or wearing clean jungle boots which are four sizes too big for them, or lefthanders holding guns in their right hand, or men with a single shot through the back of their necks, further undermines the suggestion that these were guerrillas killed in combat.

According to the prosecution service of Colombia, there are 1,400 investigations of “false positives” being conducted, of which 1,062 are in the initial stage of investigation. Only 305 of these cases have had investigations formally opened or legal proceedings begun, involving 3,700 military personnel.<sup>13</sup> Around 500 members of the armed services have been arrested, of whom 87 have been found guilty.<sup>14</sup> In August 2010, a few days before the current president of Colombia, Juan Manuel Santos, took office, the national prosecution service shelved the investigation being conducted against him concerning the scandal of extra-judicial executions, called “false positives”, in Colombia. That decision also gave protection to General Freddy Padilla de León, and to Camilo Ospina, the ex-defence minister, who issued the directive approving incentives to military personnel to report successes in the struggle against illegal armed groups, mainly casualties in the course of combat.<sup>15</sup>

## The situation of indigenous people and Afro-Colombians

For his part, the special rapporteur on the situation of the human rights and fundamental freedoms of the indigenous people in Colombia, Professor S. James Anaya, following up the recommendations made by the previous special rapporteur, Professor Rodolfo Stavenhagen, in his report of 2004, expressed his concern at the many indications that the seriousness of the situation of indigenous peoples in the country had not been addressed with the urgency it deserved. The report states: “In general, the laws, programmes and policies of the Government do not ensure effective protection of the human rights of indigenous peoples in Colombia.”<sup>16</sup>

<sup>13</sup> Extrajudicial executions. Bulletin no. 11. Monitoring body for human rights and humanitarian law of the Coordinating Group Colombia-Europe-United States. [www.ddhhcolombia.org.co](http://www.ddhhcolombia.org.co) (Accessed 14.12.2010).

<sup>14</sup> Twenty stalled investigations on faked casualties in Caldas, 27 July 2010. <http://www.lapatria.com/story/estancadas-20-investigaciones-por-falsos-positivos-en-caldas> (Accessed 14.12.2010).

<sup>15</sup> Investigation shelved against Juan Manuel Santos for “false positives”, 4 August 2010. [www.elespectador.com/noticias/judicial/articulo-217223-archivan-investigacion-contra-juan-manuel-santos-falsos-positivos](http://www.elespectador.com/noticias/judicial/articulo-217223-archivan-investigacion-contra-juan-manuel-santos-falsos-positivos) (Accessed 14.12.2010).

<sup>16</sup> Report of the special rapporteur on the situation of human rights and fundamental freedoms of indigenous people, Mr. James Anaya, 25 May 2010, A/HRC/15/37/Add.3.

The report shows that it is clear that the situation of the indigenous peoples is being exacerbated by the internal armed conflict afflicting the country. According to almost all indicators, the armed conflict is affecting the country's indigenous peoples disproportionately. The special rapporteur was given information on an extremely worrying situation of violence and other crimes against indigenous peoples, as well as enforced removals and restrictions on movement that threaten their cultural and physical survival.

The Presidential Monitoring Programme on Human Rights and International Humanitarian Law of the Republic has acknowledged that, regarding the homicides of indigenous people, "Killing one of these persons is not only the end of one life, but also involves an attack on the stability and survival of the tribes."<sup>17</sup> According to this programme, from 1998 to July 2008, 1,075 killings of indigenous persons took place in the country.<sup>18</sup> However, according to other sources, the figures are much higher, recording for the same period 1,365 killings of indigenous persons, as well as other violent attacks on them, including threats (321), disappearances (254), injury (492), and sexual violence and torture (216), among others.<sup>19</sup> For the period January to September 2009, compared with the same period in 2008, the Vice-President's Office of the Republic recorded an increase of 71% in homicides of indigenous persons.<sup>20</sup>

The rapporteur said that the state of Colombia was devoting a high level of attention to indigenous affairs in the form of the development of plans and proposals in response to the recommendations of the previous special rapporteur. However, he added that the government still has major challenges to face in order to fulfill its obligations to effectively protect and promote the human rights and fundamental freedoms of the indigenous peoples, including the right to land and natural resources, and prior consultation with indigenous peoples on decisions affecting them. He also said that at the same time, there are significant gaps in the effective general enjoyment of economic, social and cultural rights by the indigenous peoples compared to the general average of the population.

Afro-Colombian communities and population are also experiencing infringements of their rights. According to the statement of the United Nations Independent Expert on Issues of Minorities, Gay McDougall, Afro-Colombian communities are confronting emerging challenges.<sup>21</sup> They include violence at the hands of various sorts of armed groups, the continuing struggle for their land and territory, enforced relocations, the impact of industrial agriculture and of timber and mining interests, and the "mega-projects" for economic development and exploitation of human resources. Some communities are facing a daily struggle for survival, having been driven off their land and compelled to live in conditions of extreme vulnerability and insecurity, with no provision

<sup>17</sup> The Presidential Monitoring Programme on Human Rights and International Humanitarian Law, *Indigenous Colombians: The Peoples' Perseverance in Maintaining Their Customs*, Thematic Bulletin no. 11, August 2008.

<sup>18</sup> The Presidential Monitoring Programme on Human Rights and International Humanitarian Law, *Indigenous Colombians*.

<sup>19</sup> Database of the Casa del Pensamiento Nasa, ACIN-ENSAYOS.

<sup>20</sup> Website of the Presidential Monitoring Programme on Human Rights and International Humanitarian Law, Vice-President's Office, [http://www.derechoshumanos.gov.co/observatorio\\_de\\_DDH](http://www.derechoshumanos.gov.co/observatorio_de_DDH)

<sup>21</sup> The information given here is part of the statement by the United Nations Independent Expert on Issues of Minorities, Ms Gay McDougall, in her preliminary conclusions from her official visit to Colombia, 1–12 February, Bogotá, 12 February 2010: [http://www.globalrights.org/site/DocServer/Gay\\_McDougall\\_Colombia\\_full\\_remarks\\_\\_Feb\\_2010\\_-\\_ENGLISH.pdf?docID=11804](http://www.globalrights.org/site/DocServer/Gay_McDougall_Colombia_full_remarks__Feb_2010_-_ENGLISH.pdf?docID=11804)

being made for their basic needs, including adequate housing, water, electricity, health care and their children's education. The situation of many Afro-Colombian communities, both in rural areas such as Chocó, and in the urban areas to which they are often forced to move, such as Quibdó, Suárez, Buenaventura, Cartagena and Cali, can only be described as extremely serious.

In her report, the independent expert highlights that Afro-Colombian settlements in rural zones and in urban slums can only be regarded as indigenous reservations containing Colombia's poorest peoples, with levels of extreme poverty higher than 60%. In Colombia, the map of extreme poverty coincides with the map indicating high density of Afro-Colombian population. According to surveys, the basic needs of 80% of Afro-Colombians are not being met. Infant mortality rates in Chocó and Cauca are 54 in 1,000 live births. Life expectancy in Afro-Colombian areas is 55 years. It is estimated that illiteracy among Afro-Colombians is double the national average. The responses of the national government and regional authorities to the poverty and unmet basic needs in these communities have been inadequate and require urgent attention.

Colombia has an impressive and commendable legal framework that recognizes the rights of Afro-Colombians, beginning with the 1991 Constitution, which not only recognizes their right not to suffer discrimination, but also the right to equality for all citizens. In this regard the independent expert stated:

While the constitutional and legislative measures are praiseworthy, the vast majority of communities and organizations that I consulted complain that implementation of Colombia's legislation on Afro-Colombian communities remains woefully inadequate, limited and sporadic. Most importantly, where steps have been taken, no real enforcement has followed. Close to two decades after Law 70 was adopted, despite the granting of collective titles to some 90 percent of Afro-Colombian ancestral lands, many communities are displaced, dispossessed and unable to live on or work their lands. As one woman told me, "the laws say all the right things but still, nothing has happened."<sup>22</sup>

## The situation of those defending human rights

According to figures issued by the Non-Governmental Programme for the Protection of Defenders of Human Rights, since 2002 there have been a total of 610 cases of attacks on human rights activists in Colombia, of which 60 have been killings. According to records drawn up by the Information System on Attacks on Defenders of Human Rights (SIADDHH), during the first six months of the year 2010 (January to June), 64 defenders of human rights were the target of attacks; 111 social and human rights organizations were also the objects of some sort of attack, putting their life and integrity at risk, and obstructing the legitimate legal work of defending human rights.<sup>23</sup>

<sup>22</sup> The information given here is part of the statement by the United Nations Independent Expert on Issues of Minorities, Ms Gay McDougall, in her preliminary conclusions from her official visit to Colombia, 1–12 February, Bogotá, 12 February 2010: [http://www.globalrights.org/site/DocServer/Gay\\_McDougall\\_Colombia\\_full\\_remarks\\_Feb\\_2010\\_-\\_ENGLISH.pdf?docID=11804](http://www.globalrights.org/site/DocServer/Gay_McDougall_Colombia_full_remarks_Feb_2010_-_ENGLISH.pdf?docID=11804)

<sup>23</sup> Cf. the programme entitled (in Spanish) "We are defenders. Information system on attacks on defenders of human rights" (the Spanish acronym is SIADDHH): [www.somosdefensores.org](http://www.somosdefensores.org) (Accessed 14.12.2010).

The Special Rapporteur on the Situation of Defenders of Human Rights, on the conclusion of her visit to Colombia in September 2009, did acknowledge that the government was making efforts to improve the situation of defenders of human rights, but she also stated that much remained to be done to guarantee a safe, favourable environment for them to work in. She expressed her concern for what she had seen and heard during her twelve-day visit as follows:<sup>24</sup>

I can conclude that patterns of harassment and persecution against human rights defenders, and often their families, continue to exist in Colombia. Journalists, trade unionists, magistrates, lawyers, student and youth activists, women defenders, indigenous and Afro-Colombian leaders, and LGBT [lesbian, gay, bisexual and transgendered] activists have been killed, tortured, ill-treated, disappeared, threatened, arbitrarily arrested and detained, judicially harassed, under surveillance, forcibly displaced, forced into exile, or their offices have been raided and their files stolen, because of their legitimate work in upholding human rights and fundamental freedoms. Some of these violations are allegedly to be attributed to guerillas, new illegal armed groups and paramilitary groups which human rights defenders say have not been dismantled, and the Government bears the responsibility to denounce and thoroughly investigate these violations and prosecute the perpetrators. However, according to several sources, law enforcement authorities have committed violations against human rights defenders too, or have shown complaisance with violations committed by private actors against defenders.

In particular, the rapporteur expressed deep concern at the widespread phenomenon of threats by persons unknown against human rights defenders and their family members, often taking the form of written messages, demands for money, e-mails, telephone calls and text messages. On this point the rapporteur stated:

Such threats create a climate of fear within the human rights defenders' community. The police need to take these threats seriously by conducting systematic investigations and bringing their authors to justice. In this context, I want to state that the threats against judges of the Supreme Court of Justice weaken the justice system as a whole, fuel impunity and, through this, impact negatively on the work of defenders. A prime reason for the insecurity of human rights defenders lies in the systematic stigmatization and branding of defenders by Government officials. Echoing the statement of the Special Rapporteur on extrajudicial executions at the end of his visit to Colombia on 18 June 2009, human rights defenders have been repeatedly accused by high level Government officials of being, or colluding with, "terrorists" or "guerrillas".

In the same way, she expressed her concern at how the intelligence services, both civilian and military, followed and intercepted communications by national and international persons involved in defending human rights, including members of the Supreme Court of Justice and the former United Nations special rapporteur, on the situation of human rights and fundamental freedoms of indigenous peoples in 2005, and the special rapporteur on the rights of women from the Inter-American Commission on Human Rights in 2005. As regards the obtaining of intelligence information on defenders of human rights, she stated that she had a serious concern about the (often mass) arrests and arbitrary detentions of defenders of human rights, and also the unfounded criminal trials begun against them, based on military or police intelligence reports and

<sup>24</sup> The information that follows is taken from the statement by Margaret Sekaggya, the Special Rapporteur on the Situation of Defenders of Human Rights, on the conclusion of her visit to Colombia, 7–18 September 2009. <http://www.protectionline.org/PRESS-RELEASE-Statement-of.html> (Accessed 14.12.2010).

on testimonies by demobilized persons or informers given in exchange for legal or monetary rewards.

## Trends and challenges

In this article I have attempted to demonstrate that Colombia is a democracy threatened by various armed groups and that violations of human rights and of international humanitarian law persist, in which those who suffer most are the communities and civilians who work for justice, protection of human rights and peace. President Juan Manuel Santos, whose government took power in August 2010, has shown an interest in reducing poverty and improving guarantees for the defence of human rights, but his economic policies are a continuation of the labour and trade conditions that have made Colombia one of the most inequitable countries in the region. On the issue of the armed conflict, President Santos insists on defeating the guerrillas by military means.

Churches and national and international ecumenical organizations are thus challenged to support those who defend human rights, seeking justice and creating conditions to overcome the armed conflict by means of of dialogue and political negotiation.