

Opposing a Colombian FTA: Talking Points on Violence Against Trade Unionists and Impunity

USLEAP, April 2011, Updated

As the debate continues about the pending Free Trade Agreement (FTA) between Colombia and the U.S., both opponents and supporters have cited the topic of violence against trade unionists as a point in their favor. Proponents of the FTA, including President Juan Manuel Santos' Administration, argue that the Colombian government has made sufficient progress in addressing violence against trade unionists, impunity, and labor rights issues to warrant the approval of the FTA that was negotiated in 2006 and has been pending a vote since. On the other side, Colombian trade unions and their allies continue to denounce and carefully document continued high levels of violence, limited advances against impunity, and the general lack of political will to address these issues.

While there are many good reasons to oppose the U.S.-Colombia FTA, including its flawed economic model, the reality is that much of the political terrain in Washington in the fight over the Colombia FTA is focused on violence against trade unionists, impunity, and, to a lesser degree, respect for worker rights in Colombia. Accordingly, USLEAP has produced an updated version of these Talking Points. For information regarding other reasons to oppose the Colombian FTA and groups focusing on these other issues, see the Trade Resource Page on USLEAP's website: www.usleap.org.

Background on the issue of impunity: In order to address ongoing impunity, in 2006 the International Labor Organization (ILO) and the Colombian labor movement negotiated an agreement with the Colombian government to create two specialized subunits, one judicial and one investigative and prosecutorial, to address cases of anti-union violence including, but not limited to, homicides, attempted homicides, and kidnappings. These two special subunits are composed of several judges and a varying number of investigators and prosecutors from the Prosecutor General's Central and Regional Offices. The investigative unit began operating in January 2007, the judicial unit on June 1, 2007. In 2008, USLEAP issued the first of three annual impunity reports that examine all available rulings of conviction the previous year. The analysis of these rulings, reflected below, shows little progress achieved by these subunits, particularly striking given the resources committed to this issue.

The absence of justice in more than 2,800 murders of trade unionists since 1986 demonstrates that the legal system has not adequately responded to these crimes. If the legal system cannot address assassinations of trade unionists and impunity, how can it be trusted to support other labor rights such as the right to organize and the right to collectively bargain? The disregard for trade unionists' right to life exemplifies the lack of concern for the common good of all and points to fundamental flaws in negotiating the U.S.- Colombia FTA, and its devastating potential consequences.

Below are key "violence and impunity" arguments on why the U.S. should not approve a Free Trade Agreement with Colombia. For a more condensed version, see USLEAP's Fact Sheet on violence against trade unionists entitled "*Murder and Impunity of Colombian Trade Unionists.*" For an in-depth examination of Colombia's lack of progress on impunity, see our 2007, 2008, and 2009 Annual Impunity Reports. Also available is "*Alvaro Uribe: Violence and Impunity Against Trade Unionists, 2002-2010.*" All are found at www.usleap.org.

1) Colombia Remains the Most Dangerous Country to be a Trade Unionist

*The Colombian government claims success by pointing to a seventy-five percent reduction in the assassination of union members from 2002-2010.*¹

Fact: More trade unionists are killed in Colombia nearly every year than the rest of the world combined.

- **51** unionists were assassinated in Colombia in 2010, 41 were murdered in the rest of the world combined.
- **47** union members were killed in Colombia in 2009.
- **338** unionists received death threats, 35 were forcibly displaced, 16 were harassed, 34 were arbitrarily detained, and 7 disappeared in 2010.²
- **21** unionists survived attempts on their lives in 2010.
- **2800+** union members have been murdered since 1986.
- **1 every 3.2 days:** the rate Colombian unionists were killed on average over the last 24 years.

2) The Colombian Government is Falling Further Behind in Addressing Impunity

The Colombian government claims it is making significant progress addressing impunity.

Fact: The Colombian government exaggerates its modest achievements.

- Although judges report delivering sentences for 222 cases between 2002 and October of 2009 regarding all types of violence against trade unionists, only 118 have been verified by the country's leading independent NGO analyzing labor issues, the Escuela Nacional Sindical, as a valid provision of justice for victims of assassinations and forced disappearance, and 13 for other types of violations.³
- New murders are outstripping convictions for old murders, so the Colombian government is not making any progress reducing the backlog of pending cases. In 2008, the net progress was zero. In 2009, the backlog actually increased, with new convictions for the murder of 41 trade unionists more than offset by the 47 assassinations committed in 2009. (The analysis of 2010 figures is not yet available.)
- Out of a total of 236 homicides committed from 2005 to 2008, only four victims received justice in rulings issued in 2009. This means that the impunity rate for assassinations from 2005 to 2008 was 98.3%, even higher than the overall rate of 96%.⁴
- In 2009, only three cases achieved the conviction of both the material and intellectual authors of assassinations of trade unionists.

¹ Escuela Nacional Sindical (ENS), "Violaciones a los Derechos Humanos de las y los Sindicalistas Colombianos, January 1 to December 31, 2008, January 2009", and "Annual Surveys of Violations of Trade Union Rights," International Trade Union Confederation (ITUC). ITUC annual surveys are available online: <http://survey.ituc-csi.org/+Colombia+.html>.

² Escuela Nacional Sindical (ENS), 2010.

³ The Colombian Public Prosecutors Office (Fiscalía) has released only partial information about the sentences corresponding to violence against unionists, making it difficult to measure impunity. Of the available information, the ENS has verified the legitimacy of 131 of the 222 sentences.

⁴ USLEAP 2009 Annual Impunity Report, released December 2010: <http://www.usleap.org/files/2009%20Annual%20Impunity%20Report%20Final%20Web.pdf>.

- A specialized Subunit of Investigation set up in 2007 to focus on cases of violence against trade unionists is currently in charge of prosecuting 1,546 cases of violence. Of the selected cases, 598 victims were not actually trade unionists based on ENS records, more than 35%. There are 2,842 homicides cases pending for murders committed since 1986.
- Under the Justice and Peace Process, the controversial legal procedure that began as a result of the demobilization of paramilitary groups in 2003, ex-paramilitaries are only subject to a maximum of 5-8 years for confessing to murdering trade unionists, no matter how many they killed.

3) Passing the FTA Could Halt the Meager Progress Achieved to Date

The Colombian government says that the progress made to date in decreasing violence and impunity will continue following the ratification of an FTA.

Fact: For years the Colombian government shrugged off the level of violence. Only when it became clear that violence and impunity were indeed serious obstacles to achieving approval of a free trade agreement did the government take it seriously.⁵

- As recently as May 2007, then-President Alvaro Uribe told Washington reporters that “there are no assassinations of workers in Colombia,” and did little to address impunity.
- The Colombian government itself claims that more than 75% of convictions obtained since 2002 were achieved between 2007 and 2010. The motivation to sign an FTA could not be clearer. While this increase in convictions has not kept pace with the number of new murders, what progress will there be on impunity if Congress approves the FTA?
- Guatemala’s history is instructive. Murders of trade unionists dropped during CAFTA negotiations, averaging one every two years. Once CAFTA was implemented, the guns came back out. While there were no murders of trade unionists in 2006, the year that Guatemala ratified CAFTA, in 2009 there were 16, making Guatemala the second most dangerous country in the world to be a trade unionist. In 2010, another 10 Guatemalan trade unionists were murdered, keeping Guatemala in second place behind Colombia.

4) The Colombian Government Has Criminalized the Defense of Human Rights

The Colombian government claims that it has worked hard to support and protect trade unionists.

Fact: The Department of Administrative Security (DAS), Colombia’s intelligence agency, has been exposed for targeting and attacking human rights defenders.

- The DAS was exposed for providing paramilitaries a hit list of 23 trade unionists and other human rights defenders in 2006. The majority of the individuals on the list have since been killed or displaced.⁶

⁵ Embassy of Colombia, “Ensuring Justice and Protecting the Rights of Union Members in Colombia,” 2009: www.colombiaemb.org.

- In February 2009, the DAS was found to be carrying out illegal surveillance and intelligence gathering against members of unions, human rights organizations and the Supreme Court.⁷ Surveillance included phone and email interception, photographic and video footage, and observations of family members of human rights defenders.⁸
- In 2007, the Colombian government established a “Protection Program” for human rights defenders. The Uribe Administration claimed that it kept more than 1,700 union members safe and tripled the budget for the program. But the Protection Program was run by the same DAS agency that spied on union leaders, and between June and August of 2009 the Protection Program went bankrupt and all services stopped.⁹
- During the 2003-2009 period, there was a rise in extrajudicial killings of civilians attributed to the Colombian military.¹⁰ In an attempt to increase their body count and monetary benefits, members of the military took people from their homes and workplaces and later dressed their bodies as combatants, claiming they were killed in action.

5) The Assault on Unions in Colombia Has Reduced Unionization Significantly

Some pro-FTA supporters have, deplorably, implied that violence against unionists has not had much impact on the level of unionization (e.g. New York Times, Op Ed by Edward Schumacher-Matos, March 31, 2008).

Fact: Over the past twenty years, the Colombian labor movement has been decimated by violence, disappearances, threats, and intimidation, accompanied by the systematic denial of the free exercise of labor rights by the Colombian government.

- The rate of unionization in Colombia has been more than cut in half, from 9.3% in 1984 to 4.2% in 2009, and the number of workers covered under new collective bargaining agreements has dropped to a fraction of its previous number, falling from 260,000 to 60,000 in the past 10 years.¹¹ Less than two percent of unionized workers had a collective bargaining agreement in December of 2009.¹²

For more information, please contact the U.S. Labor Education in the Americas Project (USLEAP)
www.usleap.org • (773) 262-6502 • info@usleap.org. PO Box 268290, Chicago, IL 60626

⁶ Colectivo de Abogados José Alvear Restrepo. The list is better known as the ‘Noguera List,’ named after the director of the DAS at that time: <http://www.colectivodeabogados.org/FISCALIA-GENERAL-DE-LA-NACION>.

⁷ Latin American Working Group, Washington Office on Latin America, the U.S. Office on Colombia and the Center for International Policy, “Far Worse than Watergate,” June 2010: http://www.wola.org/index.php?option=com_content&task=viewp&id=1121&Itemid=33.

⁸ Ibid.

⁹ USLEAP 2009 Annual Impunity Report, released December 2010: <http://www.usleap.org/files/2009%20Annual%20Impunity%20Report%20Final%20Web.pdf>.

¹⁰ Only 16 of the 1,025 extrajudicial cases being investigated by the Colombian government have ended in a conviction – a 98.5 percent rate of impunity according to a report released by the U.S. Office on Colombia (USOC), a DC-based NGO: <http://www.protectionline.org/Report-by-USOC-Still-Waiting-for.html>.

¹¹ Workers’ Rights, Violence and Impunity in Colombia, AFL-CIO, January 2008, p. 13: http://www.aflcio.org/issues/jobseconomy/globaleconomy/upload/colombia_briefing.pdf.

¹² “Panorama de los Obstáculos y de las Propuestas para el Ejercicio de los Derechos Laborales y Sindicales en Colombia,” Central Workers’ Union (CUT), April 2010.