



## **COLOMBIA:**

# **ACTIONS TO ADVANCE LABOR JUSTICE AND LABOR RIGHTS**

**November 2008**



Since 2002, Colombia has experienced an unprecedented period of economic expansion and social stability, and has made significant progress on the road to peace - homicides have fallen by 45 percent, kidnappings by 87 percent, and acts of terrorism by 77 percent. Through a series of bold reforms and initiatives, the government has recovered territorial control of the country, reduced the level of violence, fostered economic growth, addressed impunity through a transformation of the judicial system, strengthened democratic institutions and increased investment in social welfare programs.

During this time, protecting the rights of organized labor has been a priority, with a special sub-unit in the Office of the Prosecutor General created, and funding for the justice system drastically increased as the nation's judicial framework has been strengthened. Over this period, violence against union members and worker advocates has been reduced over 70 percent.

The Government of Colombia has released prior reports on the actions taken by the Uribe Government to improve protections for trade union members and end judicial impunity for crimes against them, and also further reform the labor law framework in Colombia consistent with the norms of the International Labor Organization (ILO). Prior reports of such efforts were released in October 2007 and April 2008. This document provides additional updated material of the steps taken to advance labor justice and labor rights in Colombia since the last report.



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### **Protecting Labor Rights and Ending Impunity:**

➤ **New Criminal System and Increased Resources:** First was the 2004 Law (904), which changed the criminal procedure from a closed door inquisitorial system to an open-court oral procedure with public trials. This new law has now been fully implemented with the support of the U.S Department of Justice, and has reduced case items by an estimated 39-87 percent.

Related to the judicial reform and strengthening process, the budget for the judicial sector has been increased by 266 percent between 2003-2008 – while the total increase in government expenditures during the same period has been 71 percent. Earlier this year, two multilateral loans (one with the World Bank and one with the Inter-American Development Bank) were signed by the Government to further expand the resources for the judiciary by a combined additional \$65 million.

➤ **Prioritization of Cases and Increased Transparency:** Second, as part of this overall commitment and the particular focus on ending impunity for crimes against trade union members, a special sub-unit of the Human Rights Unit was established by the Office of the Prosecutor General in 2006 – initially with eight regional prosecutors and five in Bogota. The subunit began actual operations in February 2007 and has now been increased to have 10 regional prosecutors and nine in Bogota, along with 96 investigators and 22 additional lawyers.

The Sub-Unit is working on priority cases determined in consultation with Colombia's trade union confederations and consistent with those crimes notified to the ILO under Case 1787 covering some 1,410 crimes, which include crimes as far back as 20 years. Before the Uribe Administration and the establishment of the Sub-Unit, convictions for murders, kidnappings, threats or other crimes against trade union members were almost never prosecuted. The results of the Sub-Unit's work have been noteworthy. The Sub-Unit's report of October 20, 2008 indicates that of the 147 sentences issued since the year 2000, 66 percent (97) have been issued since the creation of the Sub-Unit, and 98 percent since President Uribe was elected in 2002.

Also, to allow wide availability of the sentences in criminal cases involving crimes of violence against trade union members, it has been agreed, in



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consultation with Colombia's trade union confederations, that the court sentences will be published on the ILO Web site.

➤ **Appointment of Specialized Judges:** A third important initiative was the appointment in 2007 of three specialized judges to hear criminal cases involving trade union members as victims. The dedication of three judges to hear the cases prepared by the Labor Sub-Unit and move through any backlog has been well received, and the judges have done important work. At the request of the Uribe Government and the Superior Council of the Judicature, which has the authority over the appointment of such judges, the three judges will be permanent with the required resources to support their functions in accordance with the demands of the cases they handle for as long as necessary. This order has been made clear through a communication by Dr. Hernando Torres, the President of the Superior Council of the Judicature.

➤ **Justice and Peace Law of 2005:** Brings to public confessions of members of terrorist organizations, and offers reparations in exchange for shorter prison sentences. To date, 1,176 individuals have gone through the process of being deposed as to their crimes, and another 329 are in the process. This has led the recovery of over 1,600 bodies, and the transfer of some 4,619 various assets to the reparation fund that has been established to compensate the more than 160,000 estimated victims of the crimes committed by the paramilitaries and members of the FARC and ELN that have chosen to surrender under this program. Law 975 has resulted in over 2,000 men and women being imprisoned for crimes committed by these terrorist organizations. This means that there are more people in jail in Colombia for human rights violations than has occurred in all other post-conflict and post-dictatorship situations combined for all the countries of Latin American.

In addition, Colombian efforts to reduce crime and restore the judiciary are reflected in a reduction in crimes against trade union members in Colombia. Recorded homicides against union members were some 196 in 2002 out of a total of 28,837 in Colombia. The number declined to 26 for trade union members in 2007 out of the total of 17,198 homicides recorded – thus, the rate of union members is now much lower than the rate for all Colombians (2.6 versus 36.2 per 100,000 inhabitants).



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These also backs the effective targeted measures of additional support given to union members, as it is the security protection program for vulnerable populations was set up in 1997, and union members are included. The budget for this program has been tripled since 2002 reaching US\$42 million for 2008. In this year, some 1,433 union members have accepted the protection from Colombian security forces, representing percent of the overall protection program.

There has been an uptick in the recorded murders against trade union members in 2008, thus far, there are 32 victims. Concerns over this trend in early 2008 led to several actions, including a strategy meeting on July 16 coordinated by the Ministries of the Interior and Justice, and Social Protection, with law enforcement agencies and representatives of the Colombian trade union confederations, to discuss additional strategies. The meeting led to the following:

- Strengthen the resources for the prosecutors who investigate crimes against trade union members;
- Develop a media campaign to defend trade union rights;
- Convene a joint forum of unions, employers and government to establish a mechanism to protect freedom of association and better prosecute violations;
- Improve the early warning and protection protocols for high risk cases;
- Establish a virtual network to address threats more quickly;
- Obtain reports from Regional Police Commanders on threat assessments in their jurisdictions; and
- Offer rewards for information provided that leads to the arrest and convictions of perpetrators of crimes against trade union members.

There is already some evidence that the efforts are working. While 26 of the union member homicides occurred in the first semester of 2008 quarter, 6 occurred in the second.

### **Labor Law Reforms:**

New laws have been adopted by Congress to favor the unions as follows:

- Law 1210, July 14, 2008, moves the authority to declare the legality of strikes to the judicial branch; and allows arbitration 60 days after a strike at the request of both parties.



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- o Law 1233, July 22, 2008, requires cooperatives to provide workers with social security coverage –thus, health, retirement, loans for housing, training opportunities, family support and recreation among others.

Regarding union registration process in Colombia, on July 9, 2008, the Constitutional Court issued a ruling (C-695) providing that the filing of the union registration documents with the Ministry of Social Protection immediately establishes the legal personality of the union and the Ministry has no discretion to control the content of such registration documents. With this ruling, Colombia's courts have removed any basis for concerns about any difficulty of registration of trade unions.

New bills have been presented to Congress to include increased penalties for homicides of union members: now penalties range from 17 to 37 years in prison, and the proposal aims to go to penalties from 33 to 60 years.

### **Work with the ILO and labor inspection**

The Government authorized an ILO office in Colombia in 2006, which has contributed to build trust among the parties, to reactivate commissions, define the agenda and set a periodic schedule of meetings among the government, workers and employers. The Technical Cooperation Program, developed by the ILO Office, is fundamental to develop the Tripartite Agreement (government, employers and workers).

The ILO representative office has been financed by the Government of Colombia, and over \$3 million of the \$4 million pledged has already been committed. The Colombian Government and the ILO representative are actively searching for new sources of financing in the international community to strengthen the cooperation projects that it is undertaking.

ILO has recognized the progress in Colombia. In June 2008, for the third straight year, the ILO has excluded Colombia from its annual Watch List – indicating a confidence among world leaders that Colombia's progress on labor rights is real and will continue.

Likewise, the Government has developed a project to modernize labor inspection, with support from U.S. AID and the ILO, which will be implemented in three phases beginning in early 2009. The projected cost is 4.4 million for payrolls and US\$622,000 for infrastructure improvements.



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The program will bring on 207 new staff, of which, 135 will be labor inspectors. They will be deployed throughout Colombia and will use a new labor inspection system and manuals designed with support of the ILO.

Just as reforms have been made in the criminal justice system, a law passed in 2007 (Law 1049) establishes new oral procedures for labor court proceedings. The implantation of this reform is being phased-in over four years from its inception on January 1, 2008. Courts already using the oral procedure report a decline of 66 percent in the time it takes for a decision. The Government has budgeted some \$52 million for the reform, with \$12.7 million already invested in 2007 and 2008.

In conclusion, Colombia has made remarkable progress towards peace and security. The extensive commitment of the Government to restore security throughout the country, strengthen institutions and create better conditions for the development of all has been unprecedented.

By making improvements in its judicial system, reforming labor laws and strengthening the dialogue with labor, Colombia has achieved significant results, evident in the reductions in overall violence and violence against trade union members, as well as in the strengthening of the justice system which has proved effective in terms of the fight against impunity.

The next step to ensure this progress is the U.S.-Colombia FTA. There is no better policy against violence than growth and prosperity, and the FTA will help ensure economic stability in Colombia, boost businesses creations and provide new job opportunities for many.



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