

**Opposing the FTA with Colombia:
Talking Points on Violence Against Trade Unionists and Impunity
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Prologue:

While there are many reasons to oppose the Colombia Free Trade Agreement (FTA), especially its flawed economic model, the political terrain in Washington in the fight over the Colombia FTA is focused primarily on violence against trade unionists, impunity, and, to a lesser degree, general respect for worker rights.

Proponents of the FTA, including President Alvaro Uribe's Administration, claim that the Colombian government has made sufficient progress in addressing violence against trade unionists, impunity and labor rights issues to warrant approval of the FTA. Nevertheless, the Colombian trade unions and their allies argue and document that advances have been minimal and that there is a fundamental lack of political will to address violence against trade unionists and impunity in those cases.

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 special 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 three judges and a varying number of investigators and prosecutors from the Prosecutor General's Central and Regional Offices. The latter began operating in January 2007, whereas the former did not begin operating until June 1, 2007. The little progress achieved by these subunits as described below is particularly striking given the resources committed to this issue.

The absence of virtually any justice in more than 2,700 murders of trade unionists demonstrates that the legal system has not acted in response to these crimes, and therefore cannot be trusted to ensure respect for other labor rights such as the right to organize and the right to collectively bargain. Furthermore, the violence in and of itself deters worker organizing, unionization and actions to demand respect for labor rights.

In a context where many of the sectors of the Colombian population whose livelihoods will be affected by the FTA have not been consulted, the disregard for trade unionists' right to life exemplifies the Uribe administration's 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.

Within this context, this set of Talking Points provides bullet point rebuttals to claims by the Uribe Administration that it has made significant progress against impunity and violence against trade unionists, followed by additional "counter punch" arguments.

CLAIM #1: VIOLENCE AGAINST TRADE UNIONISTS IS DOWN

Uribe backers point to an 80% reduction in homicides of union members from 2002-2008 in Colombia.

Fact: While there has been a drop from the astronomical levels earlier this decade, they are still the highest in the world. Since President Uribe took office, more trade unionists have been murdered in Colombia than in the rest of the world combined.¹

- Between Uribe's inauguration in July 2002 and mid-November 2009, 515 trade unionists have been murdered.
- *Murders of trade unionists escalated in 2008*, with 49 assassinations, an increase from 39 in 2007.² In 2008, over 60% of murdered trade unionists in the world were from Colombia. Another 34 trade unionists have been murdered in 2009, as of November 15.
- A lower but still high level of ongoing violence hardly creates the political conditions under which workers can freely exercise their basic rights. Even if all trade union killings stopped tomorrow, it would be a long time before workers in Colombia would feel free to organize without fear of violent reprisal.
- *In sum, during Uribe's tenure, Colombia has continued to be the most dangerous place in the world to be a trade unionist.*

CLAIM #2: IMPUNITY IS BEING ADDRESSED

Uribe backers point to the 2007 establishment of special units (*see prologue*) to focus specifically on cases of violence against trade unionists that have achieved a growing number of convictions, citing over 169 convictions won between 2000 and 2008, 77% of which were obtained in 2007 and 2008.³

Fact: Under Uribe, progress on impunity has been meager; the government is exaggerating its modest achievements.

1 *Violaciones a los Derechos Humanos de las y los Sindicalistas Colombianos, January 1 to December 31, 2008*, Escuela Nacional Sindical (ENS), January 2009, and *Annual Survey of Violations of Trade Union Rights*, International Trade Union Confederation (ITUC) Over 60% of unionists murdered worldwide between 2003 and 2008 were from Colombia. ITUC annual surveys are available online at: <http://survey09.ituc-csi.org/survey.php?IDContinent=0&Lang=EN>.

2 *ITUC Annual Survey of Violations of Trade Union Rights*: <http://survey09.ituc-csi.org/survey.php?IDContinent=0&Lang=EN>.

3 Embassy of Colombia. "*Ensuring Justice and Protecting the Rights of Union Members in Colombia*" September 2009, www.colombiaemb.org.

- *In roughly 40% of the 169 convictions for violence against trade unionists, the person convicted of the crime was either tried in absentia or is otherwise not in custody and thus potentially still at large.*⁴
- There have been only 108 cases as of December 31, 2008 in which homicide convictions have been achieved since Uribe took office in 2002, despite an extensive backlog of trade union murders (over 2,700 in the last two decades).⁵
- For 2008, there were 49 cases of murder wherein homicide convictions were achieved; last year's rulings were offset by the 49 new murders of trade unionists in 2008.⁶
- Of the 108 homicide case convictions achieved under Uribe, the majority are murders that took place in the decade before Uribe came into office. *Only 55 convictions are for the over 515 murders that have taken place under Uribe.*⁷
- The backlog of unresolved homicide cases has increased under Uribe by over 460 cases.
- A Specialized Subunit of Investigation set up specifically to focus on cases of violence against trade unionists is currently in charge of prosecuting only half of all documented homicide cases of union members since 1986. Of these 1,354 cases, the Subunit has active files on only 1,119 cases.⁸

CLAIM #3: THE PEACE PROCESS IS DRAMATICALLY DECREASING IMPUNITY

The Uribe administration argues that the Justice and Peace process, the legal framework put in place in 2005 to demobilize paramilitary groups, has decreased violence and revealed truth in many cases, and has “aided in the investigation of violence against union members.”⁹

Fact: Information revealed as a part of the Justice and Peace process is not systematically informing ongoing investigations in cases of violence against trade unionists.

- The Justice and Peace process confessions led to 24 guilty rulings in cases of assassinations of trade unionists but none of those who have been found guilty of these crimes have been given a sentence as of October 2009. The one sentence granted was subsequently overturned.¹⁰

4 AFL-CIO submission to the U.S. Trade Representative on the Colombia FTA, September 15, 2009.

5 USLEAP Annual Impunity Reports: *Systematic Violence Requires Strategic Justice: Ongoing Impunity in Assassinations of Trade Unionists in Colombia 2008 Annual Impunity Report*, USLEAP, November 2009; *Why Are Trade Unionists Murdered in Colombia? An analysis of the 2007 rulings by Specialized Labor Courts in Colombia*, USLEAP, December 2008.

6 Ibid.

7 Ibid.

8 AFL-CIO submission to the U.S. Trade Representative on the Colombia FTA, September 15, 2009.

9 Embassy of Colombia

10 USLEAP Annual Impunity Reports.

- While confessions are leading to these specific rulings, the overall information confessed, including the paramilitary systematic attacks on trade unionists, has not been used to inform other open and connected cases.¹¹
- Paramilitary confessions have repeatedly highlighted violence against trade unionists as part of paramilitary strategy, yet the Prosecutor General's office continues to investigate, prosecute and try cases as individual acts of violence instead of as interconnected pieces of systematic attacks on unions and their members.
- Of the more than 35,000 paramilitaries who have demobilized as a part of the peace process, only 3,600 will actually offer confessions, thereby greatly limiting information about many details of crimes against trade unionists.¹²
- While the Colombian Government pats its back for passing a law in June 2009 that increases prison sentences for homicides of trade unionists, under the Justice and Peace process, paramilitaries are only subject to a maximum of 5-8 years for committing such murders, as well as massacres of communities.

CLAIM #4: THE PROTECTION PROGRAM IMPLEMENTED BY THE GOVERNMENT HAS BEEN EFFECTIVE

“In 1997, the Government of Colombia established a “Protection Program,” to ensure the safety of vulnerable segments of society. Since 2002, the Government has tripled the budget for this program, reaching \$42 million in 2008. To date, more than 1,700 union members have participated in the program, and all have been kept safe.”

–Colombian Embassy

Fact: In 2009, the Department of Administrative Security (DAS), which answers directly to the office of the President and has the responsibility of providing security to union members, human rights workers and others through the government's protection programs, was found using this service as another way to illegally gather information about these individuals, putting their lives at risk.¹³

- Former Director of the DAS, Jorge Noguera, was accused in December 2008 of supplying paramilitary groups a list of trade unionists in the government's protection program in 2005, which contained sensitive information such as daily

¹¹ Ibid.

¹² Gallón, G. “Human Rights Crisis and Democracy at risk: The context in which Colombian Human Rights defenders work.” Oral presentation before the UN Special Rapporteur Margaret Sekaggya. Bogotá, 7 September 2009. Human Rights Council of the United Nations. “Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Colombia.” December 2008. Available at: <http://www.hchr.org.co/documentoseinformes/informes/altocomisionado/informes.php3?cod=12&cat=11>

¹³ Haugaard, Lisa and Millie Moon. “Far Worse Than Watergate.” June 25, 2009. http://www.lawg.org/index.php?option=com_content&task=view&id=446&Itemid=68.

routines, cars, and number of bodyguards. Shortly thereafter, *six trade unionists on the Noguera list were murdered*.¹⁴

- In some cases, unionists have been assigned to a protection plan, but have waited months to actually receive any sort of protection from the government.
- Most “protection” consists of “soft protection,” e.g. cell phones, walkie-talkies and domestic transportation, as opposed to bodyguards.

COUNTER PUNCHES

Passing the FTA Could Halt the Meager Progress Achieved to Date

For years, the Uribe government shrugged off the level of violence (“*There are no assassinations of workers in Colombia*,” President Uribe told Washington reporters as recently as May 2007) and did little to address impunity until it finally became clear that violence and impunity were indeed serious obstacles to achieving U.S. approval of the pending FTA.

The Colombian government itself claims that 77% of convictions obtained since 2002 have been achieved in 2007 and 2008. The incentive of getting an FTA could hardly be clearer.¹⁵ While this increase in convictions does not constitute acceptable progress, what progress will there be on impunity if Congress approves the FTA? What then will be Uribe’s incentive?

What will happen to the level of violence if Congress approves the FTA? The experience of Guatemala is instructive. Murders of trade unionists in Guatemala dropped during CAFTA negotiations, averaging one every two years; once CAFTA was implemented, the guns came back out, with a big increase in union-related killings, with more than 38 murdered leaders of unions, indigenous groups and peasant farmers since the passing of CAFTA in July 2006.

The Uribe Government has Carried Out Illegal Surveillance and Publicly Attacked against Trade Unionists and Worker Rights Defenders

Recent revelations of illegal governmental surveillance by the Administrative Security Department (DAS), an intelligence arm of the government accountable to the President, further underscore the government’s efforts to undermine those who work for an end to impunity. The DAS’s intense, ongoing and illegal surveillance targets have included trade unionists as well as other human rights defenders including organizations that are trying to end impunity, members of the Supreme Court, and others. The DAS’ surveillance over the

14 El Tiempo, *Seguimientos del DAS a sindicalistas asesinados, revela expediente contra ex director J. Noguera*, May 10, 2009, available online at www.eltiempo.com/colombia/justicia/seguimientos-del-das-a-sindicalistas-asesinados-revela-expediente-contra-ex-director-j-noguera_5175369-1.

15 Sentencias, op. cit. The Embassy of Colombia claimed 38 in “*Accomplishments in Creating a Secure, Prosperous Colombia*,” circulated in Washington in spring 2008. And USLEAP Annual Impunity Reports.

last few years went well beyond investigating specific allegations of criminal activity, for which no formal charges exist. This executive branch agency acted to sabotage the work of these groups and is potentially connected to threats of violence; in some cases the DAS has the layouts of individual's houses and children's schools, and even a key to a home.¹⁶

In one example of government attacks on human rights defenders, President Uribe publicly attacked three labor rights advocates that testified before the U.S. Congress in February 2009, saying, "Many of those that go there [to the US] hate the United States, and only do it to damage Colombia by speaking badly about the Government," in a speech widely shown on television and then published in major newspapers. Vice-President Francisco Santos subsequently denounced Committee Chairman George Miller as an "enemy of Colombia."¹⁷

Far more than political positioning, these comments by the President of Colombia discredit the work of these three individuals and increase their risk of becoming victims of violence themselves by declaring that their work undermines the current government's policies. Furthermore, this statement demonstrates a lack of commitment in bringing cases of violence against unionists to justice because it intimidates those who work to seek this end, evidenced when the Colombian Commission of Jurists, a leading human rights group dedicated to ending impunity, subsequently received serious threats.

Collusion between paramilitary groups and the government extends beyond the DAS scandal. As of September 2009, 179 politicians, including 77 members of the Colombian Congress (or roughly one-third of all current members), have come under criminal investigation for collaborating with paramilitaries.¹⁸ The majority of those individuals under investigation are members of "pro-Uribista" parties and include some within the president's innermost circle, such as his cousin and ally, Senator Mario Uribe.¹⁹

The Assault on Trade Unions in Colombia Has Been Effective

Some pro-FTA supporters have, deplorably, implied that violence against unionists has not had much impact on the level of unionization, arguing that it is at an acceptable level, not much different than in the U.S. or the rest of Latin America (e.g. *New York Times* Op Ed, March 31, 2008).

In fact, the systematic violence of murder, disappearances, threats, and intimidation, accompanied by the systematic denial of the free exercise of labor rights by the Colombian government, have decimated the Colombian labor movement over the last 20 years.

16 Prensa, Colectivo de Abogados Jose Alvear Restrepo. "The Colombian State Employs the Administrative Department of Security (DAS) Against Human Rights Organizations."

<http://www.colectivodeabogados.org/The-Colombian-State-Employs-the>.

17 RCN, *Vicepresidente colombiano dice que congresista de EE.UU. es enemigo del país*, March 5, 2009, available online at <http://www.nuestrotele.tv/content/vicepresidente-colombiano-dice-congresista-eeuu-enemigo-del-pais>.

18 See, Corporación Nuevo Arco Iris, *Parapolítica Legislativa Febrero 2009*, available online at www.nuevoarcoiris.org.co/sac/files/oca/analisis/radiografia_parapolitica_legislativa_febrero_2009.pdf.

19 See, e.g., Juan Forero, *Cousin of Colombian President Arrested in Death Squad Probe*, Wash. Post, Apr. 23, 2008, p. A12.

The rate of unionization in Colombia has been cut by half (from 9.3% in 1984 to 4.6% in 2005) 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.²⁰ As of September 2009, of the estimated 17.5 million workers in Colombia, roughly 4 in 100 workers are presently members of a labor union.²¹

The violent and non-violent repression of Colombian trade union movement has constituted the most egregious attack on a Latin American trade union movement in the past twenty years.

For a deeper analysis of trade union rights in Colombia, see documents available from the AFLCIO available at <http://www.aflcio.org/issues/jobseconomy/globaleconomy/colombiafta.cfm>.

Fact sheets with supporting documentation and citations from the ENS and the Colombian Government are on the USLEAP website, www.usleap.org or are available upon request. The USLEAP website also has links to groups who oppose the Colombian FTA on other grounds, including its impact on Colombian farmers, health care, and the environment.

²⁰ *Workers' Rights, Violence and Impunity in Colombia*, AFL-CIO, January 2008, p. 13.

²¹ Central Unitaria de Trabajadores (CUT), Report Regarding Convention 87 on the Right of Freedom of Association, prepared for the 98th Conference of the International Labor Organization, August 2009, p. 1.