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Testimony of Maria McFarland Sánchez-Moreno, Esq. Principal Specialist on Colombia, Human Rights Watch June 28, 2007 Hearing United States House of Representatives Committee on Foreign Affairs, Subcommittee on International Organizations, Human Rights, and Oversight, and Subcommittee on the Western Hemisphere Committee on Education and Labor, Subcommittee on Health, Employment, Labor and Pensions, and Subcommittee on Workforce Protections

Mr. Chairman, Committee members:

I am honored to appear before you today. Thank you for your invitation to address the human rights situation in Colombia and particularly the situation of violence against trade unionists in that country.

Human Rights Watch has been monitoring the human rights situation in Colombia for nearly two decades. Through our reports we have repeatedly documented abuses committed by Colombian government forces, left-wing guerrillas of the Revolutionary Armed Forces of Colombia (the “FARC”) and the National Liberation Army (the “ELN”), and right-wing paramilitary groups.

Colombia presents the worst human rights and humanitarian crisis in the region. It has the largest number of internally displaced persons in the world, according to a recent report by the UN High Commissioner for Refugees. The guerrillas are notorious for their horrendous record of abuses, including frequent kidnappings, recruitment and use of child soldiers, and use of antipersonnel landmines, in blatant violation of the laws of war. Meanwhile, the paramilitaries are responsible for widespread massacres, selective killings, extortion, and forced takings of land from civilians. They have often engaged in these crimes with the acquiescence of the security forces, and in some cases, even the active collaboration of military units.

Both the FARC and paramilitaries are well funded through their involvement in the illegal drug trade.

History of Violence against Trade Unionists

Colombia has a long history of union organizing. It also has a long history of violence against trade unionists.

Perhaps the most well-known early case of anti-union violence was the massacre of striking United Fruit Company workers in 1928, which was famously memorialized by Gabriel García Márquez in his novel *One Hundred Years of Solitude*. While accounts of this case and estimates of the dead greatly vary, the general story that is reported by labor rights groups in Colombia today is that military troops were sent in to end the strike, and ended up opening fire indiscriminately on the crowd of workers, allegedly killing anywhere from a few dozen to three thousand workers.

Throughout the 1960s and 1970s there were several reported instances of killings of unionists, often by government forces. However, it was with the rise of paramilitary groups in the 1980s that we started to see a dramatic increase in the killings of trade unionists.

Colombia's paramilitary groups developed over two decades ago, as death squads formed by drug traffickers and wealthy landowners to defend their interests from guerrillas or other competing groups. During the 1990s, paramilitaries grew rapidly, taking control of large areas of the country, including valuable land and strategic corridors for illegal drug trafficking and arms movements.

Paramilitary groups have deliberately targeted trade unions, claiming they were allies of or fronts for guerrillas. When asked in 2001 about their apparent willingness to blindly attack civilians, Carlos Castaño, who was then the head of the AUC paramilitary coalition, responded: "Blind attacks? Us? Never! There's always a reason. The trade unionists, for example. They keep people from working! That's why we kill them."

Colombian labor rights groups have documented 2,515 killings of trade unionists since 1986—an average of approximately 120 a year.

Paramilitaries are not the only actors who kill trade unionists in Colombia. There are also documented cases of FARC killings of trade unionists who the FARC viewed as allied with their opponents, or as challenging the group's authority. For example, in the early 1990s, there was an extremely high rate of killings in the banana growing region of Urabá in the states of Antioquia and Córdoba, where the FARC and paramilitaries were fighting over control of territory. Both groups engaged in

widespread violence against trade unionists they suspected of siding with their adversaries.

In one instance reported by the Inter-American Commission on Human Rights, on September 20, 1995, the FARC stopped a bus with twenty-nine banana workers. The FARC forced all the passengers to get off the bus and lie face down on the ground, tying their hands. The group then proceeded to summarily execute twenty-four of the workers.

The military has also been known to kill trade unionists. The most well-known recent example occurred on August 5, 2004, when, as reported by the U.S. Department of State, “soldiers from the army's 18th Brigade shot and killed three trade union members outside a home near Saravena,” in the state of Arauca. At the time, the Army asserted that the trade unionists had attacked a military unit and that they had died in combat. However, the prosecutors later stated that the evidence showed that the trade unionists had not died in combat, but instead had been summarily executed.

But while the guerrillas and, to a lesser extent, the military have engaged in violence against trade unionists, paramilitaries appear to be responsible for the majority of trade unionist killings. The National Labor School reports that of the 446 cases over the last 21 years in which they have identified an alleged perpetrator, paramilitaries are responsible for 62% of killings, guerrillas for 31.3%, armed forces for 4.2%, and common crime for 2.4%.

In addition, the geographic pattern of violence against trade unionists tracks the expansion of paramilitary groups. From 1995 to 1998, 50% of trade unionist killings in Colombia occurred in Antioquia, where paramilitaries were engaged in bloody campaign to wrest control of the area from guerrillas. In later years, as the paramilitaries expanded outside of their initial power bases in Antioquia and Córdoba, the killings of trade unionists also expanded geographically. They dropped in Antioquia and increased in other states such as Arauca, Valle del Cauca, and Atlántico, where paramilitaries were increasing their presence.

It is important to note, however, that the assassination of trade unionists is not simply a reflection of Colombia's armed conflict. It is also linked directly to workers' exercise of the basic right to organize and bargain collectively. In the majority of cases documented by the National Labor School, the murders occurred during contentious organizing drives or collective negotiations, moments of great potential for change that might threaten paramilitaries' interests. Indeed, according to the National Labor School, at the time that the state of Antioquia was experiencing the greatest concentration of violence against trade unionists in the country, it also had the highest rate of strikes in the country.

Violence against Trade Unionists Today

Statistics

Today Colombia continues to present the highest rate of violence against trade unionists in the world. According to the National Labor School, 72 trade unionists were killed in 2006, an increase from the 70 reported killed in 2005.

The government reports 25 trade unionist killings in 2006. However, it reaches this artificially low number by arbitrarily excluding unionized teachers and peasant unions from the category of trade unionists. Once unionized teachers are included, according to the government's official numbers, last year 58 trade unionists were killed, a substantial increase over the 40 killed the previous year.

So far this year, the government is reporting only 3 trade unionists killed between January and May. However, 10 unionized teachers have also been killed, making the total 13 trade unionists killed.

The government's exclusion of unionized teachers from the total of killed trade unionists introduces a serious distortion in its statistics on trade unionist killings, given that the teachers' unions are the ones that have suffered the greatest violence. The National Labor School reports 825 killings of teachers' union members since 1986. Other unions that have been especially targeted are those in the agricultural sector.

While it is true that the number of killings reported by the National Labor School has dropped from 197 in 2001 to 72 in 2006, the problem remains very serious, with more than 400 trade unionists killed during the Uribe administration.

Moreover, it is important to keep in mind that there have been similar fluctuations in the killings of trade unionists in the past. For example, according to the National Labor School in 1996 there were 275 killings of trade unionists, which dropped gradually over the following three years to a low of 80 in 1999, only to climb back up to 197 in 2001.

The current reduction in killings probably reflects a variety of factors, including a greater presence by security forces around the country and the retreat of the FARC from many regions where they were engaging in abuses. The reduction is also attributable to the fact that paramilitary groups are no longer in a process of expansion; instead, they are now focused on consolidating their political and financial power in many regions.

Paramilitary Tactics

Throughout the 1990s, the paramilitaries were going through a period of aggressive expansion and bloody takeover of territory. As they entered new areas, paramilitaries would typically commit numerous massacres. They would also wipe out local leaders, including labor union leaders, who they perceived as enemies.

Starting around 2000, however, paramilitaries began focusing more on consolidating their control over many regions. Their tactics shifted accordingly. Thus, starting in 2000, according to official statistics, the number of massacres by paramilitary groups started to decline sharply. Paramilitary commanders we met with in Medellin told us that violence started to decline in that city after 2000 because the paramilitaries had essentially defeated their opponents. Enforcement of their control no longer required large-scale massacres, but rather only selective killings of persons who they considered enemies.

According to the Colombian Commission of Jurists, paramilitary groups continue to commit between 800 and 900 selective killings per year throughout the country, a number that has remained roughly unchanged since 1996.

In the specific case of trade unionists, the paramilitaries also appear to have shifted their tactics. While they still engage in outright killings, according to the National Labor School, paramilitaries are also resorting more frequently to threats and attacks on immediate family members of trade unionists, which are more difficult to track and are not reported in official statistics.

One example is that of Hernando Melán, a union leader in a textiles company in Antioquia, who has recently been representing his union in collective bargaining with the company. According to reports we have received, on June 6, just three weeks ago, a group of armed men attacked Mr. Melán in his own house, killing Mr. Melán's son, Andres, and seriously injuring his wife and another son.

Impunity

One of the main reasons why trade unionists have been killed, and continue to be killed, in such high numbers in Colombia is that the perpetrators are almost never caught and punished.

Colombia's leading labor unions recently published a document in which they analyze the impunity rate in 1,528 cases of killings of trade unionists. They found that only 11 of those cases had been successfully prosecuted. The Attorney General's Office claims that it has obtained convictions in 37 cases of trade unionist killings. But this still represents an impunity rate of more than 98%.

In a positive move, a few months ago the Colombian Attorney General's Office established a specialized group of prosecutors charged with investigating some of the most emblematic unsolved cases of killings of trade unionists. According to news reports, the government has also announced in recent days that it is providing funding for the establishment of a whole new unit within the Attorney General's Office, which will be charged with, among other tasks, handling 75 cases of trade unionist killings since 2006.

It remains to be seen whether these measures will have a meaningful impact in reducing the impunity rate.

Stigmatization

An additional factor that perpetuates the problem of violence is the improper stigmatization of trade unions and union activity as linked to guerrillas. Unfortunately, government officials have sometimes reinforced the stigma by making derogatory comments about unions or their members. For example, according to Colombia's leading newspaper, *El Tiempo*, President Álvaro Uribe recently said that only two trade unionists had been killed so far this year, and one of them was killed because he was a "terrorist."

Paramilitary Infiltration of the Political System

A serious cause for concern is the mounting evidence of paramilitaries' infiltration of the political system, at some of the highest levels. In recent months, investigations by the media and the Colombian Supreme Court have uncovered a number of cases in which politicians or high-level government officials appear to have collaborated closely with paramilitaries. The Supreme Court has ordered the arrest of 14 Congressmen, most of them members of President Uribe's coalition in Congress, and numerous other former and current Congressmen are reportedly under investigation.

One case of particular importance involves Jorge Noguera, President Uribe's former campaign manager in Magdalena, and later National Intelligence Director from 2002 to 2005. Mr. Noguera is under investigation for allegedly collaborating with paramilitaries, including by allegedly providing paramilitaries with the names of trade unionists, some of whom were later killed or threatened.

Particularly in the case of Jorge Noguera, whose US visa has been revoked due to the severity of the allegations against him, the government's response has been cause for concern. After initially defending Noguera and accusing the media of being malicious and harming democracy, President Uribe has recently stated that he will respect the investigation into these allegations. However, we know that Noguera's attorney has visited the Presidential Palace (the Casa de Nariño) on at least nine occasions in the last few months—including eight times between February and

March—to discuss Noguera’s case. We also know that on at least some of those occasions, this attorney met with President Uribe personally.

Meanwhile, Colombian government officials repeatedly claim that paramilitary groups no longer exist, thanks to the government's demobilization program for paramilitaries. But in fact, paramilitaries have so far been able to keep much of their power intact.

Even though paramilitary leaders include some of Colombia’s biggest drug lords, who are wanted in the United States, not one of them has been extradited to this country. They are some of Colombia’s wealthiest individuals, but they have yet to turn over a significant amount of their illegally acquired wealth. Some of them are temporarily in prison, but the government is allowing them to use unrestricted, unmonitored cell phones, despite credible evidence that paramilitaries are using those phones to continue engaging in criminal activities.

The Role of Multinational Corporations

In recent months a substantial number of troubling allegations and information has been made public linking the multinational corporations Chiquita Brands and Drummond Coal to paramilitary groups and violence. In some cases, the allegations are made by paramilitary commanders themselves. Other information has been made public in the context of legal proceedings in the United States involving the two corporations. In addition, paramilitary commanders have recently asserted that some national Colombian corporations have supported these groups.

Previously, very little had been publicly known about the role of national or multinational businesses in relation to Colombia’s armed groups or violence against trade unionists. There had been numerous allegations over the years about links between some business sectors—most notably cattle ranching—and paramilitary groups. And paramilitaries themselves had occasionally spoken vaguely about their powerful financial backers.

But these allegations and statements have rarely been investigated by Colombia’s institutions of justice.

At the same time, both paramilitaries and guerrillas are known to routinely engage in extortion of individuals and businesses. However, these cases are rarely reported to authorities, and there are no reliable statistics about extortion.

Given the disturbing information that is starting to come to light about support for paramilitaries by some multinational and national corporations, it is crucial that Colombian authorities focus on fully investigating the links between business and paramilitary groups. Such investigations are necessary not only to ensure

accountability and deterrence, but also to ensure that paramilitaries' sources of financial support are uncovered and that these groups are truly and thoroughly dismantled. To the extent US corporations may be involved, the United States should also be investigating this issue.

New Government Proposal: Impunity for Paramilitary Collaborators

For the first time, in recent months, we have started to see some of the truth come to light about paramilitaries' mafia-like networks, thanks to investigations by Colombia's Supreme Court into politicians' collaboration with paramilitaries.

At this point, the Colombian government should be providing full support to these investigations. But instead, President Uribe recently announced a proposal to release from prison all politicians linked to paramilitaries. While he has not yet made public the details of the proposal, it appears that the proposal would also apply to anyone who collaborated with paramilitaries, including, presumably, paramilitaries' financial backers.

President Uribe has justified this proposal by invoking the need for "truth." But the most effective means of establishing the truth about paramilitary influence, to ensure an effective dismantlement of these groups, and to prevent cover-ups and obstruction of justice, is through thorough judicial investigations.

Solutions: Addressing Impunity and Dismantling Paramilitary Mafias

For Colombia to effectively address persistent violence against trade unionists, it's not enough for it to invest in protection programs for unionists. Instead, it must focus on eliminating the causes of the violence. That means it must concentrate on producing concrete results in investigations of the killings, and on fully dismantling paramilitaries' complex structures.

The investment of resources in the Attorney General's office is a good first step towards combating impunity. However, those resources must be coupled with the political will to ensure a real investigation and punishment for those responsible.

Unfortunately, the government's proposal to let paramilitaries' collaborators off the hook undermines the efforts being made by institutions of justice to investigate these groups and hold their backers accountable. And the demobilization process risks strengthening paramilitaries, protecting them from extradition to the United States, while leaving their financial, political, and criminal networks largely intact.

At this time, it is critical that the United States send Colombia the message that it must produce concrete and verifiable results on impunity, in the form of a substantial number of well-grounded convictions for killings of trade unionists. The

United States should also urge Colombia to produce real results in the dismantlement of paramilitary groups. This means that Colombia's government should, among other measures:

- actively identify, confiscate, and return to their rightful owners paramilitaries' illegally acquired assets,
- thoroughly investigate paramilitaries' criminal networks, financial backers, and collaborators in the political system,
- restrict imprisoned paramilitaries' communications
- effectively sanction—including through extradition to the United States where appropriate—those commanders who continue engaging in criminal activity, and
- hold accountable paramilitaries' collaborators and abandon any proposals that would weaken accountability for persons who colluded with paramilitaries.

Congress should refuse to even consider ratifying the Free Trade Agreement until Colombia produces these results.

Thank you very much.

Total Numbers of Trade Unionists Killed in 1991-2006 (Source: National Labor School Database)

Year	91	92	93	94	95	96	97	98	99	00	01	02	03	04	05	06
Nº	83	135	196	104	237	275	182	101	80	137	197	186	94	96	70	72