

Testimony of Lisa Haugaard
Executive Director, Latin America Working Group Education Fund
before the
United States Congress
Tom Lantos Human Rights Commission
May 17, 2012

Thank you for the opportunity to address the Tom Lantos Human Rights Commission and for hosting this important hearing on the status of human rights defenders worldwide. I am the director of the Latin America Working Group, and I have been working on human rights issues regarding Colombia for the last fourteen years.

Daniel Aguirre was walking home with his wife in the town of Florida, Valle del Cauca on April 27, 2012 when he was shot dead. He was Secretary General of SINALCORTEROS union and a leading figure in the struggle for the rights of sugar-cane workers. Aguirre is the sixth Colombian trade unionist killed this year, the second killed or disappeared in the weeks since President Obama determined that the Labor Action Plan was sufficiently fulfilled to advance the Free Trade Agreement, and the 29th trade unionist killed since the Colombian and U.S. governments signed the Labor Action Plan on April 7, 2011.

Manuel Antonio Ruiz received a message on his cellphone on March 23, 2012, that he had won a prize; as he went with his 15-year-old son to collect it, he and his son Samir were disappeared, presumably by paramilitary forces. Their bodies were found a few days later with signs of torture. Manuel Ruiz was a leader of the land restitution process for Curvaradó-Jiguamiandó ordered by Colombia's Constitutional Court, helping to implement the land census. He had asked the government three times for protection, and had only received the cellphone.

José Humberto Torres, a lawyer with the Committee to Protect Political Prisoners who has denounced links between Caribbean coast politicians and paramilitary mafias, learned this March that a group of paramilitaries and politicians had established a 200 million-peso bounty for his murder. Torres represents the major networks of Colombian human rights groups in the discussions with the government over protection.

Norma Irene Pérez, a human rights leader and mother of four from the Macarena community in Meta department on July 22, 2010, participated in and helped to organize a hearing on forced disappearances hosted by Colombia's equivalent of the Tom Lantos Human Rights Commission. On August 7th, Norma Pérez was disappeared, and her body was found five days later.

Former cabinet minister and director of the radio program "Hour of Truth," Fernando Londoño, was wounded on May 15th, 2012, in a car bomb explosion in Bogotá that killed two of his bodyguards and wounded at least 25 people. While authorities had not yet determined who was responsible at the time of writing this testimony, he had been threatened by the FARC.

Ana Fabricia Córdoba, an Afro-Colombian leader of internally displaced persons and member of

the women's organization Ruta Pacífica de las Mujeres, was killed by gunshot on June 7, 2011. She was pursuing justice for the death of her son, which she alleged was at the hands of members of the police. She had asked and failed to receive protection. Her high-profile chronicle of a death foretold led Colombian human rights groups to temporarily suspend dialogue on protection issues with the Colombian government.

Forty-nine human rights defenders were killed in 2011 and 6 were forcibly disappeared, according to the database maintained by Colombian human rights groups, Somos Defensores or We are Defenders. Thirty trade unionists were killed that year according to the Escuela Nacional Sindical; only two of those trade unionists are included in the Somos Defensores database, so 77 human rights defenders and trade unionists were killed in 2011. Somos Defensores registered 239 attacks against defenders in 2011 compared to 174 in 2010, a serious escalation; assassinations increased from 32 to 49, and the practice of forced disappearance reappeared.¹ The Somos Defensores database includes assassinations, physical attacks, sexual violence, forced disappearances, and threats, as well as arbitrary detention and arbitrary use of the legal system against defenders.

The situation in 2012 continues to be grim. In the first three months of the year, 13 human rights defenders were assassinated, according to Somos Defensores, with 64 acts of aggression during that same period.

In December 2011, an international verification mission on the situation of defenders composed of 40 human rights experts and legislators, in which I participated, visited eight regions of the country to evaluate the risks faced by defenders and the government's response. We met with hundreds of defenders as well as national, regional and local government authorities. What we found was that defenders of all descriptions faced death threats. We were disturbed by the large number of reports of break-ins of human rights groups' offices, and noted that defenders continued to complain of surveillance. A number of well-known human rights defenders were behind bars on charges believed to be specious. Defenders described actions by the government that put defenders and communities at risk, such as the army and police distributing flyers or broadcasting radio ads that called on entire communities or specific community leaders to "demobilize," thus labeling them as insurgents. We found a marked difference between an improved, though still flawed, attitude at the national level and the dismissive attitude of many regional officials regarding the risks faced by defenders.²

Who is attacked and threatened, and why? Those attacked were organizing for their own, and their communities', rights. As the International Verification Mission, we heard about the following kinds of situations in which defenders were threatened and attacked: community members, often Afro-Colombian or indigenous, who were protesting the use of a community's land for mining, palm plantations, oil exploration or military use; leaders of displaced communities attempting to regain land; family members or community members seeking justice for the death or disappearance of a loved one; involvement in union organizing; participation in student protests,

¹Somos Defensores, *Annual Report 2011*, Information System on Attacks against Human Rights Defenders, www.somosdefensores.org.

²"Preliminary Report, International Verification Mission on the Situation of Human Rights Defenders in Colombia," December 2011, <http://www.protectionline.org/Preliminary-Report-International.html>.

victims' rights rallies or environmental activism; LGBT persons defending their rights; involvement in women's rights groups; and human rights lawyers pursuing justice in sensitive cases. Faith leaders, including pastors and priests, are threatened and attacked, often for their attempts to advocate for communities. Government officials involved in the protection of human rights, especially local representatives of the Ombudsman's office, are also at risk.

In the last year, 19 indigenous leaders were assassinated. Attacks against women's groups increased in 2011. Women defenders face the use of sexual violence as a method of intimidation and retaliation for their work, and they frequently receive threats directed at their children and other family members. Threats against journalists increased in 2011, according to the office of the UN High Commissioner for Human Rights. Colombia continues to lead the world in murders of trade unionists.

Threats and attacks against defenders are aimed not just at the individual, but at derailing a collective struggle for justice that affects powerful interests, whether those interests are mining or palm companies that want to acquire land, guerrilla or paramilitary groups that want to clear territory to traffic drugs and guns, paramilitary successor groups that want to hold on to land obtained by violence, army members covering up their crimes, or business interests that want to undercut union organizing.

Land rights leaders are in the eye of the storm. At least 25 land rights leaders have been killed since the Santos Administration took office in August 2010. Many of these leaders had requested, and failed to receive, protection measures from the Colombian government.

Even the most prominent cases of land returns are not receiving adequate protection from the government. The murder of Manuel Ruiz struck a blow to hopes for safe land return, as the Curvaradó-Jiguamiandó area is perhaps the most closely watched and carefully accompanied land case in the country, and the government has repeatedly promised to protect the communities.

Who is behind the attacks? As they are rarely successfully investigated and prosecuted, there is no judicial answer, but there are evident patterns. Paramilitary successor groups, such as the Aguilas Negras (Black Eagles), Urabeños, and Rastrojos, are behind many of the threats and attacks directed against human rights defenders. FARC and other guerrilla groups are also responsible for threats against and murders and disappearances of defenders. Members of the army and police, as well as other government agents, are responsible for acts of aggression ranging from illegal surveillance, arbitrary detention, and false imprisonment, to threats, forced disappearance, and murder. Members of the army have threatened family members, witnesses and lawyers in a number of extrajudicial execution cases.

In 2011, according to Somos Defensores, of the 49 murders, 13 were presumed to be by paramilitary groups, 5 by the FARC, 2 by government forces, and 28 were unknown. Of the 239 aggressions in total, 50 percent were presumed to be by paramilitaries, 17 percent by government forces, 4 percent by the FARC, and 29 percent were unknown. In the first three months of 2012, there was a marked increase in the number of acts of aggression attributed to the FARC guerrillas, with 15 of the 64 cases attributed to the FARC, 12 to the paramilitaries, 4 to government forces,

and 33 cases unknown.

Beyond the horrifying numbers, it is important to understand what living with this constant danger means for human rights defenders. They never complain, but sometimes you catch a glimpse of it. One defender told me that he can never again take a walk in the city; another said he and his wife can never go to the movies, as it is not safe to be in a theater. I was sitting on the porch of a restaurant in Sincelejo when we noticed our jovial friend looked pale; he had his back to the street, and he couldn't bear to sit like that, so we moved around so he could face out; he had to be able to see what was going on around him at every moment. Defenders and journalists who were the subject of illegal surveillance by their own government found it profoundly unnerving. Far worse than these kinds of restrictions of ordinary life is the fear that defenders have for their children, because all too often, their children, from elementary school age to adults, are targeted for brutal threats and sometimes attacks. Many defenders and their families are forced into exile for periods of time, but feeling disconnected from their work and their lives, many return to Colombia.

Still Far to Go: The Government's Response

Under the Uribe Administration, the Colombian government directly contributed to the risks faced by defenders and journalists by public attacks by the President and other top officials that called them terrorists or guerrillas. President Juan Manuel Santos signaled a departure from this policy from the start of his administration. He promised to “*desarmar la palabra*” or “disarm words” and to ensure that his administration never publicly attacked defenders. He shepherded through Congress a landmark bill to provide reparations and return land to some of those displaced by violence. The Santos Administration also reopened dialogue with defenders, in the National Guarantees Roundtable, on restructuring the protection program. Finally, the Santos Administration has put in place a number of regulatory changes aimed at improving the climate for human rights defenders.

But despite this more positive public stance, the situation of human rights defenders continues to deteriorate. “While in Bogotá regulations were discussed and put in place, the regions bleed because of the assassinations, threats, arbitrary detentions, attacks and disappearances,” says Somos Defensores.³ The improved dialogue and issuance of new directives have not yet resulted in tangible improvement in protection or justice for human rights defenders—and tangible improvements are the standard by which an administration should be measured. Moreover, as described below, the Santos Administration is supporting constitutional and legislative changes that would increase impunity for human rights crimes, including against defenders.

The following recommendations for the Colombian government reflect recommendations of the United Nations, the Inter-American Commission on Human Rights and the International Verification Mission and are based on the criteria established by Colombian human rights defenders in their National and International Campaign for the Right to Defend Human Rights.⁴

³Somos Defensores, *Annual Report 2011*, Information System on Attacks against Human Rights Defenders, www.somosdefensores.org, p. 4.

⁴Declaration, National and International Campaign for the Right to Defend Human Rights, <http://www.colombiadeffenders.org/downloads/Declaration.pdf>

Recommendation 1: Effectively investigate and prosecute attacks and threats against defenders

Human rights defenders are emphatic on this point: the single most effective way to protect them is to effectively investigate and prosecute the material and intellectual authors of the threats and attacks against them. The vast majority of attacks against defenders remain in impunity. One persistent problem has been that threats and attacks are not investigated as patterns, but as isolated incidents, and the potential relation to the defender's work is often ignored.

The Santos Administration has made some efforts to address this. The Attorney General's office issued directive 012 of 2010, directing government authorities to investigate attacks against human rights defenders and encouraging examination of patterns. Additional judicial police inspectors were assigned to cases involving murders of unionists, in accordance with the Labor Action Plan.

Yet justice for human rights defenders is still a distant prospect. The Office of the UN High Commissioner on Human Rights in Colombia notes in its 2011 report that it “is concerned about certain investigations led by the Attorney General's Office involving human rights defenders. Some of its prosecutors act quickly on the basis of what seems to be unsubstantiated information in cases against human rights defenders, while others do not properly pursue cases in which defenders are the victims.”⁵ The International Service for Human Rights notes that of 192 cases presented by nongovernmental networks to the National Guarantees Roundtable, only six convictions had been issued at the time of its report.⁶

The International Verification Mission observed “that the vast majority of attacks against human rights defenders, including such serious crimes as murders and forced disappearances, remain unpunished.”⁷ We heard dismissive comments from regional authorities regarding threats against defenders, including suggestions from officials that defenders were threatening themselves in order to receive trips abroad. We received a number of complaints from defenders that information they provided to local prosecutors was leaked to paramilitary successor groups, which then used that information to further intimidate activists. Finally, the mission heard that sometimes prosecutors refused to receive new cases, on the grounds that they were overwhelmed, or required that victims' family members investigate evidence themselves, particularly in forced disappearance cases.

Threats against human rights defenders are virtually never investigated. This is so even where defenders have supplied extensive evidence regarding the source of the threats. There are a number of reasons given for this, ranging from the lower sentences for threats making it less rewarding for prosecutors, to the fact that “murder is worse,” to complaints that email threats are difficult to track. But there are no valid excuses for a complete absence of effective investigation

⁵United Nations High Commissioner on Human Rights, *Report of the United Nations High Commissioner on Human Rights on the Situation of Human Rights in Colombia, 2011*, January 31, 2012, p. 5, <http://www.hchr.org.co/documentoseinformes/informes/altocomisionado/report2011.pdf>

⁶International Service for Human Rights, “Human Rights Defenders in Colombia: How Is the Government Protecting their Rights?” December 2011.

⁷“Preliminary Report, International Verification Mission on the Situation of Human Rights Defenders in Colombia,” December 2011, <http://www.protectionline.org/Preliminary-Report-International.ht>

of threats, when threats so often turn into violence, and when prosecuting those who carry out threats could help to dismantle criminal networks outside and within the state, and send an unequivocal message that the government stands behind threatened defenders.

Moreover, the Santos Administration has been promoting constitutional and legislative changes that would rollback efforts to ensure justice for human rights crimes, including against defenders, involving members of the military. While the Santos Administration fortunately withdrew its support from a controversial article that would have returned human rights crimes allegedly committed by members of the military to military courts, a new constitutional reform proposal to overhaul the military justice system is still advancing in the Congress with Santos Administration support which could have much the same impact. It lays out a sharply limited set of crimes that could never go to military jurisdiction, namely crimes against humanity and genocide, but then states that other crimes to be excluded would be defined by Congress subsequently. It is by no means certain that the crimes of rape, extrajudicial execution, torture or forced disappearance would be spelled out in this subsequent list.

A separate bill, known as the legal framework for peace, would allow Congress to establish criteria regarding crimes that would be excluded from prosecution, permitting the Attorney General's office to limit prosecutions to those termed “most responsible” for grave human rights violations.⁸ It also would allow the judiciary to suspend existing sentences for crimes committed by actors in the armed conflict. This would mean that the judiciary could refrain from pursuing justice in cases of grave human rights violations committed by military or other state actors, as well as by illegal armed actors. Together, these provisions could unravel reforms instituted to address the “false positives” scandal in which more than 3,000 civilians were allegedly killed by soldiers, often to up their body counts and obtain incentives. Some of these “false positive” victims were community leaders.

Recommendation 2: Recognize the existence of paramilitary successor groups and act decisively to dismantle them

A substantial part of the threats and attacks are coming from paramilitary successor groups.⁹ The failure of the government to act effectively to dismantle these groups is a major obstacle to creating a safe climate for defenders—and for a large part of the population who are subject to their violent and abusive presence. While the Santos Administration has publicly acknowledged the existence of these groups, to a greater degree than the previous administration, and has

⁸Human Rights Watch, “Colombia: Correct Serious Flaws in Transitional Justice Bill,” May 1, 2012, <http://www.hrw.org/news/2012/05/01/colombia-correct-serious-flaws-transitional-justice-bill>

⁹The wording of many threats signed by paramilitary successor groups show that they are issued in defense, however perverse, of the government. A leader of the human rights group CREDHOS was held up by a man with a gun who said: “Stop denigrating the army and police forces, we already have a *** guerrilla from CREDHOS jailed and if it is necessary to get rid of the rest, we will do so to shut you up.” Threats issued in May 2012 against 25 organizations and 19 defenders read, “We won't let you damage the policies of our president by making demands about the victims' and land law, you will be declared a military target, no matter how much protection you have.” Email threats signed by the Capital Block of the Black Eagles declared as military targets “those who are stirring up communities so that they reclaim their supposed rights, reclaim lands” as well as those who “oppose the use of military jurisdiction [for armed forces members accused of human rights violations], very merited for our nation's heroes.”

conducted targeted efforts to dismantle them, it needs to do far more to end this pervasive danger. It is estimated that paramilitary successor groups are present in 406 municipalities in 31 of Colombia's 32 departments and have consolidated their presence in 271 municipalities.¹⁰

The Inter-American Commission for Human Rights noted that, “a great many of the threats and acts of intimidation and harassment against human rights defenders in Colombia reportedly come from criminal groups, particularly the self-described *Aguilas Negras*. As the Commission was told, when they receive complaints from human rights defenders about acts presumably committed by this group, the authorities simply deny their existence and do not take action on the investigations; to the contrary, they proceed to initiate criminal proceedings against the complainants for 'making false accusations.'”¹¹ Similarly, the International Verification Mission found it profoundly concerning that government authorities denied the existence of illegal groups, particularly paramilitary or successor groups. This meant that regional authorities then discounted the threats, attacks against human rights defenders or break-ins of their offices as common crimes, or as exaggerated or invented. It also meant that regional authorities did not mobilize resources and staff to dismantle these structures, and did not respond when communities and defenders called for protection.¹²

The Colombian government should deliver the message, so that military and civilian government officials, regional authorities and society at large understand, that the paramilitary successor group expansion is a principal threat to Colombian democracy and security. It should act more decisively to dismantle paramilitary networks, and investigate and prosecute their financial and political backers. It should suspend, investigate and prosecute security force members who have been found to collaborate with or tolerate their abuses, making a particular effort to do so in areas with high paramilitary successor group presence.

Recommendation 3: Create a climate that supports the legitimacy of human rights work by positive government pronouncements and by ending the stigmatization of human rights defenders by public servants

The Santos Administration started off in the right direction with its promise to “disarm the word.” Administration officials such as former Minister of the Interior German Vargas Lleras as well as the President himself made a number of strong statements in defense of human rights and those who defend them. This new direction caused human rights groups to breathe a collective sigh of relief and seemed to indicate a commitment to human rights on the part of the new government.

However, this promise was undercut in 2011 by statements by President Santos, the Attorney General and other officials, regarding the Mapiripán massacre, the Las Pavas displacement, and other cases. When the family member of a supposed victim of the Mapiripán massacre retracted

¹⁰ Indepaz, *Seventh Report on Presence of Narcoparamilitary Groups in 2011*, <http://www.indepaz.org.co/wp-content/uploads/2012/02/S%C3%A9ptimo-informe-versi%C3%B3n-ingl%C3%A9s-of-Narcoparamilitary-Groups-in-2011.pdf>

¹¹ Inter-American Commission on Human Rights, “Second Report on the Situation of Human Rights Defenders in the Americas,” 31 December 2011, pp. 36-7, <http://www.oas.org/en/iachr/defenders/docs/pdf/defenders2011.pdf>

¹² Draft final report, *International Verification Mission on the Situation of Human Rights Defenders in Colombia*, to be published.

her testimony, President Santos declared that “it confirmed what many people were saying about dark interests, economic interests, who use that system, that fool it in order to take economic advantage of the public resources of the state.” The Inter-American Commission on Human Rights “considers that statements such as these, made before conducting proper investigations, can have a negative impact on the work of Colombian human rights organizations, which over these last decades have carried out their work of defending human rights in situations of serious risk.”¹³ The government, of course, has a right to call for accurate testimony. However, the public and sweeping condemnations by the President and other high-level officials not just about one supposed false victim but about human rights groups and victims in general unleashed an ugly wave of sentiment directed against defenders and victims that reverberates today.

Current and retired members of the security forces continue to complain publicly about a “judicial war” by judicial authorities, victims and human rights groups against the security forces, as if the act of denouncing abuses and prosecuting cases against them for grave human rights violations were evidence of support for insurgents.

Finally, the Santos Administration fails to speak out when human rights defenders are killed and threatened. As a columnist in *El Espectador* wrote about the murder of trade union activist Daniel Aguirre, “Why did President Santos and [Labor] Minister Pardo remain mute before such a terrible death?” noting that the President had just spoken out about the FARC guerrillas' capture of a French journalist. “Silence has terrible consequences when impunity is systematic: it perpetuates it, it reinforces it, and it even legitimizes it.”

It is not too late for the Santos Administration to retake the high road, firmly declare its support for the legitimate work of human rights defenders, speak out against brutal acts against defenders by all actors, and act to sanction officials who denigrate defenders and place them at greater risk.

Recommendation 4: Improve the protection of human rights defenders, in full consultation with defenders, and in particular, improve protection for land rights activists and communities

Under both the Uribe and Santos Administrations, Colombia's government-run, and initially U.S.-funded, protection program has saved lives. Despite problems, there are lessons from the protection program in Colombia that are well worth considering in designing programs in other countries where defenders are at grave risk.

The Santos Administration has worked to improve protection. It reopened a dialogue with defenders begun under the Uribe Administration, the *Mesa Nacional de Garantías* or the National Guarantees Roundtable. The Ministry of the Interior reorganized the protection programs for human rights defenders, trade unionists and journalists. The decree governing this reorganized protection program was created with input from defenders, and one positive element of the reorganization is that it attempts to decentralize the program so that defenders in more remote areas receive a more effective and rapid response. The Ministry of Interior issued a resolution broadening the scope of the kinds of labor activists who could receive protection.

¹³Inter-American Commission on Human Rights, “Second Report on the Situation of Human Rights Defenders in the Americas,” 31 December 2011, p. 47, <http://www.oas.org/en/iachr/defenders/docs/pdf/defenders2011.pdf>

Despite this improved dialogue and changes in regulations, enormous gaps in actual protection remain. Risk assessments are often performed in a slow, bureaucratic manner, and once measures are granted, they are sometimes only slowly or partially implemented. Measures often do not take into account the specific needs of women, indigenous people, Afro-Colombians, and the LGBT population. Collective protection measures have also not yet been implemented to address the threats especially affecting land restitution processes. The measures agreed upon in regional meetings of the risk evaluation committees (CERREM) are not fully implemented. The National Guarantees Roundtable has not met this year and needs to be reactivated, as it is an important mechanism.

It is vitally important that the government consult closely with communities to develop effective protection plans for communities seeking to reclaim, return to or remain on land affected by violence. Without serious attention to protection and to dismantling the paramilitaries and other illegal groups behind the violence, the government will have no chance of safely implementing the Victims Law. Displaced communities will face a serious risk of returning only to meet their deaths or be displaced again.

Even in cases such as Curvaradó and Jiguamiandó river basins where the Colombian government is attempting to provide protection and national and international nongovernmental groups are providing accompaniment, protection is inadequate and communities and leaders remain at risk. Community leaders continue to denounce death threats and killings by paramilitary successor groups which operate in the region, often in close proximity to army and police checkpoints. Community members who have participated in meetings with the government regarding the census and land restitution have been particularly targeted, as in the case of Manuel Ruiz.

In less well monitored processes, communities live in fear. Twelve communities that make up the Regional Working Group for the Defense of Land and Territory in Córdoba, a group of communities that have returned to land from which they were displaced or that are seeking to avoid displacement, assert that all of their leaders are in situations of grave risk; one has been killed and two forcibly displaced. The same illegal groups that displaced them in the past continue to threaten them, and all of their efforts to use government mechanisms to protect themselves have produced few results—regional judicial authorities that do not investigate threats, an ombudsman's resolution that is not enforced, protection that does not arrive.¹⁴

Our Colombian civil society partners are emphatic in insisting that protection is not created by a primarily military presence that indeed often places civilian populations at greater risk. Protection plans may identify a mix of needs and solutions, including investigations into threats and attacks, greater presence of a local ombudsman, purging local army units of members who collaborate with paramilitary successor groups, and removing a corrupt local official. It may involve a fixed bridge or road, secure communications, and electrification, so that communities are less isolated. It could involve army patrolling around the perimeters of the community. Investment in rural

¹⁴Lutheran World Relief and Latin America Working Group Education Fund, *No Relief in Sight: Land and Violence on the Caribbean Coast of Colombia*, May 2011, <http://www.lawg.org/storage/documents/Colombia/no%20relief%20in%20sight.pdf>

development projects can help create the social cohesion that allows communities to withstand pressure to abandon land. Finally, protection measures often must involve properly legalizing land titles, as a lack of clarity invites violence. But the right mix of measures must be determined in consultation with communities.¹⁵

Recommendation 5: End all illegal surveillance of human rights defenders and ensure that it does not reemerge.

The Departamento Administrativo de Seguridad (DAS), an intelligence agency under the presidency, during the Uribe Administration carried out widespread illegal surveillance of Colombian human rights defenders, trade unionists, journalists, members of the Supreme Court, opposition politicians, and members of international human rights agencies and organizations. The DAS's illegal activities went beyond surveillance to actually issuing threats, playing dirty tricks on human rights groups and journalists, providing lists of trade unionists to be assassinated to paramilitary organizations, and other criminal activities.

The Santos Administration shuttered the DAS intelligence agency, and Colombia's judicial system is investigating and prosecuting DAS officials; one DAS director, for example, has received a 25-year-sentence. We applaud these steps.

However, there are a number of ongoing concerns. First, reports from human rights defenders and journalists that illegal surveillance continues have been registered by the UN High Commissioner on Human Rights office in Colombia, the International Service for Human Rights, and other human rights agencies. This appears to include surveillance by military and police intelligence units. The International Verification Mission heard numerous reports of open surveillance, such as photos and videos taken by police, military and unknown individuals of victims' association events, rallies, meetings, and offices. Defenders reported that they believed their phones were still tapped. Break-ins of human rights groups' offices were reported in which human rights information and computers were stolen. Recently, the Fundación Nydia Erika Bautista, which works with family members of the disappeared, denounced surveillance by men in cars without license plates outside its Bogotá office.

Second, former DAS members have been reassigned to other agencies, including migration, the Attorney General's office, and most disturbingly, some 600 former DAS members have been reassigned to the protection unit. While the government claims these members have been thoroughly screened, defenders remain understandably concerned about relying on DAS agents for their protection. A journalist who was brutally threatened by the DAS asserts that one of the agents involved in the acts against her is now employed by the protection unit.¹⁶

Third, there are concerns about the status of information related to human rights groups

¹⁵See this November 2011 [letter](#) to Secretary Clinton from U.S. nongovernmental organizations describing the kind of protection that should be provided to returning communities and their leaders, http://www.lawg.org/storage/documents/Annual%20Reports/Clinton_Land_Rights_Letter_Nov_2011_english.pdf

¹⁶“El ratón cuidando el queso?” *Semana.com*, April 27, 2012, <http://www.semana.com/confidenciales-semanacom/raton-cuidando-del-queso/176250-3.aspx>

persisting in intelligence files or being leaked. It has been a long-standing request of Colombian human rights groups and international human rights agencies that human rights activists be permitted access to their DAS files and that false information regarding defenders be scrubbed from intelligence files. Bad information that continues to be recycled has been the source of threats against and specious prosecutions of defenders. The Inter-American Commission on Human Rights has “repeatedly expressed its concern over the lack of mechanisms by which individuals can gain access to intelligence information kept on them and thereby can request that it be corrected, updated, or if applicable, removed from the intelligence files.” The IACHR is also “concerned because in September 2011 it was publicly made known that in the transition process from the DAS, some operatives who were facing dismissal decided to sell or leak information in their possession to individuals in illegal groups or other interested groups”¹⁷ which can “increase the situation of risk to the life and safety of individuals whose data is found in the files.”¹⁸

The Colombian government needs to ensure that all illegal surveillance of human rights defenders by government agencies ends; must consult with human rights defenders regarding the screening of protection agents; and ensure that there is a workable process for human rights defenders to examine and request removal of specious information from intelligence files.

Recommendation 6: End specious prosecutions of human rights defenders

A number of well-known human rights defenders remain in jail or have charges still pending against them, including Winston Gallego Pamplona, Yira Bolaños, Principe Gabriel González, and David Ravelo Crespo. In many of these cases, the primary evidence against them was uncorroborated testimony from military intelligence files or from demobilized members of illegal groups, who are often rewarded or pressured for their testimony.

The Attorney General's office has issued a directive that instructs prosecutors not to rely on such uncorroborated testimony, which is a positive step. However, this directive has yet to have sufficient impact.

To mention just one case, Carmelo Agámez of the Movement of Victims of State Crimes had risked his life denouncing paramilitary violence in his community of San Onofre, Sucre. Yet he was jailed on suspicion of collaborating with the paramilitary groups he had denounced. He served nearly three years in jail without his trial ever concluding, and was finally released as he had served the maximum sentence he could have received for the charges against him.

U.S. Government Response: Positive on the Cases, Inadequate on the Policy

On a case level, the response of the U.S. government is often laudable. U.S. Embassy officials promptly follow up on specific cases with the Colombian authorities and inquire about protection measures. The doors to the State Department, under this administration and the previous one, are open for us and for our Colombian human rights partners. We are very grateful to our

¹⁷Inter-American Commission on Human Rights, “Second Report on the Situation of Human Rights Defenders in the Americas,” 31 December 2011, p. 27, <http://www.oas.org/en/iachr/defenders/docs/pdf/defenders2011.pdf>

¹⁸Ibid, p. 85.

diplomats for the many times they have acted in defense of individual human rights defenders.

We are grateful to the members of the U.S. Congress for raising the threats and attacks against human rights defenders continually and strongly with the Colombian government and the State Department. Your actions have saved lives.

Yet the U.S. government should act far more decisively to help create the climate in which defenders can carry out their work. The U.S. ambassador and visiting State Department officials should regularly speak out in defense of defenders, issue statements, and visit the offices of defenders. The U.S. government should use the leverage it has at hand, including use of the mechanisms of the human rights conditions and the Labor Action Plan.

Most disappointing recently was President Obama's decision to determine the Labor Action Plan sufficiently fulfilled to allow the Free Trade Agreement to go into force on May 15th, despite clear evidence presented by unions and human rights groups that insufficient progress had been made in meeting the Labor Action Plan requirements and that the situation of anti-union violence continued to be alarming. We and our Colombian human rights partners are often frankly disheartened by the glowing statements of progress by U.S. officials when we see such a dire situation on the ground.

At this moment, the U.S. government could help support human rights defenders in Colombia by taking the following actions. It would be most helpful if members of the Tom Lantos Human Rights Commission could encourage policy along these lines.

1. **Insist on full compliance with the Labor Action Plan and keep a focus on anti-union violence.** Since President Obama announced on April 15th that the Free Trade Agreement would go into effect in one month, there appears to be a wave of retaliation against trade unionists who were active in opposing the agreement and involved in organizing in the priority sectors for the Labor Action Plan, including sugar cane, palm and port workers. In the last three weeks, sugar cane cutters trade union leader Daniel Aguirre was murdered, and trade unionists in the port, palm and sugar cane sectors have received death threats.¹⁹

The U.S. government has a responsibility to stand by these unions and insist that trade unionists are protected and that threats and violence against them is promptly, effectively

¹⁹John Jairo Castro of the Buenaventura Port Workers received on May 12 a text message that said: “Second warning to trade union leadership and to the loudmouths that we will send you to sleep early outside of the region... We have the leader of trade unions in Cali, Magdalena Medio, Barrancabermeja and Cesar in mind... We have located your family members, located areas and points where (we will) make you obey.” The President and Vice President of the SINTRAEMCALI union, the Cali municipal workers' union, active in the FTA debate, received on April 21 invitations to their own funeral along with two roses, two bullets, and a prayer book. The threat from the Black Eagles warned, “Don't think that your bodyguards will be able to save you. They will have to watch over you in the cemetery. We've also noticed that you have been visiting the Attorney General's Office often, but that won't last long.” Wilson Ferrer, President of CUT trade union federation's Santander branch, received a telephone threat on April 18th related to his involvement with the palm workers: “Stop getting involved with the palm workers. We don't want to see you assisting them anymore. We don't want to see you in the region. We're warning you...”

investigated and prosecuted. This should not be just the responsibility of the Labor Department. We urge the White House to remain involved, and the State Department to work closely with the Labor Department to press the Colombian government for these measures, using every means available, including clear, high-level public pronouncements. We urge members of Congress to follow this closely and issue regular statements to protect the safety of trade unionists.

2. **Urge that there be no backwards steps on justice for members of the military accused of grave human rights violations.** As mentioned earlier, a number of proposals are before the Colombian Congress that would increase military impunity for grave human rights violations, including by returning human rights cases to military, not civilian, courts. The State Department and Congress have a clear tool to accomplish this, the human rights conditions in foreign operations law. These conditions must be maintained and actively used. While we appreciate the actions the State Department has taken so far regarding civilian jurisdiction, as stated earlier, we remain seriously concerned about proposals still before the Colombian Congress that could lead to impunity, including for members of the military accused of grave human rights crimes.
3. **Emphasize the importance of dismantling paramilitary successor groups, prosecuting their financial backers, and suspending and prosecuting security force members and politicians who collaborate with them.** It was concerning when Chairman of the Joint Chiefs of Staff and the Secretary of Defense separately visited Colombia and appeared to emphasize almost exclusively U.S. support for Colombia's campaign against the FARC guerrillas. This should have been accompanied by a clear message urging more decisive action against the paramilitary successor groups, who are responsible for much of the violence against human rights defenders, trade unionists and communities attempting to return to or remain on their land.
4. **Insist upon an end to illegal surveillance of human rights defenders and accountability for the crimes of the DAS.** This is a particularly important action for the United States, as the U.S. government supplied assistance to the DAS and continues to provide support for intelligence activities via other agencies.
5. **Work with the Colombian government to develop real protection for communities returning to their land.** In particular, urge the Colombian government to consult closely with communities in developing and implementing the protection plans that will actually keep them safe. Regarding broader protection programs, urge the Colombian government to continue the National Guarantees Roundtable, fulfill its recommendations, and consult closely with human rights defenders in improving and implementing protection.
6. **Emphasize the importance of successfully investigating and prosecuting violence and threats against human rights defenders.** It is important to keep pressing on a set of specific cases for results. There is no better way to protect defenders than to ensure justice for violence against them. It is also essential that U.S. diplomacy emphasize implementation of the Attorney General's directive about prosecutions of defenders, so

that defenders do not continue to be jailed on false charges.

Despite all of the risks, there is a real opportunity to create a climate now in Colombia in which defenders can carry out their important work. The Santos Administration has shown itself to be considerably more open on this score than its predecessor. Colombian human rights organizations, through an organized campaign on the right to defend rights, have awakened a greater acknowledgment in Colombian media and society about the role human rights defenders play and the devastating risks they face in their country. The United States must do much more to support human rights defenders in Colombia. That nation cannot afford to lose one more person who devotes his or her life to the defense of others.