

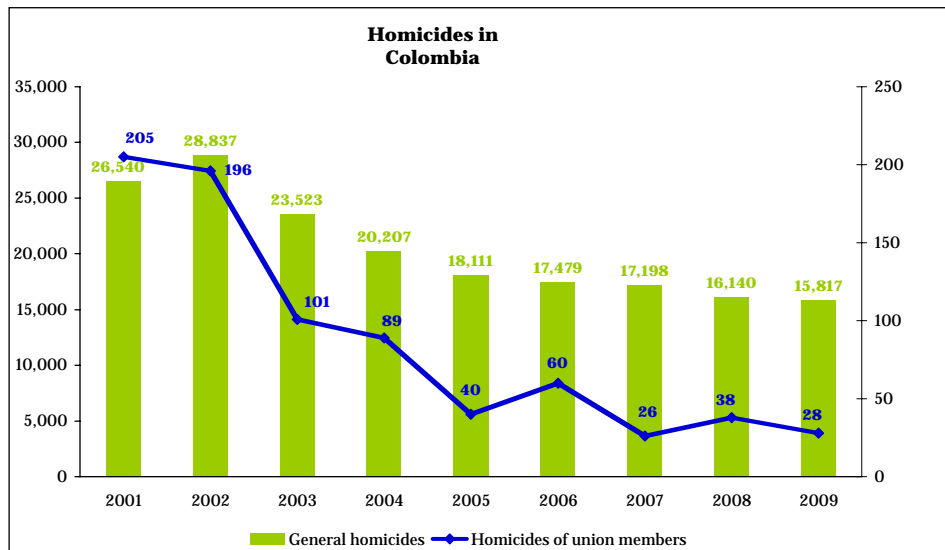


## Ensuring Justice and Protecting Labor and Human Rights in Colombia

Over the past eight years, the Colombian Government has devoted unprecedented resources and attention to improving security for all Colombians and preventing violence towards vulnerable groups, including union members and to establishing justice for all by fighting impunity. As a result, Colombia is now more stable and peaceful than anytime in modern history. This document details the progress that has been made towards strengthening Colombia's thriving democracy.

### 1. Reducing Violence

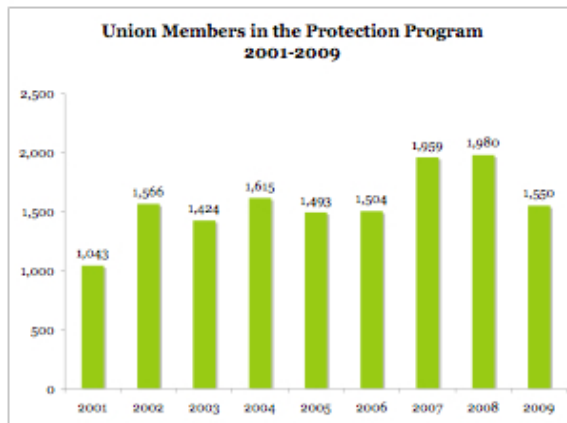
- Violence in Colombia has been fueled by drug money channeled to illegally armed groups and criminal organizations. The **recovery of control over territory** by the Government and the implementation of a **peace process with paramilitary groups** and voluntary individual demobilization of guerrilla members have resulted in the demobilization of over 50,000 men and women, and corresponding reduction in violence. Confessions obtained from former paramilitaries and guerillas have also provided important information in the investigation of past violence, including against union members.
- Homicides in Colombia dropped by 45% between 2002 and 2009. The decrease in overall violence, paired with a protection program aimed at vulnerable groups – including union members – and the creation of the special unit at the Prosecutor General's Office, have led to an 86% reduction in the level of homicides of union members. While any homicide is one too many, Colombia's progress is significant.





Source: Ministry of Defense

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 the program, and thousands of union members have been included and remain safe today.



Source: Ministry of the Interior



Source: Ministry of the Interior

## 2. Fight Against Impunity and Strengthening Justice

- Judicial Reform:** Constitutional reforms that completely transformed the judicial system were approved in 2004. An “accusatory” system replaced an inquisitorial system in 2007, after four years of implementation, which included training, preparation, and construction of court infrastructure. **This effort is being supported by the United States Department of Justice.**

To reform and strengthen the justice system, the budget for the judicial sector was increased by 266 percent between 2003 and 2008 – while the total increase in government expenditures during the same period was 71 percent.

Likewise, a law was passed in 2007 (Law 1049), and established new oral procedures for labor court proceedings. The implementation 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 spent to reach a decision. The Government has budgeted \$52 million for the reform.

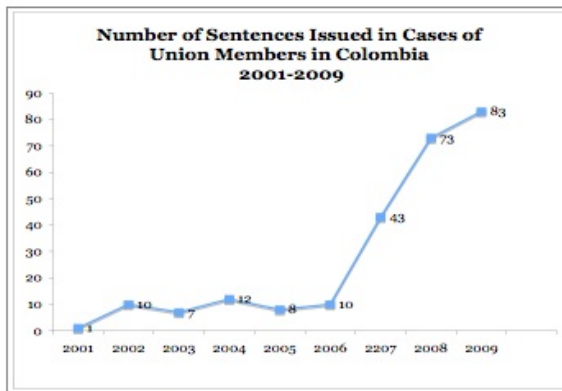
- Prioritization of Cases and Increased Transparency:** As part of the commitment to fight impunity in crimes against trade union members, the Office of the Prosecutor



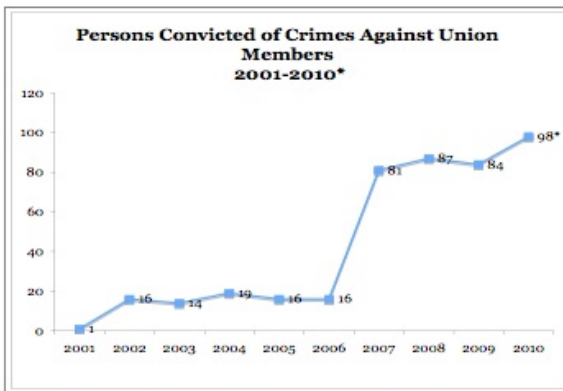
General established a special Sub-Unit of the Human Rights Unit in 2006 – initially with 13 prosecutors. The Sub-Unit began operations in 2007 and now has 19 prosecutors, 76 investigators and 19 additional lawyers.

The priority cases were determined in consultation with Colombia’s trade union confederations. Before the establishment of the Sub-Unit, convictions for homicides, kidnappings, threats or other crimes against trade union members were rarely obtained.

The results of the Sub-Unit’s work are noteworthy. A May 2010 report indicates that of the 271 sentences issued between 2000 and 82 percent (222) were issued since the creation of the Sub-Unit, and more than 99 percent (269) since 2002. A total of 83 sentences were handed down last year and 234 individuals were arrested.



Source: Ministry of the Interior



\*As of May 2010; Source: Prosecutor General’s Office

- **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. The appointment of these judges to hear cases submitted by the Labor Sub-Unit has led to more expedient case review, and funding will be maintained as long as necessary.
- **Reforms of Labor Laws and the Regulatory Framework:** New steps, including laws adopted by Congress, have been taken to strengthen labor provisions. Some of the main reforms are:
  - **Law 1210** (July 14, 2008) transfers the authority to declare the legality of strikes to the judicial branch; and allows arbitration 60 days after a strike at the request of the parties. With the enactment of Law 1210, currently the judiciary is framing, on a case by case basis, the concept of public essential services where strikes are prohibited, applying the standards of the ILO, which implies a significant progress made towards legal definition of essential public service.



- **Law 1233** (July 22, 2008) requires cooperatives to provide workers with social security coverage – health, retirement, loans for housing, training opportunities, family support and recreation, among other benefits, thereby eliminating an inequality between cooperative members and regular employees.
  
- **Law 1309** (June 26, 2009) increased the prison sentence for homicides of union members from 13 - 25 years, to 25 - 40 years. Similar increases were made for threatening and kidnapping.
  - The statute of limitations in the case of homicides against union members was increased from 20 to 30 years, the same period established for crimes against humanity such as genocide, kidnapping, torture and forced displacement.
  - The law also increased the penalty for the impediment or disturbing of a legal meeting or the free exercise of the rights consigned in the labor laws, or penalizing workers for a strike, meeting or legal association. The penalty for non-compliance can result in arrest and steep fines.

The right to organize unions in Colombia is protected. Most recently, on July 9, 2008, the Constitutional Court issued ruling C-695, establishing that the registration of union bylaws before the Ministry of Social Protection is automatic, and the Ministry cannot exercise any control over the content. With this ruling, Colombia's courts have removed any basis for concerns about the difficulty of registration of trade unions.

### 3. Social Dialogue

- The resolution of issues through the policy of **Social Dialogue** has been enhanced through the creation of new mechanisms and the renewal of others. An example is the Tripartite Agreement reached in the framework of the International Labor Organization (ILO), where workers, employers and government work cooperatively to meet a single objective: to further improve the labor environment in Colombia.
  
- Regular meetings and consultation mechanisms between the leadership of the union confederations, employer associations and the Government have also

#### **ILO Recognizes Colombia's Progress**

With regard to the Freedom of Association and Protection of the Rights to Organize, the 2010 ILO Report of the Committee of Experts on the Application of Conventions and Recommendations concluded:

*"... the Committee recognizes all the measures, of a practical and legislative nature, that the Government has been adopting recently to combat violence in general and violence against trade union movement, and it notes a decrease in the murders of trade unionists between 2008 and 2009, and in violence in general."*

The ILO Committee described as "satisfactory" Colombia's new 30-year statute of limitations for prosecution of homicides of trade unionists and human rights defenders.

The ILO also expressed as "satisfactory" Colombia's expansion of collective bargaining.



been established. The Government's Decree 427 allows greater participation by the ILO and other organizations – including international union representatives – in the National Commission on Labor and Wage Policies.

- The rights of workers in Colombia are protected by a robust legal framework, including constitutional and statutory protections that reflect the core labor standards defined under the ILO's Declaration on Fundamental Principles and Rights at Work. **Colombia has ratified 60 ILO Conventions, including all eight fundamental labor rights conventions.**
- Constitutional protections permit workers to form unions without interference, and provide protections from dismissal for workers that establish unions. Various holdings of the Constitutional Court have validated the constitutional rights of workers to associate, bargain collectively and to strike.
- An ILO office was opened in Colombia in 2006 to implement cooperation programs. It has contributed to enhanced dialogue and defined areas of joint work to improve labor conditions in Colombia. The Government of Colombia has financed the ILO representative office, committing \$4 million to sustain the effort.
- In an indication of the progress being made in Colombia, in 2009, the nation was excluded for the third straight year from the ILO's Committee of Experts on the Application of Conventions and Recommendations (CEACR) list of problematic cases.
- Since the implementation of Law 1233 of 2008 and Decree 1294 of 2009, important steps have been taken to ensure that special training is provided to labor inspectors. 212 new positions have been created within the Inspection, Surveillance and Control system, from which 135 received special training to be labor inspectors.

#### **UN Recognizes Colombia's Progress**

Colombia was one of the first members of the United Nations (UN) to voluntarily conduct a self-assessment under the auspices of the UN Human Rights Council – the Universal Periodic Review (UPR).

The UPR was instituted in 2006 as a means for each UN member state to report to the international community its achievements in protecting and promoting human rights.

Colombia's most recent report released in September 2009 concluded "There have been evident advances in the field of HR: violations have decreased; protection of the population has increased; war against impunity has been intensified; and the support to vulnerable populations and victims has been strengthened, as well as the dialogue with organizations defending Human Rights."

#### **UN Special Rapporteurs Visited Colombia in 2009**

*One Rapporteur acknowledged that the Government of Colombia works to "protect judges, lawyers, witnesses and victims."*

*Another Rapporteur "observed with special satisfaction" President Uribe's September 17 statement that human rights defense is a "necessary and legitimate action for democracy."*





### **Conclusion**

Throughout this decade, the Government of Colombia – Latin America’s oldest democracy – has worked tirelessly to reverse the course of injustice and impunity. The roots of the country’s problems can be easily traced to the scourge of narcotics trafficking, and a terrorist insurgency that has attempted to destabilize the nation. Through strong and effective leadership, Colombia is making great strides to reclaim the nation for all of its people, and to guarantee justice and rights for all workers and citizens. The facts detailing Colombia’s progress are clear and well documented. Building on this success story, and building a brighter future for every Colombian is our goal.

**Learn more about today’s Colombia at [www.colombiaemb.org](http://www.colombiaemb.org)**