

# Civil society under threat

**Paramilitary violence**  
Cesar mining region 2012-2016

Néstor Iván Martínez

\* June 26, 1964

† September 11, 2016





**Néstor  
Martínez,  
murdered  
community  
leader**

Néstor Iván Martínez was involved in several social movements in the mining region of Cesar. He was one of the activists that protested against the expansion of a mine of mining company Drummond. On September 11, 2016, two unidentified armed men attacked the farm of the brother of Martínez in the Chiriguaná village. They tied up both his brother and his wife, waited for Martínez to arrive and, in front of his family, executed him with two bullets to the head.

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# Introduction: Civil society under threat

This report shows that during the last four years (June 2012 to September 2016) violence, threats and murder by paramilitary successor groups have continued and have targeted more than 200 people in the Cesar mining region. This violence has a paralyzing effect on civil society. In view of this situation, with the Colombian Peace Agreement close to being adopted, it is now time for justice and remedy for the victims of recent and past violence, as well as guarantees for their safety.

Over the past 20 years, the inhabitants of the Cesar coal mining region in Colombia have suffered enormously. Between 1996-2006, during the period of paramilitary violence, at least 3,100 people were murdered and 55,000 farmers have been driven from their land. Despite these atrocities and the fact that the victims are still awaiting reparations, European energy companies have continued to buy millions of tons of coal from Cesar, especially from mining companies Drummond and Prodeco/Glencore.

Meanwhile, despite the demobilization of the paramilitary structure of the Autodefensas Unidas de Colombia (AUC) in 2006 – a process which has been far from successful – victims of human rights violations, community leaders, trade union activists, as well as critical journalists who cover their struggles for justice and reparation, continue to be threatened, intimidated and assaulted.

# Violence and threats against civil society 2012-2016

While victims of past atrocities have not been acknowledged or remediated, and even though officially the paramilitary structure of the AUC<sup>1</sup> demobilized in 2006, the violence in the area has not disappeared. Neo-paramilitary groups such as Los Rastrojos, Los Urabeños and other groups are still operating in the mining region of Cesar.

## Renewed violence

During the past few years (2012-2016), particularly since the promulgation of the Victims and Land Restitution Law (Law 1448 of 2011),

these neo-paramilitary groups have in various ways been threatening and intimidating victims, land restitution claimants, trade union leaders and other civil society members (including human rights defenders and journalists) that fight for the right of victims to effective remedy. In this way these illegal armed groups defend the status quo that resulted from the paramilitary violence.

## At least 200 people targeted

An non-exhaustive inventory made by PAX lists 23 cases of security incidents reported in the public domain, in which at least 200 people were threatened or assaulted. Most of these acts are claimed by or carry the signature of neo-paramilitary groups and include signed pamphlets, phone calls, text messages or personally delivered messages. In at least 7 cases attempts were made to assassinate persons. Unfortunately the most recent assault (September 11, 2016) was fatal, killing Néstor Martínez, the leader of the local Afro-Colombian community. Both the death threats and assassination attempts have the effect of

<sup>1</sup> Autodefensas Unidas de Colombia - United Self-Defense Forces of Colombia

‘re-victimizing’ the population of a region that was already brutally affected by the conflict.

### **Defending mining companies**

In several of the signed pamphlets or communiqués neo-paramilitary groups have claimed to defend the interests of the mining companies and other economic actors in the region. Despite this, neither Drummond nor Prodeco/Glencore have publicly distanced themselves from these claims.

### **Paralyzing effect**

The threats and assassination attempts are deliberately and primarily directed at civil society leaders. Some get protection from the State, but most do not. The targeted people cannot move freely. Only the bravest dare to speak out, since by doing so they are risking their lives. This way the violence and threats have a paralyzing effect on the social struggles for justice and reparation of thousands of people.

### **Cesar Colombia**



### **Due diligence?**

The UN Guiding Principles on Business and Human Rights (UNGPR) stipulate that companies “should include assessing actual and potential human rights impacts, integrating and acting upon the findings, tracking responses, and communicating how impacts are addressed”. Both mining companies and energy companies buying blood coal have failed to identify and address the current paramilitary threats in Cesar.

## Juan Aguas, Drummond employee and trade union leader

Juan Aguas has been working for Drummond since 1996, operating heavy machinery in the Drummond Port on the Atlantic coast near Santa Marta. He is a member of the independent trade union Sintramienergetica, section Ciénaga, where he has fulfilled several executive functions. Several of his friends and fellow trade unionists have been murdered by the paramilitaries. Mr Aguas has received several death threats for his trade union activism, including **an invitation to his own funeral.**



# Cesar, Colombia

## 2012-2016

### Violence and threats:



12

Pamphlets,  
Death threats



6

Armed assaults,  
assassination  
attempts



2

Burglaries



2

Assassinations,  
suspicious  
fatal accidents



1

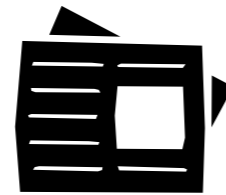
Unlawful  
forced eviction

### Persons and organizations threatened:



3

Politicians



8

Journalists



9

NGO's



11

Lawyers



51

Community  
leaders



58

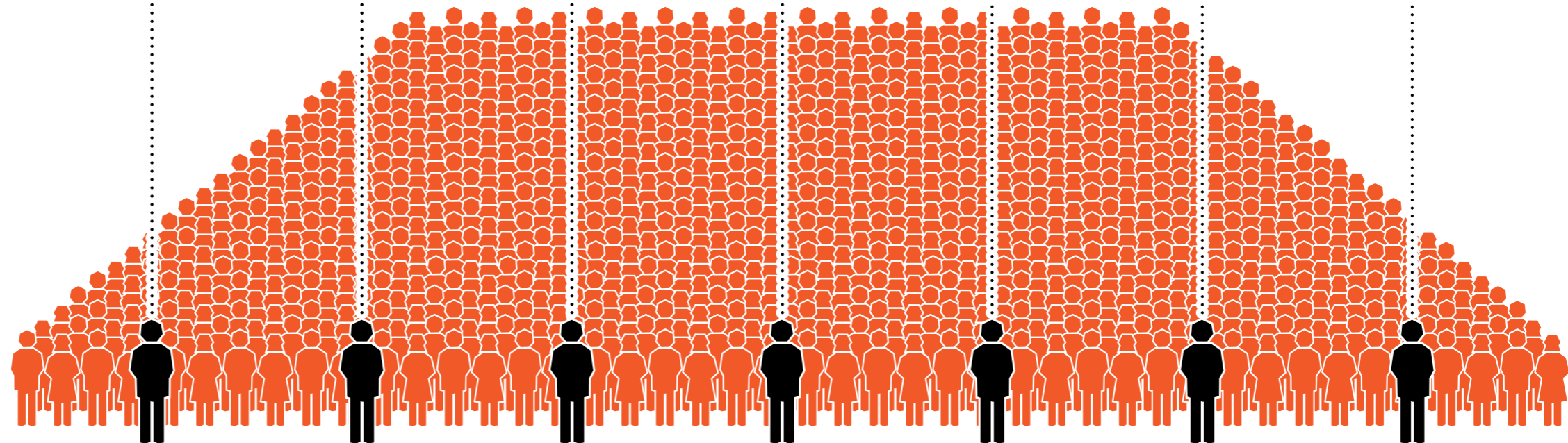
Trade union  
leaders



61

Land restitution  
claimants

### People affected:



# Recom- mendations

## Recommendations to the mining companies

- ◆ Publicly condemn, assess and address all recent cases of threats and violence against civil society leaders (including trade union members) in the mining region of Cesar and cooperate fully with the Special Investigation Unit, which is to be created following the Peace Agreement and will be dedicated to investigating neo-paramilitary groups and those who support them.

- ◆ In line with international standards such as the UNGP and in coordination with the Colombian government, take clear and decisive steps towards effective remedy for the victims of violence in the mining region of Cesar.

## Recommendations to the Colombian government

- ◆ Assure that the Special Investigation Unit dedicated to investigating neo-paramilitary groups and their support structures will thoroughly examine the ongoing violence in the mining region of Cesar, as well as eliminate the ties that may exist between these neo-paramilitary groups and representatives of the State and the private sector.
- ◆ Crack down on and prosecute the members of any illegal armed group that operates in the mining region of Cesar.
- ◆ Follow up on the recommendation made by the National Center for Historical Memory (CNMH) to further contribute to uncover the



truth about the role big enterprises have played in the violence and forced displacement in Cesar, as part of the implementation of the peace process.

### Recommendations to European energy companies

- ◆ In line with the OECD Guidelines and the UNGP, suspend all coal import from Cesar until (a) clear and decisive steps have been taken towards finding effective remedy for the victims of violence in the mining region of Cesar, and (b) current neo-paramilitary threats are assessed and addressed, and investigations into possible ties between illegal armed groups and business elites in Cesar have been concluded.



The three sisters of Daniel Cogollo return for the first time in 2015 to the place where their brother was murdered by paramilitaries in April 1997.

## Reported violence and threats to civil society actors in Cesar mining region 2012-2016 related to paramilitarism and illegal armed groups

Non-exhaustive inventory, compiled on september 12, 2016

Date	Location	Persons threatened	Reported Perpetrator	Type	Impact	Relevance	Source
<b>2016</b>							
11/Sep	Chiriguaná (afro-Colombian community of 'La Sierra, El Cruce y La Estación')	Néstor Martínez	Various unidentified armed men, illegal armed group	Assassination (victim killed with gunshots in broad daylight)	Fear among local population that new wave of paramilitary violence is imminent	Néstor Martínez was traditional authority of local afro-Colombian community, with strong voice in local civil and victims' rights issues, who in recent past has protested expansion of Drummond mine towards community's communal lands	www.rptnoticias.com/2016/09/asesinan-a-lider-de-comunidades-negras/ (11-Sep)
25/Aug	South of Bolivar (department), south and central Cesar	Land restitution claimants and representatives of the Comisión de Interlocución (regional dialogue platform), amongst whom Néstor Martínez	GALS (Grupo Armado de Limpieza Social, Armed Group for Social Cleansing)	Pamphlet/ communiqué (regionally distributed), death threat	Threat and emergence of the armed group marks the aggravation of the violence in the Cesar department and causes great concern among civil society leaders	Threat is made against people in region that have been previously victimized by wave of paramilitary violence between 1996 and 2006; revictimization	Threat, original document; article in El Espectador national newspaper (12-Sep)
15/May	Augustín Codazzi (Ca-sacará)	Josué Hernández (son), Cirilio Hernández (father)	Group of unidentified armed men (unsolved)	Assault with machete (two victims injured), assassination attempt	Josué lost finger from his right hand and both victims received laceration wounds	Local peasant leader and former candidate for municipal council for Unión Patriótica political party; attack follows on assassination attempt (with grenade and shootout) on Imelda Daza, Unión Patriótica leader and former candidate for governor of Cesar department, on May 6, 2016	Caracol radio website article (15-May)
12/May	Becerril (Estados Unidos), La Jagua de Ibirico (Victoria de San Isidro)	4 local peasant farmer families, former victims of violence	(Emerging) Organized Armed Group	Direct intimidation, death threat	Two farmers were extorted; one farmer was forced to leave his house, another was detained for several hours	Threats are made against people in area where previously massive forced displacement by AUC occurred; revictimization	Human Rights Ombudsman, Early Warning Systems Report (18-May)
6/May	Cartagena de Indias	Imelda Daza Cotes, Manuel Fernandez	Unknown (unsolved)	Assault with automatic rifle	Bodyguard suffered head injury	Leader of Unión Patriótica political party and ex-candidate for governor of Cesar department, who was previously exiled in Europe due to threats and violence; Manuel Fernandez is trade union leader, who survived various attempts at his life	El Tiempo website (6-May)
20/Apr	La Jagua de Ibirico (town)	5 members of executive board of trade union (Sintra-mienergetica)	Los Rastrojos (paramilitary group)	Pamphlet, death threat	Increasingly few members prepared to fulfil executive functions out of fear for life and loved ones, complicating functioning of trade union	Threat is made during negotiations for new collective agreement; trade union previously was object of attacks by AUC; revictimization	Pamphlet (original document, 20-Apr)

Date	Location	Persons threatened	Reported Perpetrator	Type	Impact	Relevance	Source
19/Jan	Bogotá	Offices of Tierra Digna's lawyers	Unknown (unsolved)	Burglary and theft of important and sensitive human rights information	Hundreds of inhabitants of at least two communities defended by Tierra Digna might be in danger because of loss of crucial information about their cases	Tierra Digna has recently released report on impacts of coal mining in Cesar and Magdalena (14 October 2015)	Statement by Tierra Digna, website FOR Peace Presence (25-Jan)
<b>2015</b>							
5/Jul	Valledupar	Land Restitution Unit of Cesar-La Guajira; land restitution claimants in Cesar generally	Unknown (unsolved)	Burglary and theft of computers, containing sensitive and personal information, of Land Restitution Unit	'Loss of data' is worrisome and constitutes serious security threat for all land restitution claimants in Cesar (and La Guajira) who have turned to Land Restitution Unit to claim their rights	Stolen computers contain database with personal information concerning all victims of displacement now claiming land restitution in Cesar, as well as all evidentiary material handed over by victims to unit, to be used for advancing their land restitution claims. Land Restitution Unit of Cesar-La Guajira had kept issue silent for 4 days	El Pilon newspaper article (9-Jul)
10/Apr	El Copey (San Miguel)	13 members of De La Hoz Ardila family (peasant farmers), former victims of forced displacement	National Police	Unlawful forced eviction, by order of Mayor Wilfrido Ruiz	Police harassment, forced eviction of peasant family previously granted land restitution	Forced eviction is unlawful in light of official land restitution order; Mayor Wilfrido Ruiz has been investigated for ties with paramilitary AUC	Official complaint to Victim's Unit (no date)
<b>2014</b>							
1/Mar	Nationally distributed	10 members of executive board of trade union (Sintra-mienergetica)	Los Rastrojos, (paramilitary group)	Pamphlet/ communiqué (nationally distributed), death threat	Death threats complicate functioning of executive board and discourage workers to join trade unions (see above)	The Rastrojos explicitly label union leaders as "accomplices of the FARC and ELN" who "attack the mining engine [locomotora minera]" as promoted by President Santos. Trade union previously was object of attacks by AUC; revictimization	Pamphlet (original document, 1-Mar)
24/Feb	Valledupar, (Barrio '25 de Diciembre')	El Prado land restitution claimants and their lawyer	Unknown (unsolved)	Assault with automatic rifle (no victims or injured)	No people injured, but threats and violence impede return of peasants to lands over which land restitution has been granted (lack of safety guarantees)	Assault was against land restitution claimants and their lawyer, who recently won their case; revictimization of forced displacement victims	Letter by Cesar Human Rights Ombudsman to National Protection Unit (original document, 24-Feb)

Date	Location	Persons threatened	Reported Perpetrator	Type	Impact	Relevance	Source
13/Feb	Ciénaga, Santa Marta	Edgar Miguel Muñoz, executive board member of Sintra-mienergetica	Unknown (unsolved)	Death threat (text message on work cellular phone)	Death threats complicate functioning of executive board of trade union	Board members are accused of having ties with guerrillas; trade union previously was object of attacks by AUC; revictimization	Letter by Sintramienergetica (Ciénaga) directed at Office of Attorney General (original document, 15-Feb)
<b>2013</b>							
10/Sep	Nationally distributed	Five NGOs and human rights defenders working in coastal departments, amongst which Cesar (Codhes, Coordinación Nacional de Desplazados-CND, Polo Democrático, Fensuagro, Corporación Jurídica Yira Castro)	Los Rastrojos, (paramilitary group)	Pamphlet/communique No. 18 (nationally distributed), death threat	Threats impede work of NGOs and other organizations working on behalf of victims of paramilitary violence	NGOs and human rights defenders are accused of collaborating with guerrillas (FARC and ELN), and of 'opposing the noble interests of the Santos administration', and are given a 72-hour ultimatum to abandon their work in said regions	Forwarded e-mail (10-Sep)
4/Aug	Nationally distributed	Members of trade unions Sintramienergetica, Funtraenergetica and Sintraime in coastal departments, amongst which Cesar	Los Rastrojos, (paramilitary group)	Pamphlet/communique No. 12 (nationally distributed), death threat	Death threats discourage workers to join trade unions	Trade union members are accused of "detaining the progress generated by multinational companies like Glencore [and] Drummond", and are declared 'military objective'; trade union previously was object of attacks by AUC; revictimization	Pamphlet (original document, 4-Aug)
27/May	Barranquilla	Rubén Morrón Guerrero, secretary general of Chiriguaná Section of Sintra-mienergetica, part of trade union negotiating delegation	Two unidentified gunmen on motor-bike (unsolved)	Armed assault with firearm, assassination attempt	Threats, intimidation and assaults complicate functioning of trade union leaders (Morrón is now living in exile in France)	Armed assault occurred on eve of trade union negotiation with Drummond in Barranquilla; trade union previously was object of attacks by AUC; revictimization	Statement by Federación Sindical Mundial (FSM) and Amnesty International (30-May)
7/May	Valledupar	8 journalists working for various regional newspapers	Anti-Restitution Army (illegal armed group)	Pamphlet/communique (regionally distributed), death threat	Threat impedes functioning of free press, among them regional newspaper El Pilon	Threatened journalists had covered issue of land restitution in local and regional newspapers; persons indicated are declared 'military objective', and are ordered to immediately abandon their work	Website article FLIP (Fundación para la Libertad de Prensa) (7-May)
9/Apr	Santa Marta	Juan Aguas, trade union leader of Sintramienergetica	Unknown	Invitation to his own funeral (sufragio)	Death threats complicate functioning of executive board of trade unions	Likely to have received threat in reaction to his lodging complaints against company/port authorities	Pamphlet (original document, 9-Apr)

Date	Location	Persons threatened	Reported Perpetrator	Type	Impact	Relevance	Source
8/Apr	Valledupar	20 leaders of communities claiming land restitution are being threatened, from haciendas Bellacruz, El Toco, El Prado y Mechocacán	Los Rastrojos (paramilitary group)	E-mail communication	Threats impede free movement and functioning of leaders and representatives of communities claiming land restitution	Threat is made against people in area where previously massive forced displacement by AUC occurred; revictimization	Noche y Niebla No. 47 (Banco de Datos de Derechos Humanos y Violencia Política del CINEP/PPP)
1/Apr	Nationally distributed	NGOs and human rights defenders working nationally (trade unions, NGOs, lawyer collectives)	Los Rastrojos, (paramilitary group)	Pamphlet/ communiqué No. 1 (nationally distributed), death threat	Threats impede work of NGOs and other organizations working on behalf of mine workers and victims of paramilitary violence	Organizations and persons indicated are accused of collaborating with guerrillas (FARC and ELN), are declared 'military objective', and are ordered to immediately abandon their work	Pamphlet (original document, 1-Apr)
13/Mar	El Copey	3 leaders of land restitution claimants, amongst whom Deyis Margarita Carmona, regional civil society spokeswoman	Unidentified man with knife (unsolved)	Armed assault, assassination attempt	Threats and assaults impede free movement and functioning of leaders and representatives of communities claiming land restitution	Carmona is spokeswoman for umbrella organization for displaced communities in Cesar, claiming land restitution (Asamblea Campesina del Cesar); threat is made against people in area where previously massive forced displacement by AUC occurred; revictimization	Letter by Cesar Human Rights Ombudsman to National Protection Unit (original document, 13-Mar) and follow up letter (27-Jun)
No date	Cesar mining region	Leaders of communities claiming land restitution repeatedly threatened, requesting protection measures from government (UNP)	Illegal armed groups (various)	Phone call (death) threats, e-mails, messages via third persons	Threats impede free movement and functioning of leaders and representatives of communities claiming land restitution	Threat is made against people in area where previously massive forced displacement by AUC occurred; revictimization	Letter by Cesar Human Rights Ombudsman to Office of Attorney-General (original document, 1-Feb)
<b>2012</b>							
7/Sep	Curumaní	Jhonel Cárdenas Castrión, promotor of land restitution and local president of Polo Democrático political party	Unidentified gunman	Armed assault, assassination attempt	Threats and assaults make it increasingly difficult and dangerous for politicians to openly speak out	Threat is made against people in area where previously massive forced displacement by AUC occurred; revictimization	Noche y Niebla No. 46
21/Jun	Chiriguana (San Roque)	Raúl Sosa Avellaneda, president of trade union Sintramienergetica, and bodyguard	Unknown	Suspicious fatal accident	Both men died	Raul Sosa was leading several historic industrial disputes defending union members against national and multinational companies. Raul Sosa had previously received multiple death threats, most recently on 18 January 2012	El Heraldo newspaper article (21-Jun); see also Noche y Niebla No. 45

Research spans period June 2012 to September 2016. Sources available upon request.

# Paramilitary violence in the mining region 1996-2006

In the mid-nineties, Drummond and Prodeco/Glencore set up mining operations in the high-risk conflict region of Cesar, at the time effectively a warzone. Both companies were confronted with security issues from the start, mainly connected with guerrilla activities (FARC and ELN).

## Systematic terror

In 1996, the paramilitary Juan Andrés Alvarez Front of the AUC's Northern Block started to operate in central Cesar and within two years the guerrillas were driven out. This front

grew from 60 to 600 men at the moment of its demobilization in 2006. The paramilitaries waged systematic terror in the mining region, killing more than 3,100 people and displacing over 55,000 from their villages. The bodies of approximately 250 people are still missing. Community organizations and labor unions were severely repressed.<sup>2</sup>

## Testimonies of paramilitaries

Sworn testimonies of paramilitary ex-commanders describe the alleged strategic, logistic and financial collaboration between the paramilitaries and Prodeco/Glencore and Drummond. According to their testimonies the paramilitary front depended to a large extent on the financial support of the mining companies. The recently published report 'La Maldita Tierra' by government organization CNMH contains three previously unpublished testimonies of former paramilitaries that add up to these allegations. Drummond and Prodeco/Glencore continue to deny that they ever had any contact with the paramilitaries in Cesar.

<sup>2</sup> See the PAX report "The Dark Side of Coal"

## Profiting from displacement

As a result of massive forced displacement of people, followed by fraudulent transfers of land titles, the companies in recent years have been able to acquire a significant part of the dispossessed lands of displaced farmer communities; lands they would otherwise not have been able to acquire without official resettlement procedures.

## Prevent or mitigate

The OECD Guidelines refer to “the steps companies should take to identify and address actual or potential risks in order to prevent or mitigate adverse impacts associated with their activities or sourcing decisions.” So far neither Drummond nor Prodeco/Glencore has taken such steps. The OECD Guidelines furthermore indicate that, if a supplier fails to mitigate and remedy adverse impacts, the customers should consider disengaging temporarily or permanently from the respective supplier.



Coffee trader Auden Portillo has lived in fear for years because of paramilitary death threats

# Previously unpublished testimonies by ex-paramilitaries

The National Center for Historical Memory has recently presented a new report on the root causes and economic drivers of the devastating violence in the mining area of the Cesar in the period between 1996 and 2006. The report contains three previously unpublished testimonies on the alleged connections between the paramilitary and the mining companies by alias Mario (chief security officer of paramilitary commander Jorge 40), paramilitary leader Salvatore Mancuso (alias El Mono) and alias Chucho, a said paramilitary emissary of the Castaño brothers.

- ◆ Alias Mario (or Arnold) contends that his boss Jorge 40 met with several representatives of the mining companies, including Alfredo Araújo, chief community relations of Drummond, and Manuel Gutiérrez, security manager of Prodeco.
- ◆ Alias Mario (or Arnold) describes a meeting between the paramilitary and Drummond after which his commander Jorge 40 concluded: “We are going to grow much faster than we expected”.
- ◆ Mancuso (alias El Mono) claims that he assigned Jorge 40 with the task to talk with James Adkins, security manager of Drummond, to explore how they could finance the paramilitary.
- ◆ Mancuso (alias El Mono) declares that he attended at least two reunions with the mining companies. According to him, several mining companies habitually paid the paramilitaries. “They paid a tax in exchange for security”.



- ◆ Alias Chucho – a paramilitary from Córdoba – maintains that he, with information provided by the security officers of Prodeco, assassinated a trade union leader under orders from his commanders, the brothers Carlos and Vicente Castaño.
- ◆ Alias Mario (or Arnold) asserts that on one occasion Luis Ochoa, security officer of Prodeco, handed over a document with information on the guerrilla, after which the paramilitary soon killed three people.



### **Deyis Carmona, spokesperson for the movement of land restitution claimants in Cesar**

Deyis Carmona was living in the countryside of Cesar until she was forced to leave in 1996 due to the violence. She has lived in exile in Valledupar for 15 years. Her sister, who remained in the countryside, was killed by the paramilitaries in 2004. After claiming land restitution in 2011 she has been repeatedly threatened and assaulted once. Friends and family stay away from her because they fear for their safety in her presence. Deyis' life has been devastated. She only goes out of her house when she has a reason to do so. She is taking care of her own children as well as the children of her deceased sister.

# The peace process and corporate accountability

Until now the Colombian security forces have been unable to combat the neo-paramilitary groups effectively. They have been largely unsuccessful in breaking the ties between these paramilitary successor groups and local politicians and elites or powerful economic actors.

## Investigating neo-paramilitaries

As part of the final Peace Agreement, the Colombian government has promised to create a Special Investigation Unit dedicated to investigating neo-paramilitary groups and their

support structures. The Unit will be assigned to the Office of the Attorney-General. At the same time, the government has also vowed to eliminate the ties between these paramilitary successor groups and representatives of the State and the private sector.

## Corporate accountability

The Colombian Peace Agreement contains a framework for transitional justice that foresees the creation of a Peace Tribunal. The Agreement explicitly aims to hold unarmed third parties, including business enterprises, which in the past have voluntarily and systematically cooperated with or financed illegal armed groups, accountable for their role in the conflict. The Attorney General is investigating companies which have allegedly financed and/or collaborated with the AUC. According to a list that has been circulating in the Colombian media, Drummond is amongst those companies.

## Evading responsibilities

While paying lip service to the Colombian peace process and the importance of reconciliation, in practice mining companies are trying to evade their human rights responsibilities.

Branch organizations representing the mining industry have actively lobbied to water down the corporate accountability component of the transitional justice framework.

## Promise of the president

Colombian President Juan Manuel Santos has indicated, at various occasions, that those who voluntarily and habitually aided or financed illegal armed groups will be held to account in the transitional justice process.

*Sources available upon request*

## Colofon

September 2016

Photography: Daniel Maissan

Joris van de Sandt

Sanne Poot

Infographic: Guido Bootz and Arnoud van den Heuvel

Graphic Design: Het IJzeren Gordijn

More info: [www.bloodcoal.org](http://www.bloodcoal.org)

Contact: [stopbloodcoal@paxforpeace.nl](mailto:stopbloodcoal@paxforpeace.nl)



Godebaldkwartier 74  
3511 DZ Utrecht  
The Netherlands

[www.paxforpeace.nl](http://www.paxforpeace.nl)  
[info@paxforpeace.nl](mailto:info@paxforpeace.nl)  
+31 (0)30 233 33 46

P.O. Box 19318  
3501 DH Utrecht  
The Netherlands