



Colombia: The rights of journalists, election candidates and elected officials to campaign without fear of repercussion

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Briefing to EP Andean Delegation prior to the upcoming elections in Colombia.
Summary of Amnesty International's latest findings.

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Colombia – Elections in 2006

Colombian Congressional and Presidential elections are being held on 12 March and 28 May, respectively. Journalists, candidates and elected officials, among others, have, in the past, been under particular threat during election campaigns.

In commenting on the 2002 Congressional and Presidential elections, the UN High Commissioner for Human Rights (UNHCHR) noted that: “[d]uring these two elections, the antidemocratic pressures brought to bear on many sectors of the population by the illegal armed groups were manifest. Through violence and terror, the guerrilla groups and the paramilitaries succeeded in affecting the exercise by a substantial number of Colombian citizens of their political rights. In about 110 municipalities in the country (out of a total of 1,100), neither were voters allowed complete freedom to cast their votes, nor were candidates able to conduct their campaigns under conditions of full equality and security.”

It continued by stating that: “[t]he free enjoyment of political rights, associated with freedom of opinion and expression, was restricted during the elections held in 2002. [...] The legislative and presidential elections entailed considerable risk for the candidates, many of whom received death threats or suffered attempts on their lives by the paramilitaries and the guerrillas. The voting public was also affected by threats and harassment inflicted by these groups. [...] The political persecution of members of some parties continued, especially members of the Unión Patriótica, who suffered assassinations and threats. This has gone on for so long, with its membership and its scope for political participation and representation being eroded for years, that the party was unable to field candidates in the last elections.”¹

Prospects for the 2006 elections are no less problematic. Even before the 2006 election campaign was formally launched, Amnesty International had received reports that in January four journalists from the city of Barrancabermeja allegedly received death threats from suspected paramilitaries. Two candidates to the mayoral elections in Yumbo and Buenaventura, in Valle del Cauca Department, Jairo Romero and Eduardo Hernández, were killed on 17 and 18 January, respectively. Two of Jairo Romero’s bodyguards were also killed. These killings have also been attributed to paramilitaries.

Amnesty International urges the EP Delegation to impress on the parties to the conflict to ensure that the intimidation of journalists, candidates, voters and public officials is not repeated in the 2006 poll. The parties to the conflict must refrain from any action which restricts or impedes the right to vote, report, campaign and govern freely during these elections. Such guarantees are essential to ensure the free flow of opinion before, during and after the poll and to ensure the rule of law is upheld. Without such guarantees, freedom of expression in Colombia will continue to be dictated by the dominant military force in the area, whether paramilitary or guerrilla.

Journalists, candidates and officials: human rights abuses in numbers

39 journalists were killed between 1998 and 2005 for reasons attributable to their work, mostly by army-backed paramilitaries and the guerrilla.² The total number of journalists killed, kidnapped and threatened is higher, but in these cases it has not been possible to ascertain the precise motive.

Statistics reported by the Inter-American Press Association (IAPA) suggest that at least 25 journalists were threatened in 2005, five of whom were forced to leave their homes.³ Of these, two were forced into exile. Media offices have also been targeted. For example, on 20 February 2005, the guerrilla group *Fuerzas Armadas Revolucionarias de Colombia* (FARC), Revolutionary Armed Forces of Colombia, reportedly detonated a car bomb outside the Cali headquarters of the RCN television and radio station, injuring two people.

¹ Report of the United Nations High Commissioner for Human Rights on the Human Rights Situation in Colombia, E/CN.4/2003/13, 24 February 2003.

² According to figures from the Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights (IACHR) of the Organization of American States (OAS).

³ IAPA, Information by Country, 61st General Assembly, 7-11 October 2005.

Three journalists under threat

On 16 May 2005, three Bogotá-based journalists received death threats in the form of funeral wreaths. One was delivered to the office of the Communist newspaper *La Voz*, whose editor is Carlos Lozano. The accompanying note said they were for the "funeral of Carlos Lozano Guillen". Another was sent to Hollman Morris, director of the investigative television programme CONTRAVIA. The attached note expressed "most sincere condolences from the Henao family". Two other wreaths were sent to the former offices of the TV channel Canal Uno. One was addressed to the director of its news programme, Daniel Coronell; the other was addressed to his wife and daughter. There was no note, but Daniel Coronell had recently received two threatening phone calls in which an unidentified man threatened to kill him, his wife and daughter. The identity of the senders is not known in any of the three cases. Carlos Lozano, Hollman Morris and Daniel Coronell have regularly highlighted human rights violations committed by paramilitaries and others. The three journalists also reported on the massacre of eight members of the Peace Community of San José de Apartadó, which took place on 21 February 2005. A witness to the massacre claimed that the perpetrators had identified themselves as members of the armed forces. On 10 May 2005, Hollman Morris' CONTRAVIA programme broadcast a special edition on this massacre. Daniel Coronell and his family eventually decided to leave Colombia.

According to the *Federación Nacional de Concejos* (FENACON), National Federation of Councils, which represents local councillors in Colombia, at least 25 councillors were killed in 2005, compared to 18 in 2004, 75 in 2003, and 76 in 2002. Over 200 councillors are reportedly currently under threat. More than 325 councillors were displaced in 2005. Of these, 17 left the country. According to FENACON, more than 122 municipal councils (out of a total of 1,098) in 13 departments are under threat of the FARC, which have for several years targeted local officials, especially councillors and mayors, in an effort to undermine the power of the state. FENACON attributes 70% of attacks against councillors to the FARC.

Killings and threats against councillors and other local elected officials

Three councillors from the Department of Caquetá, in the south of the country, were killed, allegedly by the FARC, during a two-month period between February and April 2005. On 11 February, Armando Zafra, a councillor from Puerto Rico, was killed along with his brother. On 26 March, Jorge Enrique Córdoba, a councillor from San Vicente del Caguán, was killed in his home in the urban centre of San Vicente. On 9 April, Miriam Martínez, also a councillor from Puerto Rico, was killed while she met with a group of women heads of household. The Office in Colombia of the UN High Commissioner for Human Rights condemned the killings as a war crime.

In late 2004, in the *Comuna 3* district of the city of Medellín, paramilitaries warned members of the *Junta de Acción Comunal* (JAC), Community Action Council, and other residents in the area, who they said had links with the guerrilla, that they would be killed. On 7 November 2004, Jesús Estrada, a community leader in La Cruz, was abducted by five hooded gunmen while he was in a public billiards bar at 8:20pm. At the time of his abduction it is reported that police agents had withdrawn from the area despite the fact that since May they had maintained a permanent presence in the area near the billiards bar. Jesús Estrada's body was found the next day in a morgue in Llanaditas in *Comuna VIII* together with the body of an unidentified individual the gunmen reportedly abducted from his home in La Honda the previous day. Jaime Augusto Henao, president of the JAC of Las Mirlas in *Comuna VIII* was killed in August 2005 reportedly by paramilitaries. He had allegedly denounced to the authorities that he had been threatened by paramilitaries.

National politicians and election candidates have also been killed, threatened and kidnapped. The case which has received the most extensive international attention is that of presidential candidate Ingrid Betancourt, who was kidnapped by the FARC in the department of Caquetá in February 2002 together with her campaign assistant Clara Rojas. Twelve regional deputies were also kidnapped by the FARC in Cali in April 2002. All are still being held. The FARC continues to hold many other politicians, foreigners and members of the security forces.

Threats against and killings of candidates during the 2006 campaign

On 26 October 2005, leaders from the Liberal Party (LP) denounced that unknown individuals had threatened a number of LP candidates to Congress and the presidency. In November 2005, the Guajiño indigenous former senator, Almílkar Acosta, announced he would not seek re-election, partly because of threats. He said unidentified men had warned him to retire from the elections or he would "suffer the consequences". Hernán Duque Henao, former mayor of Caicedonia, Department of Valle del Cauca, and a candidate for the House of Representatives in this year's Congressional elections, was killed by unknown assailants in Cali on 28 November 2005.

Exacerbating the fear: Impunity and democratic security

Successive Colombian governments have adopted measures to improve the security of these sectors, mainly through protection programmes. Although these have saved lives, and permitted many journalists and politicians to continue their work, physical protection measures are insufficient without the political will to tackle the roots of the violence. The failure of the state to resolve the problem of impunity, the government's Democratic Security policy, and the failure of the parties to the conflict to abide by international humanitarian law, has made the work of journalists, candidates and officials more dangerous.

The endemic nature of impunity

Impunity lies at the heart of the conflict and has been an aggravating factor in the continued persecution of journalists, candidates and public officials. The knowledge that the perpetrators will not be identified, investigated, tried and sentenced encourages the commission of further acts of violence, while the knowledge that past and future perpetrators will evade justice deters the victim or potential victim from speaking out. As a result, journalists fear to report, candidates to campaign and elected officials to govern.

Although successive governments have acknowledged the extent of the problem, they have shown themselves unable or unwilling to introduce measures to ensure that those responsible are held accountable before the law, whether they be security force personnel, paramilitaries or guerrillas. Because those responsible for human rights violations are seldom punished public confidence in the administration of justice and the rule of law has been undermined.

In its August 2005 report on Colombia, the Office of the Special Rapporteur for Freedom of Expression of the IACHR, noted that of the 31 journalists killed between 1998 and 2005, only six cases had reached the trial stage. Moreover, in none of these six cases had all the perpetrators been sentenced. Of the remaining 24 cases, 12 were in the preliminary stage, four in the investigatory phase, two had been closed, one had been dismissed for lack of evidence, and five of the cases had not been pursued.

Self-censorship: Threat to freedom of expression

While freedom of expression is guaranteed under Colombian law, due to the armed conflict, and the intimidation meted out by all the parties to the conflict, many journalists have censored their reporting in order to improve their security. Aside from threats against and killings of journalists by illegal armed groups, there have been reports that members of the security forces and government officials have sought to stigmatise some journalists by associating them with the guerrilla. This places them at risk of attack by paramilitaries. In an interview in June 2005, President Uribe accused a number of journalists of having prior knowledge of a FARC attack which resulted in the death of 22 soldiers in Puerto Asís, Putumayo, on 19 June 2005. The comments are believed to have been a reference to journalists who visited the area, including Hollman Morris and a reporter belonging to the British Broadcasting Corporation (BBC). After it was revealed the journalists had arrived at the scene after the attack, President Uribe apologised. But comments such as these do little to improve the security of journalists.

The self-censorship which many journalists have had to adopt in order to survive has taken many forms, such as an unwillingness to travel to areas of intense conflict, where most human rights abuses and violations occur, or a reluctance to seek independent and alternative sources of information, which might require travel to dangerous areas, and instead to rely on official information. The situation faced by journalists outside the large cities is particularly vulnerable, both because of the stronger presence of illegal armed groups and increased intimidation by the security forces, and because attacks against them are often not reported.

As the 2005 UNHCHR report states: "[c]ertain journalists informed the Office that they had been pressured and intimidated by members of the Security Forces so that they would publish only favourable statistics or "battle reports," and alleged that they had received threats after having

published a version other than that provided by the authorities. As a result of such threats, three journalists had to shut down their news services or modify their reporting style.”⁴

The “Paramilitarization” of the Political System

In September 2005, Amnesty International published a report, *The Paramilitaries in Medellín: Demobilization or Legalization* (AI Index 23/019/2005), which highlighted how the Justice and Peace Law of 2005, and Decree 128 of 2003, which are designed to facilitate the “peace talks” with the paramilitaries and, in future, with the guerrillas should they initiate peace negotiations with the government, will exacerbate the problem of impunity in Colombia.

Almost all of the more than 20,000 members of paramilitary groups have reportedly demobilized. But the vast majority have not been investigated for human rights violations and are unlikely to face justice. The report also questioned the authenticity of the demobilization process and raised serious concerns about the “recycling” and “legalization” of paramilitaries into new structures. It also expressed concerns about the continued, and well-documented, links between the paramilitaries, the security forces and parts of the state apparatus and the participation of paramilitaries and guerrillas in the political process without effective guarantees in place to ensure that possible human rights abusers do not evade justice.

Since the start of the demobilization process, a number of Colombian politicians, journalists and commentators have denounced the alleged growing influence of the paramilitaries in the electoral process and state institutions, such as Congress, the Office of the Attorney General (*Fiscalía General de la Nación*), and the Civilian Intelligence Department (*Departamento de Administración de Seguridad*, DAS). Guerrilla groups have also sought to influence elections and infiltrate state institutions. However, the degree and nature of current paramilitary infiltration has emerged as a cause of serious concern within Colombia.

The infiltration and influence-peddling by paramilitaries in past elections and in Congress has been well-documented. Paramilitary leader Vicente Castaño has even stated that the paramilitaries control 35% of the current Congress, a figure which, although difficult to verify, few have repudiated. Their control, often violent, over regional politics is long-standing.

On repeated occasions the paramilitaries have stated their intention of transforming themselves into a legal political organization, and to participate in electoral contests. Paramilitary leader Iván Roberto Duque, alias “Ernesto Baez”, has demanded two seats to be reserved in Congress for demobilized paramilitaries, a request that was rejected by the government. It is legitimate for demobilized combatants, paramilitary or guerrilla, to participate in politics so long as they have irrefutably laid down their arms, that there are guarantees in place to ensure that they are not implicated in human rights abuses, that their political activities are not being backed by violence and other crimes, and that victims’ right to truth, justice and reparation are being fully respected. But the failure to implement a legal framework for the demobilization which guarantees the right of victims to truth, justice and reparation, the continued presence of active paramilitary structures around the country, and continued human rights violations, including war crimes and crimes against humanity, being committed by paramilitaries, strongly suggests that such guarantees cannot be forthcoming.

Several politicians, as well as the press, have claimed that a number of paramilitary-linked candidates are standing in this year’s elections. In response, in January 2006 two pro-government political parties expelled from their ranks five legislators, and candidates to this year’s elections, after suspicions they were linked to paramilitary groups.

The government has stated that demobilized paramilitaries will not be allowed to stand until all paramilitary combatants have demobilized and their legal status clarified by the Justice and Peace Law, and that any paramilitary who interferes in politics and in the elections will be detained. Several former paramilitary leaders who had reportedly demobilized and who had announced their intention to stand in the March congressional elections subsequently announced that they would suspend their

⁴ Report of the United Nations High Commissioner for Human Rights on the Human Rights Situation in Colombia, E/CN.4/2003/13, 24 February 2003.

candidatures, including Giovanny Marín of the Bloque Cacique Nutibara and Jairo Angarita of the Bloque Sinú y San Jorge.

But most paramilitaries who have demobilized have not done so under the terms of the Justice and Peace Law, which only applies to the small minority of former combatants, mainly leaders, who are already under investigation for human rights violations. Given the long-standing problem of impunity most paramilitaries and guerrillas are not under investigation for such offences. They have thus demobilized under Decree 128, which grants them *de facto* amnesties. If the demobilization is completed prior to the elections will paramilitaries be allowed to stand? What guarantees are in place to ensure that none of these are implicated in human rights violations? What measures would be introduced to ensure that they do not employ violence to further their political ambitions? And what assurances are there that the paramilitaries are being truly demobilized rather than being reintegrated into the conflict through their participation in private security firms, as guides in military operations, as civic police or as members of civilian informer networks?⁵ Given the vexed issue of impunity, and the flaws in the demobilization legislation, such guarantees will be difficult to provide.

Amnesty International believes it is legitimate for demobilized combatants, paramilitary or guerrilla, to participate in politics but only once they have irrefutably laid down their arms, that there are guarantees in place to ensure that they are not implicated in human rights abuses, that their political activities are not being backed by violence or other crimes, and that victims' rights to truth, justice and reparation are being fully respected.

Recommendations to the EP Andean Delegation

Amnesty International is calling on EP delegation to use the opportunity of its forthcoming visit to Colombia to impress on the parties to Colombia's long-running armed conflict to

- guarantee the right of candidates and voters, those already in elected office and journalists covering the elections, to report, campaign, vote and exercise their office free from fear. Failure to provide such guarantees risks seriously undermining the rule of law in Colombia and could raise doubts about the fairness of the polls;
- highlight the media's special duty to monitor and report on human rights violations and abuses and to inform people about the election campaign. Journalists should be able to exercise their legitimate activities in safety and their freedom of movement and expression must be fully respected by all parties to the conflict;
- desist from making public statements which question the legitimate work of journalists, such as equating their work with support for the guerrilla. Such statements often lead to reprisals from paramilitary groups. The physical integrity of journalists, as well as candidates and elected officials, must be protected, attacks against them condemned, and action taken to identify those responsible and bring them to justice;
- further strengthen the government's protection programmes for journalists and others at risk;
- to respect the right of journalists, public officials, candidates, elected officials and voters to carry out their legal and rightful duties free from threats; and
- call on the guerrilla to publicly commit themselves to respecting international humanitarian standards, to prevent their members from committing abuses, including against journalists, candidates and state officials, and to release all its hostages.

Finally, Amnesty International would like to impress on the EU to provide support to journalists to enable them to carry out their work without fear. Should the EU decide to monitor or observe these elections, we call upon the EU to ensure that human rights monitoring is included as a central part of the monitors' brief.

⁵ See Amnesty International, Colombia - *The Paramilitaries in Medellín: Demobilization or Legalization* (AI Index 23/019/2005).