



# **The Republic of Colombia**

## **Submission to the UN Universal Periodic Review 16<sup>th</sup> Session of the UPR Working Group**

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**Submission by CIVICUS: World Alliance for Citizen Participation,  
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**CIVICUS: World Alliance for Citizen Participation**

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## **1. (A) Introduction**

- 1.1** CIVICUS: World Alliance for Citizen Participation is an international movement with members in more than 100 countries worldwide. Established in 1993, CIVICUS nurtures the foundation, growth and protection of citizen action throughout the world, especially in areas where participatory democracy and citizen's freedom of association are threatened.
- 1.2** In this document, CIVICUS outlines concerns related to the environment in which civil society and human rights defenders operate in Colombia, and discusses threats they face in the exercise of the freedoms of expression, association and assembly.
- 1.3** For nearly 50 years, Colombia has endured a protracted armed conflict with government forces, paramilitary groups and rebel groups engaged in hostilities. CIVICUS is concerned by persistent harassment, intimidation and attacks against independent journalists, human rights defenders, community leaders and trade unionists arising out of the long-running armed conflict.
- 1.4** CIVICUS is alarmed by the failure of the Colombian Government to protect those voicing their right to freedom of expression, association and assembly.
- In section B, CIVICUS highlights concerns relating to the practical protection of the freedom of expression, association and assembly.
  - In section C, CIVICUS highlights concerns over harassment and attacks against civil society activists and rights defenders.
  - In section D, CIVICUS highlights concerns over harassment and attacks against journalists.
  - In section E, CIVICUS makes a number of recommendations in these areas of concern.

## **2. (B) Concerns regarding freedom of expression, association and assembly**

- 2.1** Article 20 of the Colombian Constitution guarantees the freedom of expression and thought. It also states that the mass media are free and have a social responsibility and that there will be no censorship. Article 44 of the Colombian Constitution guarantees the freedom of association, while article 46 guarantees the freedom of assembly.
- 2.2** Articles 19, 21 and 22 of the International Covenant on Civil and Political Rights (ICCPR), to which the Republic of Colombia is a party, also guarantee the freedoms of expression and the right to hold opinions without interference, the right of assembly and the right of association.
- 2.3** However, in contrast to these guaranteed rights, in daily life human rights defenders, trade union activists, journalists and reporters face regular intimidation and threats on account of their work in highlighting sensitive issues such as the links between politicians and paramilitaries, destructive environmental projects, and erosion of land rights of indigenous groups. Freedom of association is also limited in practice by threats and acts of violence committed by paramilitaries and government agencies against CSOs, indigenous community groups and labour unions.

## **3. (C) Concerns involving harassment, threats and attacks against civil society activists and human rights defenders**

- 3.1 Article 12 of the UN Declaration on Human Rights Defenders mandates states to take necessary measures to ensure the protection of human rights defenders. However statistics show that this has not equated to substantive practice in Colombia. Forty-nine social activists and human rights defenders have reportedly been killed in 2011 alone, making Colombia one of the most dangerous places in the world in which to be a civil society activist. Arbitrary arrests of community leaders, labour activists and human rights defenders remain a key area of concern. Government sponsored paramilitary organisations operate with impunity, often subjecting Colombian human rights defenders to death threats and accusing them of guerrilla activity

### **(Targeting of human rights organisations and defenders)**

- 3.2 On 4 July 2012, 13 human rights defenders were given death threats via email by a paramilitary group Ejército Anti Restitución (Army against Restitution), declaring them to be military targets. Human rights defenders are often accused of being protectors of guerrillas by right wing paramilitary groups. Other groups of human rights defenders have also been targeted and received death threats from paramilitary groups. For instance, in June 2012, the communications team of the Comisión Intereclesial de Justicia y Paz, the Inter-Church Commission of Justice and Peace, received death threats against continuing their work.
- 3.3 Civil society group Comité de Solidaridad con los Presos Políticos (CSPP), the Political Prisoners Solidarity Committee has faced sustained cyber attacks in 2012, including hackings, malicious viruses and spam, while members of the CSPP have been refused entry to prisons and detention centres, despite the organisation following the correct procedures for applications for visits. The failure of state agencies to control the activities of paramilitary groups and their active connivance with them is a serious area of concern.

### **(Targeting of indigenous leaders, Afro-Colombian communities and land rights organisations)**

- 3.4 In January 2012, the Victims and Land Restitution Law came into effect, seeking to provide reparations to those who have suffered human rights abuses and to restore land to people who had had theirs seized by armed groups. However, the situation for indigenous and Afro-Colombian communities remains dire: the government continues to build military bases within indigenous territories without their consent, exposing the territories to further attack from paramilitary groups. Coupled with the threats and killings of those campaigning for land restitution, this risks undermining implementation of the law.
- 3.5 Land rights campaigners are especially vulnerable to targeting by former paramilitaries seeking to smother criticism of their land gains. The June 2011 murder of Afro-Colombian displaced peoples' leader Ana Fabricia Córdoba in Medellín was perhaps the most publicised incident. Claims by the Colombian Defence Minister Juan Carlos Pinzón and Army Commander Alejandro Navas that the indigenous movement is infiltrated by guerrillas have also put indigenous communities at further risk by equating protests by the Nasra tribe in Cauca region against military bases and armed forces occupying their land with rebel activity and insurgency.
- 3.6 In the context of this violence, Afro-Colombians have organised into peace communities, which work towards the autonomy and empowerment of Afro-descendant communities, and the active neutrality of black communities within the conflict.

- 3.7 These communities continue, however, to be violently targeted, with one of the worst affected being the Peace Community of San José de Apartadó in the Northern Province of Urabá. Since its foundation in 1997, more than 178 of its members and other civilians living in the area have been killed or forcibly disappeared, while many others have been sexually assaulted or threatened. In February 2012, two suspected paramilitary operatives on a motorbike shot at the peace community's legal representative, while on 28 June 2012 two members of the Peace Community's Internal Council were followed by 50 paramilitaries carrying weapons.

#### **(Targeting of trade union leaders and members)**

- 3.8 There is a strong perception that the state actively overlooks the murders of trade union activists, and violations of the rights of trade union members continue unabated. More than 2,600 union activists and leaders have reportedly been killed over the last two decades, with attacks coming from all of Colombia's illegal armed groups. Killings have declined from their early 2000s peak, and reportedly fell from 51 in 2010 to 29 in 2011. Nevertheless, the dangers faced by trade union activists in Colombia remain a serious cause for concern.
- 3.9 The US/Colombian Labour Action Plan of April 2011, designed to stop serious labour and human rights violations, has achieved very limited impact on the security of unionists so far. On 27 April 2012, Daniel Aguirre, Secretary General of the SINALCORTEROS union, was murdered by an assailant who shot him three times while he was walking home in Valle del Cauca. Benjamin Martinez Arteaga, union activist in Pueblo Nuevo de Necolci, Antioquia, was discovered dead on 25 June 2012. He had been killed violently and buried in an unmarked grave. These are just two of the 12 unionists killed in the first 6 months of 2012.
- 3.10 There remain serious concerns about the ability of workers to highlight their labour conditions. One example is the Campo Rubiales oil fields case, where subcontracted workers are subjected to appalling work conditions by the Canadian multinational Pacific Rubiales. This led to strike action by 1,100 contract workers employed by Montajes JM on 19 July 2011, which was met with brutal repression by the police firing rubber bullets and tear gas.

#### **(Attacks on lesbian, gay, bisexual and transgender activists)**

- 3.11 The Colombian Constitution and other laws provide a series of judicial and administrative recourses that can be accessed by any Colombian citizen, without discrimination, when her/his rights have been violated. Colombia's Constitutional Court has also made a positive ruling on gay marriage. However, there remain serious concerns about the biased perceptions of judicial and administrative authorities towards the rights of rights of lesbians, gays, bisexuals and transgender (LGBT) individuals.
- 3.12 Activists working to protect the rights of the LGBT community are at particular risk and in need of protection from right wing guerrilla groups claiming to carry out 'social cleaning campaigns'. In August 2012, Santa-Marta-based newspaper El Informador reported that two gay activists, 25 year-old Yelkin Nikley Jiménez and 22 year-old Jonathan Chinchía Manga, were gunned down in the early morning hours by a neighbourhood gang.

#### **(Threats to women's rights activists)**

- 3.13 Women human rights defenders and community leaders, especially those working on land issues, remain at high risk from state and non-state actors, while female human rights groups, especially those working with displaced women and survivors of sexual violence, have also been threatened.
- 3.14 Those fighting for reproductive rights are also at risk. Well known human rights defender Monica Roa who, with Women's Link Worldwide, filed a lawsuit in 2006 that ended the total abortion ban in Colombia by recognising abortion as a fundamental right in specific circumstances. Since then she has received numerous death threats for her work through social media, faxes and phone calls. On 7 May 2012, an unidentified person fired gun shots at the Women's Link Worldwide office in Bogota where Monica and two of her colleagues were working.
- 3.15 In June 2012, a number of women's organisations received a death threat by email from the right wing Black Eagles paramilitary group, accusing them of membership of the left wing guerrilla group FARC and of opposing the policies of the government.

#### **4. (D) Concerns involving harassment, threats and attacks against journalists**

- 4.1 Colombia continues to be one of the most dangerous countries in the world for journalists to operate. Much higher levels of harassment, intimidation and assault against journalists were reported in 2011 than preceding years, and this trend has so far continued into 2012. It appears that the state is failing to protect the rights of journalists and reporters who provide an important service to society by exposing poor governance and human rights violations.
- 4.2 Paramilitaries often treat Colombia's journalists as military targets, particularly if they are investigating paramilitary operations, by threatening them with intimidating behaviour. Paul Bacares, a journalist preparing a report on Colombia's paramilitaries for TV station Bogotá Canal Capital, received the sounds of machine gunfire in a phone call in July 2012.
- 4.3 Community radio talk show hosts and broadcasters seem to be particularly at risk from armed groups and have experienced threatening texts, phone calls, kidnappings and murder. Community leader and radio presenter Rodolfo Maya Aricape's murder in front of his family on 14 October 2010 is a crime that remains unpunished.
- 4.4 Indigenous radio stations that promote long-standing political demands remain under fire and stigmatisation from different political actors. As a result, they are priority military targets, particularly in regions of increased danger, including Arauca and Cauca, where those affiliated with the Cauca Indigenous Regional Council are especially at risk. Two affiliated community radio stations - Jambaló-based Voces de Nuestra Tierra and Toribío-based Nasa Estéreo - recently had to suspend operations.
- 4.5 In May 2012, the Supreme Court upheld defamation provisions in the penal code. Given that a civil remedy for libel under the law would have been sufficient, the court ruling has further threatened media freedom in Colombia.

#### **E. Recommendations to the Government of Colombia**

- 5.1 CIVICUS calls on the Government of Colombia to create an enabling environment for civil society to operate in accordance with the rights enshrined in the ICCPR and the UN Declaration on Human Rights Defenders. At a minimum, the following conditions should be ensured: freedom of association, freedom of expression, the right to operate free from unwarranted state interference, the right to communicate and

cooperate, the right to seek and secure funding and the state's duty to protect. In the light of this, the following specific recommendations are made.

5.2 Regarding threats to civil society activists and journalists:

- Impartial and effective investigations should be conducted into all cases of attack, harassment and intimidation of civil society activists and journalists, and perpetrators brought to justice.
- Attacks on and threats to civil society activists and journalists should be publicly condemned by senior government officials to ensure protection by law enforcement agencies.
- The Ministry of Interior's Protection Programme for Human Rights Defenders at Risk, in particular union leaders, should be rigorously enforced and the protection measures requested by affected groups should be implemented as a matter of priority.
- All appropriate measures should be taken to ensure reproductive rights defenders in Colombia are able to carry out their legitimate human rights activities without fear of reprisals or restrictions, which should include the passing of protective legislation.

5.3 Regarding legislative restrictions on freedom of expression, the Government of Colombia should ensure the following:

- The libel law should be amended to limit libel to a civil penalty, as opposed to a criminal penalty.

5.4 Regarding access to UN Special Procedures and Mandate Holders:

- A standing invitation should be extended to the UN Special Procedures, particularly to the Special Rapporteur on Human Rights Defenders, Special Rapporteur on Freedom of Expression and Special Rapporteur on Freedom of Peaceful Assembly and Association.