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without Fear: The Rights of Journalists,
Election Candidates and Elected Officials**



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Reporting, Campaigning and Serving without Fear: The Rights of Journalists, Election Candidates and Elected Officials

In an election year – with Congressional and Presidential elections being held on 12 March and 28 May, respectively – Amnesty International is calling 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 poll.

Journalists, candidates and elected officials, among others, have, in the past, been under particular threat during election campaigns. 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. Moreover, 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. The killing of Jairo Romero and his bodyguards has been attributed to paramilitaries.

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.”

Furthermore “[...] mayors and local State officials have seen their rights flouted by the guerrillas and the paramilitaries. FARC-EP have pursued a strategy of attacking local

authorities and have declared them to be military targets, employing intimidation, death threats, hostage taking and assassinations. As a result, many local officials have given up their jobs or moved to the departmental capitals. This has diminished the civilian presence of the State and the exercise of local democracy, while increasing the vulnerability of the population to pressure from the armed factions.”¹

Amnesty International calls 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.

The Internal Armed Conflict: Civilians under Fire

Colombia’s 40-year-long internal armed conflict, which has pitted the security forces and paramilitaries against guerrilla forces in an interminable cycle of violence, has produced an endless litany of victims, the vast majority of them civilians. Afro-descendent, indigenous, peasant farmer and displaced communities, human rights and community activists and trade unionists are some of the many groups that have borne the brunt of human rights abuses.

Journalists, election candidates, voters and elected officials have also been targeted by the parties to the conflict. Journalists have been killed to eliminate those who attempt to investigate human rights abuses and violations, corruption or the activities of the armed actors, or have been threatened in order to intimidate them into compliance. Candidates and elected officials have been threatened to force them to resign in favour of a candidate or an official more amenable to the wishes of a particular armed actor, or killed as punishment for non-compliance or to intimidate others considering challenging the authority of the state, or of the paramilitaries and the guerrilla, both of which exercise varying degrees of military and political control over large swathes of the country. Voters have also been pressured to vote for a particular candidate sponsored by one of the armed actors.

All the parties to the conflict have been responsible, either directly or indirectly, in the thousands of killings, “disappearances”, acts of torture, threats and kidnappings that have marked the armed conflict. The lives of more than 70,000 people have been lost in the last 20 years, the vast majority of them civilians killed out of combat, while more than 3 million have been internally displaced. The vast majority of non-combat politically motivated killings, “disappearances” and cases of torture have been carried out by paramilitaries, often operating in coordination with the security forces, while guerrilla groups have been responsible for most politically-related kidnappings and cases of hostage-taking. Moreover, Amnesty International

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.

has over the last few years received a high number of reports of extra-judicial killings, “disappearances” and arbitrary detentions allegedly carried out by the security forces.

Journalists, Candidates and Officials: Human Rights Abuses in Numbers

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), 31 journalists were killed between 1998 and 2005 for reasons attributable to their work, mostly by army-backed paramilitaries and the guerrilla. The IACHR report noted that one journalist was killed last year because of their work. This compares to none in 2004, four in 2003 and five in 2002. IACHR figures also suggest that one journalist was kidnapped last year and four threatened directly because of their work as journalists.² These figures only include cases where it can be demonstrated that the killing, kidnapping or threat was as a direct result of their work. 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.

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

² IACHR, Office of the Special Rapporteur for Freedom of Expression, *Impunity, Self-censorship and Armed Internal Conflict: An Analysis of the State of Freedom of Expression in Colombia*, OEA/Ser.L/V/II Doc. 51, 31 August 2005.

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

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 Miras 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 held by the FARC. 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 Guajiro indigenous former senator, Amylkar 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.⁴ Moreover, in none of these six cases had all the perpetrators, both intellectual and material, 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.

The Democratic Security Policy: The Democratic Security strategy, introduced by the government of President Alvaro Uribe, has sought to recover territory from guerrilla control by strengthening the armed forces and increasing the number of military and police personnel to ensure their presence in all areas of Colombia. While it has improved security in some regions, especially in the large cities and on the main highways, it has made other communities, notably in areas under military dispute, more vulnerable. The intensification of the conflict as a result of the Democratic Security policy has also increased risks for journalists, particularly for those covering stories in areas under military dispute. In Arauca, which has been one of the areas under most intense conflict, 12 journalists were forced to flee in April 2003 following the appearance of paramilitary and guerrilla death lists.

Official figures suggest the number of violent deaths fell by between 10.4% (National Police) and 23% (Institute of Legal Medicine) to 14,503 and 18,096, respectively. Kidnappings also fell from 1,385 in January-November 2004, to 730 in the same period in 2005. But internal displacements rose from 205,500 in the first three quarters of 2004 to 252,800 in the same period in 2005, while Amnesty International continues to receive reports of extra-judicial executions carried out by the security forces, and high numbers of forced "disappearances".

⁴ The cases of two of the journalists killed was presented to the IACHR as only one case.

Despite the demobilization of paramilitary groups which has been on-going since 2003, groups belonging to the main paramilitary umbrella organization, the *Autodefensas Unidas de Colombia* (AUC), Self-Defence Forces of Colombia, have been held responsible for over 2,300 killings and “disappearances” since they announced a ceasefire in December 2002. On 4-5 December 2005, paramilitaries reportedly killed 22 civilians in Curumaní, Cesar.

Far from dissuading the guerrillas from committing abuses against civilians, the government’s Democratic Security policy has exposed them to greater pressure and retaliation. Throughout 2005, civilian communities in the departments of Putumayo and Arauca suffered “economic blockades” and energy blackouts as a result of FARC efforts to increase pressure on the security forces in these areas under military dispute. At the end of December 2005, the FARC killed 29 soldiers in Vista Hermosa, Department of Meta, in the deadliest attack by guerrilla groups since President Uribe came to power in August 2002.

Self-Censorship: Threat to Freedom of Expression

While freedom of expression is guaranteed under Colombian law, many journalists have censored their reporting in order to improve their security due to the armed conflict and the intimidation meted out by all the parties. 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 stigmatize 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 apologized. 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.”⁵

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

⁵ Report of the United Nations High Commissioner for Human Rights on the Human Rights Situation in Colombia, E/CN.4/2005/10, 28 February 2005.

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 candidatures, including Giovanni 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?⁶ Given the vexed issue of impunity, and the flaws in the demobilization legislation, such guarantees will be difficult to provide.

Recommendations to the Government and the Guerrilla Groups:

- To abide by international humanitarian law, which prohibits the targeting of those not taking a direct part in hostilities, and immediately and fully comply with the human rights recommendations of the UN High Commissioner for Human Rights.
- To immediately negotiate a humanitarian agreement to remove all civilians from the conflict, including voters, journalists, candidates and elected officials.

⁶ See Amnesty International, Colombia - *The Paramilitaries in Medellín: Demobilization or Legalization* (AI Index 23/019/2005).

- The media have a 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.

Recommendations to the Colombian Government:

- Develop a comprehensive human rights policy that complies fully with Colombia's international obligations, the human rights recommendations of the UN and other international bodies, including on action to end impunity; to confront and dismantle army-backed paramilitaries; and to guarantee the safety of sectors at particular risk, including journalists, candidates and elected officials.
- Ensure full and impartial investigations into violations of human rights and international humanitarian law, and ensure that those individuals and sectors complicit in abuses – both in the military and elsewhere – are brought to justice, and that members of the security forces implicated by judicial or disciplinary investigations in such cases should be suspended from duty until such time that their responsibility or innocence has been determined.
- Ensure that demobilized paramilitaries and guerrillas do not participate in the election process, either directly or indirectly, until guarantees are in place to ensure that those who might be responsible for human rights abuses are identified and investigated, and that victims' right to truth, justice and reparation is respected.
- Repeal measures which threaten to guarantee impunity for those responsible for human rights abuses – such as the Justice and Peace Law and Decree 128 – as well as of third parties responsible for coordinating, supporting and financing paramilitary groups.
- 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.
- The government's protection programmes have played an important role in protecting journalists and others at risk. But such programmes should be strengthened.

Recommendations to the guerrilla:

- Implement specific measures aimed at ensuring compliance with international humanitarian law, such as ensuring that all forces under their control are trained and

ordered to adhere at all times to international humanitarian law principles, investigating allegations of violation of international humanitarian law to determine responsibility, and ensuring that those responsible are removed from any position in which they may commit abuses against civilians and those who are *hors de combat*.

- Ensure that they do not use weapons nor employ military practices that could result in a disproportionate and indiscriminate threat to the safety of civilians.
- Respect the right of journalists, candidates, elected officials and voters to carry out their legal and rightful duties free from threats.
- Put an end to all acts of kidnapping and hostage-taking and immediately and safely release all those held against their will.

Recommendations to the international community:

- To urge the Colombian government to immediately and fully comply with the above recommendations and closely monitor its efforts to fulfil the human rights recommendations made by the UN and other inter-governmental bodies.
- 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.
- In their relations with the Colombian government, express concern for its failure to prevent, prosecute and punish human rights abuses against journalists, and others.
- Provide support to journalists to enable them to carry out their work without fear.
- Those inter-governmental organizations intending to monitor or observe the elections should include human rights monitoring as a central part of their brief.