



Human Rights Watch
UPR Submission

Colombia

July 2008

Overview of the Human Rights Situation

1. Colombia continues to present a very serious human rights and humanitarian situation due to the ongoing internal armed conflict involving the guerrillas of the Revolutionary Armed Forces of Colombia (FARC) and National Liberation Army (ELN), the paramilitary groups, and the government's security forces. Killings, kidnappings, threats, enforced disappearances, and internal displacement of civilians are frequent occurrences. Accountability for serious crimes is almost non-existent and the rule of law has yet to take hold in much of the country.
2. The Colombian government has confronted the abusive guerrillas of the left, and the retreat of the FARC and ELN guerrillas from several regions has led to a substantial reduction in various types of atrocities that they commonly commit, such as kidnappings, in recent years. Nonetheless, the guerrillas continue to hold dozens of civilians hostage, often for years on end. They regularly recruit children as combatants, including children under the age of 15, and in recent years there has been a substantial increase in the number of casualties from antipersonnel landmines, which are overwhelmingly used by the guerrillas. At the same time, after a period of rapid expansion marked by widespread massacres through 2002, the paramilitaries have consolidated their control and political influence regionally and even, as has recently been discovered, on a national level. Today, we no longer see the same scale of massacres, but the paramilitaries enforce their control through killings, enforced disappearances and threats, and they exert influence at some of the highest levels of government. The Army, too, has increasingly been carrying out extrajudicial executions of civilians, who they later claim were combatants killed in action.

3. The ongoing conflict and human rights abuses are having a dramatic humanitarian impact. At over 3 million, the number of persons who have become internally displaced in Colombia is the largest in the world after that of Sudan, according to the UN High Commissioner for Refugees. The rate of displacement has been rising since 2004. According to official statistics, nearly a quarter of a million persons reported that they were forced to leave their homes last year.

Failure to Dismantle Paramilitary Groups

4. The Colombian government often claims that paramilitaries no longer exist, thanks to a “demobilization” process it has implemented in the last few years. However, while more than 30,000 individuals supposedly demobilized, prosecutors have turned up evidence that many were civilians recruited to pose as paramilitaries. Most of these individuals simply went through a procedure under Law 782 of 2002, which allowed them to receive pardons for their membership in the groups, without ever being investigated for serious crimes.

5. For the persons who are known to have committed crimes against humanity or other serious crimes, the Colombian government issued Law 975 of 2005, known as the “Justice and Peace Law” which allows these persons to receive greatly reduced sentences for all their crimes. This Law contained serious defects, including a failure to require paramilitaries responsible for atrocities to confess all their crimes. Fortunately, Colombia’s Constitutional Court modified the law, and has required that those seeking sentencing reductions confess all their crimes, turn over illegal assets, and be subjected to a full investigation. Thanks to this decision, a few—primarily a handful of top leaders—began talking about their crimes and links with high-ranking Colombian military and government officials. However, most of the process of confessions came to a halt in May of 2008 when President Uribe extradited nearly all the top paramilitary leadership to the United States to face drug charges. While it is positive that these commanders can no longer continue committing crimes, now that they are in the United States they have little incentive to cooperate with the Colombian investigations. And while the extraditions have had an impact on the groups’ command structures, new commanders have in many cases taken the helm.

6. New paramilitary groups led by mid-level commanders have cropped up all over the country. The Organization of American States (OAS) Mission verifying the demobilizations has identified 22 such groups composed of thousands of members. The groups are recruiting new troops and are committing widespread abuses, including extortion, threats, killings and forced displacement. In recent months, eight foreign embassies in Bogotá and the OAS have reported receiving threats from these groups. Scores of human rights defenders and trade unionists involved in a March 2008 demonstration against paramilitary violence have reported being threatened and attacked. As reported by the United Nations High Commissioner for Human Rights, around the time of the march there were killings of organizers and participants. Victims who have sought to press claims related to abuses by the paramilitaries have been killed. A government program

supposedly designed to protect victims provides few options to most victims who need assistance, beyond general monitoring by local police—who victims often do not trust due to the well-known influence of paramilitary groups in many sectors of the state. In recent weeks, witnesses against paramilitary groups or their accomplices have also been reportedly killed and threatened. The Canadian Embassy itself was recently threatened for a second time by the “Black Eagles” group, reportedly because it offered asylum to an important witness.

Recommendations

Human Rights Watch recommends that the Council urge Colombia’s government to:

- a. Take strong action to fully dismantle paramilitaries’ continuing criminal, financial and political networks by supporting full and effective criminal investigations of these groups.
- b. Implement an effective program to protect victims of paramilitary groups and substantially strengthen the witness protection program.

Paramilitary Influence in the Political System

7. Colombia is a democracy, but a fragile one. Today, Colombia’s democratic institutions are facing serious threats, not only from the FARC guerrillas, but also from paramilitaries who have infiltrated the political system. Key institutions like the Colombian Congress are now undergoing a major crisis of legitimacy—one that is unprecedented not only in Colombia but in all of Latin America—as more than 20% of Congress has come under investigation for collaborating with the paramilitaries. Indeed, more than 60 members of President Alvaro Uribe’s coalition in Congress—including his cousin and closest political ally, Senator Mario Uribe, who used to be President of Congress—have come under criminal investigation for rigging elections and collaborating with paramilitaries, and more than 30 of them are already under arrest. Uribe’s former intelligence chief is also under investigation for colluding with paramilitaries; the evidence against him is strong enough that the United States has revoked his visa.
8. Colombia’s institutions of justice, and particularly its Supreme Court, have stood almost alone in bravely facing down the paramilitary threat, but they have to constantly struggle to defend their independence. In fact, the investigations into paramilitary infiltration of Congress are largely the result of an initiative by the Colombian Supreme Court, which has shown remarkable independence and courage. Unfortunately, instead of fully supporting this effort to strengthen the rule of law, President Uribe has often taken steps that could undermine the investigations. He has paid lip service to the need for justice and has assigned funding to the court, but he has repeatedly launched aggressive public attacks against individual justices, even calling them personally to inquire about cases. At one point, he also floated a proposal to let the politicians avoid prison, which he tabled once it became evident that it would become an obstacle to ratification of the US-Colombia Free Trade Agreement (FTA). Most recently, President Uribe

announced that he would seek the prosecution of all the members of the criminal chamber of the Supreme Court when they issued a decision he did not like.

9. In addition, President Uribe recently blocked a bill that would have helped to restore the Colombian Congress's legitimacy by barring political parties linked to paramilitaries from holding onto the seats of those members who are convicted of paramilitary collaboration. Uribe administration officials have justified the decision to block the initiative by arguing that if it were implemented Uribe would lose his majority in Congress—even though that majority is currently tainted by the influence of groups responsible for systematic crimes including at times horrific atrocities. The Uribe administration and its coalition in Congress are now preparing their own proposals to reform the judiciary—and particularly the role of the Supreme Court. This raises serious concerns that such proposals could undermine the independence of the Court, weaken its ability to investigate paramilitary infiltration in Congress, and reduce accountability.

Recommendations

Human Rights Watch recommends that the Council urge the Uribe administration to:

- a. Cease its attacks on the Colombian Supreme Court and other actors who are investigating paramilitaries' accomplices, and instead offer its unequivocal support for the investigations.
- b. Cease undermining the independence of the judiciary by bringing cases such as the one President Uribe has initiated before the Accusations Committee of the House of Representatives (controlled by President Uribe) against a former Chief Justice of the Supreme Court for supposed "defamation" and the one filed against the criminal chamber of the Supreme Court before the Accusations Committee of the House of Representatives.

Violence against Trade Unionists

10. For years, Colombia has led the world in killings of trade unionists, with more than 2,600 reported killings since 1986, according to the National Labor School, Colombia's leading non-governmental organization monitoring labor rights. Though the number of yearly killings has dropped from its peak in the 1990s, when the paramilitaries were in the midst of their violent expansion, more than 400 trade unionists have been killed during the government of current President Alvaro Uribe—39 last year alone. Impunity in these cases is widespread; in 97% of the killings, there has been no conviction and the killers remain free.
11. Colombia's trade unionists are not random victims who are being killed accidentally or in crossfire. While some of the killings are attributable to the military, guerrillas, or common crime, by far the largest share of the killings perpetrators—based on the information compiled by the Colombian Office of the Attorney General (the *Fiscalía*) and by the National Labor School—is attributable to paramilitaries, who stigmatize unionists as guerrilla collaborators. Unionist killings have increased once again this year, with 26 killings through May 30—a 70% increase compared to last year, according to the National Labor School.

12. With US funding, the Uribe government established a program to provide protection for threatened union leaders. But through most of its tenure, it did little to prevent the violence and threats to begin with by prosecuting the killers and effectively dismantling the paramilitary organizations to which many of them belong. The rate of convictions for unionist killings under Uribe has been consistently low: there were only 9 convictions in 2003, 11 in 2004, 9 in 2005 and 11 in 2006. In 2007, the number of convictions jumped to 43. This sudden increase is primarily due to pressure from the United States Congress in connection with the US-Colombia FTA, which led to the establishment of a specialized sub-unit of prosecutors in the Colombian the Attorney General's office to accelerate investigations of assassinations of trade unionists, a positive development. The increase in convictions is a sign that when the government wants to produce results, it can. But to make sure that last year's increase in convictions is not merely a one-year phenomenon, it is crucial that the international pressure be sustained until the Colombian government shows a meaningful change in the pattern of impunity over a reasonable period of time.

Recommendation

Human Rights Watch recommends that the Council urge the Colombian government to provide increased long-term support to the prosecutors' sub-unit investigating unionist killings, and to show concrete and sustained results, in the form of well-grounded convictions, in changing the pattern of impunity in these cases.

Extrajudicial Executions by the Army

13. The UN High Commissioner for Human Rights (UNHCHR) has reported that the number of killings of civilians committed directly by state forces has been increasing sharply in recent years. According to the Colombian Commission of Jurists (CCJ), one of Colombia's most highly respected human rights organizations, there were 236 reports of extrajudicial executions between June 2006 and June 2007, a substantial increase over the 127 reports between June 2002 and June 2003, at the start of the Uribe administration. Many cases follow a similar pattern, in which army members apparently take civilians from their homes or workplaces, kill them, and then dress them as combatants. According to UNHCHR, investigations have revealed that "the underlying motives... may be related to pressure on the military to show results."

14. In response to the concerns expressed by the US Congress (including a partial freeze of military assistance), the Colombian Secretary of Defense has issued directives clarifying that such killings are forbidden, and the Colombian Attorney General's office has created a special group to investigate some of the killings. However, these positive measures have been undermined by statements from President Uribe himself, who has repeatedly and publicly denied the existence of the problem, even going so far as to charge—at events both in Colombia and Washington—that

the human rights defenders who report them are tools of the guerrillas and that are part of an orchestrated campaign to discredit the military.

Recommendation

Human Rights Watch recommends that the Council urge President Uribe to acknowledge the existence and seriousness of the rise in extrajudicial executions by the military and to take effective steps to eliminate this practice, including by ensuring full, fair and effective investigations leading to well-grounded convictions of not only direct perpetrators of the killings, but also other persons up the chain of command who may bear responsibility for these executions.