



The Republic of Colombia  
Submission to the UN Universal Periodic Review  
30<sup>th</sup> Session of the UPR Working Group

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**Submission by CIVICUS: World Alliance for Citizen Participation, NGO in  
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**CIVICUS: World Alliance for Citizen  
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## 1. Introduction

- 1.1 CIVICUS is a global alliance of civil society organisations (CSOs) and activists dedicated to strengthening citizen action and civil society around the world. Founded in 1993, we proudly promote marginalised voices, especially from the global south, and have members in over 170 countries throughout the world.
- 1.2 In this document, CIVICUS examines the Government of Colombia's compliance with its international human rights obligations to create and maintain a safe and enabling environment for civil society. Specifically, we analyse Colombia's fulfilment of the rights to the freedoms of association, peaceful assembly and expression, and unwarranted restrictions on human rights defenders (HRDs) since its previous UPR examination in April 2013.
- 1.3 During the 2<sup>nd</sup> UPR cycle, the Government of Colombia received 14 recommendations relating to the space for civil society all of which were accepted. However, an evaluation of a range of legal sources and human rights documentation addressed in subsequent sections of this submission demonstrate that the Government of Colombia has only partially implemented the recommendations related to the protection of HRDs and journalists and the right to the freedom of association. Although the government has made efforts to develop a protection mechanism for people at risk, in practice, attacks against HRDs, journalists and trade union members continue to increase.
- 1.4 CIVICUS is deeply concerned by the lack of implementation of UPR recommendations relating to the protection of HRDs, many of whom continue to be subject to harassment, intimidation and targeted assassinations. We are further concerned by the lack of effective implementation of the National Protection Unit for HRDs, as many HRDs that have experienced attack were under state protection at the time.
- 1.5 CIVICUS is further concerned by the level of violence against journalists. Although targeted assassinations of journalists decreased during the reporting period, physical and verbal attacks increased.
- 1.6 As a result of these restrictions, the space for civil society in Colombia is currently rated as 'repressed' by the CIVICUS Monitor, indicating that "civic space is heavily constrained and individuals and civil society members who criticise power holders risk surveillance, harassment, intimidation, imprisonment, injury and death."<sup>1</sup>

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<sup>1</sup> CIVICUS Monitor: [Colombia](#), accessed 21 September 2017. The CIVICUS Monitor is a research collaboration between CIVICUS and our members and partners that provided regularly updated information and analysis on the space for civil society and citizen activism in every country of the world.

- Section 2 of this submission examines Colombia’s implementation of UPR recommendations and compliance with international human rights standards concerning the freedom of association.
- Section 3 examines Colombia’s implementation of UPR recommendations and compliance with international human rights standards related to the protection of HRDs, civil society activists and journalists.
- Section 4 examines Colombia’s implementation of UPR recommendations and compliance with international human rights standards concerning the freedom of expression, independence of the media and access to information.
- Section 5 examines Colombia’s implementation of UPR recommendations and compliance with international human rights standards related to the freedom of peaceful assembly.
- Section 6 makes recommendations to address the concerns listed.
- An annex of the implementation of the 2<sup>nd</sup> cycle of UPR recommendations related to civic space can be found in Section 7.

## 2. Freedom of association

- 2.1** During Colombia’s examination under the 2<sup>nd</sup> UPR cycle, the government received four recommendations on the right to the freedom of association and creating an enabling environment for CSOs. Among other recommendations, the Colombian government committed to “further strengthen its protection measures to remediate the attacks against trade unionists.” The government accepted all four recommendations. However, as evidenced below, the government has only partially implemented these recommendations.
- 2.2** Article 38 of the Colombian Constitution guarantees the right to the freedom of association. Moreover, article 22 of the International Covenant on Civil and Political Rights (ICCPR), to which Colombia is a state party, also guarantees the freedom of association. However, despite these protections, unionised workers in particular face many obstacles that have prevented them from operating without unwarranted restrictions.
- 2.3** Since Colombia’s previous UPR examination, the government has continued to violate the right to the freedom of association. Trade unionists in Colombia are subject to threats, intimidation and targeted assassinations. According to Somos Defensores, a Colombian CSO,<sup>2</sup> between 2013 and 2016, 17 union leaders have been killed in

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<sup>2</sup> Somos Defensores is a national organisation that since 2001 has documented cases of attacks against HRDs and CSOs. Currently, the organisation has a network of more than 500 national organisations that provide information on the situation of aggression against defenders in Colombia. It publishes quarterly, bi-annual and annual analytical reports. For more information: <https://www.somosdefensores.org/index.php/en/quienes-somos/siaddhh>

Colombia.<sup>3</sup> The 2017 International Trade Union Confederation (ITUC) Global Rights Index stated that “it should not be forgotten that Colombia remains one of the worst violators of trade union rights with a horrendous record for impunity regarding the murders of trade unionists.”<sup>4</sup>

**2.4** CSOs are also the target of violent attacks. During 2013 and 2014, Somos Defensores documented 397 physical attacks against civil society organisations.<sup>5</sup> Organisations working on human rights issues were particularly targeted.

**2.5** CIVICUS acknowledge the effort of the Government of Colombia to consolidate a protection programme for persons at risk, and especially the formation of the UNP, created by Decree 4,065 in 2011 under the responsibility of the Ministry of the Interior.<sup>6</sup> However, challenges remain for the proper implementation of the UNP mechanism. According to a report by the Inter-American Commission on Human Rights, the UNP is too bureaucratic and faces “financial and structural problems.”<sup>7</sup> In addition, many CSOs argue that the UNP mainly functions in reaction to attacks and has failed to tackle the “structural issues that contribute to the vulnerability of HRDs and social movements.”<sup>8</sup>

**2.6** In addition, although the Constitutional Court issued a decision in 2004 urging the government to provide protection and “collective” risk assessment for communities and groups as well as individuals, it was only in 2015 that the UNP issued a relevant protocol, ‘a Plan for Collective Protection’.<sup>9</sup> The measures include: “individual measures when they have an impact on the protection of the community or group at risk; supporting infrastructure; organizational and community strengthening; improving the presence of governmental institutions; legal and administrative measures.”<sup>10</sup> However, they are still to be implemented effectively.

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<sup>3</sup> Somos Defensores Annual Reports, available at:

<https://www.somosdefensores.org/index.php/en/publicaciones/informes-siaddhh>

<sup>4</sup> The 2017 ITUC Global Rights Index, available at: [https://www.ituc-csi.org/IMG/pdf/survey\\_ra\\_2017\\_eng-1.pdf](https://www.ituc-csi.org/IMG/pdf/survey_ra_2017_eng-1.pdf)

<sup>5</sup> Somos Defensores documented individual attacks and collective attacks separately during 2013 and 2014

<sup>6</sup> The National Protection Unit is a responsible for articulating, coordinating and implementing measures to protect and support the rights to life, integrity, freedom and the security of individuals, groups and communities that may face extraordinary or extreme risk.

<sup>7</sup> IACHR Annual Report 2015, at 742, available at: <https://www.oas.org/en/iachr/docs/annual/2015/doc-en/InformeAnual2015-cap5-Colombia-EN.pdf>

<sup>8</sup> Alice de Marchi Pereira de Souza, Rafael Mendonça Dias, Sandra Carvalho, Protection Policies for Human Rights Defenders, Sur journal, available at: <http://sur.conectas.org/en/protection-policies-human-rights-defenders/>

<sup>9</sup> Unidad de Protección Nacional, Resolution 1085, available at:

<https://www.unp.gov.co/normatividad/Documents/RESOLUCI%C3%93N%201085%20DE%202015%20MININTERIOR.pdf>

<sup>10</sup> Amnesty International, Americas: State protection mechanisms for human rights defenders, May 2017, available at: <https://www.amnesty.org/en/documents/amr01/6211/2017/en/>

### **3. Harassment, intimidation and attacks against human rights defenders, civil society activists and journalists**

- 3.1** Under Colombia's previous UPR examination, the government received 12 recommendations on the protection of civil society representatives, HRDs and journalists. The government committed to several relevant recommendations including to "ensure appropriate protection of human rights defenders operating in the country, recognising the legitimacy of their work, including full and impartial investigations and prosecutions into all alleged human rights violations committed against them." All 12 recommendations were accepted. However, as examined in this section, the government has only partially implemented 9 of them and did not implement 3 of them.
- 3.2** Article 12 of the UN Declaration on Human Rights Defenders mandates that states should take necessary measures to ensure the protection of HRDs. The ICCPR further guarantees the freedoms of expression, association and peaceful assembly. However, in spite of these protections, activists, HRDs and social leaders continue to be the subject of physical attacks, harassment, intimidation and killings by state and non-state actors.
- 3.3** Although the government committed to reinforcing measures to protect HRDs during the 2<sup>nd</sup> UPR cycle, in practice, community leaders, indigenous leaders and HRDs in general continue to work in a hostile environment. In 2014, the year following the government's commitment, attacks against HRDs increased by 71 per cent. According to documented cases by Somos Defensores, during 2014, 626 attacks against HRDs were reported.<sup>11</sup> The number of attacks decreased in 2016, when 481 attacks were reported. However, the killings of HRDs increased in 2016, with 80 cases documented, a rise of 22 per cent from the previous year.<sup>12</sup> From 2013 to 2016, 276 HRDs were reported as killed in Colombia.<sup>13</sup> These continuing high levels of attacks further suggest that the UNP is ineffective.
- 3.4** These attacks target the most excluded and vulnerable groups. Community leaders, social activists and indigenous defenders are killed more than any other group. In addition, although the government made the commitment in the 2<sup>nd</sup> UPR examination to ensure that HRDs in rural areas are protected effectively, in practice, most of those

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<sup>11</sup> Somos Defensores Annual Report 2014, available at:

<https://www.somosdefensores.org/index.php/en/publicaciones/informes-siaddhh/132-la-divina-comedia>

<sup>12</sup> Somos Defensores, Annual Report 2015, available at:

<https://www.somosdefensores.org/index.php/en/publicaciones/informes-siaddhh/137-santos-se-raja-en-proteccion-a-defensores-en-colombia>

<sup>13</sup> Somos Defensores Annual Reports, available at:

<https://www.somosdefensores.org/index.php/en/publicaciones/informes-siaddhh?limitstart=0>

attacked are located in rural areas most affected by Colombia's armed internal conflict.

#### **4. Freedom of expression, independence of the media and access to information**

- 4.1** Under the 2<sup>nd</sup> UPR cycle, the government received three recommendations on the freedom of expression. For example the government pledged to “increase efforts to investigate and prosecute those responsible for threats or violence against human rights defenders, trade unionists, community leaders and journalists.” All three recommendations on the freedom of expression were accepted. However, as discussed below, the government did not take effective measures to implement these recommendations, meaning that they have been only partially implemented.
- 4.2** Article 19 of the ICCPR guarantees the right to the freedoms of expression and opinion. Article 20 of the Constitution of Colombia also guarantees the right to the freedom of expression. However, in practice, attacks against journalists continue. Although the number of targeted assassinations has decreased over recent years, a high level of threats and attacks continues. According to Fundación para la Libertad de Prensa (FLIP),<sup>14</sup> since 2013, when the government of Colombia committed to “prevent incidents of violence against journalists” during the 2<sup>nd</sup> cycle UPR examination, the number of documented cases of attacks against journalists has increased.<sup>15</sup>
- 4.3** Overall, from 2013 to 2016, FLIP reported 617 attacks against journalists. Although one of the functions of the UNP is to protect journalists, the number of attacks indicates that in practice the mechanism is not providing effective protection. In 2016, only four per cent of the UNP's budget was allocated to the protection of journalists.<sup>16</sup> In addition, with a 99.36 per cent chance of impunity for assassinations of journalists,<sup>17</sup> it seems clear that media workers do not operate in an enabling environment.<sup>18</sup>
- 4.4** Colombia enacted access to information legislation in 2014.<sup>19</sup> In practice, however, CSOs claim that this right is not properly implemented. According to a rating

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<sup>14</sup> Fundación para la Libertad de Prensa (FLIP) is the only organisation that systematically documents freedom of expression violations in Colombia, for more information: <https://flip.org.co/index.php/es/>

<sup>15</sup> FLIP documented 123 attacks in 2013, 131 in 2014, 147 in 2015 and 216 in 2016, available at: <https://flip.org.co/index.php/es/publicaciones/informes-anales>

<sup>16</sup> FLIP Annual Report 2016, available at: <https://flip.org.co/index.php/es/publicaciones/informes-anales/item/2061-silencioff-las-regiones-tomaran-la-palabra>

<sup>17</sup> FLIP Annual Report 2016, available at: <https://flip.org.co/index.php/es/publicaciones/informes-anales/item/2061-silencioff-las-regiones-tomaran-la-palabra>

<sup>18</sup> CIVICUS interview with staff member of FLIP

<sup>19</sup> Ley 1712 de Transparencia, available at: <http://masinformacionmasderechos.co/2014/03/06/ley-1712-de-2014-ley-de-transparencia/>

developed by a group of CSOs, in 2015 citizens' right to access public information was rated as standing at 39.7 on a scale of one to 100.<sup>20</sup>

## 5. Freedom of peaceful assembly

- 5.1 During Colombia's examination under the 2<sup>nd</sup> UPR cycle, the government received no recommendations on the right to the freedom of peaceful assembly. Despite the lack of explicit recommendations, this right is undermined in policy and in practice, as illustrated below.
- 5.2 Article 21 of the ICCPR guarantees the freedom of peaceful assembly. In addition, article 37 of the Colombian Constitution also guarantees the right to the freedom of assembly.
- 5.3 A new Police Code was approved on 2 July 2016. As the CIVICUS Monitor reports, CSOs stated that the code "is a setback for citizens' fundamental freedoms, since it allows authorities to dissolve social protests when they are deemed to cause alterations to coexistence."<sup>21</sup> However, in April 2017 the Constitutional Court issued a decision where it declared that the provisions related to the right to peaceful assembly should be revoked, as only a "statutory law" could regulate rights.<sup>22</sup>
- 5.4 In practice, the right to peaceful assembly is also undermined by the security forces' use of excessive force against peaceful protests. In 2016, for example, indigenous communities and social activists protested to demand that the government comply with its agreements on issues such as agrarian reform and access to education, among others. Protesters were repressed by the police, with three protesters killed and at least 179 protesters injured.<sup>23</sup>

## 6. Recommendations to the Government of Colombia

CIVICUS calls on the Government of Colombia to create and maintain, in law and in practice, an enabling environment for civil society, in accordance with the rights enshrined in the ICCPR, the UN Declaration on Human Rights Defenders and Human Rights Council resolutions 22/6, 27/5 and 27/31.

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<sup>20</sup> Indice de libertad de expresion, available at: <http://www.indicelibertadexpresion.com/>

<sup>21</sup> CIVICUS Monitor update, available at: <https://monitor.civicus.org/newsfeed/2016/08/16/new-police-code-undermines-right-peaceful-protest/>

<sup>22</sup> El tiempo, available at: <http://www.eltiempo.com/justicia/cortes/corte-constitucional-tumba-normas-del-codigo-de-policia-que-regulan-la-protesta-y-aglomeraciones-79864>

<sup>23</sup> Amnesty International, available at:

<https://www.es.amnesty.org/footer/conocenos/test/noticias/noticia/articulo/colombia-no-al-uso-excesivo-de-la-fuerza-por-parte-de-la-policia-durante-las-protestas-de-comunida/>

The following specific recommendations are made:

### **6.1 Regarding the freedom of association**

- Take measures to foster a safe, respectful, enabling environment for civil society, including through removing legal and policy measures that unwarrantedly limit the right to association.
- Guarantee the effective and independent functioning of autonomous trade unions

### **6.2 Regarding the protection of human rights defenders**

- Provide civil society members, HRDs and journalists with a safe and secure environment to carry out their work. Conduct impartial, thorough and effective investigations into all cases of attacks, harassment and intimidation against HRDs, and bring the perpetrators of offences to justice.
- Ensure that HRDs are able to carry out their legitimate activities without fear or undue hindrance.
- Publicly condemn instances of harassment and intimidation of CSOs and activists.
- Systematically apply legal provisions that promote and protect human rights and strength the protection mechanism in order to protect HRDs fully.

### **6.3 Regarding the freedom of expression, independence of the media and access to information**

- Ensure the freedom of expression and media freedom by all bringing national legislation into line with international standards.
- Ensure that journalists may work freely and without fear of retribution for expressing critical opinions or covering topics that the government may find sensitive.
- Allow unfettered access to online information resources and establish mechanisms to facilitate public access to information in line with best practices.
- Refrain from adopting any laws providing for censorship or undue control over the content of the media.



#### **6.4 Regarding the freedom of peaceful assembly**

- Adopt best practices on the freedom of peaceful assembly, as put forward by the UN Special Rapporteur on the right to freedom of peaceful assembly.
- Amend the Police Code in order to guarantee fully the right to the freedom of peaceful assembly.
- Immediately and impartially investigate all instances of extrajudicial killings and excessive force committed by security forces while monitoring protests and demonstrations.
- Review and if necessary update human rights training for the police and security forces, with the assistance of independent CSOs.
- Publicly condemn the use of excessive and brutal force by security forces in the dispersal of protests, launch a formal investigation into abuses, and bring the perpetrators to justice.

#### **6.5 Regarding access to UN Special Procedures mandate holders**

- Prioritise a visit with the following UNSRs 1) Special Rapporteur on the situation of human rights defenders; 2) Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; 3) Special Rapporteur on the rights to freedom of peaceful assembly and of association; 4) Special Rapporteur on extrajudicial, summary or arbitrary executions; 5) Special Rapporteur on the rights of indigenous peoples and; 6) Working Group of Experts on People of African Descent.

#### **6.6 Regarding State engagement with civil society**

- Implement transparent and inclusive mechanisms of public consultations with CSOs on all issues mentioned above and enable the more effective involvement of civil society in the preparation of law and policy.
- Include CSOs in the UPR process before finalising and submitting the national report.
- Incorporate the results of this UPR into its action plans for the promotion and protection of all human rights, taking into account the proposals of civil society,

and present a midterm evaluation report to the Human Rights Council on the implementation of the recommendations of this session.