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Colombia

Country:

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Year:

2018

Freedom Status:

Partly Free

Political Rights:

3

Civil Liberties:

3

Aggregate Score:

65

Freedom Rating:

3.0

Overview:

Colombia is one of the longest-standing democracies in Latin America, but one with a history of serious human rights abuses. However, the incidence of human rights abuses has declined in recent years, and institutions are becoming more effective in checking executive power. In 2016, the government and Colombia's main left-wing guerilla group signed a peace accord, but the country faces enormous challenges in consolidating peace and guaranteeing political rights and civil liberties throughout the territory.

Political Rights and Civil Liberties:

POLITICAL RIGHTS: 29 / 40

A. ELECTORAL PROCESS: 10 / 12

A1. Was the current head of government or other chief national authority elected through free and fair elections? 4 / 4

The president is directly elected to a four-year term. As part of a series of 2015 constitutional amendments known as the Balance of Power reform, immediate presidential reelection was eliminated. President Juan Manuel Santos won the second round of the

2014 election with 51 percent of the vote against Óscar Iván Zuluaga, who had won the first round with 29 percent to Santos's 26 percent. The balloting was considered competitive and credible.

Regional elections in 2015 fortified parties allied with the government, which won gubernatorial races in 23 of the 32 departments. The polls were marred by accusations of improper influence by illegal groups and insufficient candidate vetting by the major parties.

A2. Were the current national legislative representatives elected through free and fair elections? 3 / 4

Congress is composed of the Senate and the Chamber of Representatives, with all seats up for election every four years. The nation at large selects 100 Senate members using a closed-list system; indigenous communities choose two additional members. The Chamber of Representatives consists of 166 members elected by closed-list proportional representation in multimember districts. The final peace accord between the government and the FARC, ratified in November 2016, included a provision guaranteeing former guerrillas five seats in each chamber in the 2018 and 2022 elections. The status of an additional 16 Chamber seats guaranteed to victims of the armed conflict remained in limbo at the end of 2017, pending judicial resolution of a procedural dispute.

The 2014 legislative elections were relatively peaceful, but plagued by accusations of fraud, vote buying, and connections between candidates and organized crime figures. President Santos's main allies, the Liberal Party, the Social National Unity Party (U Party), and Radical Change, won a substantial majority in the Chamber of Representatives, taking 92 seats. In the Senate, however, the coalition won only 47 seats. Former president Uribe's Democratic Center took 20 seats in the Senate and 19 in the Chamber of Representatives, becoming the primary opposition force.

A3. Are the electoral laws and framework fair, and are they implemented impartially by the relevant election management bodies? 3 / 4

The nine members of the National Electoral Council (CNE)—elected by Congress for four-year terms based on party nominations—oversee the conduct of the country's elections, including the financing of political campaigns and the counting of votes. It has faced some criticism for partisanship, and for failing to effectively enforce electoral laws. In 2016, the Inter American Press Association criticized the body over a measure requiring media outlets to report fairly on the plebiscite regarding the peace deal between the government and FARC fighters, and to submit reports about such coverage; the group said the measures saying it threatened press freedom.

B. POLITICAL PLURALISM AND PARTICIPATION: 11 / 16

B1. Do the people have the right to organize in different political parties or other competitive political groupings of their choice, and is the system free of undue obstacles to the rise and fall of these competing parties or groupings? 3 / 4

The party system still includes the traditional Liberal and Conservative parties, but is increasingly split among a variety of parties and coalitions representing regional movements, ideological groups from both the right and the left, and technocratic or issue-

oriented parties. Santos's centrist National Unity coalition, which enjoyed dominance in both chambers during his first term, maintained the loose support of a significant majority of legislators following the 2014 elections, despite the vocal and cohesive presence of the Uribe-led right. In August 2017, the FARC officially reorganized as a political party, the Common Alternative Revolutionary Force (also known as FARC).

B2. Is there a realistic opportunity for the opposition to increase its support or gain power through elections? 3 / 4

Alternation in power is routine at both the national level and in the regions, though some areas remain under the control of machine-style political clans with ties to organized crime.

B3. Are the people's political choices free from domination by the military, foreign powers, religious hierarchies, economic oligarchies, or any other powerful group that is not democratically accountable? 2 / 4

The Colombian state has long struggled to bring effective state presence to large swathes of the national territory. In 2017, the ELN, an armed, left-wing guerilla group, and criminal gangs subjected government officials to sporadic threats, harassment, and violence. ELN activity can have negative effects on the ability of people in some areas to assert their right to participate in political processes.

B4. Do various segments of the population (including ethnic, religious, gender, LGBT, and other relevant groups) have full political rights and electoral opportunities? 3 / 4

While general progress remains slow, the government has undertaken a series of steps to incorporate indigenous and Afro-Colombian voices into national political debates in recent years. The peace accord ratified in November 2016 included provisions for improving consultation mechanisms for marginalized groups.

C. FUNCTIONING OF GOVERNMENT: 8 / 12

C1. Do the freely elected head of government and national legislative representatives determine the policies of the government? 3 / 4

Elected officials generally determine government policy without interference, though threats from guerilla groups and criminal gangs can cast a chill over policymaking processes.

Although a bill implementing the transitional justice system passed in November 2017, lawmakers struggled to pass other high-priority bills during the year.

C2. Are safeguards against official corruption strong and effective? 2 / 4

Corruption occurs at multiple levels of public administration. Graft scandals have emerged in recent years within an array of federal government agencies, but arrests and convictions do take place at high levels. Numerous officials from the Uribe administrations have been convicted of corruption, trading favors, and spying on political opponents. The

Odebrecht scandal led to charges against two senators, Bernardo Elías, who was arrested in August 2017, and Musa Besaile, who was arrested in October, and charges or investigations against multiple former legislators and bureaucrats. The arrest of anticorruption prosecutor Luis Gustavo Moreno in June for bribery and money laundering sent shockwaves through the justice system. His cooperation with the probe resulted in graft charges against two ex-presidents of the Supreme Court, Francisco Ricaurte and Leonidas Bustos, and a corruption investigation of the current president of the Supreme Court, Gustavo Malo.

C3. Does the government operate with openness and transparency? 3 / 4

Government information is generally available to the public, though information related to military and security affairs can be difficult to access. Congress maintains an online platform on which legislators can voluntarily publish financial disclosures.

CIVIL LIBERTIES: 36 / 60 (+1)

D. FREEDOM OF EXPRESSION AND BELIEF: 12 / 16

D1. Are there free and independent media? 2 / 4

The constitution guarantees freedom of expression, and opposition views are commonly expressed in the media. However, journalists face intimidation, kidnapping, and violence both in the course of reporting and as retaliation for their work. Dozens of journalists have been murdered since the mid-1990s, many of them targeted for reporting on drug trafficking and corruption. The government has prosecuted several notorious cases of murdered journalists in recent years, but convictions are rare, and the statute of limitations has expired for many cases. One journalist was killed in connection with her work in 2017, according to the Committee to Protect Journalists (CPJ); María Efigenia Vásquez Astudillo was shot and killed in October in the Cauca District of southwestern Colombia. The attack took place while she was reporting on a violent confrontation between riot police and indigenous Kokonuko demonstrators who were protesting development by a private company on land the Kokonuko community considers sacred.

Self-censorship is common, and slander and defamation remain criminal offenses. The government does not restrict access to the internet, nor does it censor websites. Twitter and other social media platforms have become important arenas for political discourse.

D2. Are individuals free to practice and express their religious faith or nonbelief in public and private? 4 / 4

The constitution provides for freedom of religion, and the government generally respects this right in practice.

D3. Is there academic freedom, and is the educational system free from extensive political indoctrination? 3 / 4

Academic freedom is generally respected. University debates are often vigorous, though armed groups maintain a presence on some campuses to generate political support and intimidate opponents.

D4. Are individuals free to express their personal views on political or other sensitive topics without fear of surveillance or retribution? 3 / 4

Expression is generally protected in major urban centers, but it remains inhibited in areas where the state, insurgents, and criminals vie for control.

E. ASSOCIATIONAL AND ORGANIZATIONAL RIGHTS: 5 / 12

E1. Is there freedom of assembly? 2 / 4

Although provided for in the constitution, freedoms of assembly and association are restricted in practice by violence. The riot police are known for moving aggressively to break up protests. In October, seven peasants were killed by the police during protests against forced coca eradication in Tumaco, located in southwestern Columbia.

E2. Is there freedom for nongovernmental organizations, particularly those that are engaged in human rights– and governance-related work? 2 / 4

The government provides protection to hundreds of threatened human rights workers, but trust in the service varies widely. Hundreds of activists have been murdered in recent years, mostly by the criminal organizations that succeeded paramilitary groups following a government-backed demobilization process in 2005. Although the Santos administration has reiterated its respect for civil society groups, violations against activists have risen in recent years. The local office of the UN High Commissioner on Human Rights had registered 105 activist killings as of late December 2017; moreover, according to We Are Defenders, a coalition of local and international rights groups, the country suffered an 87 percent impunity rate for the 458 activists killed between 2009 and 2016. Land rights and victims' rights campaigners in particular are threatened by former paramilitaries and other local actors seeking to silence criticism of assets acquired during the conflict and halt the implementation of rural development programs. Defense minister Luis Carlos Villegas caused a stir in December 2017 by characterizing the causes of most of the killings as petty disputes.

E3. Is there freedom for trade unions and similar professional or labor organizations? 1 / 4

Workers may form and join trade unions, bargain collectively, and strike, and antiunion discrimination is prohibited. Over the past two decades, Colombia's illegal armed groups have killed more than 2,600 labor union activists and leaders. Killings have declined substantially from their peak in the early 2000s, but 19 union leaders were murdered in 2016, according to 2017 statistics from the International Trade Union Confederation. Although a special prosecutorial unit has substantially increased prosecutions for such assassinations since 2007, few investigations have targeted those who ordered the killings.

F. RULE OF LAW: 9 / 16 (+1)

F1. Is there an independent judiciary? 3 / 4

The justice system remains compromised by corruption and extortion, although the Constitutional Court and the Supreme Court have consistently exhibited independence from the executive. However, corruption allegations involving Supreme Court justices that emerged in 2017 damaged the high court's credibility.

Separately, in May 2017, the Constitutional Court contributed to uncertainty regarding the transitional justice system by limiting the government's ability to move peace-related laws through Congress via simplified, or "fast-track", legislative procedures. In a November decision upholding transitional justice provisions passed in March, the Court provided ambiguous answers to several key questions, including about the incarceration of convicted war criminals and the extent of criminal culpability for military officers whose subordinates committed grave rights abuses.

F2. Does due process prevail in civil and criminal matters? 2 / 4 (+1)

Due process protections remain weak, and trial processes move slowly. However, in recent years the government has been able to assert state control over more territory, bringing basic due process rights to more people. The prosecutorial service is relatively professional, and in July 2017 long-delayed criminal procedure code changes intended to ameliorate extended pretrial detention took effect. Separately, membership of the two key transitional justice bodies, the Special Jurisdiction for Peace and the Truth Commission, was finalized in September and November, respectively.

The systematic killing of civilians to fraudulently inflate guerrilla death tolls resulted in as many as 3,000 murders by the military between 2002 and 2008. By September 2017, more than 1,200 soldiers had been convicted of these crimes, though high-ranking officers have largely escaped punishment. Many of these judicial processes were disrupted in 2017 amid uncertainty regarding the proper judicial venue.

Score Change: The score improved from 1 to 2 because the gradual expansion of state control has brought basic due process protections to a larger portion of the national territory, and because transitional justice bodies were established in an orderly manner.

F3. Is there protection from the illegitimate use of physical force and freedom from war and insurgencies? 2 / 4

Many soldiers operate with limited civilian oversight, though the government has in recent years increased human rights training and investigated a greater number of violations by security forces personnel. Collaboration between security forces and illegal armed groups has declined, but rights groups report official toleration of paramilitary successor groups in some regions. Primary responsibility for combating these groups rests with the police, who lack necessary resources, are sometimes accused of colluding with criminals, and are largely absent from many rural areas where the groups are active.

Civil-military relations have been a source of significant tension in recent years. A portion of the armed forces opposed the peace process, and public uncertainty regarding the ability of accused human rights violators within the military to receive benefits under the transitional justice system is one of the most controversial elements of the peace process.

Some areas, particularly resource-rich zones and drug-trafficking corridors, remain highly insecure. Remnant guerrillas—including a notable set of FARC dissidents—and paramilitary successor groups regularly abuse the civilian population, especially in coca-growing areas. Cultivation of the plant increased dramatically as the peace process took effect. Impunity for crime in general is rampant, and most massacres that took place during the conflict have gone unpunished. In 2016, prosecutors indicted Santiago Uribe, the former president's brother, for allegedly leading a paramilitary group responsible for dozens of deaths in the 1990s; the process continued throughout 2017.

Despite these problems, violence has significantly subsided since the early 2000s. In 2017, the homicide rate—roughly 24 per 100,000 people—declined to its lowest point in four decades, and the number of conflict-related victims plummeted as a result of the peace process.

F4. Do laws, policies, and practices guarantee equal treatment of various segments of the population? 2 / 4

Afro-Colombians, who account for approximately 25 percent of the population, make up the largest segment of Colombia's more than 7 million displaced people, and 80 percent of Afro-Colombians live below the poverty line. Areas with concentrated Afro-Colombian populations continue to suffer from abuses by the FARC, security forces, and paramilitary successors. In 2017, territorial clashes among militant groups in Chocó Department displaced thousands of the area's largely Afro-Colombian and indigenous residents.

Most of Colombia's more than 1.7 million indigenous inhabitants live on approximately 34 million hectares granted to them by the government, often in resource-rich, strategic regions that are increasingly contested by various armed groups. Indigenous people have been targeted by all sides in the country's various conflicts. In late October 2017, over 100,000 indigenous Colombians initiated a strike that included highway blockades to call attention to lack of implementation of relevant peace accord provisions, and to demand a national forum to negotiate indigenous issues with the government, leading to the formation of a high-level commission to monitor compliance of agreed-upon issues. High incidence of malnutrition and starvation among the Wayuu indigenous group has prompted international pressure on the Colombian government in recent years.

LGBT (lesbian, gay, bisexual, and transgender) people suffer societal discrimination and abuse, and there are high levels of impunity for crimes committed against them. According to the local NGO Colombia Diversa, more than 31 LGBT individuals were murdered in 2017.

G. PERSONAL AUTONOMY AND INDIVIDUAL RIGHTS: 10 / 16

G1. Do individuals enjoy freedom of movement, including the ability to change their place of residence, employment, or education? 3 / 4

Freedom of movement, choice of residence, and property rights are restricted by violence, particularly for vulnerable minority groups. Travel in rural areas is further limited by illegal checkpoints operated by criminal and guerrilla groups.

G2. Are individuals able to exercise the right to own property and establish private businesses without undue interference from state or nonstate actors? 2 / 4

Violence and instability in some areas threatens property rights and the ability to establish businesses. Guerilla and paramilitary successor groups regularly extort payments from business owners. Corruption at various levels as well as undue pressure exerted on prosecutors and members of the judiciary can disrupt legitimate business dealings.

Progress remains uneven on the implementation of the landmark 2011 Victims and Land Law, which recognized the legitimacy of claims by victims of conflict-related abuses, including those committed by government forces. While affected citizens continue receiving compensation, the legal process for land restitution is heavily backlogged, and the resettlement of those who were displaced during the conflict continues to move slowly.

G3. Do individuals enjoy personal social freedoms, including choice of marriage partner and size of family, protection from domestic violence, and control over appearance? 3 / 4

Sexual harassment, gender-based violence, and the trafficking of women for sexual exploitation remain major concerns. Thousands of rapes have occurred as part of the conflict, generally with impunity. The country has restrictive abortion laws, though a 2006 Constitutional Court ruling allowed abortion in cases of rape or incest or to protect the life of the mother.

In 2016, after several years of contradictory judicial and administrative decisions regarding same-sex unions, the Constitutional Court voted to legalize them. The court legalized adoptions by same-sex couples in 2015.

G4. Do individuals enjoy equality of opportunity and freedom from economic exploitation? 2 / 4

Child labor, the recruitment of children by illegal armed groups, and related sexual abuse are serious problems in Colombia. A 2011 free trade agreement with the United States and a subsequent Labor Action Plan called for enhanced investigation of abusive labor practices and rights violations, but progress remains deficient in several areas.

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