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Freedom House

Freedom in the World 2019 - Colombia

Partly Free

66 /100

Overview:

Colombia is among the longest-standing democracies in Latin America, but one with a history of widespread violence and serious human rights abuses. The incidence of violence has declined in recent years, and public institutions have demonstrated the capacity to check executive power and enforce the rule of law. The government and the country's main left-wing guerrilla group signed a peace accord in 2016, but as of 2018 Colombia still faced enormous challenges in consolidating peace and guaranteeing political rights and civil liberties throughout its territory.

Key Developments:

Key Developments in 2018:

- Right-wing candidate Iván Duque was elected president in June, defeating leftist Gustavo Petro in a second-round runoff to replace outgoing two-term president Juan Manuel Santos.
- The peace accord signed in 2016 between the government and the left-wing Revolutionary Armed Forces of Colombia (FARC) rebel group remained intact during the year, but implementation delays prompted concern about the pact's durability.
- A wave of lethal attacks against human rights defenders and other social activists continued throughout the year. Scores of activists were murdered, and the perpetrators of such crimes generally enjoyed impunity.

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, immediate presidential reelection was eliminated, making incumbent president Santos, reelected in 2014, the last to serve two consecutive terms.

The peace accord was a significant issue in the 2018 election. Duque of the Democratic Center (CD) party, a protégé of former president and chief peace accord critic Álvaro Uribe, pledged throughout the campaign to alter the pact's terms, which he characterized as overly magnanimous toward the guerrillas. However, corruption, crime, and social services were also prominent themes during the campaign, as was the ongoing political and economic crisis in neighboring Venezuela.

Duque easily led the first round in May with 39 percent of the vote, followed by left-wing candidate and former Bogotá mayor Gustavo Petro, whose 25 percent share narrowly held off centrist candidate and former Antioquia governor Sergio Fajardo. The tone of the second round in June was highly polarized: Petro and his supporters tarred Duque as Uribe's puppet, while the CD and its allies described Petro as liable to lead Colombia toward a Venezuela-style implosion. Duque won with 54 percent of the vote, leaving Petro with 42 percent. The balloting was considered competitive and credible, though election observers logged sporadic reports of vote buying and other violations in both the first and second rounds.

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 proportional representation system; two additional members are chosen by indigenous communities, one seat is awarded to the runner-up in the presidential election, and another five seats were reserved in 2018 and 2022 for the FARC under the peace accord. The Chamber of Representatives consists of 172 members, with 161 elected by proportional representation in multimember districts, two chosen by Afro-Colombian communities, one each by indigenous and expatriate voters, one seat reserved for the runner-up vice presidential candidate, and five seats reserved for the FARC, as in the Senate.

The March 2018 legislative elections were relatively peaceful, though observers noted accusations of fraud, vote buying, and connections between candidates and organized crime figures. Threats and attacks against FARC candidates prompted the party to suspend campaign activity in February. Senate seats were dispersed, with six parties winning 10 or more seats, led by Duque's CD with 19. In the Chamber of Representatives, five parties won 21 or more seats, led by the Liberal Party with 35; the CD garnered 32 seats. In its first balloting as a legal party, the FARC managed a meager 0.3 percent of the vote in the Senate and 0.2 percent in the House of Representatives, meaning it took no seats aside from the five guaranteed to it in each chamber.

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

The legal framework generally allows for competitive balloting in practice, though the National Electoral Council (CNE)—which oversees the conduct of the country's elections, including the financing of political campaigns and the counting of votes—has faced criticism for ineffective enforcement of electoral laws, blamed in part on the partisan selection system for its members. The nine members of the CNE are elected by Congress for four-year terms based on party nominations. In August 2018, congressional leaders again used the party-quota system to elect a new slate of councillors, despite new laws that could have produced a more meritocratic process.

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

Colombia's historically rigid two-party system has undergone a protracted process of realignment and diversification in recent years. The 2018 elections brought into the legislature a relatively balanced mix of parties—some of which remain focused on leading personalities—from the left, right, and center. Nonetheless, this balance, coupled with intraparty splits, left Duque without a stable majority in either legislative chamber.

The FARC, whose acronym now stands for Common Alternative Revolutionary Force, officially reorganized as a political party in 2017 and was allowed to participate in the 2018 elections. While its candidates faced threats and attacks, the congressional seats it received under the peace accord gave it far more representation than it would have earned through normal voting.

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

Democratic transfers of power between rival parties is routine at both the national level and in the regions, though some areas remain under the long-term control of machine-style political clans with ties to organized crime. Petro's performance in the 2018 presidential election marked the strongest showing for the political left in a modern presidential campaign, demonstrating the viability of a broader range of candidates for high-level office.

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

Despite the peace accord with the FARC, activity by the smaller National Liberation Army (ELN) leftist guerrilla group, the successors of previously disbanded right-wing paramilitary groups, and criminal gangs has continued to impair the ability of citizens in some areas to participate freely in the political process.

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 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 2016 peace accord included provisions for improving consultation mechanisms for marginalized groups.

Women enjoy equal political rights, and at least 30 percent of the candidates on party lists must be women. About 20 percent of the seats in each congressional chamber are currently held by women.

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. However, the Colombian state has long struggled to establish a secure presence in all parts of its territory, meaning threats from guerrilla groups and criminal gangs can disrupt policymaking and implementation in certain regions and localities.

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 agencies, but investigations do result in convictions, including against senior officials. Numerous members of the two Uribe administrations (2002–10) were convicted of corruption, trading favors, and spying on political opponents.

A multicountry bribery scandal centered on the Brazilian construction firm Odebrecht led to charges in 2017 against two senators and multiple former legislators and bureaucrats. The November 2018 death of Jorge Enrique Pizano, a key witness in the Odebrecht investigation, followed three days later by the mysterious poisoning death of his son, returned the scandal to the headlines. In 2015, Pizano had passed along information regarding financial irregularities at Odebrecht to Néstor Humberto Martínez, at that time a lawyer for one of Colombia's largest conglomerates and now Colombia's attorney general. In December 2018, a special prosecutor was selected to continue the investigation. Separately, the former head of the anticorruption unit within the attorney general's office, Luis Gustavo Moreno, was extradited to the United States in May to face charges that he took bribes from the target of a corruption probe.

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.

A proposal that was put to a referendum in August 2018 would have committed lawmakers to passing a set of reforms meant to increase government transparency and combat corruption. The changes included more public and competitive state contracting procedures, citizen participation in budget making, mandatory public financial disclosures for officials, and congressional disclosures on lobbying activity. Although support for the measures was nearly unanimous, turnout narrowly failed to reach the one-third of registered voters necessary for the outcome to be binding. Many of the referendum proposals were introduced to Congress in September with President Duque's support, but they failed to gain legislative traction.

CIVIL LIBERTIES: 37 / 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 aired 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. According to local press group Foundation for Press Freedom, threats against journalists rose significantly in the first half of 2018. Two Ecuadorian journalists were killed in Colombia by FARC dissidents in April, and multiple prominent Colombian reporters received death threats from the Black Eagles paramilitary successor group in July.

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. Starting in October 2018, tens of thousands of university students initiated the first major protests of the Duque administration, demanding increased funding for higher education. An agreement on greater education investment was reached in December.

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

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

E. ASSOCIATIONAL AND ORGANIZATIONAL RIGHTS: 6 / 12 (+1)

E1. Is there freedom of assembly? 2 / 4

Although provided for in the constitution, freedom of assembly is restricted in practice by violence. The riot police are known for moving aggressively to break up protests, sometimes using deadly force.

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

The legal framework generally supports nongovernmental organizations, and civil society is diverse and active, but the threat of violent reprisal poses a major obstacle to freedom of association. While the government provides protection to hundreds of threatened human rights workers, trust in the service varies widely. Hundreds of activists have been murdered in recent years, mostly by the criminal organizations that succeeded right-wing paramilitary groups following a government-backed demobilization process in 2005. Although the Duque administration has reiterated its respect for civil society groups and in August 2018 signed an agreement committing the government to developing more effective protection policies, violations against activists have continued to rise. The Ombudsman's Office registered 172 killings during the year. We Are Defenders, a coalition of local and international rights groups, noted in a September report that the country suffered from a 91 percent impunity rate for the 563 activists killed between 2009 and 2017. Land rights and victims' rights campaigners in particular are threatened by former paramilitaries and other local actors seeking to deflect attention from assets acquired during the conflict and to halt the implementation of rural development programs.

E3. Is there freedom for trade unions and similar professional or labor organizations? 2 / 4 (+1)

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, though 28 unionists were murdered between January and November 2018. A special prosecutorial unit has substantially increased prosecutions for such assassinations since 2007, but few investigations have targeted those who ordered the killings.

Score Change: The score improved from 1 to 2 because while attacks against labor leaders and activists persist, their frequency has decreased over the last decade.

F. RULE OF LAW: 9 / 16

F1. Is there an independent judiciary? 3 / 4

The justice system remains compromised by corruption and extortion. The Constitutional Court and the Supreme Court have consistently exhibited independence from the executive, though corruption allegations involving Supreme Court justices that emerged in 2017 and remained under investigation in 2018 damaged the high court's credibility.

The Constitutional Court has repeatedly been asked to mediate polarizing political disputes, especially with respect to the Special Jurisdiction for Peace (JEP), a parallel court structure or tribunal that lies at the heart of the 2016 peace accord's transitional justice system. In August 2018 the court upheld most of the 2017 statutory law governing the JEP; it must still consider the implementing regulations passed in June 2018. The August ruling struck down several provisions that would have restricted the JEP's power, but key questions, including the incarceration regime for convicted war criminals and the extent of criminal culpability for military officers whose subordinates committed grave rights abuses, remained hotly disputed throughout the year. Tensions regarding the relative authority of the attorney general's office and the JEP were recurrent in 2018. In October, representatives from the attorney general's office attempted to seize documents from the JEP before backing down, and the entities clashed on other occasions over the handling of a US extradition request for FARC leader Jesús Santrich, who was arrested in April on accusations of cocaine trafficking.

F2. Does due process prevail in civil and criminal matters? 2 / 4

Due process protections remain weak, and trial processes move very 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 long-delayed changes to the criminal procedure code that were intended to ameliorate extended pretrial detention took effect in 2017. Separately, the two key transitional justice bodies, the JEP and the Truth Commission, began operations in January and November 2018, respectively, amid anticipation and uncertainty about the extent to which the bodies would be able to render a comprehensive historical and judicial accounting of Colombia's conflict.

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. The police are more professional than many in neighboring countries but lack necessary resources, are sometimes accused of colluding with criminals, and are largely absent from many rural areas where the most dangerous 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 process. 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. As of November 2018, at least nine generals were among the thousands of soldiers seeking benefits under the transitional justice process after being convicted or investigated for these and other abuses.

Some parts of the country, particularly resource-rich zones and drug-trafficking corridors, remain highly insecure. Remnant guerrilla forces—including both the ELN and dissident factions of the FARC—and paramilitary successor groups regularly abuse the civilian population, especially in coca-growing areas. Cultivation of the plant has increased dramatically since the peace process took hold. Impunity for crime in general is rampant, and most massacres that took place during the conflict have gone unpunished. In July 2018 the Supreme Court opened a formal case against Uribe for bribery and witness tampering, and multiple other cases against him, including for massacres, are in the investigation phase. The September announcement prompted Uribe to declare later that month that he was resigning from the Senate, but he subsequently rescinded his resignation.

During 2018 a steady stream of former FARC combatants—including former second-in-command Iván Márquez—returned to clandestine life, in some cases joining the estimated 1,200 to 2,800 “dissidents” who had shunned the peace process in favor of criminal or insurgent activity. In December, Colombian troops killed one of the most aggressive dissidents, Walter Arizala, who had contributed to a wave of violence in the southwest department of Nariño. Meanwhile, peace talks between the government and the ELN stalled after the latter broke a cease-fire in January, then resumed in May. After Duque assumed the presidency, he suspended the talks again in September, and they remained suspended for the rest of the year.

Despite these problems, violence overall has significantly subsided since the early 2000s. In 2017, the homicide rate declined to its lowest point in four decades—roughly 24 per 100,000 people—and the number of conflict-related victims plummeted as a result of the peace process. Nonetheless, according to a September 2018 report from the think tank Ideas for Peace Foundation, violence and forced displacement rose in the first seven months of 2018 in 170 areas designated as priority development zones. The national homicide rate rose slightly to 25 per 100,000 people for the year.

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

The legal framework provides protections against various forms of discrimination based on gender, race and ethnicity, sexual orientation and gender identity, and other categories, and the government takes some measures to enforce these protections. Nevertheless, several vulnerable groups suffer serious disadvantages in practice.

Afro-Colombians, who account for as much as 25 percent of the population, make up the largest segment of the more than 7 million people who have been displaced by violence, and some 80 percent of Afro-Colombians live below the poverty line. Areas with concentrated Afro-Colombian populations continue to suffer from abuses by leftist guerrillas, security forces, and paramilitary successors.

Most of Colombia's indigenous inhabitants, who make up more than 3 percent of the population, live on approximately 34 million hectares granted to them by the government, often in resource-rich, strategic regions that are highly contested by armed groups. Indigenous people have been targeted by all sides in the country's various conflicts. In 2018, indigenous communities in the departments of Cauca and Nariño suffered violence and displacement perpetrated by the ELN, former FARC members, and paramilitary successors.

Women face employment discrimination and sexual harassment in the workplace, as well as gender-based violence. LGBT (lesbian, gay, bisexual, and transgender) people suffer societal discrimination and abuse, and there are also high levels of impunity for crimes committed against them.

More than a million Venezuelan migrants have entered Colombia since 2017, and the government has offered work permits and access to services to those who register, including Venezuelans who crossed the border irregularly.

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 has improved substantially in tandem with the peace process, but it remains restricted by ongoing violence in certain regions, particularly for vulnerable minority groups. Travel in some remote 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 threaten property rights and the ability to establish businesses. Guerrillas, paramilitary successor groups, and common criminals regularly extort payments from business owners. Corruption as well as undue pressure exerted on prosecutors and members of the judiciary can disrupt legitimate business activity.

Progress remains slow 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

Personal social freedoms, such as those related to marriage and divorce, are largely respected. In 2016, after several years of contradictory judicial and administrative decisions regarding same-sex unions, the Constitutional Court voted to legalize them. The court had legalized adoptions by same-sex couples in 2015. The country still has restrictive abortion laws, though in October 2018 the Constitutional Court reaffirmed a 2006 ruling that allowed abortion in cases of rape or incest, severe fetal malformation, or a threat to the life of the mother. Gender-based violence in Colombia has included thousands of rapes associated with the civil conflict, with perpetrators generally enjoying impunity.

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; recruitment has declined but not ended since the peace accord. 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. In coca-growing zones, armed groups exert coercive pressure on farmers to engage in coca cultivation and shun crop-substitution programs.

ecoi.net summary:

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