

**Alternative report  
to the 7<sup>th</sup> periodic report of Colombia  
on fulfilment of obligations under the  
International Covenant on Civil and  
Political Rights**

**United Nations  
Human Rights Committee**

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**ifex**

The global network  
DEFENDING AND PROMOTING  
FREE EXPRESSION

  
**FLIP**  
FUNDACIÓN PARA  
LA LIBERTAD  
DE PRENSA

  
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**The following report was prepared by:**

**IFEX - The Global Network Defending and Promoting Free Expression:**<sup>1</sup> IFEX is the leading global network of organisations defending and promoting the right to freedom of expression and information. The network was founded in 1992 and now comprises 95 organisations in more than 65 countries. In Latin America and the Caribbean, IFEX has 19 member organisations based in countries throughout the region. Together these organisations form the IFEX-ALC network, which was created in 2009 out of the need for the various groups to share experiences and capacities with the common objective of defending freedom of expression in Latin America and the Caribbean.

**Foundation for Press Freedom (Fundación para la Libertad de Prensa, FLIP):**<sup>2</sup> FLIP is a non-governmental organisation based in Colombia. FLIP's mission is to defend the freedom of expression and access to information rights of Colombia's citizens, particularly those who practice journalism.

**International Network of Human Rights (Réseau International des Droits Humains, RIDH):**<sup>3</sup> RIDH is a non-governmental organisation that contributes to capacity building by providing information, analysis and technical assistance to entities involved in promoting and protecting human rights. RIDH, which is based in Geneva, has ECOSOC consultative status at the United Nations and carries out an intermediary role in dialogue and advocacy processes relating to specific human rights contexts, working in particular with Latin American organisations.

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## **INDEX**

### **1. VIOLENCE AGAINST JOURNALISTS, IMPUNITY AND DEFICIENCIES IN THE PROTECTION SYSTEM**

- 1.1 Unceasing violence against journalists.
- 1.2. Impunity and failure to investigate attacks on the press.
- 1.3. Deficiencies in the protection system.

### **2. DISTRIBUTION OF GOVERNMENT ADVERTISING IN COLOMBIA AND ITS IMPACT ON FREEDOM OF EXPRESSION AND INFORMATION**

- 2.1. Use of government advertising as an indirect censorship mechanism.
- 2.2. Failure to comply with transparency and access to information rules.
- 2.3. Lack of technical and specific criteria relating to contractor selection.
- 2.4. Radio space regulatory model and censorship via government advertising.
- 2.5. Use of government advertising as an informal, discretionary and subjective media subsidy.
- 2.6. Direct contracting the primary method for allocation of government advertising.
- 2.7. Alteration of contractual purpose in government advertising.
- 2.8. Lack of proper monitoring to determine if government advertising affects freedom of expression and information.
- 2.9. Government advertising contracted out to a small number of media outlets, failing to promote a range of voices.
- 2.10. Self-censorship as a result of lack of transparency and controls on the allocation of government advertising.

### **3. SPECIFIC RECOMMENDATIONS**

## **INDEX OF ABBREVIATIONS**

IACHR: Inter-American Commission on Human Rights

ICCPR: International Covenant on Civil and Political Rights

FLIP: Foundation for Press Freedom (Fundación para la Libertad de Prensa)

UNP: National Protection Unit (Unidad Nacional de Protección)

CNMH: National Centre for Historical Memory (Centro Nacional de Memoria Histórica)

**United Nations  
Human Rights Committee**

Topic: **Report on Freedom of Expression situation in Colombia.**

Respected members of the Human Rights Committee:

The Foundation for Press Freedom (Fundación para la Libertad de Prensa, FLIP) is a non-governmental organisation based in Colombia. Our mission is to defend the freedom of expression and access to information rights of Colombia's citizens, particularly those who practice journalism.

As part of our work, we want to bring to light the freedom of expression situation in Colombia in order to be examined under the lens of the obligations that the Colombian State has assumed based on Article 19 of the International Covenant on Civil and Political Rights (ICCPR). This report seeks to make public the situation of violence and impunity in Colombia, as well as show the ways in which government advertising is used as a means of applying pressure on those who practice journalism.

These two phenomena produce a situation of vulnerability for the right to freedom of expression in Colombia, a right enshrined in Article 19 of the ICCPR, as well as Article 13 of the American Convention on Human Rights and Article 20 of the Colombian Constitution. They represent rights violations in that they hinder the free exercise of journalism and favour self-censorship and silencing, making it impossible to provide certain information of interest to Colombian society.

## 1. VIOLENCE AGAINST JOURNALISTS, IMPUNITY AND DEFICIENCIES IN THE PROTECTION SYSTEM

### 1.1. Unceasing violence against journalists

1. Violence against journalists has been a constant in Colombia. Although there have been reductions in the numbers of assassinations relative to previous decades, this change has taken place alongside the establishment of a climate that is unfavourable for freedom of expression as guaranteed by Article 19 of the ICCPR.

2. In 2015, FLIP documented 147 direct aggressive actions against the press in Colombia, with a total of 232 victims.<sup>4</sup> These actions included two assassinations associated with the victims' journalism work: Luis Antonio Peralta, assassinated on 14 February in the municipality of El Doncello, Caquetá department,<sup>5</sup> and Flor Alba Núñez, assassinated on 10 September in the city of Pitalito, in the southern area of Huila department.<sup>6</sup>

3. These assassinations were related to the journalism work of the victims. Both individuals were critical and experienced journalists who spoke out about local corruption. Peralta, 63, directed "Linda Estéreo", the only radio station in the northern part of Caquetá. Flor Alba, 31, was the journalist with the most extensive reach in Huila. Including these two cases, the number of journalists assassinated in Colombia between 1977 and 2015 has reached 153.

4. The year 2015 represented a clear setback for freedom of expression. According to the Committee to Protect Journalists (CPJ), Colombia occupies the 11<sup>th</sup> spot in a ranking of the most dangerous countries in which to practice journalism. This ranking is due to the fact that, in addition to two assassinations, there was also an increase in the overall number of actions against journalists in 2015, with the highest level documented since 2009.

5. Nearly one-third of the actions against journalists, 77 of 232, were threats—with this being the most frequent type of aggression. Threats, along with obstructions to coverage of stories, were the two most common types of setbacks that formed part of the increase in violence.<sup>7</sup> Within this context, one must take into account the fact that regional elections were held in 2015. In less than three weeks, FLIP documented 22 cases with links to the

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<sup>4</sup> FLIP, 9 February 2016: [Paz en los titulares, miedo en la redacción](#) (*Peace in the headlines, fear in the newsroom*, Spanish only) p. 10.

<sup>5</sup> UNESCO, 3 March 2015: [UNESCO Director-General condemns murder of Colombian journalist Luis Carlos Peralta Cuéllar](#); IACHR, Special Rapporteurship for Freedom of Expression, 17 February 2015: [Press release R 13/15. Office of the Special Rapporteur condemns murder of journalist in Colombia](#); FLIP, 19 February 2015: [Colombian journalist known for reporting on corruption killed at home radio station](#); El Espectador, 15 February 2015: [Sicarios asesinan al periodista Luis Peralta en Caquetá](#) (*Hitmen assassinate journalist Luis Peralta in Caquetá*, Spanish only).

<sup>6</sup> IACHR, Special Rapporteurship for Freedom of Expression, 14 September 2015: [Press Release R 102/15. Office of the Special Rapporteur condemns killing of journalist Flor Alba Núñez in Colombia](#); Revista Semana, 10 September 2015: [Periodista asesinada en Huila había recibido amenazas](#) (*Journalist assassinated in Huila had received threats*, Spanish only); FLIP, 14 September 2015: [FLIP denounces killing of journalist Flor Alba Núñez Vargas in Pitalito, Huila](#); Reporters Without Borders (RSF), 11 September 2015: [Young programme host gunned down outside radio station](#); El Tiempo, 10 September 2015: [Periodista fue asesinada frente a una emisora en Huila](#) (*Journalist assassinated in front of radio station in Huila*, Spanish only).

<sup>7</sup> FLIP, 9 February 2016: [Paz en los titulares, miedo en la redacción](#) (*Peace in the headlines, fear in the newsroom*, Spanish only) p. 10.

elections. The aggressive and hostile atmosphere experienced in some regions of the country directly and negatively affected the ability of journalists to cover the elections.<sup>8</sup>

6. In addition, in 2015 and early 2016, one of the most serious cases of illegal surveillance since the times of the former Administrative Department of Security (Departamento Administrativo de Seguridad, DAS) took place. Vicky Dávila, director of “La FM” news radio, and Claudia Morales, a journalist for the “La Luciérnaga” radio programme and a collaborator with other media outlets, received anonymous e-mails saying the police had given orders for their private communications to be intercepted and tracked. In November, the messages to the journalists began to include very specific information: documentation of telephone conversations, private meetings, the movements of the journalists and their relatives, including tracking of minors.<sup>9</sup>

7. Within what is known to date, FLIP has made note of a National Police intelligence location dedicated to monitoring journalists, military or police personnel to “shield the peace process.” The communications of Dávila and Morales would have been intercepted from this location. In the *List of issues in relation to the seventh periodic report of Colombia*,<sup>10</sup> the Human Rights Committee has already asked the Colombian government to provide information regarding any new complaints and any advances in cases of undue surveillance of citizens. In addition, the Committee has also asked for an update on controls that are being implemented in response to possible abuses within the intelligence system.

8. In a review spanning from 2012 to April 2016, FLIP documented the following figures regarding actions against journalists:

9. Between 2012 and 2016, five journalists were killed in Colombia with motives linked to their work. In 2012, Guillermo Quiroz was assassinated in San Pedro, Sucre. In 2013, Édison Molina Carmona was assassinated in Puerto Berrío, Antioquia, and José Darío Arenas was assassinated in Caicedonia, Quindío. In 2015 Luis Peralta was assassinated in El Doncello, Caquetá, and Flor Alba Nuñez was assassinated in Pitalito, Huila.

10. Between January 2012 and April 2016, journalists were subjected to 603 aggressive actions. Those responsible for actions against the press were as follows:

- 139 incidents were attributed to politicians and public officials (23%);
- In 111 cases the person or persons responsible for the actions have not been identified (18.4%);
- In 99 cases the actions were carried out by private individuals (16.4%);
- 97 incidents were attributed to the security forces (16%);

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<sup>8</sup> FLIP, 26 October 2015: [Balance elecciones: En región Caribe se presentó el mayor número de obstrucciones a la prensa](#) (Electoral balance: Obstructions of the press highest in Caribbean region, Spanish only).

<sup>9</sup> IACHR, Special Rapporteurship for Freedom of Expression, 31 December 2015: [Annual report of the Inter-American Commission on Human Rights 2015, Annual report of the office of the special rapporteur for freedom of expression](#), p. 126; FLIP, 3 December 2015, [Se agudiza situación de espionaje e intimidación policial a periodistas en Colombia](#) (Worsening situation involving surveillance and police intimidation of Colombian journalists, Spanish only); El Espectador, 5 December 2015: [A Vicky Dávila la querían involucrar en caso de enriquecimiento ilícito](#) (Attempt to entangle Vicky Dávila in illegal financial dealings case, Spanish only); El Tiempo, 11 December 2015: [Hay indicios de que seguimientos a Vicky Dávila vienen de la Policía](#) (Indications that police are behind surveillance of Vicky Dávila, Spanish only).

<sup>10</sup> UN Human Rights Committee, Comité de Derechos Humanos, *List of issues in relation to the seventh periodic report of Colombia*. CCPR/C/COL/Q/7, 26 April 2016.

- 41 incidents were attributed to criminal or paramilitary groups;
- 28 incidents were attributed to guerrilla groups;
- 18 incidents represent common crime events; and,
- 70 incidents were attributed to others.

11. Between 2012 and 2016 the regions with the greatest number of actions against the press were:

- Bogotá: 92 (15.2%);
- Antioquia: 58 (9.6%);
- Valle del Cauca: 41 (6.7%);
- Cundinamarca: 35, Norte de Santander: 29, Cauca: 28, Tolima: 25, Huila: 25, Santander: 23, Guaviare: 23, César: 21, Arauca: 20, Guajira: 17, Córdoba: 17, Sucre: 16, Casanare: 14, Putumayo: 13, Magdalena: 13, Boyacá: 13, Nariño 12, Quindío: 11, Atlántico: 10, Bolívar: 9, Caldas: 9, Chocó: 7, Risaralda: 7, Meta: 6, Caquetá: 4 and San Andrés and Providencia: 2.

12. Between 2012 and 2016, 209 journalists were threatened:

- In 59 incidents the origin of the threats is unknown (28%);
- 38 incidents involved politicians or public officials (19%);
- 36 incidents were attributed to criminal or paramilitary groups (17%);
- 26 incidents were attributed to private individuals (12%);
- 16 incidents were linked to guerrilla groups (7.5%);
- 14 incidents were linked to common crime (6.5%);
- 12 incidents were linked to others (6%); and,
- 8 incidents were attributed to security forces (4%).

13. Taking into consideration Bogotá and Colombia's 32 departments, between 2012 and 2016 threats against journalists took place in 29 of these areas. The three regions with the highest incidence were Antioquia, Bogotá and Valle del Cauca:

- Antioquia: 29 (13.8%);
- Bogotá: 24 (11.4%);
- Valle del Cauca: 15 (7.1%);
- Guaviare: 12, Huila: 12, Santander: 12, Tolima: 11, Cauca: 10, Arauca: 8, Norte de Santander: 7, Putumayo: 7, Atlántico: 6, Cesar: 5, Córdoba: 5, Cundinamarca: 5, Sucre: 5, Boyacá: 4, Casanare: 4, Nariño: 4, Quindío: 4, Chocó: 3, Caldas: 3, Bolívar: 3, Magdalena: 3, Caquetá: 2, Guajira: 2, Risaralda: 2, San Andrés: 1 and Meta: 1.

14. These figures show that violence against journalists in Colombia is ongoing and reaches levels that prevent free exercise of the right to report and express one's views, as laid out in Article 19 of the ICCPR. Violence against journalists is widespread throughout Colombia and is perpetrated by a variety of actors, including state authorities.

15. In this sense, it can be said that the Colombian government continues to fail in guaranteeing a favourable environment for journalism. On one hand, it has failed to defuse

the sources of aggression and, on the other, it has not established a preventive and judicial strategy to avert repetition of these types of actions.

## **1.2. Impunity and failure to investigate attacks on the press**

16. In addressing impunity, we are referring to the absence of rulings against those responsible for committing a crime, which includes both the actual perpetrators of the crime and the masterminds or organisers who may be behind the crime. When in the best of cases only those who physically perpetrate a crime are sentenced, the Colombian State fails to bring the masterminds behind attacks on journalists to justice. This translates into partial justice and half-truths.

17. It must be noted that there are serious difficulties within the Colombian justice system as regards investigating, charging and sentencing those who have ordered attacks. With respect to assassinations, only four individuals have been convicted among the organisers behind 153 homicides.<sup>11</sup> When it comes to threats, only one conviction of the individual behind the action has taken place.

18. On 9 and 10 October 2015, the “Conference on Impunity for Crimes against Journalists” took place at the headquarters of the Inter-American Court of Human Rights in San José, Costa Rica. After presentations by freedom of expression and access to information experts, the high level of impunity in attacks against journalists was reaffirmed. According to Pilar Álvarez, the director of the UNESCO Cluster Office for Central America, only eight of every 100 cases involving assassinations of commentators are solved.

19. This conference sought to encourage governments to create effective public policies, encompassing fundamental preventive and protective supports for journalists under threat and efficient and effective judicial enforcement. These mechanisms of prevention, protection and efficiency represent principles for which the Colombian State still has an outstanding debt to be paid.

20. The responsibility of States to investigate and punish those responsible for attacks on journalists was reaffirmed in UN Security Council Resolution 2222, of 27 May 2015:

The Security Council  
(...)

4. Strongly condemns the prevailing impunity for violations and abuses committed against journalists, media professionals and associated personnel in situations of armed conflict, which in turn may contribute to the recurrence of these acts;

5. Emphasises the responsibility of States to comply with the relevant obligations under international law to end impunity and to prosecute those responsible for serious violations of international humanitarian law;

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<sup>11</sup> FLIP. 9 February 2016: *Paz en los titulares, miedo en la redacción*, (Peace in the headlines, fear in the newsroom, Spanish only), p. 43. IACHR, Special Rapporteurship for Freedom of Expression, 31 December 2015: *Annual report of the Inter-American Commission on Human Rights 2015. Annual report of the office of the special rapporteur for freedom of expression*, p. 112.

6. Urges Member States to take appropriate steps to ensure accountability for crimes committed against journalists, media professionals and associated personnel in situations of armed conflict and through the conduct of impartial, independent and effective investigations within their jurisdiction and to bring perpetrators of such crimes to justice.

21. As can be seen, for the UN the fight against impunity necessarily implies the application of impartial, independent and effective standards. This means that the fight against impunity must involve precise mechanisms that lead to the administration of justice with concrete results. In Colombia, however, these elements essential to obtaining prompt and complete justice continue to demonstrate significant weaknesses.

22. In December 2015, the Colombian government presented its historical memory report on violence against the press in the country, "*La palabra y el silencio: La violencia contra periodistas en Colombia (1977-2015)*" ("*Words and Silence: Violence against journalists in Colombia (1977-2015)*"). The National Centre for Historical Memory (Centro Nacional de Memoria Histórica, CNMH), the government body in charge of producing the report, emphasised the deficiencies in provision of justice in cases involving journalists. These findings were based on the standards imposed by the Inter-American Human Rights System regarding investigation of incidents and prosecution of those responsible for violence against journalists.<sup>12</sup>

23. Lack of Independence: the judicial investigative authorities in the various regions continue to be influenced by local public officials. In some cases this is linked to individual power dynamics, exchanges of favours or patronage practices. This situation is exacerbated in cases where it is determined that the alleged perpetrators of actions against a journalist are actually public officials in the area where the journalist works.

24. Protection: journalists who are victims of attacks, as well as witnesses and perpetrators interested in confessing, suffer persecution and threats during the criminal investigation, and the State fails to offer adequate guarantees of protection. In this way, testimonies that could lead to justice are silenced. In some instances, witnesses have been murdered, as was the case in the investigation into the assassination of Orlando Sierra in 2002.<sup>13</sup>

25. Failure to create a specialised unit: the Colombian government has failed to create a specialised system to investigate crimes against journalists. In certain situations or during spikes in violence, the government has publicised the creation of such a specialised unit, but in reality none of these moves have responded to the need for an effective entity of this type. Any moves undertaken to date have consisted mainly of a division of labour in which a prosecutor focuses on cases involving journalists while at the same time managing a heavy load of complex human rights cases. In the end, these prosecutors are not providing specialised or priority treatment to cases involving violence against journalists.

26. Evidence collection failures: a lack of coordination in the collection of evidence by authorities in charge of investigations still exists. The various stages of investigations are

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<sup>12</sup> CNMH, 2 December 2015: [La palabra y el silencio. La violencia contra periodistas en Colombia. Capítulo 8: Impunidad y neqación de justicia en los casos de violencia contra periodistas](#) (*Words and Silence: Violence against journalists in Colombia (1977-2015)*, Chapter 8, Impunity and denial of justice in cases of violence against journalists, Spanish only).

<sup>13</sup> CNMH, 2 December 2015. [La palabra y el silencio. La violencia contra periodistas en Colombia. Capítulo 8: Impunidad y neqación de justicia en los casos de violencia contra periodistas](#) (Spanish only), p. 322; El Tiempo, 29 May 2003: [Seis muertes en caso Sierra](#). (*Six deaths in Sierra case*, Spanish only).

handled by a number of individuals without the necessary coordination between them, particularly in cases where the investigation is led by personnel in Bogotá but the actual work is carried out by regional personnel. This lack of coordination is compounded by the excessive time taken to carry out investigations, during which files are passed around many times and handled by many people.

27. Failure to follow logical lines of investigation: as the authority in charge of criminal investigations, the National Attorney General's Office (Fiscalía General de la Nación) still follows unwarranted hypotheses when attempting to solve a crime. Instead of taking on a motive related to the practice of journalism as a primary hypothesis, prosecutors take positions that move away from the real motive for the crime—giving priority to emotional, debt, or domestic problem related motives and failing to address journalistic investigations as the reason behind an attack. In this way, the trail of the perpetrators and their motives are lost.

28. Excessive time lag: the Colombian State continues in its failure to resolve the issue of excessive time lags that exacerbate impunity. Proof of this is the fact that 90% of cases have passed prescription time limits, meaning that the State has lost the power to investigate the crimes in question. In addition, the time lags result in losses of evidence and facilitate ongoing intimidation of victims and witnesses. The State has applied certain mechanisms as a response to that impunity that results from the passage of time, such as characterising particular cases as crimes against humanity (for which there is no prescription period) or issuing legal rulings that increase the length of the prescription period. These mechanisms, however, do not guarantee an effective investigation and they allow for impunity and excessive time frames to be justified by the application of legal standards.

29. According to FLIP figures, using information provided by the Attorney General's Office, impunity reigns in 97% of journalist assassination cases, in the sense that the system has failed to bring to justice the entire chain of individuals involved in the crimes. The Colombian State has also demonstrated an inability to make progress in the judicial investigation of other types of attacks.<sup>14</sup>

30. One of the weaknesses in the administration of justice in Colombia is linked to deficiencies in information management relating to the investigation of crimes against journalists. The CNMH report previously referred to revealed that many older files on journalist assassinations, especially those from the 1980s, are missing.<sup>15</sup> At the same time, the inadequate capacity of the Attorney General's Office to provide updates on the true status of the investigations into many of the assassinations has been noted, particularly as a system of double records is maintained that makes it difficult to obtain clear and accurate information. Regarding this point, it should be noted that the UN Human Rights Committee made a specific request for the Colombian State to provide information on the number and status of investigations into crimes against journalist as part of the 26 April 2016 *List of issues*

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<sup>14</sup> FLIP, 9 February 2016: [Paz en los titulares, miedo en la redacción](#) (*Peace in the headlines, fear in the newsroom*, Spanish only), p. 43.

<sup>15</sup> CNMH, 2 December 2015: [La palabra y el silencio. La violencia contra periodistas en Colombia. Capítulo 8: Impunidad y negación de justicia en los casos de violencia contra periodistas](#) (*Words and Silence: Violence against journalists in Colombia (1977-2015), Chapter 8, Impunity and denial of justice in cases of violence against journalists*, Spanish only)

in relation to the seventh periodic report of Colombia.<sup>16</sup> It is important that the response to this request be delivered with complete, up-to-date and clear information regarding the types of aggressions that have affected journalists within the context of their work providing information and commentary.

31. Regarding impunity, the case of Jineth Bedoya has become a benchmark for a different type of attack. Bedoya was kidnapped, tortured and sexually assaulted by paramilitary group members in May 2000. Since then, the State has failed to fully fulfil its investigative responsibilities. Of the three people who have been investigated in relation to the actions against Bedoya, the information on the case is as follows:

32. A delay of more than 10 months took place in initiating the trial of Mario Jaimes Mejía, alias “El Panadero”, a former paramilitary member accused of involvement in the journalist’s kidnapping, torture and sexual assault. More than four requests for postponement were submitted for reasons attributable to the defence and the Colombian justice system.<sup>17</sup> Finally, on 2 February 2016, Jaimes Mejía confessed to all the crimes for which he had been charged—11 months after the trial was scheduled to take place and 16 years after the commission of the crime.<sup>18</sup> It must be noted, however, that Jaimes Mejía has not provided any information that would clarify the entire “criminal chain”, in other words the links to all those involved in the actions against the journalist and her work. As such, Jineth Bedoya’s right to the complete truth as a victim has not been fulfilled.

33. In September 2015, in the same case involving the crimes against Jineth Bedoya, the prosecution confirmed charges against Jesús Emiro Pereira for the crimes of kidnapping, torture and sexual assault.<sup>19</sup>

34. In addition, on 24 February 2016, Alejandro Cárdenas Orozco, alias “J.J.”, was convicted via a plea bargain on charges of kidnapping and torture, and was sentenced to 11 years plus five months in prison and a fine equivalent to 90 months of Colombian minimum wage salary.<sup>20</sup> In the legal proceedings against Cárdenas Orozco, a shocking decision was made in 2015 to halt the investigation and free the accused. Although the Attorney General’s Office later corrected the error, the decision to release the accused had a negative and delaying effect on clarification of the crimes against Jineth Bedoya.<sup>21</sup>

35. Despite the advances in the legal process noted above, it must be remembered that more than 16 years have passed without convictions of all those involved in this crime. Indeed, it is hoped that the Colombian State will now move forward in its investigations of

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<sup>16</sup> UN Human Rights Committee, *List of issues in relation to the seventh periodic report of Colombia*, CCPR/C/COL/Q/7, 26 April 2016.

<sup>17</sup> FLIP, 21 October 2015: [Fifteen years of impunity in the case of journalist Jineth Bedoya](#); FLIP, 9 February 2016: [Paz en los titulares, miedo en la redacción](#), (Peace in the headlines, fear in the newsroom, Spanish only), p. 49.

<sup>18</sup> IFEX, 2 February 2016: [A victory for Jineth Bedoya and all Colombian survivors of sexual violence](#); El Espectador, 2 February 2016: [Alias 'El Panadero' aceptó cargos por secuestro y tortura de Jineth Bedoya](#) (“El Panadero” confesses to kidnapping and torture of Jineth Bedoya, Spanish only)

<sup>19</sup> El Tiempo, 22 September 2015: [Llaman a dos exparamilitares a juicio por el caso de Jineth Bedoya](#) (Two former paramilitary members to be brought to trial in Jineth Bedoya case, Spanish only)

<sup>20</sup> IFEX, 26 February 2016: [First attacker convicted in journalist Jineth Bedoya case](#); El Tiempo, 25 February 2016: [Condenan a exparamilitar a 11 años por caso de Jineth Bedoya](#) (Former paramilitary member sentenced to 11 years in Jineth Bedoya case, Spanish only).

<sup>21</sup> FLIP, 2 June 2015: [Office of the Attorney General ends investigation against the man who confessed to kidnapping, torturing and raping Jineth Bedoya Lima](#); FLIP, 21 October 2015: [Fifteen years of impunity in case of journalist Jineth Bedoya](#).

public officials that may have been involved in the crime. Among those remaining to be linked to the case are members of the National Police, the National Penitentiary and Incarceration Unit (Instituto Nacional Penitenciario y Carcelario, INPEC) and the National Army who played a key role in the crimes against Bedoya on 25 May 2000. Because of this, the Inter-American Commission on Human Rights (IACHR) has issued a call to the Colombian State. The objective of the IACHR request is to have the State recognise its responsibility and that of its officials in the case, as well as accept the degree to which it has been ineffective in the criminal investigation and in bringing those involved in the case to justice.<sup>22</sup>

36. Within the framework of the IACHR's 157<sup>th</sup> period of sessions, in April 2016, the Colombian State again denied its responsibilities in the case and presented the convictions of the former paramilitary members Alejandro Cárdenas Orozco and Mario Jaimes Mejía as proof of advances. Jineth Bedoya spoke out in opposition to this version of events and also ruled out the possibility of accepting an agreement proposed by the Colombian government delegation.<sup>23</sup>

37. It must be noted that comprehensive reparations for the journalist and her right to the full truth remain uncertain. It is understood that as long as there is a lack of progress at the judicial level, it is difficult to obtain an adequate response regarding other compensatory measures for Bedoya. The same applies in other cases where impunity exists.

38. Another emblematic case of impunity in Colombia is that of journalist Guillermo Cano Isaza, who was assassinated in Bogotá on 17 December 1986. Thirty years after his death no one has been convicted of the crime.<sup>24</sup> The State declared his murder a crime against humanity in order to avoid prescription time limits, such that the case can continue to be investigated.<sup>25</sup> Despite this, the case has never been duly investigated in order to clarify what took place. The CNMH report noted that the characterisation of "crime against humanity" does not necessarily guarantee a swift investigation, but rather indefinitely opens the time frame for carrying out an investigation.<sup>26</sup>

### 1.3. Deficiencies in the protection system

39. Among other international instruments, the Colombian State's obligations regarding protection are laid out in UN Security Council Resolution 2222, of 27 May 2015:

The Security Council,

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<sup>22</sup> El Tiempo, 30 July 2014: [Comisión Interamericana de D.D.H.H. admite caso de Jineth Bedoya](#) (IACHR accepts Jineth Bedoya case, Spanish only); Noticias RCN, 5 April 2016: [Jineth Bedoya pidió a la CIDH que condene a la Nación por su caso](#) (Jineth Bedoya asks IACHR to indict the State in relation to her case, Spanish only).

<sup>23</sup> El Tiempo, 5 April 2016, [Jineth Bedoya no conciliará con el Estado en su caso ante la CIDH](#) (Jineth Bedoya refuses conciliation with the State in case before IACHR, Spanish only); CM&. 5 April 2016: [Jineth Bedoya descarta conciliar con el Estado ante la CIDH](#) (Jineth Bedoya dismisses possibility of conciliation with State in case before IACHR, Spanish only).

<sup>24</sup> El Espectador, 30 July 2012: [Un magnicidio que sigue en la impunidad](#) (A murder still unpunished, Spanish only); FLIP, 17 December 2015: [En Colombia la democracia "ha sido un recóndito miedo a la libertad" Guillermo Cano](#) (In Colombia, democracy "has been an unknown fear of freedom", Spanish only).

<sup>25</sup> Semana, 6 July 2010: [El crimen de Guillermo Cano es de lesa humanidad](#) (Murder of Guillermo Cano is a crime against humanity, Spanish only); El Tiempo, 6 July 2010: [Homicidio de Guillermo Cano Isaza, director de El Espectador, se considerará de lesa humanidad](#) (Assassination of El Espectador editor Guillermo Cano Isaza considered a crime against humanity, Spanish only).

<sup>26</sup> CNMH, 2 December 2015: [La palabra y el silencio. La violencia contra periodistas en Colombia. Capítulo 8: Impunidad y negación de justicia en los casos de violencia contra periodistas](#) (Words and Silence: Violence against journalists in Colombia (1977-2015), Chapter 8, Impunity and denial of justice in cases of violence against journalists, Spanish only).

(...)

13. Urges all parties to armed conflict to do their utmost to prevent violations of international humanitarian law against civilians, including journalists, media professionals and associated personnel;

14. Calls upon Member States to create and maintain, in law and in practice, a safe and enabling environment for journalists, media professionals and associated personnel to perform their work independently and without undue interference in situations of armed conflict.

40. The protection system for journalists in Colombia, despite being in place for years, still has serious deficiencies that result in journalists being subjected to risks. In 2015, FLIP evaluated the 15 years in which the protective mechanism has been in place,<sup>27</sup> and arrived at the following conclusions:

41. Problems within the National Protection Unit (Unidad Nacional de Protección, UNP), the entity currently in charge of the protection programme, were diagnosed some time ago. Some of these problems relate to the functioning of the programme: requests for protection, plus assessment of and attention to the risk. The risk assessment process has been developed using internal judicial standards engendered by the context of violence, but has not taken into account a fully differential approach regarding journalism activities. Somehow the practices and realities lived by journalists are still not understood and generic contexts of violence are assumed, resulting in the loss of certain aspects specific to journalism work.

42. Response times continue to be excessive. FLIP has observed that more than 30 months can pass between the time when a journalist reports a situation of risk and the time when protective measures are actually assigned. Preventive strategies continue to be considered important, but effective mechanisms have not been put in place and there are serious errors. This was the case with journalist Luis Peralta, in the municipality of Doncello, Caquetá. In spite of alerting the local authorities, Peralta was assassinated while his request was being transferred from one entity to another.

43. The Attorney General's Office, the authority in charge of criminal investigations, forms part of the protection system but consistently fails to participate in it. This situation results in the protective mechanism always having a high level of deficiencies, since the Attorney General's Office neglects to fulfil its role and contribute by providing pertinent information that would aid in risk assessment. In this sense, it must be noted that the levels of impunity are not taken into account in the protection system and moves are continuously made to terminate protective measures in situations where those behind the aggression have not been found. Journalist Luis Carlos Cervantes was assassinated in Tarazá, Antioquia, days after his protective measures were withdrawn. The authorities' argument was that the journalist had not received threats recently, ignoring the fact that the original threats had not been investigated by the Attorney General's Office and, as such, Cervantes continued to be at risk.<sup>28</sup>

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<sup>27</sup> FLIP, 27 August 2015: [15 años de protección a periodistas en Colombia: esquivando la violencia sin justicia](#) (15 years of protecting journalists: dodging violence without justice, Spanish only).

<sup>28</sup> FLIP, 13 August 2014: [Colombian journalist murdered 15 days after reporting death threats to authorities](#); El Tiempo, 13 August 2014: [¿Quién asesinó al periodista antioqueño Luis Carlos Cervantes?](#) (Who assassinated journalist Luis Carlos Cervantes?, Spanish only)

44. The protection system has focused on being reactive and, therefore, lacks preventive measures and the application of justice that would avert repetition of acts of violence. In the last three years, four journalists have died even though the local authorities and UNP knew of the threats against them.<sup>29</sup> This is a serious flaw in the preventive system and in the actions of the government (Interior Ministry and UNP) and local authorities. A protection system that is unable to react effectively to threats is of little use.

45. Since 2010, changes in the regulations governing the journalist protection programme have focused on increasing the bureaucratic chain of procedures associated with the programme, lengthening wait times, increasing costs and adding obstacles. There are more and more players involved, but with lower levels of political responsibility and leadership among the institutions in charge. Within this scenario, no one bears the consequences for a weak programme. The Interior Ministry has taken nearly two years attempting to bring together the heads of the institutions in charge of protection.

46. The UNP and the protection system are going through a crucial period, revealing that a programme promoted by the Colombian government for 15 years is depleted and exhausted. The proof of this is that, despite all the efforts and resources, two Colombian journalists died in 2015 for reasons related to their work, without the protection system playing any role in preventing their murders.

47. In the seventh country report for Colombia, received in December 2014, the UN Human Rights Committee could note that, at that time, protective measures were in place for 116 journalists, 43 of whom benefited from a scheme comprising protection officers and a vehicle, while the others received support for relocation, transport, bulletproof vests and cell phones.<sup>30</sup> In 2015, the UNP had a budget of 449,664,872,667 Colombian pesos (approximately \$US153 million), with nine Risk Assessment and Protective Measure Recommendation Committees (Comités de Evaluación de Riesgo y Recomendación de Medidas, CERREM). The cases of 150 journalists who requested protection were considered and protective measures were granted to approximately 70% of those individuals.

48. These figures show that the protective paradigm has focused on a narrow definition of protection, limited to physical security and safekeeping of journalists. It is precisely this narrow focus that should be reconsidered, with the objective of creating a stronger protective system. The same level of effort and priority has not been given to risk prevention strategies. As such, protective strategies are not connected to risk prevention, and have not resulted in a decrease in attacks on the press.

49. At the same time, the system fails to link protection of journalists to the elimination of risk via judicial action. As such, long term protective measures are implemented and renewed annually while no actions are undertaken to find and convict the individuals behind the threats. In this way, owing to the inefficiencies in the judicial system, it is known when protection starts, but not when it will end.

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<sup>29</sup> Edison Alberto Molina, assassinated in Puerto Berrío, Antioquia, on 11 September 2013; Luis Carlos Cervantes, assassinated in Tarazá, Antioquia, on 12 August 2014; Luis Antonio Peralta, assassinated in Doncello, Caquetá, on 15 February 2015; Flor Alba Nuñez, assassinated in Pitalito, Huila, on 10 September 2015.

<sup>30</sup> UN Human Rights Committee, *Seventh periodic reports of States parties due in 2014*, CCPR/C/COL/7, 7 April 2015.

50. The State should make changes to the protection programme. Adjustments that are made should take into account UN Security Council Resolution 2222, of 27 May 2015, regarding protection of journalists in conflict zones. This resolution, among other things, calls on UN Member States to “(...) create and maintain, in law and in practice, a safe and enabling environment for journalists, media professionals and associated personnel to perform their work independently and without undue interference in situations of armed conflict.” This safe environment requires a protection programme that strengthens and prioritises preventive measures, part of which involves linking judicial authorities to the process, making them responsible for deactivating the sources of risk for journalists.

## **2. DISTRIBUTION OF GOVERNMENT ADVERTISING IN COLOMBIA AND ITS IMPACT ON FREEDOM OF EXPRESSION AND INFORMATION**

### **2.1. Use of government advertising as an indirect censorship mechanism**

51. In an unpublished 2015 study, FLIP found that 95 national, departmental and municipal institutions had spent 663,121,610,750 Colombian pesos (slightly over \$US230 million and nearly 207 million Euros) on advertising. The most serious aspect of this finding is that the study revealed that there are no limitations on the amounts that these institutions can invest in advertising and there are no standards for objectivity and transparency in the allocation of advertising contracts to media outlets.

52. As such, it was found that government members and officials have complete discretion in deciding which media outlets will receive these funds and which will not, resulting in a landscape in which the government can influence journalistic content. In other words, they have the option of rewarding those who publish information and commentary that favours the government, while punishing those who disseminate unfavourable information; and they can achieve changes in editorial stance linked to considerations of advertising resources.

53. The above poses serious consequences for freedom of expression, not only for journalists and citizens who seek to source and publish critical and objective information about the government, but also for audiences that receive misleading content that is anti-democratic and circumvents the monitoring of government actions by citizens. Article 19 of the ICCPR states that freedom of expression involves respecting the rights of both those who publish and those who receive information. In addition, it asserts that everyone has the right to hold opinions without interference, a guarantee that is not being respected in the current context of official advertising in Colombia. On the contrary, the current context permits financial punishment of media outlets that publish certain opinions.

54. This is a practice that has also been condemned within the Inter-American System of Human Rights. Article 13 of the *Declaration of Principles on Freedom of Expression*<sup>31</sup> clearly states that discriminatory and arbitrary allocation of government advertising threatens freedom of express and should be prohibited by law in all countries of the Americas.

55. The lack of criteria for transparency and objectivity in the allocation of government advertising to media outlets has already been noted as an obstacle to freedom of expression by the UN Human Rights Council and the Office of the Special Rapporteur on the Promotion

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<sup>31</sup> IACHR, Special Rapporteurship for Freedom of Expression, [Declaration of principles on freedom of expression](#).

and Protection of the Right to Freedom of Opinion and Expression. In the Human Rights Committee's 2011 General Comment No. 34 on Article 19, Freedoms of Opinion and Expression, the opportunity was taken to call for use of official advertising in a way that does not violate freedom of expression—much less involve the leveraging of such advertising as a mechanism for punishing critical journalists and media outlets:

41. Care must be taken to ensure that systems of government subsidy to media outlets and the placing of government advertisements are not employed to the effect of impeding freedom of expression. Furthermore, private media must not be put at a disadvantage compared to public media in such matters as access to means of dissemination/distribution and access to news.<sup>32</sup>

56. *The Tenth anniversary joint declaration: Ten key challenges to freedom of expression in the next decade*, a report of the UN Special Rapporteur on freedom of expression, noted that abuses relating to official advertising represent a means by which governments control media outlets and, as such, constitute a challenge to freedom of expression:

#### **Mechanisms of government control over the media**

Government control over the media, a historic limitation on freedom of expression, continues to be a serious problem. Such control takes many forms, but we are particularly concerned about:

- a) Political influence or control over public media, so that they serve as government mouthpieces instead of as independent bodies operating in the public interest;
- b) Registration requirements for the print media or to use or access the Internet;
- c) Direct government control over licensing or regulation of broadcasters, or oversight of these processes by a body which is not independent of government, either in law or in practice;
- d) The abuse of State advertising or other State powers to influence editorial policy;
- e) Ownership or significant control of the media by political leaders or parties;
- f) Politically motivated legal cases being brought against the independent media;
- g) The retention of antiquated legal rules—such as sedition laws or rules against publishing false news—which penalize criticism of government.<sup>33</sup>

57. The Human Rights Council has also noted the impact of this type of action against freedom of expression in missions undertaken by the Special Rapporteur to other countries. For example, the following conclusions were drawn in a report from a 2011 mission to Mexico: “Laws have not been established regarding the criteria that should be employed in the allocation of official advertising. Although the Interior Ministry (Secretaría de Gobernación) issues, on an annual basis, public guidelines aimed at regulating social communication processes for that year, these guidelines fail to define objective, clear, open, transparent and non-discriminatory procedures and criteria for official advertising contracts. The guidelines only relate to the Federal Executive branch, leaving out other levels of authority and autonomous institutions, as well as the federated states, where the allocation of official advertising is often even less transparent and more arbitrary. The lack of clear

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<sup>32</sup> UN Human Rights Committee, General Comment No. 34, Article 19, Freedoms of opinion and expression, CCPR/C/GC/34, Geneva, 11 to 29 July 2011.

<sup>33</sup> UN Human Rights Council, *Report of the Special Rapporteur on the promotion and protection of the rights to freedom of opinion and expression, Frank La Rue, Addendum: “Tenth anniversary joint declaration: Ten key challenges to freedom of expression in the next decade”* A/HRC/14/23/Add.2. 25 March 2010.

regulations results in the employment of excessive levels of discretion and can lead to arbitrary decisions.”<sup>34</sup>

58. Further on in the same report on Mexico, the following conclusion was drawn: “Given the existence of a legal framework that allows for discretionary allocation of official advertising, the Special Rapporteur views with urgency the need to approve clear, objective, transparent and non-discriminatory regulations for service contracts of this nature, at both the federal and state levels.”<sup>35</sup>

59. It should be acknowledged that the situation in Colombia—in addition to being similar to that in Mexico with respect to a lack of regulations regarding allocation of official advertising—is so serious that it warrants the attention of the Human Rights Committee, and a response from the Colombian State.

60. It is essential to recognise that the issue of allocation of government advertising is being addressed within the peace talks the Colombian State has been carrying out with the Revolutionary Armed Forces of Colombia - People’s Army (Fuerzas Armadas Revolucionarias de Colombia-Ejército del Pueblo, FARC-EP).<sup>36</sup> This issue requires a call on the government to ensure that the outcome of the negotiations responds not just to the realities of this particular situation, but to international standards that have been developed to guarantee that official advertising ceases to be an area of infringement on freedom of expression. The particular importance of democratization of the media in the post-conflict era should be taken into consideration.

61. Following are several examples that demonstrate the ways in which the government advertising situation affects freedom of expression in Colombia. It is important to note that the factors involved could be remedied if the State were to make a commitment to implementing regulations in this area, defining objectivity and transparency criteria to protect freedom of information.

## **2.2. Failure to comply with transparency and access to information rules**

62. In Colombia, there are regulations in place regarding transparency in government contracts: 1) Law on Access to Public Information; 2) Article 10, Paragraph 3 of the Anti-Corruption Statute; 3) the General Procurement Regime. All of these regulations require institutions to disclose the legal transactions that are carried out with media outlets for advertising purposes. Despite these regulations, difficulties persist with respect to transparency.

63. A web portal exists where all Colombian government contracts are published, including those pertaining to official advertising. While the portal is an effective mechanism for

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<sup>34</sup> UN Human Rights Council, *Informe del Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión*, Frank La Rue, Adición: Misión a México, A/HRC/17/27/Add.3 (Report of the Special Rapporteur on the promotion and protection of the rights to freedom of opinion and expression, Frank La Rue, Addendum: Mission to Mexico, Spanish only), 19 May 2011.

<sup>35</sup> Ibidem.

<sup>36</sup> Government of Colombia and FARC-EP, 6 November 2013: [Borrador conjunto 2. Participación política: apertura democrática para construir la paz](#) (Joint draft 2. Political participation: democratic opening to build peace, Spanish only); La Silla Vacía, 25 September 2014: [Así transformarían a Colombia los acuerdos logrados con las FARC](#) (This is how the agreements reached with the FARC will transform Colombia, Spanish only).

transparency in public administration, it is still difficult to evaluate the public resources that are allocated to each media outlet at the national and regional levels since these transactions do not fit within the groupings of categories used by the portal and, as such, this information has to be found amid public contracts of all types. In addition, the portal is not always kept up-to-date, making it difficult to find current information.

64. As a result of the above, in Colombia the best way to find information on official advertising contracts is still to go directly to the institutions involved. Even then, in the study recently conducted by FLIP, it was found that 49% of the institutions obstructed the flow of information and failed to abide by transparency principles.

65. The lack of transparency in official advertising contracts with media outlets negatively impacts freedom of information and expression in the sense that it hinders societal monitoring and control of the government in its relationships with media outlets and it impedes adequate and informed public discourse between media outlets and their audiences.

### **2.3. Lack of technical and specific criteria relating to contractor selection**

66. Freedom of expression standards that have been developed by a range of international institutions assert that States should take into account specific criteria when allocating official advertising in the private market. First, they should determine all the media that are eligible to take on advertising contracts. This requires evaluations that include information not only regarding media outlets, but also their audiences, reach and impact, whether national, regional, local or community based.

67. In researching the Colombian situation, FLIP has found that 60% of institutions fail to have clear criteria justifying the reasons for engaging in contracts with some advertisers and not others. Half of these institutions explain their processes using particular aspects contained within Colombian regulations on issuance of contracts, the other half fail to provide criteria of any sort. On the other hand, of the institutions that claim to apply allocation criteria, only 40% take the objectives of the campaign and the impact they hope to achieve into account.

68. As a result, the conclusion can be drawn that there is no way of knowing if the message promulgated by official advertising is being received by the desired audience, since most advertising is allocated without applying technical knowledge regarding objectives, audience and impact. Likewise, the lack of clear criteria shows that public institutions can allocate resources in an arbitrary manner, dependent upon the interests of the officials of the day.

### **2.4. Radio space regulatory model and censorship via government advertising**

69. In most Colombian cities, the main way to access frequency space is by leasing or subleasing. Under this model, journalists, via a leasing contract, pay a monthly fee to a broadcaster in exchange for use of frequency space. Journalists in this scheme are not under contract with the broadcaster for development of programming, rather they rent the space and produce their own content with the only condition being timely payment of rent to the broadcaster. In the eyes of the government, the broadcaster is the true frequency leaseholder.

70. This model creates a link between the journalists who lease space from the broadcasters and official advertising since journalists look to government press offices for advertising contracts, even though those same offices are the main sources of information for the journalists in their work. As such a “double” relationship is formed resulting, in many instances, in the information that is broadcast being conditioned by allocation of official advertising contracts.

71. Within the Colombian regime regarding issuance of contracts, individual official advertising contracts represents mostly small amounts and allocation takes place in a direct manner. As such, the awarding of contracts is discretionary, with no need for tenders and bids. This has engendered a punishment and reward relationship, with journalists adjusting to the reality of managing information in favour of the government in exchange for official advertising contracts.

## **2.5. Use of government advertising as an informal, discretionary and subjective media subsidy**

72. Information collected by FLIP over several years reveals that official advertising is one of the most important sources of financing for regional media outlets. In departments such as Putumayo, Chocó, Guaviare, Arauca and those of the southern Amazon region, as well as in hundreds of municipalities throughout the country, the support provided by government advertising represents more than 70% of the revenue collected by media companies. In other words, government advertising ends up acting as a form of subsidy to the media.

73. If official advertising is used as a subsidy mechanism in practice, a doubly destructive situation is created. As has been noted previously, journalists or media outlets are compelled to disseminate information favourable to the government responsible for providing advertising, while at the same time public funds are being used to promote the partisan and individual interests of those in power. It is important for the allocation of official advertising and any subsidies from the State to be explicit, transparent and fair, with clear rules established beforehand. In addition, mechanisms for control and awarding of contracts must be in place.

## **2.6. Direct contracting the primary method for allocation of government advertising**

74. Widespread use of direct contracting leaves aside rules of objectivity and transparency, leading to discretionary decisions in selection of the contractors, in this case the media entities that will be responsible for disseminating official advertising.

75. FLIP has determined that in more than 80% of cases regional government institutions in Colombia opt for direct contracts in allocating official advertising. A similar conclusion was reached by the Comptroller General of the Republic of Colombia regarding advertising contracts for 2012 (January to December) and 2013 (January to March).<sup>37</sup> The comptroller’s report noted that in seven of every 10 cases advertising contracts were awarded directly.

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<sup>37</sup> Comptroller General of the Republic of Colombia, March 2013, [Informe de contratación en publicidad, 2012 \(ene-dic\) 2013 \(ene-mar\)](#) (Report on advertising contracts, 2012 (Jan-Dec) 2013 (Jan-Mar), Spanish only).

76. This goes against the choice of one or another media outlet based on fundamental principles of objective selection. In this way, there are no regulatory incentives for governing institutions to choose the most favourable offer relative to their advertising objectives, and avoid being influenced by factors relating to personal affiliations and interests, or any other type of subjective motivation.

77. The Colombian regulatory framework fails to establish compulsory guidelines for these types of contracts and leaves the field open for discretionary allocation of government advertising by officials. This can lead to specific abuses, wherein the allocation of advertising primarily benefits media outlets that produce information favourable to the government.

### **2.7. Alteration of contractual purpose in government advertising**

78. According to research conducted by FLIP in 2015, doubts were identified with 13 Colombian institutions, at the national, regional and local levels, as to the stipulations contained within advertising or campaign contracts. More specifically, in the purpose for the contract it can be inferred that the procuring institution is requesting that propaganda be presented as information, and not as advertising.

79. This indicates that regulatory gaps regarding official advertising have permitted the existence of diffuse or poorly defined purposes or provisions where the government can pay for its propaganda to be confused with informative content, to the point of broadcasting propaganda as information. This situation goes against the principle of freedom of information, violating the right of audiences to receive truthful and impartial information.

80. Eight institutions from various levels of government failed to provide information regarding the objectives or provisions of their contracts. FLIP has found that, both in drafting specifications for public tenders and in the terms of reference for contracts, the contractual provisions do not correspond to the actual needs of the State entities regarding advertising services.

### **2.8. Lack of proper monitoring to determine if government advertising affects freedom of expression and information.**

81. Colombian government contracting regulations require that State contracts be reviewed or audited as necessary. There are, however, no specific provisions stipulating that government advertising should be audited in accordance with the type of technical knowledge required for such an audit. As a result, it can be concluded that supervision of official advertising is also currently at the discretion of the State institution responsible for issuing the contract.

82. In addition, the individuals in charge of audits are not trained regarding the international freedom of expression standards that should be followed in advertising contracts and, as such, are unable to identify deviations from those standards. Added to this are the difficulties encountered by citizens in monitoring these contracts and the absence of precedents for external review bodies, such as the Comptroller or Inspector General's Office, to track actions that represent indirect attacks on freedom of expression and information.

## **2.9. Government advertising contracted out to a small number of media outlets, failing to promote a range of voices**

83. Between 2013 and June 2015, six Colombian government ministries designated between 57% and 97% of their advertising or campaigns budgets to a single media outlet or communications agency. In addition, just twelve television, radio and print media outlets received 26% of the 663 121 610 750 Colombian pesos (a little over US\$230 million and nearly 207 million Euros) designated for official advertising during the same period. The previously mentioned Comptroller General's report noted that 66% of the entire official advertising budget was concentrated with just 40 advertising contractors.<sup>38</sup>

84. On the other hand, advertising agencies and other entities that act as intermediaries have been consolidated within the negotiations for official advertising and now manage multimillion figure budgets. In the period investigated, just 13 companies received more than 700 billion Colombian pesos (approximately US\$237 million).

85. This demonstrates that allocation of advertising funds is concentrated with a small number of media outlets. In this way, the independence of media outlets that receive large amounts of funding is broken, since they tend to use the public monies from official advertising as their main or only source of income. At the same time, the survival and recognition of other media outlets who do not receive these funds is impeded. The many media outlets in the latter category tend to be independent and critical of the government, or at the very least offer an alternate vision that enriches public understanding and commentary.

## **2.10. Self-censorship as a result of lack of transparency and controls on the allocation of government advertising**

86. The practices previously identified regarding the allocation of official advertising in Colombia and the financial pressures placed on media outlets by public officials—especially at the regional level—interfere in the production and dissemination of information. Self-censorship, as one of the side effects, is particularly important. Within the contracting for official advertising there is an implied direct negotiation between journalists and government institutions. The latter is both a source of information and a contracting party for official advertising, which engenders an agreement between the two parties that influences the way in which information is either presented or concealed.

87. On the other hand, the discretionary and discriminatory government advertising practices have led to another impediment to providing information: the “informative accompaniment” of government officials or institutions. Meaning that, as a sort of privileged “service to the client”, journalists accompany their government information sources in, for example, the inauguration of public works projects or in an announcement of government plans, leaving to the side any news that might be unfavourable or critical.

88. The inhibitory effect, both in the form of self-censorship and accompaniment of public institutions, is a result of the misuse of official advertising. In addition, the fact that it is

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<sup>38</sup> Comptroller General of the Republic of Colombia, March 2013, [Informe de contratación en publicidad, 2012 \(ene-dic\) 2013 \(ene-mar\)](#) (Report on advertising contacts, 2012 (Jan-Dec) 2013 (Jan-Mar), Spanish only).

viewed as a determining factor in the livelihood of journalists and survival of media outlets leads to official advertising being perceived on one hand as a labour issue, while on the other hand generating the involvement of journalists in harmful practices that are, in many cases, justified by those involved saying they are simply ensuring their economic viability.

### **3. SPECIFIC RECOMMENDATIONS**

#### ***Regarding protection of journalists:***

1. Expedite specific legislation linking the obligation to protect journalists to authorities in different branches of government, especially as regards delineating judicial authorities' responsibilities within the system of journalist protection. The goal should be for judicial investigations and punishment to become the primary means of counteracting threats faced journalists. In addition, mechanisms should be put in place to ensure that the information sharing required for decision-making regarding threats to journalists and their protection takes place between judicial and administrative authorities.

2. Strengthen preventive protection policies. The goal should be to implement strategies that complement physical safekeeping schemes for journalists, above all strategies that anticipate risks and guarantee the rights of journalists. Ideally, these strategies would use judicial and security force information to establish national and regional plans with authorities at all levels to protect journalism work and circumvent the emergence of aggressive actions against journalists. Local preventive plans should be encompassed within government human rights policies. Recommendations for prevention and the provision of justice should be incorporated into the protection system within the framework outlined in UN Security Council Resolution 2222, of 27 May 2015.

3. Guarantee a focus on freedom of expression and journalism work at all stages of the application for protection, risk assessment and implementation of measures. The State should recognise that stages in the system of protection can end up engendering restrictions on journalism work and can lead to re-victimisation of journalists when they are applied without taking into account characteristics that are unique to the profession of providing information and commentary.

4. Investigate and punish officials who have exceeded the limits of their intelligence authorisations by using technology to spy on journalists. Actions should also be taken to place internal and external controls on intelligence capabilities, including regulatory amendments to bring the Colombian legal system in line with international privacy standards. In this regard, the Human Rights Committee's urgings to the Colombian State, contained in the *List of issues in relation to the seventh periodic report of Colombia*, of 26 April 2016, should be taken into consideration.

#### ***Regarding the fight against impunity:***

1. Carry out an exhaustive inventory and complete tracking of the judicial processes underway involving cases of actions against journalists. The objective of this would be to arrive at a point where the State has a report on all active cases and the current judicial standing of those cases. The State has an obligation to provide complete, up-to-date and clear

information regarding investigations into crimes against journalists. In complying with this recommendation, the Human Rights Committee's requests regarding judicial information on investigations into attacks on journalists contained in the *List of issues in relation to the seventh periodic report of Colombia*, of 26 April 2016,<sup>39</sup> should be taken into consideration.

2. Create progress and compliance indicators within the National Attorney General's Office in order to expose deficiencies in the criminal investigation process and to, above all, establish incentives for officials to make real progress.

3. Apply a specific focus on freedom of expression in investigations into crimes against journalists, with the express purpose of implementing international investigative standards: the creation of a specialised investigations unit, prioritisation of the victim's journalism work as a possible motive for the crime, protection of evidence and witnesses, among others.

***Regarding regulation of government advertising:***

1. Expedite regulations guaranteeing that contracts with media outlets for official advertising are based on principles of objectivity and transparency, always seeking to take into consideration the access to information rights of citizens and effectiveness relative to the goals of the public institutions involved. Ultimately, the objective would be to avoid situations in which allocation of official advertising is used to restrict freedom of expression or reward journalists who take stances favourable to the government.

2. Develop regulations prohibiting the use of official advertising for the personal promotion of officials or for purposes other than that of the public institution in charge of the contract.

3. For purposes of transparency and citizen empowerment, create a web portal providing information regarding official advertising contracts with media outlets and journalists, including information at the national, departmental and municipal levels.

9940 words.

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<sup>39</sup> UN Human Rights Committee, *List of issues in relation to the seventh periodic report of Colombia*. CCPR/C/COL/Q/7, 26 April 2016.