

# AMNESTY INTERNATIONAL

## PUBLIC STATEMENT

AI Index: AMR 23/017/2009  
Date 22 June 2009

### **Colombia: New law strengthens impunity for human rights abusers**

The right to truth, justice and reparation for countless victims of human rights violations committed during Colombia's long-running armed conflict has again been gravely undermined following Congressional approval of a law which will grant *de facto* amnesties to 19,000 supposedly demobilized rank-and-file paramilitaries, many of whom are responsible for serious human rights violations, including killings, enforced disappearances and torture.

The law, approved by Congress on 18 June, extends the so-called "Principle of Opportunity" to rank-and-file paramilitaries. The Principle of Opportunity was established under Law 906 of 2004 to allow the Attorney General to suspend, interrupt or abandon any criminal investigation if it is considered "convenient" to do so, for example if the defendant collaborates by providing information which could prevent further crimes from being committed.

Under the new law, criminal investigations into thousands of paramilitaries will be suspended or abandoned if the individuals concerned are deemed to have collaborated in efforts to dismantle the groups to which they belonged. Rank-and-file members of guerrilla groups, many of whom are also responsible for human rights abuses, already benefit from similar amnesties through existing legislation. Some third parties who may have aided, abetted or otherwise assisted in human rights violations committed by paramilitaries, including politicians and drugs traffickers, might also benefit from this new law.

Around 90% of paramilitaries who supposedly demobilized in a government-sponsored process that began in 2003, and who were not under investigation for human rights violations, escaped effective criminal investigation for such crimes and were granted *de facto* amnesties. The government had argued that membership of paramilitary groups could be defined as sedition, a political crime under the Constitution and therefore subject to pardons and amnesties.

But these amnesties were declared unconstitutional by the Supreme Court of Justice in July 2007. The Court argued that since paramilitarism did not act against the state, but was complicit with it, it could not be defined as sedition, and was not therefore a political crime subject to amnesties and pardons. This left some 19,000 paramilitaries, whose legal status had not been settled prior to the Supreme Court's ruling, in legal limbo. The new legislation is designed to fill this legal vacuum.

The new law excludes those responsible for crimes against humanity and war crimes. But the failure to carry out even the most rudimentary of investigations into the responsibility for human rights violations of many of those benefiting from the new law means that thousands of human rights abusers will evade justice, as will those members of the security forces and those in politics and business who were complicit in these abuses, while their victims will never know the truth. Unless an impartial criminal investigation takes place, it will be impossible to assess whether an alleged crime amounts to a war crime or a crime against humanity.

By failing to investigate effectively the role in human rights abuses of the thousands of paramilitaries who will benefit from the Principle of Opportunity, and those members of guerrilla groups who have also benefited from similar *de facto* amnesties, the Colombian state is failing in its obligation under international law to investigate and, if there is sufficient admissible evidence, to prosecute those allegedly responsible for serious human rights abuses and violations of international humanitarian law, and to provide full reparations to the victims and their relatives. The said obligations are included in a number of international and regional instruments, such as the Rome Statute of the International Criminal Court, the International Covenant on Civil and Political Rights, both Additional Protocols to the Geneva Conventions, the Inter-American Convention to Prevent and Punish Torture and Inter-American Convention on Forced Disappearance of Persons, to which Colombia is a State Party.

Public Document

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For more information please call Amnesty International's press office in London, UK, on +44 20 7413 5566 or email: [press@amnesty.org](mailto:press@amnesty.org)

International Secretariat, Amnesty International, 1 Easton St., London WC1X 0DW, UK

[www.amnesty.org](http://www.amnesty.org)