
Caught in the crossfire

Colombia's indigenous peoples



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Alfonso Canticus, 62, in the kitchen of a small house occupied by several displaced Awá families. Due to the lack of space Alfonso and his wife Florida Guanga have to sleep in the kitchen.



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Executive Summary

Colombia is a country rich in cultural diversity with 1.4 million indigenous people maintaining strong cultural, economic and spiritual ties to their land. The intensity of Colombia's armed conflict in their territories and economic interests vying for geostrategic and economic control has forced thousands of indigenous people out of their territories. Their refusal to take sides in Colombia's longstanding internal conflict has led to indigenous peoples being accused by all parties in the conflict of 'siding with the enemy', thus making them the target for violent abuses and killings by all armed groups. In 2009, the number of killings of indigenous people rose by 63 per cent compared to 2008.

Last year (2009) the Constitutional Court identified 34 different indigenous groups at risk of physical and cultural extinction. This, combined with the 30 further groups identified by the National Indigenous Organisation of Colombia (Organización Nacional Indígena de Colombia – ONIC) and yet to be presented to the Court, means that there are a total of 64 indigenous peoples facing extinction, not only as a result of the conflict and lack of state support, but also because of the presence of large-scale economic projects on indigenous land.

In response, the Constitutional Court has ordered the government to develop specific protection plans, in consultation with the 34 indigenous peoples. These Ethnic Rescue Plans (Planes de Salvaguarda) must be carried out rapidly if any further tragedy is to be avoided. Given the already unacceptable delay in the original timetable set by the Constitutional Court, it is imperative that the Colombian government responds immediately, officially accepting the Plans being drawn up by indigenous groups and providing sufficient resources to ensure that all these Plans are completed and effectively implemented.

Such is the seriousness of the situation that the UN Special Rapporteur on indigenous peoples has recommended that the UN Special Adviser on the Prevention of Genocide visit Colombia, yet we hear little outcry globally about this impending catastrophe.

The indigenous population has for centuries protected the rich biodiversity of their forests. The richness of those natural resources on their sacred lands has resulted in them being earmarked for large-scale mining, oil extraction and agro-industry projects, such as palm oil plantations. These megaprojects often bring with them increased militarisation of indigenous territories and greater risk of attacks by guerrilla groups.

Of critical importance to indigenous people is their right to develop their lands and their own sustainable economic plans

in their territories according to their traditions and culture, the Colombian state should ensure that indigenous people have the resources needed to do this. The Colombian government is a signatory to Convention 169 of the International Labour Organisation (ILO) which establishes the right of the indigenous population to free, prior and informed consultation on projects that will affect them. In April 2009, the Colombian government endorsed the UN Declaration on the Rights of Indigenous Peoples which goes beyond the provisions of the ILO Convention, in stipulating that indigenous communities must give their free, prior and informed consent before they can be removed from their traditional land, and regarding proposals concerning its useⁱ. The Colombian Constitutional Court has reinforced the need for consent, in a recent caseⁱⁱ where it stated that, large scale extractive projects where there are likely to be environmental and cultural impacts should obtain consent. The Court's decision sets an important legal precedent, however, the right to prior consent, and thereby the right to veto a project has yet to be legalised in national law.

The realities reported by the indigenous communities demonstrate that their rights are being constantly violated. Gross irregularities are reported in the consultation processes carried out by companies interested in exploiting indigenous lands. These irregularities can include misinformation and lack of information in appropriate indigenous languages, failure to consult with the communities directly affected by their activities, the forging of signatures, and bribery, as well as the co-opting of leaders and manipulation of communities.

When indigenous communities seek to defend their right to free, prior and informed consent, they often become the victims of threats, intimidation, killings and mass forced displacement. The experiences of indigenous peoples, exposed to the violence of the security forcesⁱⁱⁱ as well as of the illegal armed groups^{iv}, combined with almost total impunity for human rights violations in Colombia, create serious challenges.

Colombia's indigenous population is facing a humanitarian tragedy as a consequence of marginalisation and structural discrimination, and the lack of adequate measures on the part of the state to address the specific problems they face; a situation condemned by both the Constitutional Court and the ONIC. Around 63 per cent of Colombia's indigenous population live below the poverty line, while almost 48 per cent live in extreme poverty. This situation is only made worse by the large numbers of indigenous people who, due to internal displacement, are forced to live in overcrowded conditions where they lack access to even the most basic services. The inadequate state response to the needs of

the displaced population and the failure of public policies to address the specific needs of indigenous peoples have led to higher than average levels of maternal and infant mortality.

Chronic malnutrition, especially amongst children, is one of the clearest expressions of the poverty in which indigenous communities live. In one area in the east of Colombia, Barranco Minas in Guainía Department, 45 indigenous children died from malnutrition in 2009 alone.

Food security is a key issue for indigenous peoples; their traditional crops have been affected by companies' and large land owners' use of the natural resources such as forests and rivers in and around their territories. Communities are also reporting increased problems in accessing areas where they hunt and fish and cultivate their traditional crops.

Confinement is a conscious strategy deployed by security forces and guerrilla groups, imposing restrictions on indigenous peoples' movements and cutting them off from areas where they hunt and grow their own food. Those communities that have the resources to buy foodstuffs from local markets also encounter problems in bringing this into their territories, with armed groups, both legal and illegal, imposing a limit on the amount of food indigenous communities can carry and confiscating what they consider to be excessive.

Colombia's Constitution maintains that any exploitation of natural resources in indigenous territories should be carried out without impairing the cultural, social and economic integrity of indigenous communities. The reality is that expansion of agro-industry production in their land and economic projects threaten to destroy forests and contaminate their land and rivers, further endangering indigenous peoples' food security. The encroachment of illicit crops and the subsequent aerial spraying of those crops have also polluted the local ecosystems and have severely compromised communities' ability to grow the food they need to maintain a healthy, balanced diet. Many of Colombia's indigenous peoples have reported new illnesses, to which their immune systems cannot sufficiently cope.

In the face of these diverse challenges, which threaten their very survival, indigenous communities have developed their own responses to ensure their protection, and proposals for their development which should be encouraged and supported. However, if the humanitarian tragedy facing Colombia's indigenous peoples is to end, a response is needed from a range of actors. It is essential that all armed groups respect indigenous peoples' right to remain outside of the conflict, while the State must respond adequately to the

differential needs of the indigenous population, addressing entrenched discrimination, whose consequences can be seen in the inadequate access to health services and severe malnutrition. The State must also uphold its obligation to consultation and consent with indigenous peoples in plans and programmes linked to the exploration of natural resources in their territories.

British and European companies, for their part, should be aware of the vulnerabilities faced by indigenous peoples in processes of consultation and make every effort to ensure that they are carried out in good faith. The international community too should support indigenous peoples in ensuring that international standards to which Colombia is party, such as ILO Convention 169 and the UN Declaration on Indigenous Peoples, are translated in practice into respect for indigenous peoples' rights. Businesses should also ensure that they and any subsidiary companies or companies working in partnership with them on specific projects fully implement their Corporate Social Responsibility commitments.

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 i Therefore, under the UN Declaration on the Rights of Indigenous Peoples, the community effectively has the power of veto over proposals to remove it from its lands or to carry out economic projects such as mining within them. By contrast, while the ILO Convention 169 seeks to ensure that the correct process of consultation is carried out the indigenous community has no such power of veto under it.

ii Decision by the Constitutional Court on 18 May 2010.

iii On January 2010, the Colombian army bombed the house of an Embera family, in Alto Guayabal, leaving the family of four, including 2 children and a 20 day old baby, gravely injured.

iv In February 2009, the Revolutionary Armed Forces of Colombia – FARC – massacred 15 Awá indigenous people, including two pregnant women, in the Torugaña – Telembí indigenous territory in Nariño.

Recommendations

A. Recommendations to the British Government

1. Displacement and land titling

Displacement has a particularly devastating impact on indigenous communities as their economic, social and cultural survival is deeply linked to their traditional and ancestral land. Equally important is the land titling of traditional indigenous territories and the restoration of ancestral territories.

- 1.1 Fully support the indigenous peoples in their call for restitution of their land
- 1.2 Closely monitor the protection of internally displaced indigenous peoples in line with Deng's principles on displaced persons and the UN Declaration on the Rights of Indigenous Peoples.
- 1.3 Support the Colombian government in this process by providing them with technical assistance to complete land titling as quickly as is possible.
- 1.4 Closely monitor the protection of indigenous peoples whilst they are pressing their land title claims and their continued safety after these titles have been recognised.

2. Use of aid

- 2.1 Engage more closely with the work of multilateral donors such as the European Union (EU), the World Bank and the Inter-American Development Bank (IDB), to ensure that British money is used to pursue policies that reduce inequality and conflict and support vulnerable groups, and specifically indigenous peoples.
- 2.2 Promote measures to ensure that no aid money is given to projects located on lands that have been forcibly expropriated. Such aid could give de facto legitimacy to such expropriation.
- 2.3 Priority should be given to promote full implementation of UN human rights recommendations as a means to create the Rule of Law essential to ensure that indigenous peoples can define their own development.

3. Role of British business

Whilst recognising that voluntary tools are a helpful guide, they are less effective than legal mechanisms. ABColombia therefore calls for legally binding measures to ensure that businesses do not violate human rights and sustainability criteria.

- 3.1 Require companies to report fully on their social and environmental impacts, including human rights impacts, and identify future risks by strengthening the current provisions of the Companies Act 2006.^v
- 3.2 Insist that British companies comply with decisions taken by indigenous peoples to veto projects in their territories. Thus supporting indigenous peoples' right to free, prior and informed consent within their territories in line with Constitutional Court ruling^{vi} and as outlined in the UN Declaration on Indigenous Peoples endorsed by Colombia.
- 3.3 Make British businesses aware of the vulnerabilities of indigenous peoples and encourages companies to take these into consideration when negotiating contracts in Colombia.
- 3.4 Sanction British companies that use violence (including paying paramilitaries and guerrilla groups for security or employing private security companies that commit abuses).
- 3.5 Ensure that British companies and companies listed and headquartered in the UK engaged in extractives uphold the Voluntary Principles on Security and Human Rights to which both the UK and Colombia are signatories.
- 3.6 Fully implement the UK 'Business and Human Rights Tool Kit' which demonstrate the UK's commitment to 'promoting responsible corporate behaviour amongst UK companies operating (or considering potential opportunities for operating) overseas'.

4. Protection and Civilian Status

- 4.1 Actively support the right of indigenous peoples to be recognised their right not to be drawn into the Colombian internal conflict.
- 4.2 Adopt a local action plan in line with the EU Guidelines on human rights defenders which particularly addresses the needs and context of indigenous human rights defenders, and monitor its subsequent implementation.

5. Other

- 5.1 Promote the establishment of a formal policy at the EU level on indigenous peoples, and an office on indigenous affairs in the EU.
- 5.2 Recommend that the UN Special Adviser on the Prevention of Genocide go to Colombia to consider the situation faced by the indigenous peoples at risk of extinction.

- 5.3 Promote the full implementation of UN human rights and UN Special Procedures recommendations on Indigenous Peoples; these measures are essential as a means to guaranteeing the Rule of Law.
- 5.4 As the mandate of the UN Special Representative to the Secretary General on Business and Human Rights draws to a close, press for a UN Special Procedure with powers and resources to investigate alleged human rights abuses by companies as an effective follow-up mechanism at international level.

B. Recommendations to the Colombian Government

- 1. Guarantee the rights of the indigenous population and take all necessary measures to ensure that those responsible for human rights violations and abuses of the indigenous peoples’ rights are investigated and brought to justice (as repeatedly demanded by UN human rights bodies).
- 2. Stop the stigmatisation by government officials of indigenous human rights defenders as allies or collaborators with the guerrilla, in line with Presidential Directives 07 of 1999 and 2001.
- 3. Ensure that the armed forces adhere to the existing directives to respect human rights and International Humanitarian Law, specifically those regarding the treatment of indigenous communities. These include distinguishing between combatants and civilians in combat zones and not stigmatising communities by suggesting they are guerrilla supporters.
- 4. Effectively implement the protection of indigenous peoples, in consultation with them and according to their ‘Plans for Ethnic Preservation’, as ordered in Constitutional Court Order 004. Sufficient resources must be made available to implement Order 004.
- 5. Ensure the indigenous community’s rights to food and health are respected by addressing the lack of effective implementation of differentiated assistance to indigenous peoples, with special emphasis on indigenous children. Put an end to military strategies which include blockades of food and medicines; restriction of free access to areas of cultivation and fishing; and the destruction of health clinics.
- 6. Develop programmes to support the cultivation of traditional crops and recuperation of traditional seeds, provide technical expertise where necessary, in order to promote greater autonomy and food security.

- 7. Guarantee free, prior and informed consultation of indigenous peoples regarding projects that will affect their traditional and ancestral lands, lives or culture, in accordance with ILO Convention 169. Also ensure that the wishes of the indigenous peoples are respected and that any veto is accepted in line with their right to consent as outlined in the recent Constitutional Court ruling.^{vii}
- 8. Protect and promote the rights of indigenous women and ensure that their differential needs are met in consultation with the indigenous community.
- 9. Ensure that all aerial fumigation is halted due to the detrimental environmental impact on indigenous land, cultivations, water and health.

C. Recommendations to all illegal armed actors

- 1. Respect indigenous peoples’ traditional and ancestral lands and their sacred places.
- 2. Respect indigenous peoples’ right to be recognised as civilian non-combatants.
- 3. Cease forced recruitment, especially of indigenous children, who should immediately be released into the care of their communities.
- 4. Stop the use of antipersonnel mines and other military tactics which place civilian communities in danger.
- 5. Stop restricting the freedom of movement of indigenous peoples.

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 v Evaluation of reporting by 100 FTSE companies under the act shows that there is inadequate disclosure of non-financial information and human rights risks. Disclosure of social and environmental data (for example human rights, culture, social and environmental impact assessments) are a necessary step for accountability. <http://corporate-responsibility.org/ftse100-company-reports-reveal-inadequacy-of-companies-act>

vi Colombian Constitutional Court ruling T-769 of 2009 (Sala Séptima de Revisión).

vii Ibid

Introduction

“Colombia’s indigenous peoples find themselves in a grave, critical and profoundly worrying human rights situation,”

United Nations Special Rapporteur James Anaya, July 2009.¹



©National Indigenous Organisation of Colombia (ONIC)

Emberá Katío woman wearing traditional necklaces

Colombia's 1.4 million indigenous population comprises 102 indigenous peoples² who are increasingly bearing the cost of the country's ongoing armed conflict. Representing around 3.4 per cent of the total population, indigenous peoples have seen the conflict extend into their ancestral territories. Colombia's indigenous population are struggling to preserve their cultural heritage as they face structural discrimination and high levels of insecurity. Many remain socially and economically excluded, do not have access to basic health, education or housing services and do not have secure food supplies. According to Colombia's Constitutional Court nearly one-third of the country's indigenous peoples are at risk of extinction.

Indigenous peoples in Colombia have consistently denounced the violence perpetuated against them by the military, paramilitaries and the guerrilla. Their determination to remain neutral in the conflict has led to accusations from all sides that they are collaborating with the 'enemy' with tragic consequences. In the last seven years (2002-2009) more than 1,400 indigenous men, women and children have been murdered as a result of the conflict³; approximately 176 have been forcibly disappeared; and indigenous peoples make up around 7 per cent of the displaced population.⁴ According to the UN High Commissioner for Human Rights, the number of killings of indigenous people rose by 63 per cent in 2009 compared to 2008.⁵ Attempts by the indigenous population to exercise their political rights to representation have also met with violent opposition. Violence and displacement is increasingly being linked to economic interests and efforts to control resource rich lands.

On paper the Colombian judicial framework grants many rights to indigenous peoples, designed to protect their individual and collective rights and guarantee the protection of their social and cultural integrity, both in national and international law. Indigenous peoples have historically held collective land rights; these were granted through the creation of legally recognised indigenous territories – *resguardos*. The 1991 Constitution defined Colombia as a multi-ethnic and pluri-cultural nation and granted additional rights to indigenous peoples including the recognition of the right of indigenous peoples to manage the political and administrative affairs of their territories.⁶

At the international level the UN Declaration on the Rights of Indigenous Peoples⁷, endorsed by Colombia in April 2009, while not legally binding, outlines the duties of States to protect indigenous peoples, affirms their right to culture, identity and traditional lands and outlaws discrimination against them.⁸ The UN International Labour Organization (ILO) Convention 169 concerning the rights of indigenous and tribal peoples⁹ protects the cultural and territorial rights of indigenous peoples by obliging the State to guarantee that communities are involved in consultation prior to any activities affecting their land, lives or culture. It also provides that indigenous peoples should not be removed from lands that they occupy. Such national and international legislation should offer indigenous peoples opportunities to secure a more profound inclusion in economic and political systems.

However, despite progressive national legislation the then UN Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous Peoples (hereafter called the Special Rapporteur on Indigenous Peoples) stated, in 2004, that "The precarious human rights situation of Colombia's indigenous peoples reflects the gap between progressive domestic legislation and the ineffectiveness of the institutions responsible for protecting these peoples, against a background of internal armed conflict involving numerous warring parties whose actions directly affect indigenous communities' chances of survival."¹⁰ Following his visit to Colombia in August 2009, the current Special Rapporteur on Indigenous Peoples observed that this situation remained unchanged.¹¹

The Impact of the Conflict

“...Colombia’s indigenous [peoples] ... are at risk of physical or cultural extinction as a result of the armed conflict, and have been the internal victim of extremely grave violations of their fundamental individual and collective rights and of International Humanitarian Law...”

Constitutional Court Order (Auto) 004 of January 2009.¹²

Indigenous peoples are amongst the civilians most affected by the conflict mainly because many communities live in territories where the conflict is intense and on land that is rich in biodiversity, minerals and oil.¹³ As their territories are often strategic in the dynamics of the internal armed conflict, they are frequently caught in the middle of the fighting between armed groups which attempt to gain control over the land for both economic and geostrategic reasons.¹⁴ These reasons, which are often interrelated, have led to human rights violations including massacres, killings, death threats, forced disappearances and forced displacement.

Indigenous peoples have repeatedly refused to take sides in this conflict, rejecting both the armed intrusion of the illegal groups and militarisation of their territories by the security forces. All armed actors in the Colombian conflict have demanded that the civil population support one side or another: to be neutral is to be seen as the ‘enemy’. This position has been one of the premises upon which the security forces have based their counter-insurgency strategy.¹⁵ Accusations associating indigenous peoples with guerrilla groups have led to gross violations of human rights. In turn, accusations by guerrilla groups that the

indigenous population are ‘siding with the enemy’, have led to violent abuses and killings. Armed actors are required to make a distinction between combatants and non-combatants in International Humanitarian Law (IHL). However when the civil population is defined as the enemy this distinction is ignored.

Indigenous communities continue to denounce the targeted killings of their leaders, spokespeople and traditional authority figures. According to the UN Special Rapporteur on the situation of human rights defenders “Indigenous leaders have become the most vulnerable group of defenders because the internal conflict has moved to their areas.”¹⁶

In February 2009, the Revolutionary Armed Forces of Colombia – FARC, massacred 15 Awá indigenous people, including two pregnant women, in the Torugaña-Telembí indigenous *resguardo* in Nariño.

“On 23 August 2009, Bernabé de Agustín Roqueme, a Zenú leader from the *resguardo* of Comejón in the municipality of Purísima [Córdoba Department], was shot dead on the road linking the *resguardo* with the urban centre of Purísima. He had reportedly been the target of a sustained three-month campaign of threats and intimidation, reportedly carried out by the Águilas Negras [Black Eagles paramilitary group]. Other Zenú leaders continued to be threatened, including Bernabé de Agustín Roqueme’s brother, Miguel Agustín Roqueme, and Antonio de Agustín Talaigua.”¹⁷

“The body of Marco Segundo González González, a member of the Wayúu indigenous people [in La Guajira Department], was found on 18 August 2009 floating near the shore between Manaure and El Pájaro. He had been decapitated and his body thrown into the sea with weights attached to his waist and his feet bound. According to his family, Marco Segundo Gonzalez had been detained on 2 August by members of the army, taken to the department capital, Riohacha, and released on 3 August.”¹⁸

In December 2008, José Edwin Legarda was killed by members of the security forces in an attack during which his car was shot at 17 times.

The target of this attack, according to the National Indigenous Organisation of Colombia (Organización Nacional Indígena de Colombia – ONIC), was Aida Quilcué, Chief Council of the Indigenous Regional

Council of Cauca, (Consejo Regional Indígena del Cauca, CRIC). When he was shot, Edwin Legarda was driving to collect Aida Quilcué who was returning from the UN Universal Periodic Review in Geneva, where she had denounced state violence against indigenous peoples. Indigenous organisations and NGOs alike have repeatedly brought to the attention

of the Colombian authorities the dangers to this prominent indigenous leader. Most recently, in November 2009, she was declared a ‘military target’ by the paramilitary group Los Rastrojos. Aida Quilcué’s daughter was threatened at gunpoint outside her home in 2009.



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Indigenous community in the Sierra Nevada

The UN Special Rapporteur on indigenous peoples has expressed his particular concern about the impact of the conflict on indigenous women and children. Of the human rights violations committed against the indigenous population between 1998 and 2009, women and children were victims in 70 per cent of the cases.¹⁹ Colombia’s Constitutional Court has highlighted sexual violence against indigenous women and girls by all armed actors.²⁰ Women who are violated are then stigmatised for their supposed links to the armed groups, forcing many to abandon their territories. Displaced in urban areas, they may go into domestic service, be forced to beg or go into prostitution to survive.²¹

“In Delicias they killed a 10-year-old girl. They slit her throat and mutilated her. It was around that time that they killed my daughter. About that time they cut off the breasts of another indigenous girl who was 16 years old. They wanted to make their presence known. These were all indigenous girls. For indigenous people, in any war women and children and elders must be respected.”

Women from Valledupar, Cesar Department.²²

Displacement

In 2004, the then UN Special Rapporteur on Indigenous Peoples highlighted “the situation of some very small communities that are now on the brink of extinction as a result of the murder of their leaders, massacres, threats and the forced dispersal of their members”.²³ Despite this warning the situation has progressively worsened, leading the Colombian Constitutional Court to state in January 2009 that Colombia’s indigenous peoples are ‘at risk of physical or cultural extinction’.²⁴ A major factor in this extinction is forced displacement.

The UN Special Rapporteur on Indigenous Peoples, in his 2010 report following his mission to Colombia, warned that displacement of indigenous peoples had increased disproportionately in the last five years compared to the rest of the population. According to government figures, displacement of indigenous people rose by 23.1 per cent between 2006 and 2007 alone, compared to an increase of 16.8 per cent in total displacement.²⁵

In the first seven months of 2009 there were nine mass displacements of indigenous communities;²⁶ and across the country a total of 3,100²⁷ indigenous people were displaced. With indigenous peoples representing only 3.4 per cent of the population, they are disproportionately represented in the displacement figures - at about 7 per cent.²⁸ In fact, it is quite possible that this figure is even higher because many indigenous peoples either: do not register as being displaced, do not self-identify as indigenous at the time of registering, displace between *resguardos* and are therefore not registered, or displace across borders and are not registered as refugees.²⁹

Government figures, however, register no mass displacements of indigenous peoples in 2009.³⁰

There are many factors that force indigenous peoples to displace:

- To protect children and young people because of the threat of forced recruitment into armed groups.³¹
- Confinement by the security forces and the guerrillas impedes the communities’ access to areas of food production. Cut off from their lands through isolation and confinement, indigenous peoples often face chronic food insecurity, as they cannot access their hunting and fishing grounds. Additionally, restrictions on the entry of food and medicine contribute to malnutrition and the general deterioration of health.³²
- Indiscriminate planting of anti-personnel mines around the indigenous territories. Land mines continue to cause numerous casualties amongst the indigenous population.³³
- Communities are forced off their lands by those parties looking to expand and protect their economic and strategic interests.³⁴

Indigenous peoples maintain strong cultural and spiritual links to the land. So, displacement is particularly devastating for indigenous communities because their survival, both physical and cultural, depends on being able to remain on their ancestral territories and maintain close links to the land. Indigenous people talk of the culture shock they experience when they are forced off the land into unfamiliar urban areas. With the link to their land broken they are less able to carry out their spiritual rituals or live their traditional lives, many stop speaking their own languages and begin to adopt a more western style of dress, all of which can lead to the breakdown of their cultural and social identity.³⁵

“We have many cases of young people who do not want to be displaced — but also do not want to be recruited — and instead commit suicide.”

(Indigenous lawyer, ONIC)³⁶

The illicit economy

The planting, growing, manufacturing and marketing of illicit crops has a multitude of negative impacts for the indigenous population: ecological, economic, agricultural, social, political and cultural.³⁷ Typically situated in isolated areas indigenous territories are highly sought after by a variety of groups for the cultivation of coca crops; this intensifies regional conflict.

Pressure from armed groups, along with a lack of socio-economic alternatives, has forced some members of the indigenous communities to work in these coca plantations, with serious and tragic consequences. While traditional coca growing for local use has been widely practised among Colombia’s indigenous communities, indigenous leaders have increasingly voiced grave and growing concerns about the imposition of the illicit coca economy on indigenous territories, bringing with it violence, displacement, cultural disintegration and the breakdown of social networks.³⁸

According to indigenous communities aerial spraying³⁹ has indiscriminately destroyed traditional food crops and polluted the water sources, and that this has resulted in a loss of livelihoods and the breakdown of cultural identity. Indigenous communities have repeatedly reported illnesses and the deaths of children which they believe are caused by chemical contamination. Some analysts argue that aerial spraying rather than being indiscriminate is actually a deliberate policy since it is taking place in areas where there are international corporate petroleum interests. Amanda Romero-Medina argues that “no

“People who are not from the communities are introducing these crops and then the people are displaced when the coca crops are fumigated. These fumigations damage traditional crops and as a result create a problem of food security, including the malnutrition or death of children. This year in Vichada, in a community called Barranco Minas, we registered the death of 41 indigenous people from malnutrition.”

.....
(Indigenous lawyer, ONIC)⁴⁰

forest is needed when it comes to oil exploitation. For this reason, indigenous and social leaders in Putumayo consider that the goal of Plan Colombia is to expel them from the area in order to allow a smooth process of globalization.”⁴¹

The Human Rights Ombudsman (Defensoría del Pueblo) also requested that the strategy of aerial eradications of illicit crops be suspended arguing that, “the implementation of such a procedure fails to comply with constitutional and legal norms, and with international instruments regarding the protection of the environment and respect for human rights”.⁴²

The Constitutional Court (2003) also ordered the suspension of forced eradication by aerial spraying because of its concerns that international law was not being adhered to by the Colombian government, and that full, free and informed prior consultation was not being obtained before engaging in aerial spraying.⁴³ Despite this, indigenous communities have reported that aerial spraying continues to be used.

“Why, when we too are Colombians, is our own government killing us? They fumigate us as though we were a plague and they are killing our children.”

(Testimony from a member of the Awá indigenous peoples)⁴⁴

Indigenous peoples’ survival is inextricably linked to their traditional lands. Violence and threats are driving many from these lands into neighbouring regions and urban centres.⁴⁵ Added to the problems they face due to the armed conflict, the indigenous population experience structural discrimination, high levels of poverty and inadequate public policies, all factors that threaten their way of life and their survival.

The Constitutional Court issued an Order in January 2009 (Auto 004) on the rights of indigenous peoples displaced by the conflict. The Court Order states that the armed conflict disproportionately affects indigenous peoples and places them at serious risk of physical and cultural extinction due to:

- issues caused directly by the conflict - such as militarisation, or armed confrontation in indigenous lands, or in processes directly involving indigenous peoples such as massacres, stigmatisation and forced prostitution;
- caused by factors related to the conflict - such as land dispossession because of economic interests, associated with legal and illegal crops, or interests in indigenous lands as strategic corridors or as being highly rich in natural resources;
- caused by factors which are intensified by the conflict such as poverty.

In recognising that the response by the State to this phenomenon had been insufficient and lacking in practical measures the Court ordered the Colombian government, in consultation with indigenous people, to develop, by July 2009, specific public policies to protect indigenous peoples.

This included a National Programme of Guarantees for the rights of all Colombia’s indigenous peoples, to prevent and attend to the phenomenon of indigenous displacement. As well as, 34 Ethnic Rescue Plans for the indigenous peoples who the Court considered to be at serious risk of extinction. These Plans must be consulted with each indigenous people concerned and must include among other components, tools to protect and strengthen territorial rights and cultural integrity. To date, not a single Ethnic Rescue Plan has been approved or adopted.

For their part, the ONIC have listed a further 30 indigenous peoples with a population of less than 500 who are at risk of extinction because of the armed conflict, the implementation of large-scale infrastructure projects on their lands, discrimination and state abandonment. 18 of those peoples have less than 200 members and 10 have a population of less than 100 individuals.⁴⁶ If these groups are to avoid extinction it is essential that the State comply with Order 004, and in consultation with the indigenous peoples develop specific protection plans - Ethnic Rescue Plans - for the 34 indigenous peoples identified in the Court Order and those listed by ONIC, which together represent around 63 per cent of the 102 indigenous peoples in the country.⁴⁷

The Awá Indigenous Peoples Nariño and Putumayo Departments

The Awá - the name means ‘people’ - were originally hunter-gatherers who moved around large areas of southwestern Colombia, with a population of about 21,000. Over time and with the encroachment of non-indigenous settlers, the area of land the Awá have access to is greatly reduced; forcing them to defend their ancestral lands by obtaining legal documents to prove their ownership. In the face of such difficulties the Awá are proud of their achievements in defending their collective and cultural rights and promoting education within their

community; such accomplishments include the legalisation of their land, proposals for bilingual and multiethnic education, and the construction of an educational institution and the training of teachers. The Awá have developed their own Ethnic Rescue Plan (Plan de Salvaguarda Étnica)⁴⁸, in line with Order 004 issued by the Colombian Constitutional Court, which they are planning to present to the regional and national governments.

However, despite their achievements the Awá are facing a grave humanitarian and human rights crisis in Colombia’s

most conflict-ridden regions. Despite their repeated calls not be drawn into the conflict, the region’s rich natural resources and location near the border with Ecuador mean that all the armed groups (the security forces, guerrilla, paramilitary) and drug-traffickers are present in Awá territory. In addition to the harassment, death threats, killings and forced displacement to which they are subjected, the Awá’s crisis is intensified by their structural poverty caused by a number of factors linked to displacement, food insecurity and illnesses due to aerial fumigation and the reduction of land they inhabit.





Killed: More than 40 Awá were killed in 2009; 4 Awá were killed and 4 disappeared in the first three months of 2010.⁴⁹

Massacres and displacement: On 4 February 2009, more than 400 people fled their homes in the Tortugaña Telembi Resguardo following the killing of 15 Awá, by the FARC, who accused the Awá of collaborating with the army. The Awá indigenous people who were forced to displace have since been unable to return to their homes through fear of further violence and are currently living in desperately overcrowded conditions in neighbouring *resguardos* and villages.

Killings and displacement: On 26 August 2009, 12 Awá, including 7 children, were killed by unknown men. One of the victims was the wife of an indigenous leader, who had reported that he had been extrajudicially executed by the army in the region several months before. This latest attack led to the displacement of 300 community members, including 100 children, who fled to the town of Tumaco fearing more attacks.

Landmines on the roads around their *resguardos* have restricted their safe and free movement and caused 13 deaths of Awá people between 2006 and 2009.⁵⁰

Forcible recruitment: Under Colombian law, members of indigenous communities are exempt from compulsory military service, but armed groups continue to forcibly recruit Awá men, women, children and young people.

Militarisation in their territories: In February 2009 members of the Colombian Army (Batallón Contra guerrilla Mártires de Puerres of the 29 Brigade) began to maintain a permanent presence in the Tortugaña Telembi Resguardo. They forced their way into homes and demanded information on the whereabouts of FARC guerrillas. The presence of the army in their territory left the Awá in an extremely vulnerable position.⁵¹

Fumigations: The Human Rights Ombudsman received reports of 1,081 Awá families affected by 41 separate incidents of aerial spraying between 2000 and July 2009. The Awá report that aerial fumigation has directly led to the deaths of several people, including children, and the deaths of animals.⁵²

A child is left on his own to look after his little brother in an Awá family’s hut in Barbacoas. Now that they have been displaced, the Awá people have to work all day for a daily salary.

Marginalisation, Structural Discrimination and Exclusion

Colombia's indigenous peoples continue to face "serious challenges to the enjoyment of their rights and remain victims of de facto racial discrimination, marginalization and continue to be particularly vulnerable to human rights violations".

UN Committee on the Elimination of Racial Discrimination (CERD)⁵³

Colombia's conflict has its roots in the extremely unequal distribution of land and wealth. Little has been done to address this land inequality. Land ownership is concentrated in the hands of a few with 0.4 per cent of landowners now owning 61 per cent of rural land.⁵⁴ Within this context the indigenous peoples are trying to recover their ancestral lands; to date there are 710 legally recognised *resguardos* in 27 departments and 228 municipalities.⁵⁵ However, these lands do not meet the needs of the indigenous population; large areas of the land are deemed sacred by indigenous communities, or are found in mountainous or eroded areas and are therefore unsuitable for agriculture.⁵⁶ Only 7.68 per cent of *resguardos*, an area of 1.29 million hectares (approximately 1.4 hectares per person), are found in agriculturally productive areas, which are inhabited by around 65 per cent of the indigenous population.⁵⁷

In 2008, poverty in Colombia rose to 65 per cent in rural areas.⁵⁸ For the indigenous population who live primarily in rural areas, this structural poverty and inequality is especially acute. Around 63 per cent of Colombia's indigenous population now live below the poverty line, while 47.6 per cent live in extreme poverty.⁵⁹

As the armed conflict and effects of the drugs trade encroach further into traditional indigenous regions, the precarious situation faced by indigenous peoples is compounded by a general deterioration in the socio-economic situation of these communities. Indigenous communities face serious problems of food insecurity due to the reduction in available land to grow crops, hunt and fish and due to aerial spraying which destroys crops. The crops, traditional plants and fruit trees needed to ensure the nutritional needs of Colombia's indigenous population are threatened by changes in the local ecosystem caused by increased exploitation of land and natural resources.⁶⁰ The impacts of these elements are felt by families who are struggling to feed their children; 70 per cent of indigenous children suffer from chronic malnutrition.⁶¹

Public policies are failing to address the needs of the indigenous population. Human, economic and social development indicators are generally lower amongst the indigenous population, who often lack access to even the most basic services.⁶² Life expectancy amongst the indigenous population is much lower than the national average⁶³, illiteracy is higher⁶⁴, and indigenous children have less chance of benefiting from a quality education.

CERD also expressed concern that maternal mortality, infant mortality and chronic malnutrition rates are significantly higher amongst indigenous communities compared to the rest of the population.⁶⁵ This is in spite of the fact that the Constitution establishes a general subsidy scheme for the indigenous *resguardos* which requires funds to be directed primarily towards meeting basic needs in the areas of health, education, drinking water, agricultural development and housing. Colombian law also establishes the principle of indigenous bilingual and intercultural education (etnoeducación).

In a recent report the Observatory for Racial Discrimination (Observatorio de Discriminación Racial) noted that "Even though public policy measures have been adopted aimed at protecting diverse rights of the indigenous peoples, including political participation, healthcare and education, some of them have not been applied, or have been applied in a deficient manner."⁶⁶

Figures quoted by the UN Special Rapporteur on indigenous peoples show that the departments with the highest number of indigenous peoples have the worst social indicators in the country (see Figure 1).

Health services are generally inadequate and do not meet the needs of the indigenous population. Communities living in remote areas of the country are often many hours or days by foot or boat from the nearest health service. There have been reports of the Security Forces occupying health clinics in Nariño Department. When this happens the communities are reluctant to approach the clinic for fear of being stigmatised by illegal armed groups.⁶⁷ When medicine is available for the treatment of 'western' illnesses such as chickenpox, it has been noted that Indigenous peoples' immune systems are often unable to tolerate it. There is a lack of acceptance and promotion of traditional indigenous medicine. According to indigenous leaders in Barranco Minas, Guainía Department, 45 indigenous children died in 2009 from malnutrition and preventable and curable illnesses such as diarrhoea and bronchitis.

Programmes provided through Acción Social, the state agency responsible for attending to the needs of the displaced population, are failing to provide differential attention to

address the specific needs of the displaced indigenous population. In response to the nutritional crisis faced by the indigenous population, particularly acute in the displaced population, the State provides food subsidies. However, the food provided through assistance programmes has not always had the desired effect of enhancing the indigenous populations’ health nor does it always fulfil the more spiritual purpose of food for indigenous peoples, whose crops such as maize and bananas represent a symbolic link to the land and to indigenous rituals and cosmology. The indigenous population are not consulted as to what their nutritional needs are, and they have difficulties in adapting to the food supplements they receive. Many communities have also reported that some of the supplements, including powdered milk, have caused diarrhoea and abdominal distension in children.⁶⁸

The Nukak Makú, with only around 450 members, is one of the 34 peoples identified as being at risk of extinction. They are hunter-gathers and live on a diet of berries and monkeys, however, half of the Nukak Makú are displaced and unable to access the quantity and quality of food they require to ensure a nutritionally balanced diet. Contact with non-indigenous peoples, overcrowding in the areas they are displaced to and a change in diet caused by the unavailability of their traditional food and the foodstuffs they receive from State programmes, including pasta, rice and milk, has led to health problems and illnesses to which the Nukak Makú are unable to build up resistance.⁶⁹

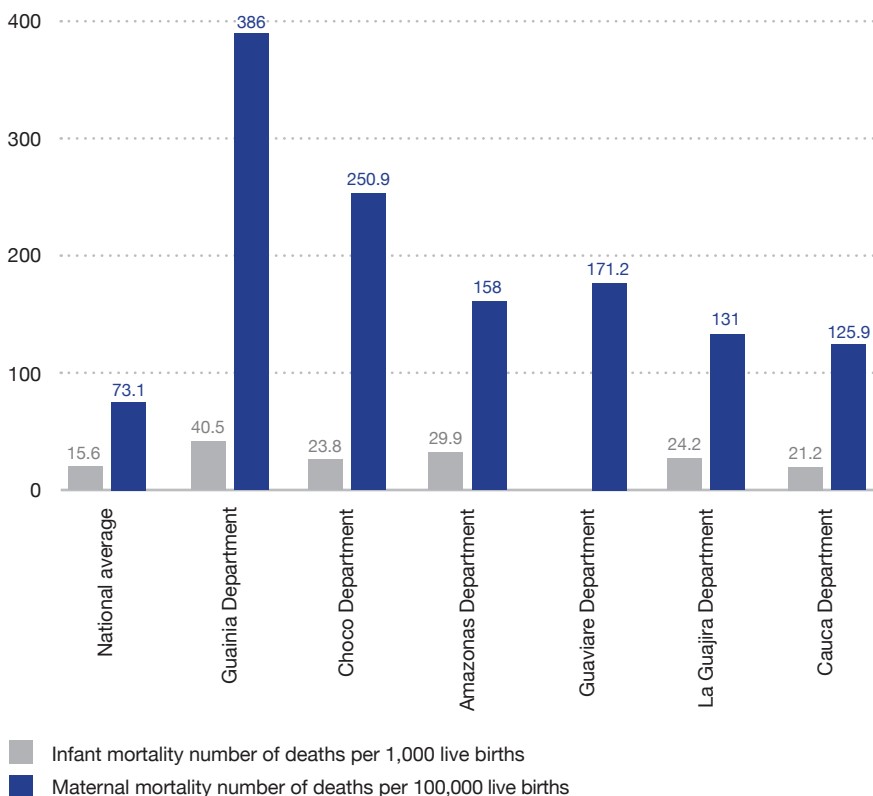


Figure 1
Information taken from the Report of the UN Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples, 8 January 2010.⁷⁰



Oxfam GB

Embera women, Chocó Department.

Poverty in the Chocó: 29 children die in 4 months

Chocó is one of the poorest regions in Colombia – over 78 per cent live below the poverty line and over 48 per cent live in extreme poverty.⁷¹ 12 per cent of the population in Chocó is indigenous and they are often the poorest of the poor. This leads to dramatic consequences, particularly for their food security and the health of children.

The World Food Programme (WFP) currently implements food assistance activities for 86,000 indigenous persons in the departments of La Guajira, Cesar, Magdalena, Chocó and Nariño. Cases of acute malnutrition among children under five are extremely widespread.

In early 2007, 29 indigenous children under the age of seven died over a four-month period in two Chocó municipalities of Riosucio and Carmen del Darien.⁷² An Oxfam GB study⁷³ has shown that the deaths were linked to a number of factors that illustrate the indigenous people’s precarious living conditions in the Chocó.

The key factors behind the deaths were:

- Food insecurity, due to the lack of available food at the time of year and made worse by ongoing violence which greatly limited the possibilities of sowing and harvesting of crops;
- Geographic conditions that make access to western medicine extremely difficult: most indigenous communities in the region live in rural areas and travel by boat. Most health services are located in urban areas;
- The lack of medication and equipment in health posts;
- The lack of understanding between the two cultures: indigenous peoples say they feel stigmatised by western health workers.

In 2009, a number of UN agencies carried out a survey on the health situation of members of the Embera Dobida, Embera Katío, Embera Chamí, Tule and Wounaan indigenous peoples living in Chocó. Their findings show:⁷⁴

- 83 per cent of families drink untreated water;
- 99.9 per cent of homes experience food insecurity; for 94.9 per cent of those homes the situation is severe;
- According to their parents or carers less than half of the children under 5 years old were in good health (47 per cent);
- Only 2.5 per cent of children, between 12 and 23 months old, had received their full immunizations;
- Almost 10 per cent of children under 5 years old had been hospitalised in the last year;
- 67.6 per cent of children and adolescents, between 5 and 17 years old, are chronically malnourished; 30.5 of those suffer from severe malnutrition;
- 45.87 per cent of the indigenous population in Chocó is anemic; 31 per cent of those are between 1 and 11 months old and 59.5 per cent are between 2 and 5 years old.

Economic interests – often the hidden dimension in the conflict

Many of Colombia’s indigenous communities live in areas of strategic economic interest, on land rich in natural resources, such as wood, water, minerals and oil. As a result their land is often at the heart of areas sought after for large-scale developments, such as mining and oil and gas extraction and agro-industrial development such as Palm Oil plantations, and the cultivation of illicit crops, principally coca.

Colombia’s Constitution asserts that the “*Exploitation of natural resources in the indigenous (Indian) territories will be done without impairing the cultural, social, and economic integrity of the indigenous communities.*”⁷⁵ However, indigenous communities argue that the incursion of large-scale developments has had serious socioeconomic and environmental impacts, including the degradation of land quality, environmental contamination and the erosion of their livelihoods and culture. Many indigenous communities also denounce increased militarisation in the areas of large-scale economic production and exploitation and related transport infrastructure.

Despite provisions in the Colombian Constitution and legislation which gives legal ownership of *resguardos* to the indigenous communities, many feel that they are not able to adequately protect their land from economic intervention or territorial occupation or to effectively exercise their right to decide how their land should be used. The Constitutional Court has recognised that in some cases the precarious nature of land titling is one of the factors that has enabled the usurpation and invasion of indigenous lands.⁷⁶ Indigenous land is also vulnerable to exploitation because the definition of an indigenous *resguardo* does not cover the subsoil.⁷⁷

Free, prior and informed consent

In compliance with the ILO Convention 169, Article 330 of the Colombian Constitution establishes the right of the indigenous population to free, prior and informed *consultation* on projects that will affect their land, lives or culture. It also obliges the government to encourage the participation of the representatives of communities regarding the exploration of natural resources in indigenous territories.⁷⁸

ILO Convention 169 establishes that indigenous peoples “have the right to decide their own priorities for the process of development as it affects their lives, beliefs, institutions and spiritual well-being and the lands they occupy or otherwise use... they shall participate in the formulation, implementation and evaluation of plans and programmes for national and regional development which may affect them directly”.⁷⁹ So, under ILO 169, the government is also bound to *consult* with indigenous communities about the proposed use of resources

prior to the commencement of any exploration and to establish whether the indigenous peoples’ interests would be prejudiced, whether a project would violate their rights, and what the environmental impacts would be.⁸⁰ Consultations carried out in the application of the ILO Convention 169 should be undertaken “in good faith”.⁸¹

The UN Declaration on the Rights of Indigenous Peoples (UNDRIP), endorsed by Colombia in April 2009, provides clear statements on the human rights of indigenous peoples, including the right not to be removed from their lands without free, prior and informed *consent*. It also stipulates the right to free, prior and informed consent over the use of their traditional lands, to which economic development projects, including large-scale agro-industrial developments and mega-projects such as mining and oil and gas extraction, must also be subject. Consent must be freely given.⁸² While the government retains the ownership of the subsoil and sub-surface natural resources, the UNDRIP states that indigenous peoples have the right to control those resources.⁸³

A number of Colombian laws have been passed which are incompatible with ILO Convention 169. Three such laws that have since been declared unconstitutional in part or as a whole by the Constitutional Court because they ignore the fundamental right of indigenous and Afro-Colombian communities to prior consultation⁸⁴ are The Rural Development Statute (Law 1152 of 2007)⁸⁵, The General Forestry Law (Law 1021 of 2006) and the National Development Plan (Law 1151 of 2007).⁸⁶

Indigenous communities and the Constitutional Court have reported many instances where the right of indigenous peoples to free, prior and informed consultation has been violated. Colombian indigenous peoples ask that the process of consultation be carried out in accordance with international norms, including incorporating the new provisions under the UNDRIP. The UN Special Rapporteur on Indigenous Peoples concurs that the lack of consultation is a persistent problem in Colombia.⁸⁷ In his January 2010 report he noted that the recommendation in this regard, that “[n]o investment or infrastructure projects, harvesting or mining of natural resources or new production projects should be encouraged without full and legitimate prior consultation and the involvement of the indigenous peoples”⁸⁸, made in 2004 by his predecessor, was still unfulfilled.⁸⁹ He also highlighted the need to harmonise economic development policies, especially as they concern “mega-projects” related to the extractive industry and infrastructure, with the collective and individual rights of indigenous peoples.⁹⁰



A house 'deara dee' demonstrating the living conditions of the Emberá Katio Indigenous Peoples in the Alto Guayabal

National Indigenous Organisation of Colombia (ONIC)

The imposition on indigenous territories of an economic development model which encourages large-scale developments and agro-industrial production for export has also been accompanied by increased violence and militarisation which is forcing indigenous communities off their land. In this context, and in an internal conflict such as that of Colombia, there are genuine difficulties to obtaining consent that is freely given.

Consent that is freely given has to be free of threats, intimidation, and killings. In Colombia where those who take the position of neutrality are seen as 'the enemy' this may not always be possible. Levels of impunity for these crimes only encourage those responsible for such violations to think that they can continue to impose their will on others with no fear of being brought to justice.

Mining and the lack of prior consultation in indigenous territories – the case of Muriel Mining Corporation

A concession of 11,000 hectares of land has been granted to the Muriel Mining Corporation (MMC) in the Urada Jiguamiandó indigenous resguardo where three Embera indigenous communities live.⁹¹ MMC commenced mining activities⁹² on 3 January 2009 on the sacred mountain of Ellausakirandarra⁹³ or “Dog Faced Hill”. The area is rich in copper, gold and molybdenum. Over 300 indigenous and Afro-Colombian men, women and children gathered on the mountain to confront MMC and the army contingent that accompanied them to prevent any mining activities in the area.⁹⁴

The communities have denounced a number of gross irregularities in the community consultation process. According to the indigenous authorities of Urada, prior consultation was characterised by deceit, misinformation and manipulation.⁹⁵ According to Inter-Church Justice and Peace Commission (CIJP), the communities that will be most directly affected by the project were not consulted.⁹⁶ MMC met with individual indigenous people who did not have the previous authorisation granted by the local cabildos (indigenous councils) to represent their interest before the company. Indigenous representatives who signed documents did not have discussions with the larger community prior to the signing of documents.⁹⁷ The communities have also denounced the forgery of signatures.⁹⁸

Publicity for consultation meetings with MMC was displayed in towns like Murindó rather than in the communities that would be affected. The documents were not translated into the indigenous language meaning that indigenous women did not have access to this information since they rarely speak Spanish.

In February 2009, over 1,250 members of the indigenous communities took part in a self-organised internal consultation involving 77 per cent of the communities directly affected by the mine, and 100 per cent of those rejected the exploration conducted by MMC which they considered did not respect their right to free, prior and informed consent.⁹⁹ On April 29 2009, the community members appealed a recent ruling by the Bogotá superior tribunal that denied there were anomalies in the consultation process. In April 2010, the Colombian Constitutional Court backed the communities’ appeal and ordered a halt to the mining project, citing a lack of consultation with communities directly affected regarding the environmental and cultural impact of the mine. The decision requires the Muriel Mining Corporation to suspend exploration and production activities in the area until it has met its obligation to carry out full consultation with the communities that will be most affected by mining activity.

Meanwhile, between December 2009 and January 2010, the Embera communities in

Urada reported the appearance of white helicopters flying low over the identified areas of geological interest.¹⁰⁰ Then in January, the communities reported their grave concern over Army helicopters flying over their ancestral territory. These concerns were brought to the attention of the Colombian government. On 30 January 2010, the National Army bombed the lone house of an Embera family; the Colombian government acknowledge the bombing, which they say was done in error. The bombing left a family of four, including 2 children and a 20 day old baby, gravely injured.¹⁰¹ Rather than addressing the communities’ concerns about the shortcomings of the consultation process, MMC has been dismissive of the communities’ views and has stigmatised the CIJP, which accompanies them in this process. The insinuations made by MMC against CIJP in public documents imply this organisation has links with illegal armed actors in Colombia. Such defamation, in the context of the Colombian conflict, is particularly worrying as it can seriously affect the security of the members of this organisation.

MMC also levelled similar accusations at the international non-governmental organisation Peace Brigades International (PBI), which provides international observation and accompaniment to CIJP.

The lack of prior consultation is the “biggest problem in all mineral extraction cases”

James Anaya, United Nations Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous Peoples¹⁰²

Standing up for their rights

Despite the grave problems facing indigenous peoples in Colombia there is a dynamic indigenous movement in Colombia, which has successfully raised awareness of indigenous concerns and has been instrumental in securing legislative advances. In reaction to the human rights crisis they face, Colombia's indigenous peoples are asserting their rights; campaigning to secure land reform or press for land claims; defining their own plans for land use and environmental management in their territories; and developing strategies to promote peace and economic and cultural development.

One such example can be found in the Department of Cauca, where the Nasa have organized the Indigenous Guard to peacefully protect their community against armed incursions.



Member of the Indigenous Guard, Cauca Department

©CAFOD

Peaceful resistance and self-protection – The Indigenous Guard (Guardia Indígena) in Cauca

The Indigenous Guard has been protecting indigenous territories and livelihoods in the region since 2001. In response to the escalating violence linked to confrontations between paramilitary groups entering the historically FARC-held region, the Nasa indigenous population have appointed individuals into an organised and unarmed Indigenous Guard based on traditional teachings aimed at abstaining from violence whilst asserting the communities' rights.

Like indigenous communities in other areas of the country, the Nasa have declared their neutrality in the conflict; however they are often caught in the crossfire of the fighting or targeted and accused of sympathising with one of the armed groups. This independent stance has provoked harassment, kidnappings and assassinations of the Nasa. The Indigenous Guard was created in response to this dynamic and to reject the intrusion of armed groups into their territorial lands and to refuse any support from these groups.

As well as asserting their neutrality, by patrolling their territories and demanding that armed actors leave their lands, the men and women of the Indigenous Guard also strive to protect community members from becoming involved in the conflict, particularly the young who are at risk from forced recruitment, and act to protect communities

who are caught up in battles between the various groups.

Additionally, the Indigenous Guard promote food security and human rights and develop protection mechanisms such as early warning systems to alert communities to the presence of armed actors. Members of the Indigenous Guard have also played an important role during peaceful demonstrations, in protest of economic policies that negatively affect the indigenous population, by ensuring that indigenous protestors do not react with violence when faced by violent repression.

The Indigenous Guard are able to mobilise their members very quickly and rely on their strength-in-numbers approach to confront armed actors who often times they outnumber. In Cauca the Indigenous Guard is an organized and unarmed authority, boasting some 7,000 volunteers.

The framework has now been used to train indigenous guards in other departments (including the Awá in Nariño) and Afro-Colombian communities. In 2004, Cauca's Indigenous Guard was awarded Colombia's National Peace Prize and the same year, the Nasa also won the prestigious Equator Initiative Prize from the United Nations for their sustainable, community-driven development programmes.

When indigenous leaders and communities have tried to assert their rights, promote peaceful strategies to confront the conflict, defend their land rights and defend their right to free, prior and informed consent to economic developments that affect them they have often faced increased threats, killings and displacement.

The National Minga of Indigenous and Popular Resistance

(La Minga de Resistencia Indígena y Popular)¹⁰³

In October 2008, indigenous communities throughout the country organised large-scale demonstrations in protest at continued human rights abuses and the failure of the government to fulfil various accords with the indigenous communities relating to land, education and health. The protests formed part of a broader campaign, involving Afro-Colombian and peasant farmer communities, in support of their civil, political and economic, social and cultural rights.¹⁰⁴ In various regions of the country, and notably, in the Cauca Department, home to a large and well-organised indigenous population, demonstrations were held to press for land claims and to support a campaign for land reform. On 13 October, protestors blocked a section of the Pan-American Highway hoping, by doing so, to engage the government in talks. Tragically though, the protests were the target of a harsh crackdown resulting in violent confrontations between special police units and protestors, in which at least one indigenous protestor was killed and dozens injured. Dozens of members of the security forces were also injured in the clashes. Of serious concern were statements by government officials, which claimed that the protests had been infiltrated by FARC guerrillas¹⁰⁵, a claim aimed at undermining the indigenous protestors and one that ONIC and the demonstration organisers strongly deny.¹⁰⁶

“The country has made immense efforts. Dialogue yes, violence no. And we cannot accept traps because the terrorist infiltrate [them], they massacre the police, they wield all types of violence, and straight away they accuse us in front of the international community, simply because we act and stop the [road] blocks and we confront violence. And all this is with the intention of block Colombia's path in very important areas like the approval of the FTA” President Álvaro Uribe¹⁰⁷

Sadly accusations seeking to link the indigenous movement to guerrilla groups have often been followed by killings of indigenous leaders by paramilitary groups.

Indigenous peoples in Colombia have been targeted by all sides in the armed conflict. Their traditional way of life has been so disrupted by displacement and violence that 64 indigenous peoples are currently at risk of extinction. State assistance to address these issues has not taken into account the differential needs of the indigenous peoples, compounding the humanitarian crisis they are facing. It is therefore essential that all armed actors respect indigenous peoples' right to neutrality and that the Colombian government do not delay in consulting with the indigenous peoples about the implementation of their Ethnic Rescue Plans (Plan de Salvaguarda Étnica). The violent forced displacement suffered by indigenous peoples is closely linked to the conflict and exploitation of their lands by economic interests; it is therefore essential that the international community monitor the activities of international companies, especially in the extractive and agro industries, to ensure that they are complying with the spirit and the letter of international and national regulations. Finally, indigenous peoples have repeatedly called for the international community not to enter into free trade agreements with Colombia at this time due to their concerns about the impact of such agreements on indigenous lands. Free trade agreements should therefore only be entered into when there is a climate of respect for human rights in Colombia.

Endnotes

- 1** UN Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, James Anaya, reiterates the statement made in the 2004 report by his predecessor, Rodolfo Stavenhagen. See: Statement of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, James Anaya, as he concludes his visit to Colombia, 27 July 2009 <http://www.unhchr.ch/hurricane/hurricane.nsf/view/01/075AAAC613A31B0CC12576010039DA28?opendocument>
- 2** The official records of ONIC (*Organización Nacional Indígena de Colombia* – the National Indigenous Organisation of Colombia) show 102 peoples which include the 87 recognised by the state, 12 recognised by indigenous organisations and 3 self-designated because of their ethnic and cultural status. Figures cited in Human Rights Everywhere, *Desecrated Land: the Impact of Megaprojects on the Indigenous Territories of Colombia*, July 2008. See www.onic.org.co for a full list of Colombia's indigenous peoples.
- 3** In 2008 and 2009 violence against indigenous peoples intensified with 111 and 176 killings, respectively. See ONIC, *“Palabra dulce, aire de vida” Forjando Caminos para la Pervivencia de los Pueblos Indígenas en Riesgo de Extinción en Colombia*. (“Sweet words, breath of life” Forging Paths for the Survival of Indigenous Peoples at Risk of Extinction in Colombia), 2010.
- 4** Sources quote 7 per cent and 6.5 percent. See, ONIC, *Autoridad Nacional De gobierno Indígena, Agosto de 2009*; and *El Reto ante la tragedia humanitaria del desplazamiento forzado: Garantizar la observancia de los derechos de la población desplazada, Comisión de seguimiento a la política pública sobre el desplazamiento forzado. Proceso nacional de verificación, Volumen 2, April 2009*, Table 10, p. 72.
- 5** Report of the United Nations High Commissioner for Human Rights on the Situation of Human Rights in Colombia for the Thirteenth Session of the Human Rights Council, A/HRC/13/72, 4 March 2010
- 6** Roque Roldán Ortega, *Models for Recognizing Indigenous Land Rights in Latin America*, The World Bank Environment Department, October 2004. http://siteresources.worldbank.org/BOLIVIA/Resources/Roque_Roldan.pdf
- 7** Read the Declaration at <http://www2.ohchr.org/english/issues/indigenous/declaration.htm>
- 8** See Presidential Press Release of 21 April 2009, ‘Gobierno anuncia respaldo unilateral a la Declaración de Naciones Unidas sobre los Derechos de los Pueblos Indígenas’ (‘The Government announces unilateral support for the United Nations Declaration on the Rights of Indigenous Peoples’) at <http://web.presidencia.gov.co/sp/2009/abril/21/10212009.html> This is an important advancement as Colombia had abstained when the Declaration was adopted in 2007.
- 9** Ratified by the Colombian Government in 1989 and adopted into domestic law in 1991 through Law 21.
- 10** Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, Mr. Rodolfo Stavenhagen. E/CN.4/2005/88/Add.2. 10 November 2004, paragraph 81.
- 11** Report of the UN Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, James Anaya, 8 January 2010 (A/HRC/15/34/).
- 12** ABColombia translation. Text reads “Primer. – DECLARAR que los pueblos indígenas de Colombia, según lo advertido en esta providencia, están en peligro de ser exterminados cultural o físicamente por el conflicto armado interno, y han sido víctimas de gravísimas violaciones de sus derechos fundamentales individuales y colectivos y del Derecho Internacional humanitario, todo lo cual ha repercutido en el desplazamiento forzado individual o colectivo de indígenas...” Constitutional Court, Auto 004, de enero de 2009. Order 004 highlighted the situation of indigenous peoples whose cultural or physical survival were at risk either from the dislocation caused by displacement or as a direct result of violence and declining numbers.
- 13** Amnesty International, *‘Leave us in Peace’ - Targeting Civilians in Colombia’s Internal Armed Conflict* (AMR 23/023/2008)
- 14** Resulting in the constant presence of Security Forces, paramilitaries and guerrilla groups. Interview with Ana Manuela Ochoa, a lawyer for the ONIC, in Peace Brigades International Colombia’s newsletter ‘Colombia’, N°14, enero 2010.
- 15** Amnesty International, *Everything left behind. Internal Displacement in Colombia*, June 2009 (AMR 23/015/2009)
- 16** Amnesty International, *The Struggle for Survival and Dignity. Human Rights Abuses against Indigenous Peoples in Colombia*, February 2010 (AMR 23/001/2010)
- 17** Ibid
- 18** Report of the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya, Mission to Colombia (7–18 September 2009) A/HRC/13/22/Add.3, 1 March 2010, p. 9.
- 19** Mesa de Trabajo Mujer y Conflicto Armado, *IX Informe sobre violencia sociopolítica contra mujeres, jóvenes y niñas en Colombia. Noveno Informe 2009, Violencia Sexual*, December 2009, pg. 109.
- 20** In the 2008 Order 092 (Auto 092) (to protect the fundamental rights of women victims of forced displacement due to the conflict) the Constitutional Court called on the State to take measures to prevent the disproportionate impact of the conflict and related displacement on the lives and bodies of women. Paragraph III.1.1.3 draws attention to the frequency and seriousness of cases of sexual violence committed against indigenous women (La incidencia, frecuencia y gravedad de los casos de violencia sexual se incrementan significativamente en el caso de las mujeres indígenas). Oxfam International also draws attention to the levels of under reporting of this violation of women in its report *Sexual violence in Colombia: Instrument of war*, September 2009.
- 21** Auto 092 and Mesa de Trabajo Mujer y Conflicto Armado, *IX Informe sobre violencia sociopolítica contra mujeres, jóvenes y niñas en Colombia. Noveno Informe 2009, Violencia Sexual*, December 2009, pg. 115–117.
- 22** Oxfam International, *Sexual violence in Colombia: Instrument of war*, September 2009.
- 23** Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, Mr. Rodolfo Stavenhagen Addendum - Mission to Colombia, 10 November 2004. E/CN.4/2005/88/Add.2
- 24** Corte Constitucional Auto 004 de 2009 (Enero 26 de 2009) – Protección de los derechos fundamentales de las personas y los pueblos indígenas desplazados por el conflicto armado o en riesgo de desplazamiento forzado. (*Protection of the fundamental rights of indigenous peoples and individuals displaced by the armed conflict or at risk of forced displacement*)
- 25** Naciones Unidas, Consejo de Derechos Humanos, 15° período de sesiones, La situación de los pueblos indígenas en Colombia: Seguimiento a las recomendaciones hechas por el relator especial anterior, Relator Especial de Naciones Unidas sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas, A/HRC/15/34, 8 de enero de 2010. (Spanish only)
- 26** Mass displacement affects 70 or more people. Data received during an interview held between ABColombia and CODHES, August 2009.
- 27** The National Indigenous Organisation of Colombia (ONIC), reported that 3,100 indigenous peoples were displaced by violence in the first seven months of 2009, compared to 3,312 in 2008.
- 28** ONIC, *Autoridad Nacional De gobierno Indígena, Agosto de 2009*.
- 29** Displacement is a sensitive issue within

indigenous communities where there is a cultural resistance to the traditional concept of displacement. As these communities' culture and livelihoods are so closely linked to the land many indigenous people who are forced to flee their homes but are able to remain on neighboring land reject the ascertain that they are victims of displacement. The ONIC also assert that because displacement between *resguardos* is not registered the displaced do not receive any help from the State. Indigenous peoples affected by cross-border displacement (to Ecuador, Panama and Venezuela) are not registered as refugees and as such do not receive the help they need. See interview with Ana Manuela Ochoa, a lawyer for the ONIC, in Peace Brigades International Colombia's newsletter 'Colombia', N°14, enero 2010.

30 "Hemos tenido muchos casos de jóvenes que no quieren desplazarse y tampoco quieren ser reclutados y han optado por el suicidio." Interview with Ana Manuela Ochoa, a lawyer for the ONIC, in Peace Brigades International Colombia's newsletter 'Colombia', N°14, enero 2010.

31 Government figures on displacement are lower than those held by CODHES and the Office of the UN High Commissioner for Refugees (UNHCR), but the methodology used by the authorities has been criticized by NGOs working on displacement issues, as well as by Colombia's Constitutional Court. See Amnesty International, 'Leave us in Peace' - Targeting Civilians in Colombia's Internal Armed Conflict (AMR 23/023/2008), p.37

32 Under International Humanitarian Law any

recruitment of minors into illegal armed groups is defined as forced recruitment.

33 The reports of the United Nations High Commissioner for Human Rights year after year report the indices of confinement, restrictions on the passage of food, medicines, fuel and indigenous persons by guerrilla and security forces. See recent reports: *Report of the United Nations High Commissioner for Human Rights in Colombia*, E/CN.4/2006/9*, May 2006; A/HRC/4/48, March 2007; A/HRC/10/32, March 2009.

34 Information given to ABColombia by the United Indigenous Awá People's Organisation, Unipa, August 2009.

35 Including by illegal armed actors, drug traffickers, private landowners and international and national private capital.

36 For more information on the affects of displacement on Colombia's indigenous peoples read the interview with Ana Manuela Ochoa, a lawyer for the ONIC, in Peace Brigades International Colombia's newsletter 'Colombia', N°14, enero 2010.

37 Human Rights Everywhere, *Desecrated land: The Impact of Megaprojects on the Indigenous Territories of Colombia – Illicit Crops*, July 2008.

38 *ibid*

39 Interview with Ana Manuela Ochoa, a lawyer for the ONIC, in Peace Brigades International Colombia's newsletter 'Colombia', N°14, enero 2010.

40 "The aerial spraying of illicit coca crops with glyphosate is carried out as part of Plan Colombia,

adopted in 1999... Colombia is the only country in the world using aerial spraying for the eradication of coca." See the Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. Preliminary note on the mission to Ecuador and Colombia, A/HRC/7/11/Add.3, 4 March 2007 p. 12.

41 Amanda Romero-Medina, 'Colombia: Internal Displacement and Humanitarian Crisis – CERLAC Colloquia Paper', presented during the Second Bi-annual Michael Baptista Lecture, held at York University, Wednesday the 23rd of May, 2001.

42 Defensoría del Pueblo of Colombia 'La ejecución de la estrategia de erradicación aérea de los cultivos ilícitos, con químicos, desde una perspectiva constitucional,' (The implementation of the strategy of aerial eradication of illicit crops, with chemicals, from a constitutional perspective) April 2002

43 Constitutional Court Sentence SU-383 of 2003.

44 ABColombia translation: "Por qué a nosotros que también somos colombianos nos está matando nuestro propio gobierno. Nos fumigan como si fuéramos una plaga y nos está matando a nuestros hijos..." quoted in: Unidad Indígena del Pueblo Awá – Unipa, *Memorias de dolor del Pueblo Indígena Awá. Resguardo Gran Rosario – Municipio de Tumaco – Municipio de Ricaurte*, Agosto de 2009, p. 14

45 They are requesting that the Colombian government respect the consultation process that the Awá have carried out in their own communities and that the resulting

proposals are included in the Ethnic Rescue Plan (Plan de Salvaguarda Étnica). Amongst those proposals is the rejection of militarisation in their territories and a call to all armed actors to respect their right not to be drawn into the armed conflict. The Awá also call on the government to immediately cease aerial fumigation in their territories.

46 Awá Press Release, 'Comunicado a la opinión pública nacional e internacional la crisis humanitaria del pueblo Awá continua', 9 de Abril de 2010. (*National and international public statement that the humanitarian crisis of the Awá indigenous peoples continues*, 9 April 2010)

47 Information given to ABColombia by the United Indigenous Awá People's Organisation, Unipa, August 2009.

48 Unidad Indígena del Pueblo Awá – Unipa, *Memorias de dolor del Pueblo Indígena Awá. Resguardo Gran Rosario – Municipio de Tumaco – Municipio de Ricaurte*, Agosto de 2009. This is a Joint UNIPA Awá – Justice and Interior Ministry report.

49 *Ibid*, p.13-14

50 Office of the UN High Commissioner for Refugees (UNHCR), 'More indigenous people uprooted in Colombia'. Summary of a presentation by UNHCR spokesperson Ron Redmond at a press briefing on 17 March 2009. <http://www.unhcr.org/49bf80142.html>

51 ONIC, "Palabra dulce, aire de vida" *Forjando Caminos para la Pervivencia de los Pueblos Indígenas en Riesgo de Extinción en Colombia*. ("Sweet words, breath of life" Forging Paths for the Survival of Indigenous Peoples at Risk

of Extinction in Colombia), 2010, p.7. Most of these 32 indigenous peoples are found in the Amazonia and Orinoquía Regions of Eastern Colombia.

52 The Constitutional Court lists 34 individual indigenous peoples while the ONIC list 32; two of whom have also been named by the Constitutional Court in their Order 004.

53 *Concluding observations of the Committee on the Elimination of Racial Discrimination – Colombia* (Consideration of reports submitted by States parties under Article 9 of the International Convention on the Elimination of all Forms of Racial Discrimination). (CERD/C/COL/CO/14), 28 August 2009, paragraph 18.

54 According to data from the Agustin Codazzi Geographical institute (IGAC), quoted in Colombian Platform for Human Rights, Democracy and Development III *Civil Society Alternative Report to the Committee on Economic, social and Cultural Rights (Executive Summary)*, March 2009, paragraph 34.

55 According to the Colombian government, nearly 27 per cent of the country, totalling some 31 million hectares, has been allocated to the indigenous population. See Palabras del Presidente Álvaro Uribe en el Consejo Comunal de Quetame, Octubre 18 de 2008 (Quetame - Cundinamarca) http://web.presidencia.gov.co/discursos/discursos2008/octubre/cc215_18102008.html

56 This is the case of the 11,382,271 hectares acquired by the State for the Nasa. Of the 9,047,600 hectares given to the indigenous peoples in northern Cauca only 40% was land suitable for

agricultural and livestock production. See Colectivo de Abogados José Alvear Restrepo (CCAJAR) Press Release 'IACHR meets privately with ACIN to follow up on the case of the 'El Nilo' Massacre', 28 October 2008. See also ONIC, 'Informe al Relator Especial de la ONU para los derechos de los Pueblos Indígenas', July 2009.

57 Report of the UN Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, James Anaya, 8 January 2010 (A/HRC/15/34/), paragraph 37

58 The same is also true of extreme poverty, with 12 per cent of Colombia's urban population living in extreme poverty compared to 32 per cent in rural areas. Official government figures, MESEP – Resultados Fase 1: Emplame de las Series de Mercado Laboral, Pobreza y Desigualdad, August 2009.

59 ONIC, *Autoridad Nacional De gobierno Indígena, Agosto de 2009*. According to official figures, from 2005 the national poverty average was 49.2% and extreme poverty stood at 14.7%, while the figures for rural areas was 68.2% and 27.5% respectively.

60 Mesa Pueblos Indígenas, DESC and el Observatorio Indígena de Políticas Públicas de Desarrollo y Derechos Étnicos, *Los Derechos Económicos, Sociales y Culturales (DESC) de la población indígena*, 2009.

61 UNICEF figure cited in ONIC, "Palabra dulce, aire de vida" *Forjando Caminos para la Pervivencia de los Pueblos Indígenas en Riesgo de Extinción en Colombia*. ("Sweet words, breath of life" Forging Paths for the Survival of Indigenous Peoples at Risk

of Extinction in Colombia), 2010, p.37.

62 Report of the UN Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, Mr. Rodolfo Stavenhagen, Mission to Colombia, E/CN.4/2005/88/Add.2, 10 November 2004.

63 Colombian National Statistics Department (DANE), 'Colombia una nación multicultural; su diversidad étnica' ('Colombia, a multicultural nation; its ethnic diversity'), www.dane.gov.co/censo/files/presentaciones/grupos_eticos.pdf

64 Illiteracy amongst the general population aged 15 and over is 7.89 per cent (Colombian Platform for Human Rights, Democracy and Development *III Civil Society Alternative Report to the Committee on Economic, social and Cultural Rights (Executive Summary)*, March 2009). According to government estimates for the indigenous population this figure is 28.6 per cent – Report by the UN Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, James Anaya, 8 January 2010 (A/HRC/15/34/), paragraph 54.

65 *Concluding observations of the Committee on the Elimination of Racial Discrimination - Colombia (CERD/C/COL/CO/14)*, 28 August 2009, paragraph 22.

66 Observatory for Racial Discrimination, Colombian Commission of Jurists, National Indigenous Organisation of Colombia, *Alternate Report to the Fourteenth Report presented by the Colombian State to the Committee for the Elimination of all Forms of Racial Discrimination, Executive Summary*, paragraph 9, July 2009.

67 Report of the UN Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, James Anaya, 8 January 2010 (A/HRC/15/34/), paragraph 50

68 *Ibid*, paragraph 52.

69 Mesa Pueblos Indígenas, DESC and el Observatorio Indígena de Políticas Públicas de Desarrollo y Derechos Étnicos, *Los Derechos Económicos, Sociales y Culturales (DESC) de la población indígena*, 2009.

70 ONIC, "Palabra dulce, aire de vida" *Forjando Caminos para la Pervivencia de los Pueblos Indígenas en Riesgo de Extinción en Colombia*. ("Sweet words, breath of life" Forging Paths for the Survival of Indigenous Peoples at Risk of Extinction in Colombia), 2010, p.43.

71 Organización Panamericana de la Salud, Departamento y Gobernación del Choco, *Indicadores Básicos en Salud, Choco 2007*, 2008.

72 Gloria Alcaraz, Universidad de Antioquia and Zobeida Barrios, Oxfam GB, *Resumen Informe Sobre Encuesta De Morbilidad Sentida y Mortalidad En Niños Menores De 7 Años De Los Municipios De Riosucio Y Carmen Del Darien, Choco, Colombia*, April 2007

73 *Ibid*.

74 Figures taken from: El Programa Mundial de Alimentos – PMA, el Fondo de Naciones Unidas para la Infancia – UNICEF y el Programa de las Naciones Unidas para el Desarrollo – PNUD, *Análisis De Las Condiciones de Vulnerabilidad de la Población Indígena en el Departamento De Chocó*, Abril 2009.

75 Article 330 http://confinder.richmond.edu/admin/docs/colombia_const2.pdf

76 Constitutional Court Auto 004 2009, Paragraph 2.3.1 (*La precariedad en la titulación de tierras en algunos casos es un factor que facilita ampliamente el despojo y la invasión territorial*)

77 Report of the UN Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, Mr. Rodolfo Stavenhagen, Mission to Colombia, E/CN.4/2005/88/Add.2, 10 November 2004.

78 The Political Constitution of Colombia of 1991, Article 330 'Paragraph'.

79 UN International Labour Organization (ILO) Convention No. 169 concerning the rights of indigenous and tribal peoples, Article 7.1

80 ILO Convention 169, Article 15.2

81 ILO Convention 169, Article 6.2

82 United Nations Declaration on the Rights of Indigenous Peoples, Articles 17-19, 30 and 33

83 *Ibid*, Article 32.

84 Constitutional Court Rulings C-175 of 2009, C-030 of 2008 and C-461 of 2008, respectively.

85 Articles 2, 56 and 60 of Law 1152 of 2007 created subsidies for the purchase of land but only businesspersons who presented project proposals in keeping with the policies of the Ministry of Agriculture could access them. Article 100 conditioned the adaptation of land to business tenders for agro-industrial production projects prioritized by the Ministry.

86 Observatory for Racial Discrimination, Colombian Commission of Jurists, National Indigenous Organisation of Colombia, *Alternate Report to the Fourteenth Report presented by the Colombian State to the Committee for the Elimination of all Forms of Racial Discrimination, Executive Summary, paragraph 7*, 2009.

87 Report of the UN Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, James Anaya, 8 January 2010 (A/HRC/15/34/), paragraph 44

88 Report of the UN Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, Mr Rodolfo Stavenhagen, Mission to Colombia, E/CN.4/2005/88/add.2, 10 November 2004, paragraph 108.

89 Report of the UN Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, James Anaya, 8 January 2010 (A/HRC/15/34/), paragraph 42

90 UN HCHR Press Release 'El Relator Especial de Naciones Unidas sobre pueblos indígenas concluye visita a Colombia', 27 de julio de 2009. Available at <http://www.hchr.org.co/documentoseinformes/documentos/relatoresespeciales/2009/relatoresespeciales/2009/php3?cod=4&cat=80>

91 "The three communities of the Urada Jiguamiandó Indigenous Reservation, Alto Guayabal-Coredoctio, Urada and Nuevo Cañaveral, are of the Emberá Dobida Indigenous people. Their traditional territory—titled and legally recognized since 2003, is located in the

Jiguamiandó River basin in the municipality of Carmen del Darien, Department of Chocó. The Emberá people maintain many of their distinct cultural traits, including their own forms of political and social organization, mythology, traditional medicine, dress and history. According to traditional law, the maximum authority of the communities are the general assembly's of the local cabildos (indigenous government), formed by every family from each community. Their political and legal representative is the local governor elected by each community."

Unpublished document by Inter-Church Justice and Peace Commission (CIJP), March 2010.

92 Ibid, "The Mandé Norte mining project is made up of nine separate mining concessions, granted in February 2005, for the exploration and exploitation of copper, gold, molybdenum and "all other exploitable minerals." The concessions cover an area of approximately 160 km² between the Murindó Municipality, Department of Antioquia, and the Carmen del Darien Municipality, Department of Chocó. In addition to the Urada Jiguamiandó Reservation, the project will directly affect the Chageradó-Turriquitadó River and Murindó River Indigenous Reservations and the collective territory of the Afro-descendent Communities of the Jiguamiandó River Basin."

93 Ibid, "In territory inhabited by the Emberá people of the Jiguamiandó River Basin, there exist several important sacred sites known as "Jaikatuma." The initial area of mining activities of the Muriel Corporation "La Rica" lies in one of these sites: *Ellausakirandarra*, It

is here that there, "...live the malignant spirits that the *Jaibana* [traditional doctors] have expelled. Through the work of our traditional wise men, these spirits remain far away from our communities and we avoid people getting hurt or sick. To open the bowels of *Ellausakirandarra* is to free those spirits and endanger the physical and spiritual wellbeing of the indigenous peoples."

94 Unpublished article by Tom Bewick who interviewed indigenous groups in nine communities in the area in summer 2009

95 'Emberas del Chocó resisten a la minería y la militarización', Sistema e Investigación Indígena, ONIC see: <http://www.onic.org.co/actualidad.shtml?x=35985>

96 Inter-Church Commission of Justice and Peace, 'Respuesta a las infamias de la Muriel Mining Corporation por los abusos contra el pueblo Embera', Bogotá, 03 de julio de 200, in *DerVer* 571 E-Bulletin.

97 Submission to the UK Parliamentary Joint Committee on Human Rights, 'Rio Tinto and the impact of the Mandé Norte/Murindó mining exploration project on indigenous Embera and Afrocolombian communities in the provinces of Choco and Antioquia, Colombia', 2009

98 Ibid.

99 Between the 24 and the 26 of February 2009, the communities Alto Guayabal-Coredocito, Urada and Nuevo Cañaveral, together with 9 other indigenous communities affected by the Mandé Norte Project, held an internal "People's Consultation."

100 Report by the Organización Indígena

de Antioquia, 'Informe Misión Humanitaria De Verificación, Comunidad Indígena Embera Katio de Alto Guayabal-Urada, Jiguamiandó Municipio de Carmen del Darien, Antioquia-Chocó, Días 5 y 6 de febrero 2010.' (*Humanitarian Verification Mission by the Indigenous Embera Katio Community from Alto Guayabal-Urada, 5 & 6 of February 2010*).

101 Ibid.

102 Presentation by James Anaya at 'Seminario sobre la Situación de los Pueblos Indígenas en Colombia', El Rosario University, Bogota, Colombia, July 2009.

103 "minga" means a traditional indigenous meeting or activity for the collective good

104 Amnesty International, *The Struggle for Survival and Dignity. Human Rights Abuses against Indigenous Peoples in Colombia*, February 2010. AMR 23/001/2010.

105 See Palabras del Presidente Álvaro Uribe en el Consejo Comunal de Quetame, Octubre 18 de 2008 (Quetame - Cundinamarca) http://web.presidencia.gov.co/discursos/discursos2008/octubre/cc215_18102008.html

106 See: CNN, 'Two dead, 100 hurt in Colombian clashes', 15 October 2008, <http://edition.cnn.com/2008/WORLD/americas/10/15/colombia.clashes/index.html>; BBC Mundo 'Colombia: indígenas bloquean vías' ('Indigenous Peoples block roads'), 15 October 2008 http://news.bbc.co.uk/1/hi/spanish/latin_america/newsid_7670000/7670867.stm; EcoDiario.es 'Indígenas colombianos mantienen protesta por ancestrales reivindicaciones', 18 Octubre 2008 <http://>

ecodiario.economista.es/internacional/noticias/811338/10/08/Indigenas-colombianos-mantienen-protesta-por-ancestrales-reivindicaciones.html

107 ABColombia translation of President Uribe's words cited in the Colombian newspaper *El Espectador*: "El país ha hecho un inmenso esfuerzo. Diálogo sí, violencia no. Además, no aceptamos trampas, porque se infiltran terroristas, nos masacran a los policías, ejercen toda clase de violencia, y enseguida nos acusan ante la comunidad internacional, porque simplemente nosotros actuamos y evitamos los bloqueos y enfrentamos la violencia. Y todo es con el propósito de bloquearle a Colombia pasos tan importantes como la aprobación del TLC." 15 October 2008. <http://www.elespectador.com/noticias/nacional/articulo84186-gobierno-arremete-contra-protesta-indigena>

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