

Afro-Colombian people, understood as the black, African descent, raizal, and palenque communities living today in Colombia, make up approximately 10.5% of the Colombian population according to the national census of 2005, while Afro-Colombian organisations believe that in reality this figure could rise to as high as 25%. Their ancestors arrived in Colombia in conditions of slavery and this legacy persists to date expressed as generalized structural discrimination. Representatives from Afro-Colombian communities highlight the existence of structural discrimination in access to education, employment, housing and justice, as well as effective participation in economic and political life. In this sense, Colombian Constitutional Court Ruling 005 (2009) has noted that "given the historical situation of exclusion and segregation that Afro-Colombians have faced, they should enjoy special protection from the State." Persistent structural discrimination and armed conflict contribute to the vulnerability of Afro-Colombian people, together with the existence of mining and agricultural processes in certain regions which cause severe strain on their ancestral lands. The inadequate legal and institutional protection of the collective territories of Afro-Colombians also contributes to this situation.



Gay McDougall, UN Independent Expert on Minority Issues, in her report on her visit to Colombia in 2010, highlights the extreme poverty experienced by Afro-Colombian communities. This group is among the sectors with lower income per capita, the highest rates of illiteracy, infant mortality and alarming rates of preventable diseases. McDougall noted that regions with greater presence of this population (Bolívar, Cauca, Córdoba, Chocó and Nariño) are precisely those which exhibit the highest rates of poverty, with 80% of the population without their basic needs met and maternal and child mortality rates which double the national average.

Effects of armed conflict on the Afro-Colombian Population



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In their collective territories, Afro-Colombians suffer a disproportionate level of violence related to the internal armed conflict. According to the human rights organisation Codhes, more than 12% of this population is suffering the impacts of forced displacement, and 98.3% of displaced Afro-Colombians live below the poverty line. They also suffer frequent killings, extrajudicial executions, forced recruitment into the conflict and forced disappearances. McDougall has expressed concern about the extremely high level of impunity for these crimes, including 99.8% for the crime of forced displacement, and the absence of reparation for victims. Up to 80% of displaced Afro-Colombians live in the poorest and most dangerous areas of major cities.

Some data related to Afro-Colombian communities:

- 30% illiteracy rate (national average 16%)
- Life expectancy of Afro-Colombian women 66.7 years (compared with 78 years average).
- In Chocó, the infant mortality rate is 54% (in the city of Medellín it is 8%)
- 10% of Afro-Colombian children between 6 and 10 have no access to primary education.

Legislation and Resistance

In the midst of armed conflict, structural discrimination and the imposition of a large-scale development model in their territories, Afro-Colombian communities have organized to struggle peacefully for the fulfillment of their human rights, inclusion and equality.

The efforts of organized Afro-Colombians led to the recognition in the Constitution of 1991 of several of their cultural and territorial rights. Law 70 (1993) establishes the mechanism for collective titling of their lands and prohibits racial discrimination against Afro-Colombians. In addition, Law 21 (1991) ratified the Convention 169, which grants the right to prior consultation with indigenous and black communities before implementing development projects in their territories.

Many Afro-Colombian organisations seek to defend the human rights of their communities, organized as collective territories and communities in nonviolent resistance, struggling for the legal recognition of their territories, and rejecting the presence of any armed group. Because of this stance, Afro-Colombian communities systematically face threats to their life and work.

Afro-Colombians and economic megaprojects

Another factor leading to violence and dispossession in territories where Afro-Colombian people live, similar to the situation in the territories of indigenous peoples and subsistence farming communities, is related to the interests of



national and transnational corporations to exploit natural resources within these lands. The pressure exerted by companies to implement economic megaprojects in Afro-Colombian territories increases the vulnerability of these communities. Major economic projects in infrastructure, agribusiness and natural resource extraction are currently being implemented in areas affecting the collective territories of Afro-Colombian communities, sometimes as a result of processes of violent dispossession of the land, and without adequate processes of free, prior and informed consultation with these communities.

In Judgement T1045A (2011), the Colombian Constitutional Court ordered a mining project in the municipality of Suárez (Cauca) to be stopped, due to a lack of prior consultation with the Afro-Colombian people who live there and the potential negative impacts in their lives. Subsequently, in July 2011, José Santos Caicedo, a member of the process for Black Communities (PCN) and Armando Caracas Carabalí and Aníbal Vega community leaders, received threats after opposing the actions of mining companies in the area.

The Colombian National Development Plan 2010-2014 and the Trade Agreement between the EU and Colombia, promote the development of the extractive industry and agro-industry, which will lead to greater pressure and cause more serious impacts on the lands of Afro-Colombian people.

If we add that Colombia does not comply with its constitutional mandate to carry out free, prior and informed consultation with indigenous peoples for these projects, the burning question is whether the European Union and its companies can be assured that their policies are not contributing to the massive violation of the human rights of Afro-Colombian people.

Recommendations:

The Office of the High Commissioner for Human Rights in Colombia, the Committee on the Elimination of Racial Discrimination (CERD) and the UN Independent Expert on Minority Issues have issued recommendations to the State calling upon them to address this serious situation. However, to date the situation remains critical. Ruling 005 (2009) issued by the Colombian Constitutional Court on Afro-Colombian people at risk of displacement, states that this population is among the most affected by forced displacement and that the State has not recognized the root structural problems causing this situation. Nor have they created and implemented programs and differential protection measures for this particularly discriminated against and vulnerable sector. The recommendations of the UN, the OAS and the Constitutional Court continue to be unfulfilled.

It is urgent that the European Union within the framework of Political Dialogue and Human Rights Dialogue, urge the Colombian government to:

- Strengthen the Early Warning System in the Human Rights Ombudsman's Office, prioritize the prevention of new forced displacement and the safe return of communities to their lands, in accordance with the provisions of the Constitutional Court (Ruling 005, Ruling 092) and the UN Principles on Restitution (Pinheiro Principles).
- Ensure the protection of Afro-Colombian victims claiming restitution of their lands, in consultation with their representative organisations. Investigate and bring to justice cases of violations of the human rights of Afro-Colombian people
- Conduct real processes of prior consultation with Afro-Colombian communities to ensure the right to free, prior and informed consent. Urgently implement the Constitutional Court ruling T1045A Colombia (Suarez, Cauca), referring to the suspension of mining licenses in the area of La Toma, until a free, prior and informed consultation has been carried out with communities, and other judgments of the Court referring to the rights of Afro-Colombian people
- Comply with the recommendations of the United Nations system including the Universal Periodic Review (2008), the CERD Committee (2009), and the Special Rapporteur on minority issues (Visit to Colombia, 2011)
- Pass legislation to give effect to the provisions of the Constitution relating to non-discrimination that expressly prohibit discrimination based on race and ensure that sufficient resources are available to implement these provisions

We ask the European Union, as part of its strategy of cooperation and trade policy, to:

- Create a binding legislation to require companies to meet the human rights of Colombians, including Afro-Colombians, subsistence farmers and indigenous peoples
- Include specific support for the implementation of the rights of Afro-Colombian communities in the new cooperations strategies for Colombia 2014-2020

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