



THE STRUGGLE FOR SURVIVAL AND DIGNITY

HUMAN RIGHTS ABUSES AGAINST
INDIGENOUS PEOPLES IN COLOMBIA

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‘In each moment of tragedy we have relied on our roots and our word, each time they beat us we respond with reason and the strength of unity, each time it is necessary, the mobilization of thought and peaceful action is our tool to live.’

Cauca Regional Indigenous Council, 12 February 2007

THE INTERNAL ARMED CONFLICT

Colombia’s internal armed conflict has pitted the security forces and paramilitaries against guerrilla groups for more than 40 years. It has been marked by extraordinary levels of human rights abuses and violations of international humanitarian law, with civilians by far the principal victims. Tens of thousands of civilians have been killed. Thousands more have been subjected to enforced disappearance by the security forces or paramilitaries, or abducted by guerrilla groups. Between 3 and 4 million people have been forcibly displaced, mostly as a result of the conflict. Hostage-taking, above all by guerrilla groups, and torture by the security forces, paramilitaries and guerrilla forces, are among the tactics of terror used. The conflict has also been marked by the use of child soldiers and by widespread sexual violence against girls and women.

There is little agreement on the underlying causes of the long-running conflict in Colombia. However, the fighting has provided a useful cover for those seeking to expand and protect economic interests. More than 60 per cent of displaced people in Colombia have been forced from their homes and lands in areas of mineral, agricultural or other economic importance. The civilian population continues to bear the brunt of the violence, with Indigenous Peoples and Afro-descendant and campesino (peasant farmer) communities

particularly hard hit. All parties to the conflict have been responsible for a sustained campaign of serious human rights abuses and violations of international humanitarian law. The main protagonists in the conflict are:

THE ARMED FORCES

For over 40 years there have been numerous and persistent reports documenting the direct responsibility of the security forces in grave human rights violations and their collusion with paramilitary groups. These abuses continue today. Of particular concern in recent years has been the extrajudicial execution of hundreds of civilians by the security forces. The government was finally forced to take action to combat these killings, and the number of reports of extrajudicial executions fell sharply in 2009. The Office of the Attorney General is investigating some 2,000 such killings going back several decades.

PARAMILITARY GROUPS

Paramilitaries have their origin in legally constituted civilian “self-defence” groups created by the Colombian army in the 1970s and 1980s to act as auxiliaries during counter-insurgency operations. Although they were outlawed in 1989, because of concerns about serious human rights violations, these groups continued to grow in the 1990s and early 2000s and to operate in close co-ordination with the

security forces. The main role of paramilitaries was to carry out the dirty war tactics of the armed forces’ counter-insurgency strategy, characterized by the systematic and widespread violation of human rights. The use of paramilitaries helped the armed forces avoid increasing international pressure to respect human rights. Despite government claims that all paramilitaries demobilized in a government-sponsored programme that began in 2003, such groups continue to operate – sometimes in collusion with or with the consent of the security forces – and to commit serious human rights violations.

GUERRILLA GROUPS

The first of the guerrilla groups emerged in the 1950s. Armed groups linked to the Communist and Liberal Parties were driven into remote parts of the county and were the nucleus of the largest guerrilla group, the FARC. Over the decades, the guerrillas created extensive strongholds, principally in rural areas, but in recent years they have been driven back. Guerrilla groups, notably the Revolutionary Armed Forces of Colombia (Fuerzas Armadas Revolucionarias de Colombia, FARC) and the smaller National Liberation Army (Ejército de Liberación Nacional, ELN) are responsible for repeated and serious human rights abuses and violations of international humanitarian law.



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INTRODUCTION

The impact of Colombia's long-running internal armed conflict on Indigenous Peoples has been profound and destructive. They have been killed, harassed and driven from their lands by all the parties to the conflict. Despite their determined refusal to be drawn into the hostilities, the threats facing Indigenous Peoples are intensifying.

According to the National Indigenous Organization of Colombia (Organización Nacional Indígena de Colombia, ONIC), at least 114 Indigenous women, men and children were killed and thousands forcibly displaced in 2009, largely as a result of the conflict. According to the Director of the Office in Colombia of the UN High Commissioner for Human Rights, the FARC guerrilla group were responsible for most of these killings, although all the parties to the conflict, including paramilitary

groups and the security forces, have been responsible for repeated human rights abuses against Indigenous Peoples and for failing to respect their rights as civilians.

The Awá Indigenous People were particularly hard hit in 2009 and, according to ONIC, accounted for more than half of all killings of Indigenous people during the year. The catalogue of human rights abuses inflicted on the Awá is emblematic of the dangers facing Indigenous Peoples in Colombia today.

The Awá collectively own the land and rivers of the *resguardo* (Indigenous reservation) of El Gran Rosario in Tumaco Municipality, Nariño Department. They live in an area of strategic importance for the parties to the conflict. FARC and ELN guerrillas, paramilitary groups and drug-trafficking gangs are all active in the area, as are the Colombian security forces. The Awá, like all other Indigenous Peoples, continue to insist on their right not to be drawn into the conflict

An Awá child looks at the coffins of 12 Awá, among them seven children, killed on 26 August 2009.

and to be respected as non-combatants. For example, although members of the Awá are intimately familiar with the region, they have refused to act as guides for any of the warring parties. Nevertheless, armed groups continue to forcibly recruit men, women and children, while many are pressured into acting as guides or informants.

In 2009, at least two massacres were carried out against the Awá in Nariño Department. The first, on 4 February, was carried out by the FARC and resulted in the deaths of 15 people, including two pregnant women, in Barbacoas Municipality. On 26 August 2009, 12 Awá, including six children and an eight-month old baby, were killed and several more injured in El Gran Rosario by gunmen wearing military uniforms and hoods who



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attacked the community at 5am. Among those killed were Tulia García and her sons. Tulia García had been a witness to the killing of her husband, Gonzalo Rodríguez, by army soldiers on 23 May 2009 and had subsequently received threats.

During 2009, hundreds of Awá were displaced by the violence in Nariño Department and fled to seek refuge in the town of Tumaco. Following the August massacre, 300 Awá, including 100 children, fled to Tumaco, leaving their homes, belongings and livelihoods behind. Their living conditions in Tumaco were a cause of great concern. Weeks after arriving, people were still living in shelters they had built themselves or sleeping out in the open. Food and water were scarce and there were no sanitation facilities.

Government officials at the highest level, as well as members of the security forces, continue to make statements linking

Indigenous rights defenders with guerrilla groups. This undermines the work of defenders in the eyes of the public and so diverts public attention away from the threats confronting Indigenous Peoples. It also helps create a climate in which human rights abuses against Indigenous Peoples are tolerated, encouraged or facilitated.

In July 2009, the UN Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people (Special Rapporteur on indigenous people) visited Colombia and expressed concern at the “grave, critical and profoundly worrying” situation facing Indigenous Peoples in the country. In particular, he called on the illegal armed groups to stop the recruitment of Indigenous children and the use of landmines – both of which had increased since the last visit of the Special Rapporteur in 2004 – and expressed concern about human rights violations committed by the security forces.

Members of the Awá Humanitarian *Minga* in the Tortugaña Telembí reservation. They were part of a commission to recover the bodies of the victims of the February 2009 massacre in which 15 Awá were killed.

The UN Committee on the Elimination of Racial Discrimination, in its concluding observations on Colombia published in August 2009, expressed concern “over the continuation of acts of violations of human rights against Afro-Colombians and indigenous peoples, including killings, extra-judicial executions, forced recruitment and enforced disappearances in the context of the armed conflict”. It also noted that “while illegal armed groups bear significant responsibility for violations, reports continue to indicate the direct involvement or collusion of State agents in such acts and that members of the armed forces have publicly stigmatised Afro-Colombian and indigenous communities”.

COLOMBIA'S INDIGENOUS PEOPLES

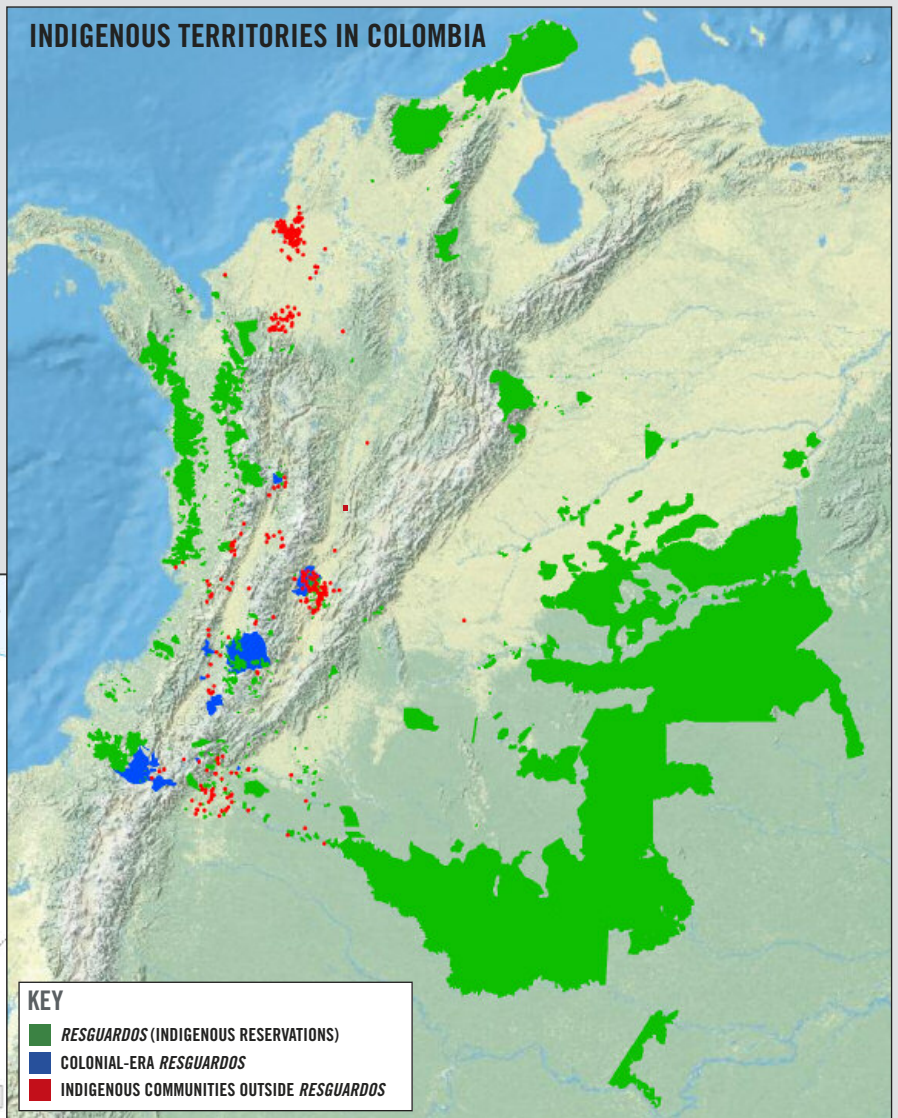
Colombia has one of the world's most diverse Indigenous heritages, encompassing a great variety of cultures, languages, social structures and ways of life. According to the 2005 census, there are nearly 1.4 million Indigenous people living in Colombia, around 3.4 per cent of the total population. Estimates of the number of distinct Indigenous groups vary: the 2005 census recorded 85 such groups, while ONIC puts the number at 102.

Indigenous Peoples live in many parts of the country, but in some departments (provinces) they make up a significant proportion of the population. For example, in Guainía, Vaupés, La Guajira, Amazonas and Vichada departments, Indigenous Peoples make up about half the population. Most Indigenous people live in rural areas, many on *resguardos*. According to the government, nearly 30 per cent of the country (a total of some 34 million hectares of land) has been allocated by the state to 710 *resguardos*. However, Indigenous representatives have pointed out that much of this land is unsuitable and does not meet the needs of Indigenous

Peoples. For example, less than 8 per cent of *resguardo* land is suitable for agriculture. Some 445,000 Indigenous people live outside *resguardos* and do not have official recognition of their collective rights over the land on which they live.

In recent years, the number of Indigenous people migrating to towns has increased, largely as a consequence of forced displacement.

According to ONIC, the survival of 32 Indigenous groups is at grave risk as a result of the armed conflict, large-scale economic projects, and a lack of state support. The risks faced by these Indigenous Peoples are so serious that in his January 2010 report on Colombia, the Special Rapporteur on indigenous people called on the Colombian state to invite the UN Special Adviser on the Prevention of Genocide to monitor the situation faced by these communities.



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Source: IGAC 2006-2008, INCODER 2007, SIGANH 2008, INCODER 2007, ONIC, CECOIN 2008. Cartographic basis: NPS 2007

CAUGHT IN THE CONFLICT

Killings, kidnappings, enforced disappearances, threats and forced displacement – all continue to ravage Indigenous communities in Colombia. ONIC has estimated that more than 1,400 Indigenous men, women and children were killed as a result of the conflict between 2002 and 2009. They also recorded more than 4,700 collective threats against Indigenous communities during this period, as well as 90 kidnappings and 195 enforced

disappearances. Those responsible for these abuses, be they members of guerrilla groups, paramilitaries or members of the security forces, are rarely held to account.

Restrictions on freedom of movement imposed by the conflict are having a devastating effect on Indigenous Peoples. At times, whole communities have been isolated and trapped (*confinamiento*), unable to access food or medicines because of the fighting. Indigenous Peoples have also been confined to their villages

because armed groups have laid landmines in surrounding areas. Access to food and essential medicines have also been blocked by the warring parties, who often argue that such goods are destined for the enemy. All parties to the conflict have occupied schools and used them as military bases, while teachers continue to be vulnerable to physical attack, denying communities access to education. The conflict has also affected access to fishing and hunting grounds, leading to further food insecurity and a rise in the level of malnutrition among Indigenous People.

ANTIOQUIA DEPARTMENT

■ Álvaro González Baquiza, a member of the Embera Chamí Indigenous People living on the Cristianía *resguardo*, was shot dead on the night of 7 February 2009 as he was walking along the road that links the municipalities of Andes and Jardín. At the time of the killing, members of the Águilas Negras (Black Eagles) paramilitary group were present in the area and had distributed pamphlets threatening the community.

■ Luis Orlando Domicó Majore, an Embera from the Jaidezabi *resguardo* in Tarazá Municipality, was killed, reportedly by the FARC, on 20 July 2009.

CAUCA DEPARTMENT

■ On 31 July 2009, José Wilson Ramón Vivas was shot dead in front of his family by unidentified men wearing hoods. He was one of four members of the Indigenous community of López Adentro in the municipality of Caloto to be killed in 2009.

CHOCÓ DEPARTMENT

■ Over the last few years, members of the Embera Indigenous People of Pichindé, Bahía Solano municipality, have been repeatedly threatened and forced off their land. They were forced to flee in October 2008 after being threatened by armed men, thought to be paramilitaries. They returned to their lands in August 2009, but were again forced to flee a few days later after armed men, who claimed they were members of the Águilas Negras paramilitary group, attacked them. During the attack, several Embera were tied up and some were beaten.

CÓRDOBA DEPARTMENT

■ On 23 August 2009, Bernabé de Agustín Roqueme, a Zenú leader from the *resguardo* of Comejón in the municipality of Purísima, 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. Other Zenú leaders continue to be threatened, including Bernabé de Agustín Roqueme's brother, Miguel de Agustín Roqueme, and Antonio de Agustín Talaigua.

LA GUAJIRA DEPARTMENT

■ The body of Marco Segundo González, a member of the Wayúu Indigenous People, 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 González had been detained on 2 August by members of the army, taken to the departmental capital, Riohacha, and released on 3 August.

■ On 28 July 2009, a device exploded next to the home of Leonor Viloría González, one of the leaders of the Indigenous women's rights organization Sütüün Jiyeyu Wayúu/Fuerza de Mujeres Wayúu (SJW-FMW), in the Arriba neighbourhood of Riohacha. A homeless man was injured in the explosion. Leonor Viloría González had repeatedly been threatened and followed by members of paramilitary groups.

More than 200 Wayúu in La Guajira Department have been killed or forcibly disappeared since 1993. The area is highly militarized and several paramilitary groups remain active there.



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GUAVIARE DEPARTMENT

- Nubia Díaz Jiw (*pictured above, centre*) was 19 years old when she and a group of other members of the Jiw (Guayabero) Indigenous People went out on 16 May 2005 to gather tins and other materials for recycling near their home in the Barrancón *resguardo* in San José de Guaviare. The *resguardo* is next to a training camp for the army's special forces. Most of the group were children under the age of 11.

One of the items the group picked up turned out to be abandoned army ordnance. The device exploded, seriously injuring three people. Nubia Díaz sustained serious burns and lost both her hands and her right eye. She has received no compensation and little help to rebuild her life and overcome her injuries.

The Jiw had fled their homes in Caño Ceiba, in the nature reserve of La Macarena in Meta Department, in February 2004 after the FARC killed two people – Nebio Fernández and Albeiro Catón, the son of Jiw leader Cristino Catón – and took control of the area, restricting the Jiw's movements and activities. Since then, they have lived on the Barrancón *resguardo*.

- Jorge Ariel Lomelin Gil, a member of the Cubeo Indigenous People was killed by a grenade reportedly thrown by an army soldier on 4 September 2009 in the *resguardo* of Centro, Miraflores Municipality. According to local residents, the grenade was thrown during a confrontation between the army and the FARC and accidentally landed on the house of an Indigenous family, killing Jorge Ariel Lomelin Gil.

PUTUMAYO DEPARTMENT

- Edilberto Imbachi Mutumbajoy, a leading member of the Regional Indigenous Organization of Putumayo (Organización Zonal Indígena del Putumayo, OZIP) and of ONIC, was shot dead by four unidentified assailants on 2 August 2009 at his home in the *resguardo* of Puerto Rosario, Puerto Guzmán Municipality. Edilberto Imbachi Mutumbajoy had been actively involved in campaigning for the rights of Indigenous Peoples at the regional, national and international level.

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THE TRAGEDY OF DISPLACEMENT

Displacement is one of the greatest threats facing Indigenous communities. Often living in areas of intense military conflict and rich in biodiversity, minerals and oil, Indigenous Peoples are at particular risk of forced displacement. Although Indigenous Peoples make up only around 3.4 per cent of the population, they account for 7 per cent of Colombia's total displaced population, according to the Director of the Office in Colombia of the UN High Commissioner for Human Rights.

charge of our families, accepting activities that are not traditional in our cultures, such as getting jobs as domestic servants or, in the worst of cases, even selling our bodies... As Indigenous women we have to fight for recognition as displaced people, fight for access to [a] health and education [system] that is not ours, prepare meals with food that is alien to our culture and body; fight so that our families don't disintegrate and our sons and daughters don't lose our culture".

2008 report by ONIC quoted in Constitutional Court Ruling No. 004

Many displaced Indigenous people have reported the cultural shock and disorientation they experience, arriving in areas where the way of life and language are radically different from their own. This fracturing can result in a breakdown of cultural continuity as young people find themselves in alien environments and deprived of the social and cultural networks and practices necessary for the survival of their communities.

Displaced people are at heightened risk of destitution, sexual violence, exploitation by criminal gangs and armed groups and discrimination. And even in the places in which they seek refuge, they may face further intimidation or violence and so

top: Women prepare cornflour (monio), by grinding it on stone, Embera Katio community in Aguasal, Chocó Department.

above: An Embera man in Chanú, Bojayá, demonstrates the traditional skills of making a boat to members of his community, 2007. The conflict and scale of displacement in Colombia pose serious threats to the cultural continuity of Indigenous Peoples and their socio-economic survival.

"if [displacement] is to urban centres it is a bit more complicated, since most of our fellow Indigenous women don't know Spanish very well, the immensity of the city frightens them, with its anonymity and lack of solidarity among the residents. The memory of our mountains and jungles and their sound kills us. We face new problems in raising our children and relating with our partners, because the city is not our customary environment. We are haunted by the images of the anguish when we had to leave, running with what little we had or could carry in order to outrun death and desolation. Amidst this anguish, we are in



Aída Quilcué (centre) during the *Minga* in Santander de Quilichao, Cauca Department, 24 October 2008.

have to flee again. The inadequate state response to the needs of internally displaced communities means that some people return to the dangerous situations they fled, but without the support and safeguards that should be provided by the state. The result is a cycle of displacement and return that has a huge cumulative impact.

STANDING UP FOR INDIGENOUS RIGHTS

“Members of the leadership council, you have 5 working days to withdraw all the board because you are corrupt, otherwise we will kill your families. Sincerely, Southern Bloc”.

This was the text message sent by a paramilitary group calling itself the Southern Bloc (Bloque Sur) to three Embera Chamí leaders from Risaralda Department on 5 October 2009: Martín Siagama, Leonardo Fabio Siagama and Ancisar Hiupa. The messages were sent a few days after the Risaralda Indigenous Regional Council (Consejo Regional Indígena de Risaralda, CRIR) published a report highlighting human rights abuses against Indigenous communities. Following the threats, the

Indigenous leaders decided they had no choice but to leave their communities for their own safety. As of December 2009, they had still been unable to return. On 23 October a traditional doctor (*jaibaná*), Lázaro Gutiérrez, was killed and his body mutilated in Pueblo Rico Municipality in Risaralda Department; he had received a series of threats. Risaralda has recently seen an intensification of the conflict and of paramilitary activity.

Indigenous leaders have been targeted for attack in different parts of the country. The aims of these attacks vary. Sometimes, leaders have been targeted in order to terrorize the local population and make them flee the area. Sometimes, the attacks are in reprisal for communities’ refusal to become involved in the conflict or for reporting abuses and supporting victims seeking justice. In other cases, the attacks were carried out to stop efforts by Indigenous Peoples to campaign for land rights. Underlying these attacks, whatever their immediate aim, is the desire to silence Indigenous leaders standing up for their communities.

Aída Quilcué is the former Chief Counsellor of the Cauca Regional Indigenous Council (Consejo Regional Indígena del Cauca,

CRIC) and one of the key figures behind the *Minga* – a national process of mobilization and awareness-raising. In 2008, the *Minga’s* activities culminated in a 30,000-strong demonstration in Bogotá demanding the return of land and improved health care and education for Indigenous Peoples.

In 2008, paramilitary groups declared Indigenous Peoples in Cauca Department “military targets”. Since then, Indigenous leaders and communities have been the target of a sustained campaign of killings, attacks and intimidation. Dozens have lost their lives, among them Aída Quilcué’s husband, Edwin Legarda, who was killed by soldiers in December 2008. Since then, Aída Quilcué has been receiving protection ordered by the Inter-American Commission on Human Rights. On 11 May 2009, her 12-year-old daughter was threatened at gunpoint outside her house.

The 2008 *Minga* was part of a broader campaign, which also involved Afro-descendant and campesino communities, in support of their civil, political and economic, social and cultural rights. Some of these protests turned violent. There were reports that the anti-riot police (ESMAD) had used excessive force in dealing with demonstrators in Cauca Department, and that dozens of protesters were injured, at least one of them fatally. There were also reports that dozens of members of the security forces were injured. Government authorities sought to undermine the protests by claiming that the FARC had infiltrated the demonstrations. Accusations which have sought to link the Indigenous movement, as well as campesino and Afro-descendant communities, to guerrilla groups have often been followed by the killing of leaders from these communities by paramilitary groups. Many leaders have also been killed by the FARC, which have accused some communities and their leaders of collaborating with the security forces and paramilitaries.



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A QUESTION OF LAND, CONSULTATION AND CONSENT

The right to traditional lands is crucial to Indigenous Peoples in Colombia, as elsewhere. It is a vital element of their sense of identity, livelihood and way of life and crucial for their future.

Lack of secure title to traditional lands, discrimination and marginalization, have exacerbated the precarious situation in which Indigenous Peoples in Colombia find themselves. Although many Indigenous Peoples live on territories which they own legally and collectively, around a third of Colombia's Indigenous Peoples live on land without land titles and have been particularly vulnerable to forced displacement. But with or without legal land titles, Indigenous Peoples continue to be

attacked by all parties to the conflict. Once they have fled in fear of their lives, their lands are sometimes opened up for large-scale economic development.

A critical issue for Indigenous Peoples is their right not to be removed from their traditional lands without their free, prior and informed consent – one of the core rights contained in the UN Declaration on the Rights of Indigenous Peoples. Economic development on their traditional lands must also be subject to the free, prior and informed consent of Indigenous Peoples. Consent must be given freely without manipulation, threat, or fear of reprisal.

When Indigenous leaders and communities try to defend their land rights and their right to free, prior and informed

Three Jiw children on the road between San José del Guaviare and Barrancón, Guaviare Department. Many Indigenous Peoples live in grinding poverty with limited access to health care. The result of long-standing discrimination can be seen in infant mortality ratios that are significantly higher than the national average in those areas with a high percentage of Indigenous inhabitants.

consent to economic developments that affect them – a right which often is not respected by the authorities – they commonly encounter significant opposition, especially if their lands are found to be rich in natural resources. This often leads to threats and killings of Indigenous people and their leaders, and to mass forced displacement.

DISCRIMINATION: THE IMPACT ON HEALTH

Discrimination against Indigenous Peoples and other marginalized groups, such as Afro-descendant communities, is longstanding, widespread and entrenched in Colombia. Its consequences can be seen in the large disparities that exist between the general population and Indigenous Peoples and Afro-descendant communities in terms of health.

According to the Director of the Office in Colombia of the UN High Commissioner for Human Rights, nationally 73 women die of pregnancy-related complications for every 100,000 live births. But in departments with a high percentage of Indigenous and Afro-descendant inhabitants, such as Guainía, the figure rises to 386 per 100,000, five times the national average. The infant mortality ratio is 19 per 1,000 live births nationally, but this rises almost threefold to 54 per 1,000 live births in Chocó and Cauca departments, both of which have large numbers of Indigenous and Afro-descendant inhabitants.

In Barranco Minas, Guainía Department, the traditional authorities (*cabildos*) of Guainía and Vichada compiled a list of 45 Indigenous people who died between January and November 2009: 40 were children aged between three months and a year. Lack of accessible, good quality medical care, lack of available transport to get to health facilities and the absence of culturally appropriate treatment, continue to be barriers to quality health care for Indigenous Peoples.

PROTECTION IN LAW

Indigenous Peoples in Colombia are entitled to all the rights guaranteed to them in international human rights law. In 2009, Colombia endorsed the UN Declaration on the Rights of Indigenous Peoples and made a commitment to “the concepts of equality, respect for diversity



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and non discrimination that constitute the foundation of the [Declaration].” This was an important step forward as Colombia had abstained when the Declaration was adopted by the UN General Assembly in 2007.

The Declaration provides a clear, authoritative statement of the human rights of Indigenous Peoples, including the right to culture; identity; free, prior and informed consent; and traditional lands. The Declaration also reaffirms that Indigenous Peoples are to enjoy all of their human rights without discrimination, and sets out a principled framework for working with Indigenous Peoples to promote their human rights. Of particular relevance to Colombia are the guarantees to Indigenous Peoples set out in the Declaration of the right to “live in freedom, peace and security” and not to be “subjected to any act of genocide or any other act of violence, including forcibly removing children of the group to another group.”

The other key international standard relating to Indigenous rights, Convention No. 169 of the International Labour Organization (ILO), has been ratified by Colombia. The Convention sets out the right

National Minga, Cali, Valle del Cauca Department, 16 October 2009.

of Indigenous Peoples to participate in decision-making processes that affect them. It also states that Indigenous Peoples have a right to decide their own development priorities and to exercise control over their own economic, social and cultural development. The Convention requires governments to respect the special importance of traditional land for Indigenous Peoples and to recognize their rights of ownership and possession. It also provides that Indigenous Peoples should not be removed from the lands that they occupy.

Colombian national law also contains important guarantees for Indigenous Peoples’ rights. The 1991 Constitution declares Colombia to be a multi-ethnic and pluri-cultural state. It recognizes the rights of Indigenous Peoples to manage the political and administrative affairs of their traditional lands. These have been reaffirmed by a series of Constitutional Court decisions. The most recent addition to this protective framework was a ruling issued by the Colombian Constitutional

Court in January 2009 on Indigenous Peoples and displacement (Constitutional Court Ruling No.004).

The Constitutional Court Ruling highlighted the situation of Indigenous Peoples whose cultural or physical survival were at risk either from the dislocation caused by displacement and dispersion or as a direct result of violence and declining numbers. It criticized both the indifference of society and the inadequacy of the response by the authorities. It also paid tribute to the efforts by Indigenous Peoples themselves to make their voices heard and hold those responsible for human rights violations to account.

“The weight of documentary evidence presented to the Constitutional Court... leaves no doubt about the cruel and systematic manner in which Colombia’s indigenous people have been victimized by a conflict which is completely alien to them and about which they have repeatedly declared themselves to be autonomous and neutral... It is an emergency which is as serious as it is invisible... The silence about the violence and the situation has until now been the rule, because of fear, pain and impotence; however, the communities themselves have recently decided to make efforts to draw attention to and publicly condemn their situation”.

Constitutional Court, Ruling No. 004, January 2009

While acknowledging that there had been some advances on Indigenous issues, in his report on Colombia the Special Rapporteur on indigenous people concluded that the country’s laws, as well as government policies and programmes, had failed to effectively protect Indigenous People and to safeguard their fundamental freedoms and human rights.

cover: Embera Indigenous house, Playa Alta Community, Chocó Department. At the time this picture was taken, in 2005, the community was at risk because of fighting between the ELN and Colombian armed forces in the region. © Jacques Merat, Archivo Fotográfico Pastoral Indígena Diócesis de Quibdó

RECOMMENDATIONS

The parties to the conflict must respect the rights of civilians, including Indigenous Peoples, not to be dragged into the hostilities. They must respect the territories in which Indigenous Peoples live and on which they rely for their livelihoods.

As such, the parties to the conflict must comply fully and immediately with the repeated and long-standing human rights recommendations of the Office of the UN High Commissioner for Human Rights and the Inter-American Commission on Human Rights, as well as those presented recently by the UN Special Rapporteur on indigenous people and the UN Committee on the Elimination of Racial Discrimination.

In particular, the Colombian government must:

- Guarantee the rights contained in the UN Declaration on the Rights of Indigenous Peoples, in particular the right of Indigenous Peoples not to be removed from their traditional lands and to give their free, prior and informed consent to any economic development on their lands.

- Comply with the January 2009 Constitutional Court ruling on Indigenous Peoples and displacement, which calls on the government to devise and implement a plan to guarantee the rights of displaced and endangered Indigenous Peoples.

- Ensure that measures are adopted to improve the protection of Indigenous Peoples displaced as a result of the conflict, in line with UN human rights recommendations, including the UN Declaration on the Rights of Indigenous Peoples and the UN Guiding Principles on Internal Displacement.

- Ensure that all public officials, including members of the security forces, stop making public statements which seek to stigmatize Indigenous Peoples and their leaders by accusing them of belonging to or siding with guerrilla groups.

- Adopt effective measures to prevent human rights abuses against Indigenous Peoples and identify, investigate and bring to justice those responsible for abuses.

Guerrilla groups must also:

- Stop recruiting Indigenous children under the age of 18. All child soldiers should be immediately released and given appropriate care by specialist institutions, in accordance with the wishes of Indigenous Peoples themselves.

- Stop using inherently indiscriminate weapons, such as anti-personnel landmines, which have had a disproportionate impact on Indigenous Peoples.

- Prohibit and put an end to the deliberate killing of non-combatants, including members of Indigenous Peoples, in all circumstances.

- Immediately and unconditionally release all civilians held by guerrilla forces and commit to put an immediate end to all kidnapping and hostage-taking.

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Amnesty International
International Secretariat
Peter Benenson House
1 Easton Street
London WC1X 0DW
United Kingdom
www.amnesty.org