**Universal Periodic Review of Colombia**

**UPR – 2018 Third Cycle**

Joint Reports presented by the Indigenous Peoples National Indigenous Organization of Colombia and Tumaco Regional Indigenous Council

Colombia has implemented commitments to avoid the practices, acts, policies and instruments that affect the human rights of indigenous peoples.

The 17 recommendations refer to:

- Physical protection of leaders and communities
- Improving the quality of education for their communities
- Participation and consultation of communities in decision-making processes that affect these communities
- Protection of the physical integrity of land, as well as all other territorial rights
- Prevention of displacement
- Measures to reduce poverty and combat the social exclusion faced by indigenous peoples and to take out the explanatory notes on the same.

**GENERAL RECOMMENDATIONS**

- Establish an integral manner without reservations, the United Nations and Inter-American System of Human Rights violations suffered by indigenous peoples.
- The rights of indigenous victims should be guaranteed within the Truth, Justice and Reparation Framework.

**RECOMMENDATIONS**

- 4,000 indigenous persons were displaced
- 827 confined. Furthermore:
- 122 indigenous were threatened and
- 38 leaders (female and male) and communes suffered human rights violations.
- 2016-2017 peace negotiation process between the Revolutionary Armed Forces of Colombia and the Colombian Government
- 11,644 human rights and IHL violations of indigenous peoples occurred:
- 58 indigenous were assassinated

**102 indigenous nations**

- Red themselves at risk of physical and cultural extinction
- 35 nations at risk according to the Constitutional Court Order 004 of 2009
- 31 others determined that the internal armed conflict and its root and related issues is placing

**Land and Territories**

Despite the advancements in territorial rights, a gap persists between the formal recognition and actual realization of rights. While this is an advancement, recognition of territorial rights is not yet advanced, especially in the context of the protection of occupied or ancestrally possessed territories. It is also the case despite the existence of 73 requests within the framework of this Decree by indigenous peoples.

**MINISTRIES IN INDIGENOUS TERRITORIES**

- 396 active mining titles in indigenous territories and
- 927 requests of mining titles (4)

**RECOMMENDATIONS**

- Meet the agreements pertaining to protection and territorial consultation that is guaranteed with the implementation of Decree 2333 of 2014. Also the titling, expansion and sanitation of indigenous reserves and the endowment and laying of lands with appropriate resources that are easily attainable is required.
- Guarantee the right to free, prior and informed consultation and consent with regards to the initiative to modify law 160 of 1994.
- Suspend the application for mining permits and works projects or activities that constitute a threat to the physical integrity, survival, and sustainability of indigenous peoples and regulate their rights in their lands, territories and resources.

**Constitution, amplification and sanitation of the reserves**

- 61 detained
- 680 requests
- 95 in process
- 524 of the cases remain in the preliminary phase.

**LEGISLATION AGAINST THE TERRITORIAL RIGHTS OF INDIGENOUS PEOPLES**

- Law 1778 of 2016, Zones of Rural, Economic and Social Development interest (DERIS)
- This law contemplates the six of indigenous ancestral territories without titles belonging to the indigenous peoples and of the national government.
- The Colombian government has not consulted this law with the indigenous peoples.
- The project modifies law 160 of 1994 by consultation of the national government.
- This seeks to adjudicate forest reserve zones to large extractive industrial companies. This is the project is what was agreed to in the peace accord and the agreements with indigenous peoples.

**Peace Agreement**

**The Nukak Peoples**

Based on the report written by Akukdara Community of Jurkuma

The Final Accord’s Ethnic Chapter contemplates specific actions concerning the Nukak in terms of: return, demarcation of land and claim.

**RECOMMENDATIONS**

- Effectively and urgently comply with the terms of the special agreement pertaining to the Nukak people which is contained in the Ethnic Chapter of the Final Peace Agreement.
- Mine-clearance activities in ethnic territories and the program for the settlement, return, demarcation and restitution of the Nukak people’s territories must be agreed upon, consultation and must guarantee the participation of this indigenous people.
- Recognize and strengthen the Nukak in self-government, specifically the council of authorities Murni Murni

**Incidence consulta:**

http://www.org.co/ @OREC_Colombia
https://akukdara.org/ @GACAkukdara

**FREE PRIOR INFORMED CONSULTATION AND CONSENT**

- Meet the obligations made in the 3,932 agreements made between the National Government and indigenous peoples with appropriate budgetary resources that are provided proportionally.
- Immediately and effectively comply with all of the agreements made with indigenous peoples in previous consultations, munici with the necessary budgetary resources required to do so.
- Apply an agreed upon route with prior, free and informed consent of the Indigenous Peoples of the Permanent Consultation Table. The later should include all efforts to regulate the previous consultation, like the construction of differentiated protocols to the fundamental rights and free and informed consultation and consent established by IDA Convention 169.

**BARxERS CONTINUE TO EXIST FOR THE FULL EXERCISE OF THE RIGHT TO FREE, PRIOR AND INFORMED CONSULTATION AND CONSENT.**

- FPIC Convention 169 of the United Nations on indigenous peoples and the Inter-American Court of Rights and Colombian Constitutional Court establish this right. Indigenous organizations report that the FPIC in Colombia is far from being a mechanism that preserves their ethnic and cultural integrity. Rather, it has become an avenue that grants legitimacy to public works, projects and other activity in ethnic territories. Despite the lack of transparency, these projects impact the lives and cultural integrity of indigenous peoples, and the communities decisions on the matter are not considered obligatory. Added to this is the fact that the National Government issued Interministerial Directive 10 of 2013 and Decree 2613 of 2013. These regulate the right to FPIC and go against IDA Convention 169 by reducing this right to an administrative process that imposes timelines and arbitrary rules on the communities. Indigenous peoples were not consulted about these normative instruments. Recently, the National Government presented to indigenous peoples, a new consultation project that limits the coverage established in IDA Convention 169, the United Nations Declaration for Indigenous Peoples and the Colombian Constitutional Court’s jurisprudence.

**REFORMS TO THE EXISTING LEGAL FRAMEWORKS**

- The Constitutional Court regulations 61 and 213 recognize the rights of indigenous peoples to the participation in consultation and consent processes.
- 213 the free, prior and informed consultation and consent of communities is necessary for any public works project, project, plan, project, and in public works projects, the communities and the citizens involved should not only be informed, but also consulted about the project. The consultation must be with a manner that is respectful and effective. This will allow the consultation process to be effective and ensure that the communities can be informed and consulted without being coerced or undermined in any way. This will allow the communities to participate in the decision-making process and have a say in the implementation of projects that affect their lives and territories.