

Colombia Universal Periodic Review (UPR) May 2018 :

A great opportunity for Canada to support the peace process in Colombia

Canada should support civil organization recommendation in the UPR process. Canada can also pressure colombian government to fulfill its obligation while Colombia is in the process of being accepted in the OECD. When Canada's Congress signed the free trade agreement it as committed to follow up on human rights issues. The critical situation of colombian social leaders, human rights defenders and community should be a priority for canadian foreign policy toward Colombia.

Our organizations have been involved with colombian civil society for many years and we support their demands. Many of their demands have been mentioned by the Office of the United Nations High Commissioner for Human Rights reports published on may 16th 2018.

Assassination of social leaders

In 2017, a total of 441 attacks including 121 killings were registered based on the OHCHR report and 36 ex-FARC members were killed.

State crimes and criminalization

The report also state that 14 killings perpetrated during social protest involves police and military. Even the political while of colombian states is challenged:

"Some of the killings of human rights defenders, especially in areas of former influence of FARC-EP, could arguably have been prevented by a timely and coordinated State response to implement the Agreement, prioritizing the rights of the population. "

While we would hope the state would protect social leaders and human rights defenders it seems criminalization of human rights defenders and social leaders is the norm. As the OHCHR report was published, two candidates from the opposition were informed by the mass media of an investigation for rebellion against them 8 days after being reelected. In a modus operandi that we've seen in the past month big judicial cases announcement even detention and then nothing happens judicially or the actual case have nothing to do with information sent to the media.

The OHCHR report states: "The sole presence of the State's security forces seeking to impose its authority through force has not contributed to create positive and sustianable change for the communities. The lack of an integrated state approach has instead led to an escalation of violence in certain parts of the country. "

Peace process and illicit crops substitution

Most of the Peace Agreement signed originally in La Havana do not exit any more and the little that exist has great implementation problem .

"Provisions in the Agreement related to the substitution of illicit crops and rural reform provide a historic opportunity for tens of thousands of small and landless farmers who wish to substitute illicit crops. The State and the international community should support substitution, and not undermine it through forced eradication, to maximize this historic opportunity where over a hundred thousand coca growers have manifest their interest in substitution. "

Meanwhile the intention to forcibly eradicate in Catatumbo is putting the all region at risk, and colombian government tries to attribute itself voluntary eradication made by communities like in Arauca.

Agreement with civil society Economic, Social and Cultural Rights

The government hasn't been fulfilling its obligation to comply to the may 2014 - 870 decree to resolve social, land and economic issues through negotiation with the agrarian summit, as OHCHR noted : "effective monitoring of implementation of obligations, are needed to avoid future protests derived from failure to fulfill previous agreements, as observed in Chocó, Buenaventura and Cauca. OHCHR has observed that the process of land restitution is seriously hampered in areas of interests for agro-industrial, mining and energy companies." Lack of compliance is leading to protest that are heavily criminalize and receive war treatment.

Militarization

"National, regional and international human rights law stipulates that the military is not responsible for public safety and law enforcement, nor for the fight against organized crime, or the fostering of social harmony and development. OHCHR is concerned with plans developed by the military² that justify their active participation in tasks of public safety, as well as other guidelines issued for the application of International Humanitarian Law instead of International human rights law to respond to organized criminal groups. OHCHR documented 11 cases of alleged extrajudicial executions in 2017"

Despite the Colombian court T- 454 – 2014 ruling the Army still use illegal methods of forced recruitment to the military service.

Based on those facts reported by the OHCHR we urge Canadian authorities to act in support of strong recommendation for the Colombian government in the UPR process. This is an historic opportunity for international community to advocate in favor of long lasting peace in Colombia.

We expect Canada to follow up on its last recommendation in the past UPR urging the Colombian state to deal with paramilitarism, impunity and social leaders persecution and assassination.

We also expect Canada to go further advocating for:

- Afro, peasants, and indigenous land and cultural rights.
- The removal the 'internal enemy' doctrine from within the military and other institutions, to ensure the non-repetition of attacks against lawyers and human rights defenders;
- Build policies for the rights of migrants, refugees and victims outside of Colombia
- Change in penal policy to deal with overcrowding.

ANNEX1 : Canada's recommendation to Colombia in the last UPR processes

A - 116.56. Continue to work constructively to implement the laws, decrees and resolutions that have been approved to combat violence against women and girls and to guarantee access to justice for victims of sexual violence

A - 116.78. Take further steps to prevent incidents of violence against all of its people, including targeted groups such as community leaders, journalists, and land claimants by improving current protection and prevention programmes, introducing education campaigns, and ensuring effective intervention and investigation by law enforcement officials

A - 116.118. Take further measures to strengthen the judicial system and to increase accountability for human rights violations, including by ensuring the investigation and prosecution of these crimes.

ANNEX 2 : People's Congress recommendations

- The Colombian State should construct a public policy dealing with illicit crops, especially for communities that have been growers or are directly impacted by the crops, that doesn't depend on the Havana peace agreements nor on any political/electoral context. This policy should be participative and consulted with organizations and communities in the territory.
- The National Government should guarantee the rights to participation, protest and the consultation of peasant, black and indigenous communities that are directly or indirectly related to illicit crops.
- Implementing the differential treatment in penal matters for the small growers is urgent. The Government and Law Enforcement should stop the criminalization and persecution to the growing families.
- The implementation of the agreements FARC-Government should involve the direct participation of the communities especially in what is related to the illicit crops, the comprehensive rural reform and political participation.
- The National Government should guarantee fiscal sustainability to implement Point 1 and 4 of the agreement in the agreed upon terms that look for the democratization of the access to land and the defense of peasant economies and beyond the agreements. It should also guarantee a structural transformation of the countryside in favor of the peasant population, the indigenous and black people, and the Colombian population, whose security and food sovereignty depends on the countryside.
- The National Government should put the brakes on the neoliberal driving force in the Colombian countryside and guarantee the rights to life and permanence in the territory for the rural populations. To do this it should follow through on the agreements with the social and peasant organizations, the Community Action Assemblies and the communities in general and defend the rights of the population above the demands of the companies and investors.
- Promptly and effectively investigate reported acts of torture, regardless of the context in which they occur, adopting administrative measures designed to suspend the official in question from his duties and/or transfer him to a different position while the investigation is in progress, with a view to preventing re-victimization or obstruction of justice.
- Promptly and effectively investigate all attacks on land defenders, human rights advocates, trade unionists, activists, and others.
- Reformulate the protection mechanisms administered by the National Protection Unit so as to adapt them to the contexts and interests of the affected individuals and processes.
- Transfer military and police commanders out of regions with paramilitary activity whenever they commit criminal acts affecting the communities due to ignorance of their role as guarantors of human rights.

ANNEX 3: Colombian Caravana UK Lawyers Group' s recommendations

The Colombian Caravana, proposes the following recommendations be made to Colombia in order to improve the situation of human rights defenders and legal professionals, ensure sustainability of the Peace Agreement, and strengthen rule of law:

- i. Ensure impartial, prompt and effective investigations into all crimes committed against lawyers, legal professionals and human rights defenders;
- ii. Remove the 'internal enemy' doctrine from within the military and other institutions, to ensure the non-repetition of attacks against lawyers and human rights defenders;
- iii. Tackle stigmatisation by making public statements supporting the work of lawyers, legal professionals, and human rights defenders, recognizing that their work is essential to maintain long-lasting peace;
- iv. Ensure adequate protection of lawyers, legal professionals and human rights defenders so that they can continue with their work;
- v. Include "legal professionals" in the categorisation of the groups that require specific protection measures by the National Protection Unit, so that they can continue with their important work;
- vi. Formally invite the UN Special Rapporteur on Human Rights Defenders, and ensure such a visit takes place and that the mandate holder has access to meet individuals who he deems necessary.

ANNEX 4 International Network of Human Rights' recommendations

About the situation of the migrants, refugees and victims outside of Colombia

1. Hold a summit of States between Colombia and the host countries that will allow the definition of the situation of Colombian refugees and victims once the armed conflict in Colombia is over.
2. Make efforts to establish tripartite mechanisms with each host country and UNHCR, in order to achieve the local integration of Colombian refugees who do not wish to return. This process should involve exodus organizations so that those who want to stay do so with basic and sufficient guarantees without impairment of their rights both as Colombian citizens and refugees who attend International Humanitarian Law and the legal norms in force in the countries where they live.
3. Automatic recognition of statutory refugees as victims within the Single Victims System
4. To carry out a population census and characterization of the Colombian population abroad.
5. Build the historical memory of migration, shelter and victims abroad as a mechanism of reparation, The Commission for Clarification, Truth, Coexistence and Non-Repetition, should create a specific commission for the Colombian diaspora, which will have to generate a special report on the exile and the Colombian migration. In this subcommittee, migrants should be represented and should have a different approach.
6. The economic reparation of refugees and victims overseas should be guaranteed in the same conditions they had at the time of leaving Colombia.
7. To form a group by different countries of the world, UNHCR, IOM, the government of Colombia and the different migration organizations, victims abroad and the Colombian refuge to follow up on the human rights situation be constituted of Colombians abroad.
8. The Ministry of Migration should be created by the Colombian State.
9. Support and establish agreements with the host countries for the better - labor, educational, sports and cultural of the migrants.
10. Support associations that watch over migrants and associations of victims of armed conflict, as well as human rights defenders.
11. To approve a law in which embassies and consulates can help and support artists, athletes from the Colombian diaspora who are in a calamitous state or inattention outside the national territory.
12. Guarantee voluntary return, return of victims, as well as guarantee to those who do not want to return at least a decent job in the host country; That an agreed, voluntary and guaranteed Return Plan be structured with the diaspora and the governments of the host countries. This demand and right should not be interpreted and assumed as the repatriation proposed by the European Union as an official policy.

13. To agree with universities and SENA vocational training courses in which vocational training gives a good result in both ways.

14. There should be a space and state guarantees for the participation of the Colombian diaspora in the implementation of the Havana agreements and the presentation of proposals to the Mesa de Quito with the ELN. Likewise, migrants, victims abroad and refugees, have full right to participate in all institutional spaces where their problems are addressed: National Truth Commission, National Historical Memory Center, Victims Unit, National Migration Board.

15. Proportional representation must be granted to migrants in the Colombian Parliament, granting them the proportionality that corresponds to them according to the number of Colombians living abroad as a special constituency and for this it is necessary to reform articles 171 and 176 of The Political Constitution of Colombia.

Regarding Citizen Participation Mechanisms in Colombia (Popular Consultations, Free, Prior Informed Consultation) and the Human Rights Situation

1. Provide incentives to ensure that consultations with all stakeholders are carried out before any investment projects are undertaken.

19 A/HRC/24/6/Add.12. Abide by the results of the Popular Consultations and previous consultations and recognize them as an instrument that strengthens citizen participation and, therefore, democracy in Colombia.

3. Accept the decisions that are autonomously and democratically taken by the Municipal Councils of Colombia, namely prohibiting industrial mining, exploitation of hydrocarbons and the construction of dams in their territories. These decisions should be accepted as current norms in Colombia.

4. Respect the right for communities and stakeholders to receive all information regarding mining and other projects, as well as their consequences on all affected communities should be respected.

5. Refrain from presenting bills that restrict the space for engagement and remove the binding nature of the Popular Consultations and previous free and informed consultations; any regulation of the consultations must be discussed in advance with the communities that may be affected.

6. Take up the recommendations that the Working Group on Business and Human Rights made to Mexico, in the sense of consulting all communities affected by development projects: "Consultations must be undertaken as early as possible in the process of project design, and must leave open the option that some projects may not be viable."

7. Provide all necessary guarantees so that the consultations can be carried out. Among these: avoid lowering the number of polling stations, refrain from sending messages that mislead citizens, avoid excessive police controls that would affect the proper conduct of the consultations, schedule consultations with sufficient notice for citizens to prepare their participation on equal terms.

8. Protect civil society leaders and organizations leading the consultation processes throughout Colombia.

ANNEX 5 : Afro-Colombians' Human Rights: A Call for Racial and Gender Justice in Peacebuilding – MADRE and Proceso de Comunidades Negras (PCN)

The Colombian Government should ensure continued operation of CSIVI, and continued collaboration and consultation between Afro-Colombian and Indigenous authorities including women representatives and organizations, and the CSIVI in peace implementation.

The Government must commit the legal, institutional and financial resources necessary for implementing the peace implementation framework plan within Afro-descendant and Indigenous territories and in accordance with the framework plan indicators developed by the Special High Level Body for Ethnic Peoples.

The Government must ensure full implementation of the Ethnic Chapter of the Peace Accord by allocating a specific and adequate fund for it, and by working with the Special High Level Body for Ethnic Peoples to ensure meaningful participation of and consultation with Afro-descendant and Indigenous authorities and communities in implementation.

The Colombian Government should ensure ongoing approval of the Office of the Representative of the UN High Commissioner for Human Rights in Colombia.

Ensure that the instruments, mechanisms, and competencies implementing the Peace Accord, have routes for the exchange of information on territorial progress, with the High Level Gender Body and Special High Level Body for Ethnic Peoples, and especially with the institutions that operate mechanisms for truth, justice, reparation and guarantees of non-repetition, in order to facilitate the territorialization of the Ethnic Chapter's women, family, and generation approach.

Ensure implementation of the Afro-Colombian Statistic Information System requiring documentation of ethnic identity, gender, and sexual orientation in institutions related to access to justice and those related to access to economic, social and cultural rights from an Afro-descendant perspective.

Immediately provide security in Afro-Colombian territories, in consultation and collaboration with Afro-Colombian Community Councils and women's organizations, in order to prevent violence against them, and to ensure that paramilitaries and other armed actors are investigated and held fully accountable for violence, including gender-based violence. This should include providing resources for training and strengthening Afro-Colombian traditional security forces, the Cimarrona guard.

With input from Afro-Colombian and Indigenous women's organizations, develop and carry out measures to ensure that Afro-Colombian and Indigenous women are able to conveniently access justice and reparations for gender-based violence. This should include enforcement of existing laws, training of local responders and judiciary personnel, infusion of resources for adequate access to justice and for compliance monitoring of legal protections.

In consultation with Afro-Colombian women's organizations and authorities, establish safe and anonymous ways of reporting conflict-related sexual violence to ensure victims are able to access the justice system and report violence in their communities.

Ensure there is a line of direct communication between Afro-Colombian victims of sexual violence in the conflict, and both the Special Jurisdiction for Peace (JEP), and the Commission for the Clarification of Truth, Coexistence, and Amnesty International, *The Years of Solitude Continue: Colombia: The Peace Agreement and Guarantees of Non-Repetition in Chocó*, p. 21 (Nov. 2017). Non-Repetition; and ensure that these bodies prioritize these cases.

With participation of Afro-descendant women's and victims organizations, and respecting free, prior and informed consent processes, create a policy directed to providing reparations in all cases of conflict-related crimes committed against Afro-Colombian women and girls, in a manner that ensures truth, justice and non-repetition; and that serves as a guide for the mechanisms of the Special Jurisdiction for Peace.

Allocate and expend the necessary financial resources to support Afro-descendant organizations' autonomous research on impacts of the internal armed conflict so as to secure reliable information and recommendations that ensure accountability and overcome impunity. Simplify procedures required for Afro-descendant women and girls to access all victims' services, and justice and reparation mechanisms; as well as their access to rural development initiatives and political participation.

Government entities must coordinate with Afro-Colombian and Indigenous organizations and authorities, including women's organizations, to develop strategies to overcome sexist and racist stereotypes, with a view to reinforcing positive images of Black, Afro-descendant and Indigenous women, in public and private sectors, in the media, and in employment and education settings.

In consultation with Afro-Colombian authorities and organizations, improve UNP's criteria for risk assessment to account for specific security needs of Afro-Colombian leaders and human rights defenders, particularly women advocates, and establish collective and preventive security measures. Immediately provide security in Afro-descendant territories, in consultation with their respective authorities and organizations, particularly women's organizations, to prevent violence against them. Support Afro-Colombian community councils to establish gender-responsive community-based self-protection plans and early warning and response mechanisms to effectively address individual and collective security threats in their territories. Eliminate stigmatization of human rights leaders on the part of high-level government officials and implement the recommendations of the Inspector General (Procurador de la Nación) calling for protections for Afro-Colombian and Indigenous communities and leaders that are under threat.

Colombia's National Land Agency (ANT) must assist Afro-Colombian authorities and organizations to advance the at least 271 pending collective land titling claims in their territories, beyond the 78 ANT has initially agreed to advance.

Colombia's Land Renewal Agency (ART) must ensure all the conditions required to fulfill the agreement recently signed with the Special High Level Body for Ethnic Peoples to develop PDETs with an ethnic perspective, ensuring the participation of Indigenous and Afro-descendant women.

The Colombian government must adhere to Afro-descendant and Indigenous Peoples' right to free, prior and informed consultation (FPIC) regarding laws or development proposals that impact them or their territories, ensuring that FPIC processes are developed with and determined by Afro-descendant and Indigenous authorities.

The Colombian government must provide the financial and participatory conditions for the design of Afro-Colombians' development plan and ensure its integration into the Colombian National Development Plan, guaranteeing a specific CONPES and the allocation of specific resources.

ANNEX 6: REDHER's recommendations

The government of Colombia should face all paramilitary structures persisting in the country: their armed manifestations (neoparamilitaries, criminal gangs, etc.); their institutional manifestations (officials at all levels of all parties who are doing the bidding of paramilitary structures and the far right); and their political manifestations (major sectors of Colombian politics that are deepening the persecution and stigmatization of social and community organizations and favouring impunity, casting silence over state and corporate responsibilities in the area of human rights).

In addition, we demand the implementation of measures and policies designed to provide genuine protection and guarantees for participation, protest, and opposition by community sectors and social movements.

Other recommendations:

- Establish an internal policy for the prosecutor's offices regarding the investigation of crimes against human rights defenders and social movement leaders.
- Pursue the decentralization and continuation of investigations.
- Provide ongoing support for victims, family members, and organizations.
- Engage in interinstitutional cooperation and purge corrupt elements from the prosecutor's offices. Cases of corruption and co-optation of officials by illegal groups are still occurring at the national and regional levels.
- Produce in-depth analyses of all types of aggression and attacks.
- All relevant institutions must work together, within the framework of a clear policy on defence and protection of movement leaders and human rights defenders, to ensure that justice is done.
- The Ministry of the Interior must produce risk maps for vulnerable populations defined in Resolution 1085 of 2015 so as to ascertain the nature, size, and location of groups affected by threats and attacks, and thereby to adapt protection services to local contexts.
- The Post-Conflict, Human Rights, and Security Office must monitor compliance with programs relating to the post-conflict era and their alignment with the governance plan, as well as playing a more active role in human rights promotion.
- The Procuraduría (office of the public service prosecutor) and the Ombudsman's office must effectively activate and articulate timely alerts involving the responsible authorities, including the police, the public prosecutors, and other bodies.