



Extractives, Ethnic Peoples & Free, Prior and Informed Consent in Colombia



*A collaborative project between
Proceso de Comunidades
Negras-ASOM,
Resguardo Indígena
Cañamomo Lomapieta,
and
The North-South Institute*

Project Partners

Proceso de Comunidades Negras (PCN) in Colombia (www.renascientes.org) is comprised of organizations and community councils from the Caribbean, Pacific and Inter-Andean Valleys working towards awareness-raising, recognition and full exercise of the rights of Afro-Colombians.



The Resguardo Indígena Cañamomo Lomaprieta (RICL) (www.resguardolomaprieta.org) is an Indigenous organization of the Embera Chamí People of Caldas. RICL encompasses a collective territory of 4,826 hectares, home to some 21,422 indigenous people who live in 32 communities.



The North-South Institute (NSI) (www.nsi-ins.ca) is Canada's first independent, non-governmental and non-partisan research institute focused on international development. Its motto is "Research for a fairer World." Since 2000, the NSI has engaged in research on issues at the crossroads of Indigenous Peoples rights, decision-making and the extractive sector in Latin America, the Caribbean and Canada.



Photos copyright: Viviane Weitzner, The North-South Institute

Map adapted from Google Maps

Chart Source:

Ministry of Mines and Energy (2008), cited by InterPares (2009)

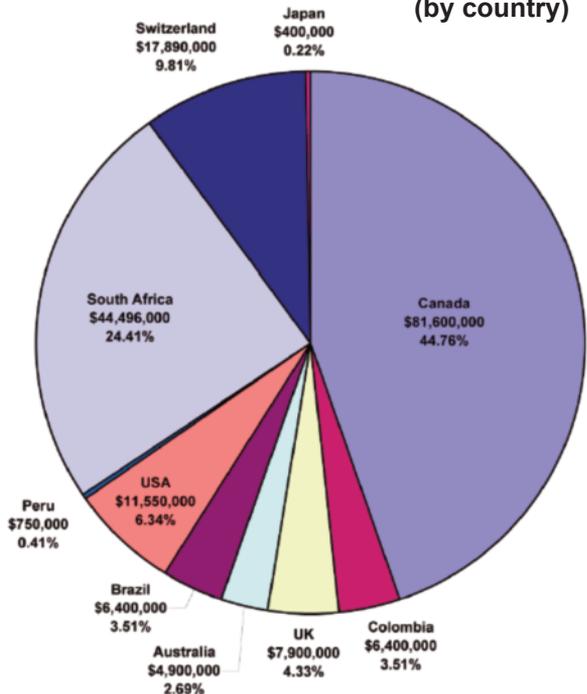
Extractives, Ethnic Peoples and Rights in Colombia

Colombia has arguably one of the most progressive constitutional and legislative regimes in the world with regards to recognition of Indigenous and Afro-descendent rights. For example, ILO Convention 169 on the Rights of Indigenous and Tribal Peoples was ratified and, together with all the main treaties concerning human rights, has been enshrined in the Colombian Constitution. And in April 2009, the government announced support for the UN Declaration on the Rights of Indigenous Peoples.

Nonetheless, because of lacking political will and the internal armed conflict these rights are not being upheld in practice. Indigenous and Afro-descendent peoples in Colombia continue to face a legacy of exclusion, discrimination, displacement and violence. Indeed, some of the most egregious human rights violations are taking place alongside and in parallel to the activities of multinational extractive companies on Indigenous and Afro-descendent territories.

Despite this reality, foreign governments and companies are increasingly looking to Colombia for its natural resources, and free trade agreements with Canada, the European Union and the United States are in various stages of negotiation and implementation. The result is increased pressure on Indigenous and Afro-descendent communities, whose territories hold much of the sought-after resources.

Mineral Exploration Investments in 2008 (by country)



Some countries – such as Canada – have proposed corporate social responsibility (CSR) policies to guide their companies. The question is to what extent these policies are useful in preventing violence and human rights violations in the context of Colombia, and what additional measures could be taken.

With new government proposals to regulate and implement the consultation and consent components of ILO 169, and given recent judgments by the Constitutional Court against projects that did not undertake adequate consultation, the timing is critical for research that improves understanding on free, prior and informed consultation and consent, and how it might be implemented in practice in the Colombian context — research from the perspective of the country’s Indigenous and Afro-descendent Peoples.

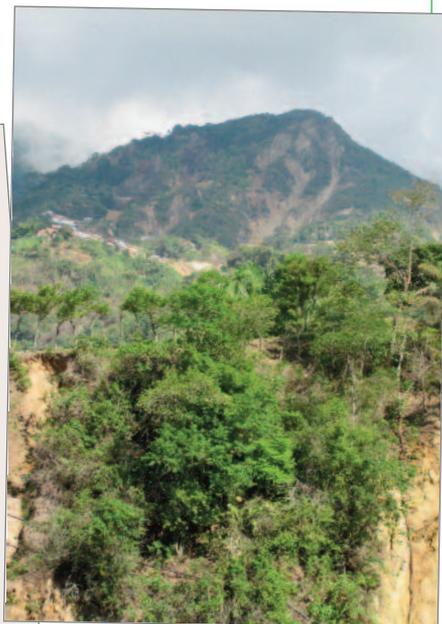
Free, prior and informed consent

Free from coercion, manipulation, threats, force, deception or interference by any government, corporation or other project proponent;

Prior to the initiation of a project and before project activities take place, in timeframes that allow traditional decision-making processes to be undertaken;

Informed: Based on full disclosure of activities in ways that are understandable and equitable to the community, and with full understanding of both positive and negative impacts of these activities;

Consent: The power to say yes or no at any time prior to, or during negotiations, and at key milestones in the project process.



Embera Chami Peoples at Marmato, once a part of the Resguardo Indígena Cañamomo Lomapieta, have already been displaced, with more resettlement likely under large-scale extractive plans that will see the mountain turned into an open-pit gold mine.

Collaborative Action Research Project

To better understand and begin addressing the diverse issues at stake, The North-South Institute, Proceso de Comunidades Negras and the Resguardo Indígena Cañamomo Lomapieta jointly developed the project: *“Towards the development of standards and mechanisms to protect ethnic peoples affected by extractives: Implementing free, prior and informed consultation and consent in the context of the Colombian armed conflict.”*

The collaborative project runs until January 2012 and has three main components:

- a case study of affected Afro-Colombian communities in the Cauca region (municipalities of Buenos Aires and Suárez);
- a case study of Indigenous experiences with extractives in the Caldas region (municipalities of Risoucio and Supía);
- research and activities at the national and international levels.

History of the project

This project is part of an ongoing research program at The North-South Institute which examines key issues around decision-making and natural resources affecting Indigenous Peoples in Latin America, the Caribbean and Canada. It follows an initial scoping phase of research in Colombia (2000-2002) undertaken jointly with the Universidad de Antioquia.

(see www.nsi-ins.ca for the final report of that research)

Objective

The principal objective is to contribute primary research that:

- strengthens project participants;
- highlights and clarifies their perspectives on and strategies for territorial control and development; and,
- sheds new light on the debate around the development and implementation of human rights standards and mechanisms to hold to account companies operating in Colombia, with a focus on extractive activities affecting Indigenous Peoples and Afro-descendants.

All project activities and research will be undertaken through an intercultural and human rights lens, examining in particular the different impacts of extractive activities on women and men.

Urgency and Replication

For The North-South Institute the project will provide much-needed evidence and analysis to help guide timely debates on policy and practice at a variety of levels, including in Canada and in other home countries of extractive companies.

However it is for our Indigenous and Afro-descendent partners that this research is most urgent. This is especially true in light of rapidly increasing outside interests in the natural resources that their territories contain, and the very particular effects that these pressures bring to bear on their lives and lands given the Colombian context — among them threats of violence, intimidation, displacement and loss of livelihoods.

By joining forces in this precedent-setting inter-cultural project, we are raising the profile of the critical issues at stake.

Yet because these issues impact not only Afro-descendents in Cauca and Indigenous Peoples in Caldas, we are also taking special steps to develop a pilot project that can be replicated in communities across Colombia, and indeed in similarly-affected parts of region. To this end accessible resources and training materials will be created and made available to all communities who want to develop their own research and protocols on free, prior and informed consultation and consent towards realizing their right to self-determination.

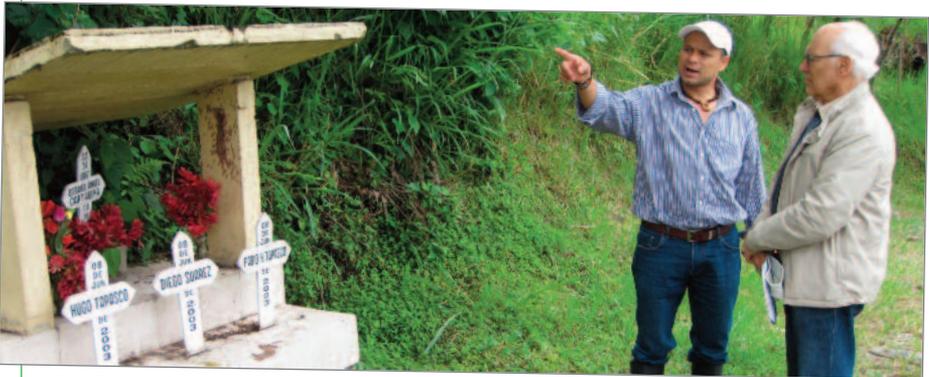
At the community level, there is clearly a thirst for information on Indigenous and Afro-descendent rights in relation to extractives, and already project activities have included representatives from communities not formally participating, such as representatives from areas affected by oil and gas.

And for the national government, foreign governments, as well as extractive companies, understanding the perspectives of Indigenous and Afro-descendent peoples will bring about clarity and much-needed guidance in protecting and respecting the rights of ethnic peoples.

National/International Component

In addition to providing ongoing accompaniment and technical support to the local teams in Cauca and Caldas, the national/international component of the project will:

- Research the policy frameworks of companies interacting with communities in Caldas and Cauca, and improve understanding of how these policies are being implemented on the ground through interviews with government representatives, companies and non-governmental organizations and discussions at the community level. This analysis will lead to recommendations on how such frameworks can be strengthened to take into account human rights protections in the Colombian context. A key focus will be the Voluntary Principles on Human Rights and Security, the UN Global Compact and other voluntary codes and position statements espoused by industry.
- Raise awareness about rights to free, prior and informed consultation and consent in existing national and international treaties, legislation and leading edge practice by developing training materials and supporting the local teams in implementing a community capacity-building program.



Rodolfo Stavenhagen, Former United Nations Special Rapporteur on Indigenous Peoples, listens as Hector Jaime Vinasco, Councillor and Former Governor of Resguardo Indígena Canamomo Lomapieta explains the memorial that pays homage to Indigenous leaders, among them a former Governor of the Resguardo, killed in the massacre of "La Herradura" committed by paramilitary groups and the National Army in 2003, on account of these leaders standing up for the rights of their People.

- Spur national debate and potential realignment of company and government policies and practice through three national, multi-partite workshops targeting issues related to:
 - ∞ Free, prior and informed consultation and consent;
 - ∞ Environmental, social and human rights impact assessment; and,
 - ∞ The final results, conclusions and recommendations of this project.

- Facilitate the exchange of experiences at the local, national and international levels, as a means to obtain feedback and support to strengthen the mechanisms developed in the communities. Activities will include:
 - ∞ Regular exchanges between the Cauca and Caldas project teams to share experiences and engage in iterative and mutual learning on subjects ranging from research methodologies and strategies around consultation and consent, to conflict management and negotiations;
 - ∞ International verification missions to the regions;
 - ∞ Visits by project counterparts abroad (to the UN Permanent Forum on Indigenous Issues and to relevant parliaments);
 - ∞ Establishment of networks;
 - ∞ Submission of documents to human rights oversight bodies.

Select Future National/International Component Outputs

An analysis of human rights protections and CSR policies in the Colombian context, with specific reference to companies with interests in the Cauca and Caldas areas;

A booklet outlining the national and international frameworks for free, prior and informed consultation and consent, including the community level protocols for Cauca and Caldas;

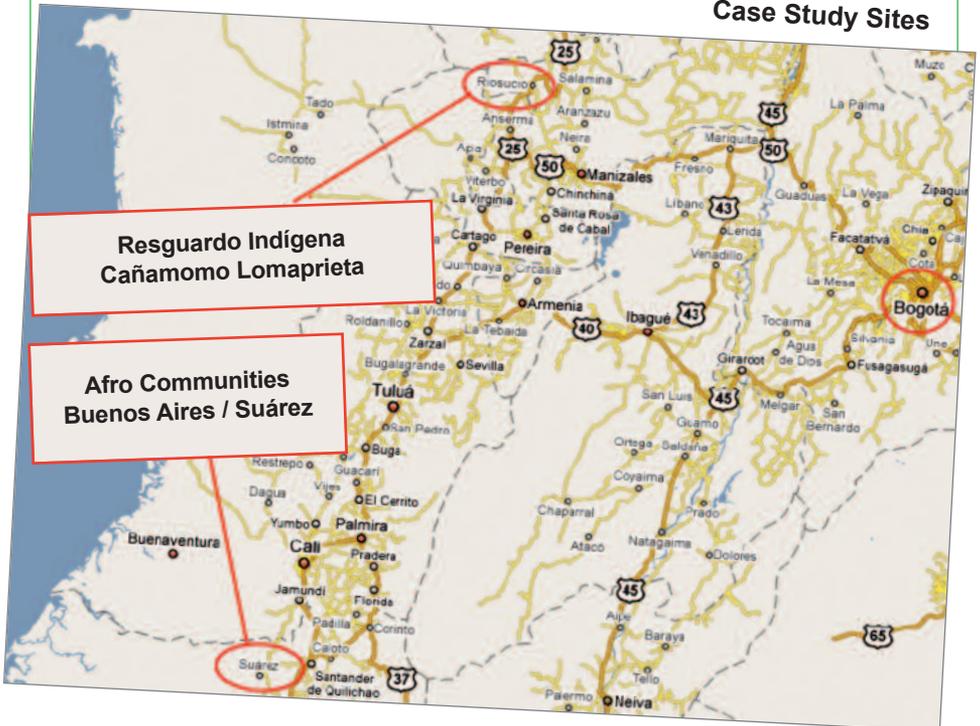
Toolkits on conflict management, negotiations and research methodologies.

Cauca and Caldas Case Studies

PCN-ASOM (Cauca) and RICL (Caldas) will simultaneously be working to strengthen internal policies, regulations and organization around their own ancestral mining practices and other extractive activities proposed for or taking place on their territories. Yet, the threats against Indigenous and Afro-Descendant territories in Colombia are also multiple and complex, so in addition, project activities in both areas will also address existing or proposed hydroelectric projects. In the case of Cauca, the team will be supporting current negotiations around a management plan and compensations for the significant adverse impacts created by the Salvajina Dam, which was constructed in the 1980s without the prior consultation or consent of the affected communities. And in Caldas, the team is supporting RICL's decision-making process around a potential run-of-the-river hydroelectric scheme.

Among other activities that will contribute to strengthening the right of their communities to choose their own development paths, the project teams will specifically:

Case Study Sites



- Develop community protocols for free, prior and informed consultation and consent;
- Research and document the history of ancestral mining;
- Undertake community-level impact assessments to measure and evaluate the environmental, social, economic, cultural, spiritual and human rights impacts of ancestral mining relative to other types of mining taking place on or proposed for their territories;
- Evaluate and strengthen traditional organizational structures around ancestral artisanal mining, namely cooperatives and associations; establish human rights secretariats (in the case of Caldas); and, reactivate the Inter-Ethnic Commission as a critical coordinating forum (in Cauca);
- Develop community criteria for mining 'no go' zones in an effort to ensure the survival of traditional subsistence livelihoods, lives and cultures of Indigenous and Afro-descendant communities in the context of the Colombian armed conflict;
- Address territorial issues, such as: In Cauca, define criteria for internal regulation of the joint Special Mining Zone of the communities and develop a management plan for its collective use, along with risk management plans and strategies related to the armed conflict; In Caldas, demarcate and physically delimit the territory of the Resguardo Indígena de Cañamomo-Lomapieta.

Select Cauca and Caldas Case Study Outputs

A variety of communications pieces, using radio, print media and video;

Booklets synthesizing the project outcomes at the local level, including: community protocols on free prior and informed consultation and consent, community resolutions, the histories of ancestral mining, the results of the community level impact assessments, and the project conclusions.

Funders/Support

Several key activities and core costs remain to be funded and parties interested in supporting this project are encouraged to contact us at the coordinates below for more information. Current project funders include Ford Foundation, USAID, the Norwegian Ministry of Foreign Affairs, International Development Research Centre (Canada) and Rights & Democracy (Canada). Their support is gratefully acknowledged.



This publication is produced by The North-South Institute, and does not necessarily reflect the opinions of the funders of this project.

The key political backing of the Office of the UN High Commissioner on Human Rights in Colombia is also noted, with many thanks. The OHCHR has issued the following statement of support:

"For the Office of the United Nations High Commissioner on Human Rights, promoting and protecting the right of ethnic groups to be consulted and to give or withhold their free, prior and informed consent in all matters that affect them is a priority and a demand that cannot be put off. In light of this, the project NSI, RICL and PCN are undertaking, which aims, among other things, to strengthen the capacities of Indigenous and Afro-Colombian communities to exercise this right, represents a very valuable effort in keeping with the respect for ethnic rights that our Office promotes."

Contacts

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