



Alternative report on civil society's participation mechanisms in Colombia (popular consultations and prior, free and informed consultations) and on the human rights situation before UN the Committee on Economic, Social and Cultural Rights

The last periodic report (E/C.12/COL/6, 21 July 2016) presented by Colombia before the ESCR Committee states (§6) that “article 9 of the 1991 Political Constitution recognizes the right of self-determination of the peoples as one of the basis of Colombian international relations”; article 3 highlights the fact that “sovereignty resides exclusively with the people and public power emanates from the people. The people exercises its sovereignty either directly or through its representatives (...)”. Mechanisms of participation allowing democratic participation regarding public affairs of the Colombian people are: the vote, the plebiscite, the referendum, popular consultations, open councils, legislative initiative and the revocation of mandates.”

This declaration is little more than a nice sentence in a report. The reality is completely different and Colombian communities feel it daily; with the permanent repression against social mobilization, the refusal to accept the results of Popular Consultations against mining projects and the murders of social leaders and human rights defenders.

Colombian communities convene and use Popular Consultations as mechanisms of direct participation and as a tool to defend their economic, social and cultural rights.

Similarly, indigenous peoples and communities of African descent, as well as Raizal and Roma communities use the Prior, Free and Informed Consultation – established in the 169th Convention of the ILO – when investment projects are being developed within their territories.

As mentioned in the report we submitted, those two mechanisms of civil participation are conferred by the Colombian Political Constitution and ratified by various laws of the Republic and by sentences pronounced by the Constitutional Court of Colombia.

The Colombian government systematically refuses to recognize the will as well as the results expressed by communities through Popular Consultations when these are opposed to the implementation of projects within their territories despite the fact that these Consultations are democratic and in

compliance with Colombian's constitutional and legal norms.

Nowadays, democracy in Colombia is at risk. This is why we solicit the UN Committee of Economic, Social and Cultural Rights to pay attention to this situation, which can affect Colombian democracy, violate Colombian's legal and constitutional frame as well as give rise to more and deeper social and environmental conflicts.

Recommendations to Colombia:

- 1- Encourage the realization of consultations with all interested actors before the beginning of the execution of development projects.
- 2- Accept the results of Popular consultations and Prior, free and informed consultations. They must be understood as a tool strengthening civil participation, and, finally, Colombian democracy.
- 3- Accept the decisions democratically and autonomously taken by municipal councils in Colombia and opposed to industrial mining, hydrocarbon exploitation and dam construction within their territories, according current norms in force in Colombia.
- 4- Abstain from presenting law proposals that shorten the scope of action of Popular and Prior, free and informed Consultations and undermines their binding nature; consultations' regulations must be first-discussed with communities that could be affected.
- 5- Respect the right of communities and interested actors to receive all the information regarding mining projects (or others) and their consequences for each potentially affected community.
- 6- Take for itself recommendations made by the Working Group on Business and Human Rights to Mexico, in particular with respect to the consultation of all communities affected by development projects as mentioned as follow: "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- Give all necessary guarantees in order to realize consultations; avoid diminishing the number of voting tables, avoid sending messages that misinform citizens, avoid carrying out excessive police controls that obstruct the smooth conduct of consultations and set the date of the consultations sufficiently in advance to allow citizens to prepare their participation in equal conditions.
- 8- Protect leaders and civil society organizations that lead processes of consultations in the entire country.