

Convention on the Elimination of Racial Discrimination
Alternative Report Submission
Indigenous Rights Violations in Colombia

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Submitted by:

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I. Reporting Organizations

a. Cultural Survival is an international Indigenous rights organization with a global Indigenous leadership and consultative status with ECOSOC since 2005. Cultural Survival is located in Cambridge, Massachusetts, and is registered as a 501(c)(3) non-profit organization in the United States. Cultural Survival monitors the protection of Indigenous Peoples' rights in countries throughout the world and publishes its findings in its magazine, the *Cultural Survival Quarterly*, and on its website: www.cs.org. Cultural Survival also produces and distributes quality radio programs that strengthen and sustain Indigenous languages, cultures, and civil participation.

b. Semilla Warunkwa is an Indigenous Peoples non-profit organization in the Sierra Nevada of Santa Marta, Colombia created in 2008, with consultative status with ECOSOC since 2018. The organization seeks to implement the rights of Indigenous Peoples by bringing our voices, based in our culture, to international levels, focusing on the protection of Mother Earth and the human rights of Indigenous Peoples of the world. Semilla Warunkwa's primary mission is to protect, generate, promote, share, and develop rural agricultural activities, fishing, cultivation of medicinal plants and primary materials for our ancient artistry, under the principles of harmony with the environment, social equality, and respect for and promotion and protection of ancestral knowledge, traditions, and practices.

c. Consejo Regional Indigena del Tolima – CRIT
Consejo Regional Indigena del Tolima is an Indigenous organization in Tolima, Colombia, created in 1982 with ONIC affiliation since inception. CRIT promotes and defends Indigenous human rights, Sovereignty and Protection of Mother Earth.

II. Background Information

Colombia is home to 102 distinct Indigenous Peoples. 34 of those are characterized as at risk of extinction. The Colombian Constitution of 1991 guarantees more rights and protections to Indigenous citizens than any other Latin American country. Indigenous Peoples, which constitute less than four percent of the national population, now collectively own almost 30 percent of the national territory. However, Indigenous Peoples' most basic right, the right to life, is threatened almost daily. Indigenous Peoples' ownership and autonomy over their lands is not respected or protected. Although Indigenous leaders have committed to peace, they are frequently targets of violence while attempting to protect and defend their titled lands. These systematic acts of violence are largely ignored by the Colombian government and these crimes are left in impunity. Indigenous leaders of the Nasa Peoples in Cauca, classified as at risk of extinction, are being particularly targeted for violence. The regional Indigenous organizations in Cauca and have denounced the current levels of violence as a genocide against Indigenous Peoples.

During the half-century long civil war between armed rebel group FARC and the Colombian military, Indigenous Peoples who refused to ally with either side have been often caught in the crossfire. The signing of the 2016 Peace Accords formally ended the civil war after 260,000 lives were lost and 7 million displaced, and ushered a new hope for peace. The Accords include an "ethnic chapter" that provides a set of "principles, safeguards and guarantees" to guarantee the rights of Colombia's ethnic communities and restore those rights that have been violated as a result of the conflict. However, the ethnic chapter remains largely unimplemented, and since the ceasefire, drug trade and extractive industry-related conflicts continue to result in violence against Indigenous leaders and land-defenders. The FARC and another insurgent army known as ELN (National Liberation Army) reject the Indigenous Nations' stance of non-violence.

Historically, these guerrilla forces persuaded or coerced the civilian population in the area to support them, or at least tolerate their presence, which meant that many Indigenous Peoples had very few options.

Both the guerrillas and paramilitaries engaged in narcotrafficking. The practice of recruiting child soldiers has been an additional worry for Indigenous, campesino and Afro-Colombian families.

In the worst periods of the conflict the state was absent in about one-fourth of the country, which meant that it was often one of the armed actors that controlled local communities. In the southeastern plains and forests, open combat between FARC and former paramilitaries continues to this day, to secure territory planted in coca, or rich in minerals like tungsten and coltan.

In 2007, when the international community voted to adopt the UN Declaration on the Rights of Indigenous Peoples, Colombia abstained from voting. Nevertheless, it is bound to oblige with its articles. Article 7 states: “ 1. Indigenous individuals have the rights to life, physical and mental integrity, liberty and security of person. 2. Indigenous Peoples have the collective right to live in freedom, peace and security as distinct peoples and shall not be subjected to any act of genocide or any other act of violence, including forcibly removing children of the group to another group.” Article 22 states:“ 2. States shall take measures, in conjunction with Indigenous Peoples, to ensure that indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination.”

III. Continuing Rights Violations of Indigenous Peoples: Violence against Indigenous Peoples (CERD Articles 4,5)

Indigenous leaders and land defenders are actively targeted and murdered in record numbers as the peace accord between the Colombian government and insurgent militants (including the FARC and ELN) collapses. The Duque administration’s mismanagement of the provisions of the peace treaty has destabilized the accord leading to a spate of fatal attacks against members of the country’s Afro-Colombian and Indigenous communities. The National Indigenous Organization of Colombia (ONIC) reports that 121 Indigenous people have been murdered since President Duque took office in August 2018. More than 777 social leaders and human rights defenders of communities have been killed in Colombia since September 1, 2016. There have been 18,948 cases of violence, displacement, threats and murders recorded by the Commission for Human Rights of Indigenous Peoples, (CDDHHPI). Since 2015, there have been 343 accords signed between the government and the commission that have not been honored. Iván Márquez’s rearmament has already caused an increase in violence and threats to the Indigenous population in Cauca and Putumayo and this will only worsen if the government remains indifferent.

In the province of Cauca, massacres have increased in frequency with 17 Indigenous community members killed in a single week in early November 2019. Some victims showed signs of torture and mutilation, while others are killed when armed members of dissident groups fire indiscriminately on leaders, their guards, and surrounding community members. Among the recent victims is Ne’h Wesx Cristina Taquinas Bautista and four guards of the Nasa Tacueyo Indigenous reserve. Cristina Bautista was a traditional leader, social worker, land defender and Indigenous rights activist who was a 2017 Indigenous Fellow of the Office of the High Commission for Human Rights in Geneva, Switzerland. Her murder occurred just two weeks after 57-year-old Toribio Canas was killed in the same town. The Regional Indigenous Council of Cauca (CRIC) has labelled this a genocide, and said:

“We have issued complaints with the District Attorney and with the National Unit for Protection and Defense of the People, but the violence does not stop. On the contrary, it continues to rise, often under the nose of the military.”

In April 2019, Cristina Bautista intervened at the UN Permanent Forum on Indigenous Peoples Issues, sharing the following:

“The guarantees by the Colombian state in the last decades have been failed signed agreements as there are a total of 1,200 agreements that have never been fulfilled with Indigenous Peoples throughout history. Therefore, the social uprising MINGA was carried out in the Colombian southwest for 32 days where we 25,000 people were in Caldono the heart of the MINGA. However, we still have not been able to have such communication with the Colombian president. What we are asking for is the care, protection and defense of our Mother Earth, the defense and guarantee for life, human rights, peace and the disassembly of the paramilitarism in Colombia, and to be included in the national development plan, because we are included as an annex and therefore we would not have a budget. During the frame of the MINGA there were 48 wounded with severe damage, 1 dead and the state stigmatization where they sent pamphlets in the native tongue – the Nasa language, 38 investigations, 15 court sentences, 6 with intramural measures. The MINGA has not ended, we will stand and resist until the president of Colombia establishes communication. The Nasa Indigenous Peoples has the most victimization occurrences registered since the signing of the peace agreements to this day 400 Indigenous Leaders with individual protection measures, 224 threats, 2528 Indigenous people incarcerated, 5730 Indigenous victims of forced displacement, 243 cases of recruitment of minors, 40 assassination attempts. The Nasa are the Organized Population group with the highest rate of assassinations of Indigenous Leaders. 83 within the scope of the implementation of peace agreements, from November 2016 - December 2018, and 33 within Ivan Duque's government.”

Traditional authorities of the Nasa people of Cauca, Colombia have denounced this violence through multiple channels including directly with President Duque. In a letter from October 2019, they declared “As communities we have made a commitment to peace and have reaffirmed this in our Planes de Vida [development plans]. But despite being made aware of threats and systematic assassinations, we see no evidence on behalf of your government to guarantee the right to life or self determination of the Indigenous nations.” They outline the violence affecting their community since Duque took office, which began when Edwin Dagua, the governor of the Huellas indigenous reserve in Caloto, Cauca was murdered by a group of armed men months after the “Aguilas Negras,” a right-wing armed group, threatened to kill him. The victim was promised government protection following the threat, but never received any. This violence has continued systematically since then, including the assassinations of traditional authorities and guards, including this far in 2019: Daniel Rojas (May 14), Gersaín Yatacue (August 1), Enrique Guejia (August 4), Eugenio Tenorio and Kevin Mestizo (August 10), Dumar Mestizo, (October 4), and Toribío Canas (October 13), among others. This is a systematic attempt to exterminate social leaders and Indigenous guards, with the goal of taking territorial control over a civil community that is unarmed, for the use of narcotrafficking.

President Duque has ignored the Norwegian and Cuban diplomatic missions to Colombia and has marginalized the U.N. Verification Commission intended “to accompany the parties and verify their commitments ... [including] protection and security for former FARC-EP members and communities in territories most affected by the conflict”. Although President Ivan Duque recently deployed 2500 government soldiers to quell this rise in violence, both houses of Colombia's Congress have called ministers to the Cauca province in solidarity with Indigenous Peoples and to make government leaders more accountable to their failures.

Further detail and additional recent rights violations, compiled by the Washington Office on Latin America (WOLA):

- (Cauca) On August 1, unknown men in the Huellas Caloto reserve murdered an Indigenous guard, Gersain Yatacue Escue. Escue was performing territorial control activities when armed men, who claimed to be FARC dissidents, murdered him.
- On August 4, another Toribio community member, Enrique Guejia Taquinas, was murdered. These events come in close proximity to the attempted attack on the Kiwe Thegnas Indigenous Guard on July 26, allegedly perpetrated by FARC dissidents, which left four guards injured. Later that month, the Indigenous Human Rights Commission (Comisión de Derechos Humanos de los Pueblos Indígenas, CDDHHPI) reported an explosion in a heavily trafficked street in Caloto, Cauca on August 9. When the Indigenous Guard responded to the incident, unidentified actors attacked them with long-range weapons. The next day, when some members of the Indigenous Guard were traveling by bus, they were met with an attack that resulted in two deaths and one injury. These violent events depict the security crisis that is taking place in indigenous communities in Cauca and how the peaceful Indigenous guard is being left at the mercy of illegal armed groups.
- (Cauca) Victor Campaz had been a longtime ethnic social leader and a member of the Chanzará, Cauca Community Council Board of Directors before he was murdered on September 3. Armed men boarded the boat Victor was taking to Nariño and shot him after wounding another man and kidnapping a woman released the next day. He was beloved and respected by the community. COCOCAUCA, an umbrella organization of community councils and grassroots Afro-Colombian organizations of the Cauca pacific coast reported the incident with a heavy heart.
- (Chocó) On June 6, and since April of 2019, the Colombian National Indigenous Organization (Organización Nacional Indígena de Colombia, ONIC) has reported that a series of threats, plunder of livestock and armed confrontation has led to the displacement of people from the Juradó municipality.
- Over 1,500 Embera Katío, Jumara Carra, Wounaan and Embera Indigenous Peoples from the Cedral, Buenavista, Pichindè, Bongo, and Eyasake communities have been displaced to Santa Terecita and Dos Bocas, now also confined by violent actors. A high level of illness among children and elderly people has been reported, as food runs low and communication becomes limited. Additionally, in the Cedral community of the Embera Wonnán, there has been a series of confrontations with the National Liberation Army (Ejército de Liberación Nacional, ELN) and the AGC. These confrontations have led to a termination of communication with exterior municipalities and a displacement level labeled as a humanitarian crisis.
- (Northern Cauca) On August 17, FARC splinter group the Dagoberto Ramos Front declared the Indigenous leadership and guard of Northern Cauca and Valle del Cauca military targets for resisting illicit-use crops and armed presence in their territories. The threat indicated that illegal groups in the areas had information on these leaders' movements, their security detail, and of their travels to neighboring municipalities, Pradera and Florida.
- (Tolima) On June 16, 2019 an Indigenous leader (today has no protection) of the Pijao people was threatened in the company of her two-and-a-half-year-old daughter, she is the wife of the Indigenous Governor and Human Rights defender belonging to CRIT - Tolima Indigenous Regional Council, which work promoting and defending the territory, positively influencing popular consultations such as Cajamarca, which managed to expel Anglo Gold Ashanti in the year 2017. At the present time its incidence with previous consultations as they are opposing a hydroelectric project on the Chili River near their territory where their Pijao de Oro Indigenous Community is located. CRIT is affiliated with Organización Nacional Indígena de Colombia, ONIC.

- (Huila) On May 29, the Colombian National Indigenous Organization (Organización Nacional Indígena de Colombia, ONIC) along with the Indigenous Regional Council of Huila (Consejo Regional Indígena del Huila, CRIHU) reported threats. The incident occurred on May 15 when four men on motorcycles ran over a young student and harassed him for a home address. The group of men proceeded to say that they knew where the sister lived, indicating that the threat was extended to all of the family.
- (Cauca) On April 5, the Indigenous Regional Council of Cauca (Consejo Regional Indígena del Cauca, CRIC) reported members of the Anti-riot Squadron (Escuadrón Móvil Antidisturbios, ESMAD) used excessive force on a minor, a member of the CRIC and Shat Tama Kiwe organization, was wounded, captured, and wrongly charged with handling explosive devices for dodging tear gas canisters shot by the riot police.
- (Chocó) Since July 1, armed members of the AGC dressed as civilians began circulating around Embera communities calling for meetings with their leaders. On June 20, the AGC issued threats to Indigenous leaders, from the Nuevo Cañaveral Indigenous Reserve. Inter-Church Justice and Peace Commission (Comisión Intereclesial de Justicia y Paz, CIJP) reported that a man approached the community with death threats for speaking out against the AGC. The AGC also threatened to kill other Embera leaders from the Uradá Jigumiandó Reserve.
- (Putumayo) CDDHHPI reported the incursion of 33 soldiers of the 27th Colombian military brigade into the Buenavista Indigenous Reserve, violating the sovereignty of the community and placing them in danger. The Indigenous Guard responded by escorting the soldiers out of their sovereign land. The soldiers responded that the uniforms of the Indigenous Guard resembled those of the FARC's 48th Brigade. These remarks are a representation of the stigmatization towards the Indigenous guard and population.
- (Valle del Cauca) Since August 16, 24 year-old Jose Luis Mondragón Lozano, has been missing. Mondragón Lozano is a member of the Community Council of Malaguita in Bajo San Juan, in the Buenaventura district. At the time of his disappearance, he was in Cali, where he has been residing for the past two years and works in construction. The missing persons report was filed on August 27 to the Immediate Action Command of the police.
- (Bogotá) On August 30, the CDDHHPI released a statement condemning the lack of political will of the current government to heed the calls of Indigenous organizations in a time of humanitarian crisis.

IV. State report:

The state report outlines a number of decrees and resolutions promulgated by the Colombian state in the period of 2014-2018. However, Indigenous authorities denounce that all of these decrees have been violated or not effectively implemented to provide for the physical safety and territorial integrity of Indigenous Peoples. Particularly since August 2018, the start of the current presidential administration, the safety and well-being of Indigenous Peoples has dramatically deteriorated.

V. CERD Recommendations from last review in 2015:

At the 2015 review, CERD recommended Colombia act to address violence against Indigenous Peoples as a result of the armed conflict. These recommendations have not been effectively implemented.

12. The Committee recommends that the State party: (a) Redouble its efforts to ensure full respect for human rights and international humanitarian law in relation to the territories of indigenous peoples and the Afro-Colombian population, inter alia by ensuring that the risk reports issued by the Early Warning System are duly taken into account by the relevant authorities, particularly the Inter-Agency Early Warning Committee; (b) Carry out thorough investigations into human rights violations against members of indigenous and Afro-Colombian peoples in the context of the armed conflict and take the necessary

measures to ensure that victims receive full redress; (c) Take the necessary measures to ensure the effective implementation of Act No. 1719 of 2014 on access to justice for victims of sexual violence, in particular that committed in connection with the armed conflict; (d) Step up its efforts to prevent the recruitment of indigenous and Afro-Colombian children by non-State armed groups and ensure the effective implementation of the measures taken for their demobilization and reintegration; (e) Allocate the necessary human, material and technical resources to the Attorney General's Office for the effective discharge of its duties; and (f) Ensure that members of indigenous and Afro-Colombian peoples, including women, are properly consulted in peace negotiations so that the process of truth, justice and redress effectively takes into account their legitimate interests.

CERD emphasized the importance of protecting Indigenous Peoples who are “at risk of extinction.” This has not been effectively implemented.

16. The Committee urges the State party to give full effect to the decisions of the Constitutional Court and to expedite the design and implementation of ethnic protection plans for peoples that have been identified by both the Constitutional Court and the National Indigenous Organization of Colombia as being at risk of physical or cultural extinction and to ensure the effective participation of affected indigenous peoples in the development and implementation of such plans. The Committee recommends that the State party take the necessary urgent measures to ensure the physical and cultural survival of the indigenous peoples who are in a situation of greater vulnerability.

CERD issued the following recommendations regarding Indigenous land rights. This has not been effectively implemented.

20. The Committee recommends that the State party: (a) Guarantee the right of indigenous and Afro-Colombian peoples to possess, use, develop and control their lands, territories and natural resources, freely and with full security, by such means as providing legal recognition and the necessary legal protection; (b) Ensure the implementation of Act No. 70 of 1993 and the adoption of the corresponding regulations; (c) Take the necessary steps to ensure that the agencies responsible for implementing Act No. 1448 of 2011 have adequate human and material resources and cooperate with each other effectively, thus ensuring the effective participation of indigenous and Afro-Colombian peoples.

CERD issued the following recommendations regarding Indigenous access to justice. This has not been effectively implemented.

40. In the light of its general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, the Committee calls on the State party to improve the functioning of the special indigenous courts. It also recommends that the necessary steps be taken to guarantee access to justice, including the establishment of houses of justice in those territories where they do not currently exist and to uphold respect for the fundamental right to due process, with guarantees, in cases involving members of indigenous, Afro-Colombian and Roma peoples.

VII. Recommendations

We make the following recommendations to the government of Colombia:

1. Promptly investigate and bring to justice those responsible for the murders of Indigenous traditional leaders and Indigenous guards.
2. In consultation with Indigenous leaders and upon their request, provide immediate security for those facing threats of violence.
3. In consultation with Indigenous leaders, create a process to incorporate Indigenous authorities in post-conflict implementation bodies.
4. Facilitate an in-depth investigation into systemic violence by the UN Human Rights Commission and the OAS Mission to Support the Peace Process in Colombia.
5. Invite and facilitate an official mission an analysis by the Special Rapporteur on the rights of Indigenous Peoples / Office of the High Commissioner for Human Rights on national Indigenous territories.
6. Denounce systemic violence against Indigenous People and reaffirm the right of Indigenous Nations to safety and security in their territories.
7. Respect the self-determination of Indigenous Peoples and the authority of the Indigenous Guard to defend Indigenous territory as part of their territorial autonomy.
8. Implement the Ethnic Chapter of the Peace Accords
9. Take steps to facilitate the implementation of Indigenous Peoples' development plans and include Indigenous Peoples in the National Development Plan and allocate resources in the national budget accordingly.
10. A comprehensive legal and policy reform programme should be undertaken to advance implementation of Colombia's commitments under UNDRIP and ILO Convention 169, including immediate adoption of a national action plan drafted for implementation of the Convention.
11. Halt the expansion of extractivism in all its forms (oil, mining, fracking and industrial monocultures) in national territory, until true free, prior, informed consent of Indigenous Peoples is achieved.
12. Fulfill state obligations in consultation, coordination and permanent dialogue with Indigenous authorities. This must be carried out under the framework of the Peace agreements, with specific actions and with a committed and clear strategy for implementation.