

Parallel Report to the Seventh State Report of the Republic of Colombia on the

Implementation of the International Covenant on Economic, Social and Cultural Rights
of Indigenous Peoples (ICESCR)

Social human rights in Colombia THE SITUATION OF TRANSGENICS AND HUMAN RIGHTS IN INDIGENOUS PEOPLES IN COLOMBIA

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Executive Summary

For indigenous peoples and peasant communities in Colombia, the diverse reserve of native seeds has been fundamental for the preservation of the environment, territories, cultures, traditional agriculture, sources of healthy food and health. It is therefore essential that the Colombian State implements effective measures to conserve and protect this valuable genetic and biocultural heritage.

The Colombian State has signed the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Colombian Political Constitution fully recognises the rights of ethnic peoples and communities; however, the Colombian State continues to violate or has not fully incorporated several of the rights signed there in, as in the case of: - *the right of ethnic communities to free, prior and informed consultation* and participation in decision-making that may affect them. - *the right to self-determination* of peoples over their territory and common goods, - the right to adequate food and food sovereignty. - *the right to territory and a healthy environment*, - *the right of ethnic peoples and communities to collective ownership of their territories* and common goods, and *the right to culture, ethnic diversity and cultural identity*, present in the national territory.

The policies and practices of the Colombian state regarding genetically modified organisms (GMOs) have ignored the multiple scientific evidence on the adverse environmental, socio-economic and human and animal health impacts that these technologies have generated, especially in the territories of indigenous and peasant communities. Thus, governmental entities have not exercised the control and biosafety evaluations that control the environmental, socioeconomic and health impacts generated by GM crops and foods.

This report submitted to the ICESCR requests that the Colombian State, through the Ministry of Agriculture and Rural Development, be urged to implement legislative measures and technical mechanisms for the control and evaluation of technologies for the genetic modification of transgenic crops and foods in the country, which are rigorous and effective in controlling the environmental, socio-economic and health impacts generated by transgenic crops and foods; such as the control of genetically contaminated crops, the use of pesticides, the loss of diversity of native maize and traditional forms of production.

This request is in accordance with the Constitutional Court's Ruling T-247/23, which was the result of a Tutela filed by several indigenous organisations in 2022 against the Ministry of Agriculture and Rural Development and other entities, for the violation of indigenous peoples' rights in their territories. On the protection of their seeds. The Court in its ruling recognised the presence of genetic contamination of native maize in indigenous territories and the adverse impacts generated by GM maize crops in the country. It ordered the Ministry of Agriculture to establish legal mechanisms and

technical evaluations to control the genetic contamination of native maize and the adverse effects of GM maize crops in the country. It also ordered the implementation of an enabling and participatory regulatory and public policy framework for the protection, conservation and production of native and creole seeds that ensures the full enjoyment of the rights of indigenous peoples and communities over their genetic and cultural heritage, free from all forms of privatisation and control. In the year 2025, the national government is in agreement with the indigenous organisations that filed the Tutela to implement the orders of the sentence.

I. The importance of native seeds for the cultures, health and environment of indigenous peoples.

Seeds are an essential part of ancestral cultures. For indigenous peoples and peasants, the diverse reserve of native seeds and traditional knowledge is a fundamental component of their culture; they are crucial in the traditional agroecological agricultural systems that protect their environment, constituting an insurance against climate change. This biological and cultural diversity is currently under serious threat because the Colombian state has issued laws and regulations that allow the privatisation of seeds and corporate control of the seed system, forcing communities to use only certified seeds and promoting the use of transgenic seeds.

II. GM crops generate adverse effects on the socio-economic environment and health.

II.A. Environmental impacts of GM Bt and herbicide-tolerant crops

For years, scientific studies have shown that GM seeds and crops, once released into the environment, have generated adverse impacts on the environment, biodiversity, socio-economics, food and health. (1)(2).

Today, seeds are threatened by biopiracy and patents on seeds and on indigenous and peasant knowledge, which leads to the creation of seed monopolies and makes it illegal for farmers to save and exchange seeds. GM crops associated with agro-industrial monocultures and the globalised seed market, concentrated in the hands of a few, have led to the loss of agrobiodiversity and the traditional production systems of local communities.

There are numerous scientific studies that show that in crops with Bt technology, lepidopteran pests have acquired resistance to Bt Toxin (3) and in the end these technologies do not work and farmers have to use conventional insecticides again to control crop pests. In the case of herbicide tolerant crops, it has been shown that the use of glyphosate has increased exponentially worldwide in association with herbicide tolerant crops. There are also studies in the United States, Brazil, Argentina and Paraguay that show that in regions where herbicide resistant crops are established on a large scale, multiple types of herbicide resistant weeds have appeared (4).

One of the greatest concerns in biodiverse countries is the enormous risk and impact generated by the genetic contamination of agrobiodiversity, generated by transgenic crops. Once GM seeds are released in a territory, the contamination of the seed system is uncontrollable and irreversible, as the modified genes can reach the crops and native seeds through different routes and be incorporated into the genome of these seeds. This contamination would irreparably alter the seeds that peoples and communities have, and with it, their culture, their assets and their environment, since there are no certain methods that allow the contamination to be eliminated or reversed.(5)

II.B. The effects on human health

In the world, no complete and systematic biosafety studies have been carried out that comprehensively assess the possible effects of GM foods on the entire food chain in humans, although there are studies that show the adverse effects and impacts on health associated with

(1) ETC Group & GRAIN, 2025. Top 10 agribusiness giants: corporate concentration in food & farming in 2025.

<https://grain.org/en/article/7284-top-10-agribusiness-giants-corporate-concentration-in-food-farming-in-2025>

(2) [file:///Users/german/Downloads/Atlas+of+agribusiness+transg%C3%A9nico+in+the+Southern+Cone%20\(4\).pdf](file:///Users/german/Downloads/Atlas+of+agribusiness+transg%C3%A9nico+in+the+Southern+Cone%20(4).pdf)

(3) Pest resistance to GM crops has increased fivefold in the last decade. <https://gastronomiaycia.republica.com/2017/10/11/la-resistencia-de-las-plagas-a-los-cultivos-transgenicos-ha-aumentado-en-cinco-veces-en-la-ultima-decada/>

- (4) Benbrook, Charles M. 2016. Trends in glyphosate herbicide use in the United States and globally. Environmental Science Europe. Dec. 2016.
 Ian heap. 2018. Glyphosate-resistant species. Weed Science.org.
 Action for Biodiversity, 2020. Atlas of GM agribusiness in the Southern Cone
 Asociación Argentina de Productores en Siembra Directa (Aapresid), 2019.
- (5) See Arpad Pusztai, "National Regulations Should Reflect Risks of GE Crops", BioSpectrum (6 Jan. 2006),

the technologies and inputs of these GM crops, such as the intensive use of pesticides, which are present in food (6).

In the United States, Europe (7) and the countries of the Southern Cone (8), there is evidence of the impact of herbicide-tolerant GM soybean, maize and cotton crops (9). In the United States, 18,400 lawsuits have been filed against Monsanto-Bayer for health effects - cancer - caused by the use of glyphosate (10).

A 2025 study in Food and Chemical Toxicology found that glyphosate altered genes related to breast cancer and had various toxic effects. In March 2015, the World Health Organization's International Agency for Research on Cancer classified glyphosate as "probably carcinogenic to humans" (11). In 2024, the Mexican government and the National Council for Humanities, Science and Technology (CONAHCYT) produced a "Scientific dossier on genetically modified maize and its effects", which compiles 1187 references from 1187 studies and research that show the effects on health, the environment and the biological diversity of creole maize in Mexico (12).

The new "gene-edited" GM crops are presented as non-GM. As a way to escape the negative stigma of the name "transgenic" and to avoid the weak controls of biosafety laws, the biotech industry renamed the new ways of making genetically engineered crops and animals "gene editing", which use so-called CRISPR-Cas9 techniques, among others. However, they carry new risks and uncertainties, adding to those of earlier GMOs. Experiments are currently underway to genetically engineer rice, maize, tomato, soybean and wheat, among others (13). In order to allow experiments and/or planting of genetically "edited" organisms, biosafety legislation has been weakened in several countries, including Colombia.

III: GM crops and foods in Colombia:

III. A. Colombia has lost its food sovereignty and self-sufficiency.

In the 1990s, the country was self-sufficient in food production, but after the opening up of the economy and the signing of Free Trade Agreements between Colombia and the United States, a large part of its national agriculture was lost. The maize that the country imports generally arrives at a lower price than the maize produced in the country, because in the United States its production is subsidised for the producers; this situation has led to the production of maize by national farmers becoming unviable and they have abandoned its cultivation, especially the ethnic and peasant communities have been affected, who have abandoned their traditional maize crops. In addition, the national government's rural policy in recent decades has prioritised the promotion of agro-industrial production, mainly in the productive sectors of oil palm, sugar cane, bananas and flowers; and peasant, family, ethnic and community agriculture has been abandoned and neglected.

III.B. GMOs enter the country via massive food imports, without proper controls.

In 2024, the country imported more than 16 million tonnes of food, which corresponds to about 40% of the food required by the country. In the case of soya, 2,220,000 tonnes of soya beans and cake were imported, which corresponds to 90% of national soya consumption. With respect to maize, 6.8 million tonnes was imported, which represents 81% of maize for domestic consumption; for that year, the country's maize imports were

Most of the yellow maize imported into the country is transgenic and 77% of this maize is destined for the manufacture of animal feed and is also sold for human consumption without proper phytosanitary controls, it is generally of low quality and in some cases is unhealthy and there is no segregation and labelling of transgenic foods that enter the food chain. (Fenalce, 2025) (14).

(6) John Fagan, PhD Michael Antoniou, PhD Claire Robinson, M. Phil. 2014. Myths and realities of GMOs An evidence-based analysis of the safety and efficacy claims for genetically modified foods and crops, Earth Open Source, Great Britain, 370 p.

- (7) Myths and truths about GMOs. <https://www.gmwatch.org/en/20012.gmo-myths-and-facts-what-they-don-t-want-to-tell-you-about-genetically-modified-crops-and-foods>
- (8) Alianza Biodiversidad en América Latina. Atlas of transgenic agribusiness in the Southern Cone <https://www.biodiversidadla.org/Atlas>
- (9) There are 110 works of academic excellence that demonstrate the genotoxicity of glyphosate. And in the IARC monograph 112, its relationship with non-Hodkins lymphoma is demonstrated (IARC Monographs Volume 112: evaluation of five organophosphate insecticides and herbicides, 2015).
- (10) Monsanto Papers. <https://usrtk.org/monsanto-papers/>
- (11) <https://www.iarc.who.int/featured-news/media-centre-iarc-news-glyphosate/>
- (12) CONAHCYT, 2024. File scientific dossier on maize Genetically maize and its effects https://www.ceccam.org/sites/default/files/DOSSIER%20MAI%CC%81Z%202024_.pdf
GM maize and glyphosate science: Documents from the U S - M e x i c o trade dispute. <https://usrtk.org/gmo/gm-corn-and-glyphosate-science-documents-from-mexico-us-trade-dispute/>
- (13) Elizabeth Bravo, Cutting and pasting genes to manipulate life. La edición génica: sus peligros y normativa en América Latina, Acción Ecológica / Alianza Biodiversidad, 2025. <https://tinyurl.com/3t6wsssm>
- (14) FENALCE, 2025. <https://fenalce.co/colombia-importo-en-2024-cerca-de-12-millones-de-toneladas-de-cereales-legumes-and-soya-for-lack-of-clear-policies-to-increase-areas-of-production-and-be-more-competitive>

III.C. Transgenic crops approved in Colombia

These technologies were introduced in 2002, with the approval of the cultivation of transgenic cotton, followed by the approval of transgenic maize in 2007 and the introduction of transgenic soya in 2010.

GM cotton cultivation initially grew to reach an area of 50,000 hectares in 2011. However, in the cotton-growing regions of Córdoba and Tolima, GM seeds did not work well and the national cotton market was not favourable, which meant that farmers suffered heavy losses and the area sown fell sharply to only 9,814 hectares in 2024 (15) (16).

In the case of soya, the country has been insufficient to produce the national requirement, so that currently more than 2 million tonnes are imported, representing 81% of the demand for domestic consumption. In 2024, only 200,000 tonnes of soya were produced. In recent decades, the national government has tried to replace the enormous amount of imported soya by promoting national soya production, mainly in the highlands. However, this crop, which is mostly transgenic, has not yet been massively adopted by farmers, as the expectations of economic sustainability and profitability in the country have not been met (Fenalce, 2024).

In 2023, the ICA authorised the cultivation of genetically edited rice, using the CRISPR/Cas9 technique to resist bacterial blight. This technology was approved based on the consideration that the genetic modification was carried out through conventional breeding techniques, which allows editing the genes of a living organism to confer new characteristics, therefore, it is not considered as a transgenic organism and can only be regulated under the regulations of a crop obtained by conventional methods and does not have to face Biosafety regulations.

III.D. The cultivation of GM maize in Colombia

The area planted with GM maize since 2007 has increased slowly, reaching only 35.5% of the total maize area in the country. In 2023, 150,000 hectares of GM crops were planted, corresponding to 142,711 hectares of GM maize and 9,000 hectares of cotton and 4,557 hectares of soybean. The departments with the largest area of GM maize crops were Meta with 61,338 hectares, followed by Tolima with 25,588, Córdoba with 24,521, and Valle del Cauca with 14,707 (Gm Monitor, 2024) (17). The ICA has approved *more than thirty GM maize events*, especially herbicide-tolerant and Bt toxins (single and stacked), most of which are owned by companies. multinationals that today control the production of GM crops in the world.

The cultivation of GM maize was approved throughout the national territory except in indigenous reserves, stating that a 300-metre buffer zone should be established between GM maize and indigenous reserves in order to protect native seeds from gene flow from GM seeds. But there is no scientific basis for this measure to be effective in controlling genetic contamination in indigenous territories (18).

Agro-industrial production of GM maize is concentrated in the departments of Meta, Córdoba, Tolima, Huila and Valle del Cauca. In these regions, farmers say that herbicide-tolerant (HT) GM maize has worked well and is profitable, because the costs of weed control have been reduced, although in general herbicide application has increased and herbicide-resistant weeds have emerged. Bt

technology has generally not worked well, because lepidopteran pests have become resistant to the Bt toxin over time, requiring additional applications of insecticides, which has rendered the technology ineffective. This is how in several regions farmers have had large economic losses (19); as was the case in 2014 of GM maize crops in Espinal Tolima, where farmers lost 75% of the harvest, and also in Campo Alegre Huila in 2016, where 90% of the harvest was lost, due to poor quality GM seeds and problems associated with the use of this technology (20).

In territories dominated by indigenous and peasant communities with family, community and agroecological farming, most farmers do not want GM crops to come to their territories, as they are concerned about adverse environmental impacts and

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- (15) <https://www.dinero.com/pais/articulo/colombia-sembro-95117-hectareas-de-cultivos-transgenicos/253878>
 - (16) AgroBio, 2017. <http://www.agrobio.org/transgenicos-en-el-mundo-colombia-region-andina/>
 - (17) <https://gm.agbioinvestor.com/gm-production>
 - (18) <https://www.semillas.org.co/apc-aa/files/5d99b14191c59782eab3da99d8f95126/contaminacion-maiz-web-01-08-19.pdf>
 - (19) <https://www.semillas.org.co/es/cultivos-transgenicos-en-colombia-impactos-ambientales-y-socioeconomicos-acciones-sociales-en-defensa-de-las-semillas>
 - (20) Video What happened to GM maize in Campo Alegre Huila? <https://www.youtube.com/watch?v=ppwQCjib6eY>

socio-economic problems that these crops generate for them, because these GM seeds contaminate their native seeds and affect their traditional forms of production.

III.E. GM maize contaminates indigenous creole maize.

In 2021, ten indigenous organisations, with the support of the Alliance for Agrobiodiversity, carried out tests to determine the possible contamination of maize in indigenous territories, taking into account that the ICA issued a ban on these crops in indigenous reserves. The results obtained showed that contaminated seeds of creole maize were found in all the resguardos (21).

In several regions of the country, indigenous organisations and territorial bodies have declared their "transgenic-free territories" as strategies to protect agrobiodiversity and their traditional production systems in order to face the impacts generated by the genetic contamination of their native seeds in their territories. In 2005, the San Andrés de Sotavento reservation, located in the departments of Córdoba and Sucre, was the first indigenous territory declared transgenic-free (22); In 2008, the Cañamomo and Lomapieta resguardo of the Embera-Chami people in the municipality of Riosucio, Caldas, declared its TLT; and in 2018, the municipality of San Lorenzo, Nariño declared the municipality free of GM seeds, promoted by the network of guardians of seeds of life.(23)

IV. Insufficient legal regimes to protect the seeds of ethnic and peasant communities from GM contamination.

IV.A. Biosafety regulations

In Colombia, Decree 4525 of 2005 regulates the Cartagena Protocol on Biosafety of transgenic organisms. This regulation does not allow a single authority to carry out a comprehensive and independent assessment of environmental, socio-economic and health risks and impacts. The entry of cotton, maize and soybean crops and genetically modified foods has been authorised in the country without adequate biosafety risk assessments having been carried out.

With regard to the insufficient biosafety standards that exist in the country, the Constitutional Court, in Ruling T-247/2023, stated: [138] *Fourthly, the regulatory response adopted by the competent authorities is insufficient, since the entities themselves acknowledged that they have not issued any regulations in this regard, nor have they carried out controls on the native seeds of the indigenous communities. Finally, given that there is no regulation on the matter, it is necessary that, by virtue of the precautionary principle, this situation be specifically considered by the Colombian State*".

In relation to transgenic foods, the National Institute of Food and Drug Surveillance - INVIMA, through Resolution 4254 of 2011 on labelling of transgenic foods produced in the country or imported that contain orare GMOs for human consumption; but this regulation excludes from labelling foods derived from GMOs that are "substantially equivalent" to their conventional

counterpart. Under this pseudo-scientific concept of substantial equivalence, industry is exempted from labelling its products derived from GM organisms. Therefore, in practice, there is no labelled food of GM origin in the country.

IV. Legal instruments that seek to protect the rights of indigenous and peasant peoples and communities over their seeds as common goods

There are currently international and national policy instruments in the country that address in a differentiated manner the rights over native and creole seeds of ethnic peoples and peasants; instruments that could be used by the Colombian State to be incorporated into policies and norms that guarantee ethnic and peasant communities the rights to protect, conserve, use and control their seeds and to protect them from the effects generated by GMOs on agri-food systems.

IV.A. UN Declaration on the Rights of Peasants and Other People Working in Rural Areas (2018).

In relation to the rights over peasant seeds, the UN Declaration included article 19 which encompasses: -The right to protect seeds and traditional knowledge; - The right to participate in the development of peasant seeds.

(21) <https://www.minsalud.gov.co/sites/rid/Lists/BibliotecaDigital/RIDE/DE/DIJ/Resolucion-4254-de-2011.pdf>

-Participate in decision-making on their conservation and sustainable use; - Save, use, exchange and sell the seeds or propagating material they have saved after harvesting. This declaration has been adopted by many countries around the world, although its full implementation is not binding on countries and depends on the political will of states. The Government of Colombia has recently signed it.

IV.B. Recognition of the peasantry as a subject of special constitutional protection was approved by the Congress of the Republic through Legislative Act 01 of 2023, which amended Article 64 of the Constitution. *This is a significant step forward for social justice and rural development in Colombia.* It recognised the economic, social, cultural, political and environmental dimension of the peasantry, with specific rights that the state has the duty to protect and guarantee. Among other aspects, it included the relationship of peasants with the land based on food production for food sovereignty and their forms of peasant territoriality and the protection and local control of peasant seeds.

IV.C. The Integral Rural Reform (RRI), signed up to in the Peace Accords

In 2016, between the FARC and the national government, commitments related to the protection of community seeds were included in Point 1.3.3.2: *The promotion and protection of native seeds and seed banks so that communities can access optimal planting material in order to strengthen peasant, family and community production.* It also includes that the national government should implement strict socio- environmental and sanitary regulation of GMOs in the country. These guidelines have not yet been implemented by the national government in the public policies of the RRI, and most of the commitments made by the Colombian state in the Peace Accords have not been fulfilled.

IV.D. Strategic guidelines of public policy for peasant, family and community agriculture - AC FEC (Resolution 464 of 2017), includes the recognition of "*farmer's seeds*" (Art 3) defines native, creole seeds of the communities in their environmental and socio-cultural conditions for the development of AC FEC, without being subject to control and certification by the State; it also recognises the right of communities to "*declare their territories free of transgenics*". The current government, with the participation of AC FEC organisations, is seeking to advance in the implementation of policies and programmes on AC FEC, but progress has been very limited.

IV.E. The national agroecology policy was signed by MADR resolution 331 of 2024, which seeks to strengthen agroecological production systems that are biodiverse, sustainable and resilient to climate crises. Among other aspects, it includes the creation and implementation of legal mechanisms and

technical procedures that guarantee the protection of agro-biodiversity and associated knowledge against all forms of intellectual property.

V. The violation of human rights in the framework of the approval of GMO crops and seeds in Colombia.

Economic, social and cultural rights are considered to be rights of material equality through which it is intended to achieve the satisfaction of people's basic needs and the highest attainable standard of living in dignity. It also requires the recognition of rights "without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status".

The Colombian government's rural policy has prioritised the promotion of agro-industrial production models based on genetically modified crops, and agrifood systems with corporate control, which have violated the rights of indigenous and peasant peoples and communities and continue to violate some of the rights subscribed to by the Colombian government in the ICESCR, in aspects such as: *right to free and informed prior consultation, right to self-determination, right to adequate food, right to territory and healthy environment, right to collective ownership of their territories and right to culture and cultural identity*.

In the 2024 report of the Special Rapporteur on ESCR, it invites the State of Colombia to focus its efforts on the effective implementation of the obligations derived from these international instruments. This includes the adoption of public policies that ensure the active participation of local communities and groups in vulnerable situations, as well as the strengthening of accountability mechanisms and the protection of human rights in the face of environmental and social challenges. In Colombia, the 1991 Political Constitution incorporates and develops the economic, social and cultural rights (ESCR) recognised in the ICESCR. The following are some of the main constitutional provisions related to this international Covenant:

V.A. Right to Prior Consultation.

The right to prior consultation is guaranteed by Article 5 of the International Covenant on Economic, Social and Cultural Rights (ICESCR). Likewise, Article 19 of the 2007 UN Declaration on the Rights of Indigenous Peoples guarantees the right to free, prior and informed consent.

The Colombian State has on several occasions violated the right of ethnic communities to free, prior and informed consultation, a right enshrined in the Colombian Constitution and protected in Articles 6 and 7 of ILO Convention 169, thus violating their right to participate in decisions that affect the development and self-government of these communities.

In relation to the type of measures that must be consulted, the Constitutional Court has specified in its jurisprudence that it applies indistinctly to administrative and legislative measures, including within the second group, laws approving international treaties such as ILO Convention 169 and constitutional reforms that directly affect ethnic communities.

Despite the fact that the Constitutional Court has reiterated that prior consultation is a fundamental protection mechanism and its omission constitutes a direct violation of indigenous autonomy and official documents issued by the judiciary, the Colombian government continues to fail to establish routes for citizen participation and especially continues to refuse to accept the fact that the release of GM seeds into ecosystems and around indigenous territories affects the social, cultural and spiritual situation of indigenous peoples, as well as their environment.

The Constitutional Court of Colombia in 2012 declared the unconstitutionality of law 1518/12, which signed in Colombia the 1991 *"International Convention for the Protection of New Varieties of Plants"*. -In its ruling, the Court pointed out that *the 1991 UPOV Convention* should have been consulted with the indigenous communities, because this agreement could have repercussions and affect the ethnic and cultural diversity of Colombia, the rights of ethnic groups, specifically in relation to traditional knowledge, food sovereignty, autonomy and culture, which is why its omission must inexorably lead to the declaration of the unenforceability of Law 1518/2012.

V.B. Right to Self-Determination

The right to self-determination is guaranteed by Article 1 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) (24). The first article of the Covenant enshrines the right to self-determination of peoples, the right of nations to determine freely and without external interference their political status and their economic, social and cultural development, for which they must freely dispose of their natural wealth and resources.

With the approval of GM crops in the country, the right of peoples to make decisions regarding their economic, social and cultural development practices is being violated, given that the Colombian government has unilaterally taken decisions on the development models that the State should promote and support in the public policies implemented in the Colombian countryside, which prioritises the promotion and support of agro-industrial production and disprotects the traditional agriculture of ethnic and peasant peoples and communities; This violates the right of indigenous communities, protected in article 7 of ILO Convention 169 and ratified in article 330 of the Colombian Constitution, to define their development priorities, affecting their economic autonomy and their development model based on sustainability and harmony with nature.

The introduction of transgenic seeds in indigenous and peasant territories denies the autonomy of the communities to decide in a free and informed manner about the type of seeds and technologies to be used in their territories and to make decisions about sowing their native and creole seeds free of genetic modifications.

(24) ICESCR art. 11:

1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.
2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.
3. The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect this right, in conformity with the provisions of the Charter of the United Nations.

Public policies have not fully recognised the right of indigenous and peasant peoples and communities to the right to self-determination and the exercise of self-government of their indigenous territories, which is fully recognised in ILO Convention 169 and the ICESCR.

V.C. Right to Adequate Food and Food Sovereignty.

Article 11 of the International Covenant on Economic, Social and Cultural Rights guarantees the right to adequate and quality food, and in turn, recognises the right of everyone to an adequate standard of living.

The Colombian state, through legislative act 1 of 2024, modifies article 65 (25) of the Political Constitution of Colombia, which establishes that all Colombians shall enjoy adequate food with an intercultural and territorial approach. It will also promote conditions of food security, sovereignty and autonomy in the national territory. The Colombian state has ignored this evidence in the development and application of its policy on genetically modified seeds, as well as the existing evidence on the harmful effects of the use of agrotoxins associated with GM crops and foods and their environmental, socio-economic and health impacts.

This situation can be related to the 2024 annual report of the DESCA special rapporteur (26), in which she highlights that "Colombia would be one of the countries most vulnerable to climate change, ranking 92nd in the vulnerability index of the Global Adaptation Initiative. This is due to its exposure to phenomena such as droughts, floods and landslides, which have caused significant damage in recent years. This has had a significant impact on the guarantee of human rights, including the rights to water, health and food.

As mentioned by the Special Rapporteur on the Right to Food: "Respecting the right to food means respecting the rights of peoples to follow different food laws, customs and practices (...) trade policies should seek to protect existing food ecologies through supportive laws and customs and should not, a priori, promote the standardisation of good food practices and rituals"(27).

V.D. Right to a Healthy Land and Environment (Articles 58 and 79 of the Constitution)

Indigenous peoples, Afro-Colombians and peasants face serious restrictions on access to land and its resources, and have even lost their own control over their territories. In Colombia in recent decades, climate crises have deepened, as have the degradation of territories, the loss of community control over common goods, which is attributed to factors such as the expansion of cattle ranching and agro-industrial monocultures, illegal mining and the activities of armed groups, among others.

By failing to prevent GM seeds and crops from reaching indigenous territories, despite the fact that they are prohibited under current biosafety regulations, the Colombian state has violated the ESCR of indigenous peoples and communities to protect their territories and their biodiversity commons and their livelihoods of present and future populations, due to possible adverse environmental, socio-economic and health impacts.

In relation to the intensive use of agrottoxins associated with the industrial production models implemented in the country, there are no effective control mechanisms on the part of the State and t h e y have generated strong environmental impacts and have led to violations of human rights to a healthy environment, especially in the territories of indigenous peoples and peasants. In its general recommendation 34, CEDAW (28) has highlighted the importance of States *applying agricultural policies that support rural women farmers, recognise and protect the natural commons, promote organic agriculture and protect rural women from dangerous pesticides and fertilisers*.

In this way, the Office of the Special Rapporteur for ESCR has emphasised the urgency of implementing comprehensive measures to address these threats, including strengthening environmental governance, promoting sustainable practices and protecting environmental defenders.(29)

In relation to the recognition of the right of indigenous peoples to protect their territories from the adverse impacts of GM crops on their native seeds, in Colombia,

(25) Political Constitution of Colombia, Article 65: The State shall guarantee the human right to adequate food, in a progressive manner, with an intercultural and territorial approach, and to be protected against hunger and different forms of malnutrition. It shall also promote conditions of food security, sovereignty and autonomy in the national territory and shall generate actions to minimise food loss.

(26) CEDAW ANNUAL REPORT 2024. par. 291.

(27) Special Rapporteur on the right to food, report A/75/219 of 2020, para. 61.

(28) CEDAW. Convention on the Elimination of All Forms of Discrimination against Women. 2016

(29) CEDAW ANNUAL REPORT 2024. para. 292.

the Constitutional Court issued **Ruling T-247 of 2023** (30). In its ruling, the Court recognised the presence of genetic contamination of native maize in indigenous territories and highlighted the adverse environmental and socio-economic impacts generated by transgenic maize on native maize and traditional production systems, as well as the cultural and socio-economic effects.

The ruling issued a series of orders to be implemented by the Ministry of Agriculture and the entities of the agricultural sector, including the following: - Establish legal mechanisms and technical evaluations to control and avoid the adverse impacts generated by the genetic contamination of native maize in indigenous territories. - Implement an enabling and participatory regulatory and public policy framework for the protection, conservation and production of native and creole seeds. Currently, in 2025, the national government is in agreement with the Tutela's claimant organisations on the implementation of the ruling. This process has not advanced within the timeframe established by the court, due to the delaying obstacles and the lack of political decision of the national government to adopt legal and technical measures that would allow full compliance with the orders of the sentence.

V.E. Right to Collective Property.

The right to property is guaranteed by Article 1 (31) of the International Covenant on Economic, Social and Cultural Rights (ICESCR). This article states that all peoples may freely dispose of their natural wealth and esources, which in turn in Colombia is included in Article 63 of the Constitution and Law 21 of 1991.

It is in this context that indigenous peoples have an ancestral link with their territories and natural resources, which have been the foundations of their culture and livelihoods; it is for this reason that these peoples have customary and collective property rights over their resources. The biodiversity and seeds that are part of their ancestral territories are considered the common heritage and common goods of the peoples and their protection should be outside private property. ILO Convention 169 (art. 13 and 14) also recognises a special collective relationship between indigenous peoples and their territories, and the right to ownership and possession of the lands they traditionally occupy.

Article 286 of the Colombian Constitution of 1991 recognises indigenous territories, as well as departments, districts and municipalities, as territorial entities, a political-administrative entity with a certain degree of autonomy.

It is in this context that it can be affirmed that the policies of the Colombian State in relation to corporate control of the seed system and the promotion of GM technologies in the country threaten to violate the collective right of indigenous peoples to fully exercise their protection, control, autonomous administration, use and usufruct of their territories, common goods and traditional livelihoods, since these are part of the collective heritage of the peoples.

V.F. Right to Culture and Cultural Identity

The right to culture is guaranteed by article 15 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) (32). This article recognises the right to take part in cultural life and to enjoy the benefits of scientific progress.

Article 7 of the 1991 Political Constitution of Colombia, in turn, states that "The State recognises and protects the ethnic and cultural diversity of the Colombian nation". This provision reflects the State's obligation to protect and value the plurality of cultures and ethnic groups present in the national territory and to guarantee that the different ethnic and cultural communities can develop freely, preserve their traditions, customs and languages.(33)

Seeds are part of the biocultural and spiritual heritage of indigenous peoples. The Colombian government's policies on GM seeds and food threaten to violate the rights of indigenous peoples to their traditional culture and ways of life and interrelation with their territories, and their traditional diet; since GM seeds, when introduced into their indigenous territories without prior authorisation, violate the rights of communities to preserve their culture and traditional ways traditional ways of life and their right to biodiversity related to healthy and wholesome food.

(30) Constitutional Court Ruling T- 247 DE 2023. <https://www.semillas.org.co/apc-aa-files/8b03e104b93235bb29d54dee0d3af830/sentencia-t-247-23-corte-constitucional-ordena-a-ministerio-de-agricultura-proteger-las-semillas-de-maiz-nativas-y-criollas-de-los-pueblos-indigenas.pdf>

(31) ICESCR Article 1 ...2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.

(32) ICESCR, Article 15... (c) To benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which she is the author.

2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for the conservation, development and diffusion of science and culture.

(33) Constitutional Court SENTENCE C-694/03

The Colombian State has failed to comply with the provisions of the CEDAW agreement by not establishing efficient and stable mechanisms to recognise and protect in a differentiated manner the diversity and cultural identities of peoples throughout the national territory, especially the role and right of rural women to conserve, use and exchange traditional and indigenous seeds. (34).

VI. Conclusions and Recommendations

VI.A. Conclusion

The policy and practice of the Colombian state regarding GM crops and food has been developed and applied unilaterally, without prior consultation or participation of indigenous peoples in the development of legal and technical measures to protect their rights to their culture, common goods and sustainable livelihoods, which may be directly affected.

This policy of promoting transgenic technologies has been based on incomplete scientific biosafety studies, which have not taken into account the enormous environmental, socio-economic and human health risks and impacts that these technologies can generate, as the Constitutional Court found in Constitutional Court Ruling T-247 of 2023.

In the case of indigenous peoples, the Colombian government has not adopted measures to protect territories, native seeds from genetic contamination by GM seeds, traditional production systems and food sovereignty and the likelihood of negatively affecting human health and the environment. No comprehensive and rigorous studies have been undertaken to examine the socio-economic or cultural impacts of the release of GM seeds in indigenous territories. The policy and practice of the Colombian state, if not changed immediately, threatens to violate - and, in fact, may have violated - indigenous peoples' rights to life, property, culture, food, health, and a healthy environment.

The Colombian state exercises sovereignty and protection over the nation's genetic resources and must guarantee the rights of indigenous peoples and peasant communities over their territories, as well as recognise that these native seeds are part of the collective heritage of the peoples, therefore, no form of intellectual property application over plant material should be allowed. It must also be guaranteed that the transgenic seeds and foods that have been approved in the country do not affect the rights of the communities over their territories and common goods.

Seven years after the Corporación Grupo Semillas presented to the United Nations the parallel report to *the 6th State Report of the Republic of Colombia on the implementation of the International Covenant on Economic, Social and Cultural Rights of Indigenous Peoples*, it has been possible to confirm in this new report that all the arguments and violations of the rights of the indigenous peoples of Colombia, generated by the commercial release of GM crops and food, are still valid. Even more seriously, the Colombian government has not heeded the recommendations to overcome the complaints presented and continues to promote GM crops without proper biosafety controls or prior consultation with indigenous peoples, despite the fact that today the negative effects and impacts generated by these technologies are more relevant. Nor has the State adopted positive measures to protect the rights of indigenous peoples over their biodiversity, their territories and their food sovereignty, and no measures have been taken to reverse the negative impacts of GM crops and foods or to sanction the companies responsible for these impacts.

VI.B. Recommendations to the Colombian State

This report submitted to the ICESCR requests the Committee on Economic, Social and Cultural Rights to consider the following recommendations addressed to the Colombian State:

A. The Colombian state through the government must fully implement Constitutional Court Ruling T-247/23 on transgenic contamination in indigenous reservations. In its ruling, the Court ordered the Ministry of Agriculture and agricultural sector entities to implement legal mechanisms and technical assessments to protect agrobiodiversity, livelihoods, food sovereignty and autonomy of indigenous peoples and communities, to prevent the genetic contamination of native maize in their territories, and to control the environmental, socioeconomic and health impacts generated by GM crops and foodstuffs. It also mandates the adoption of policies

(34) CEDAW. Convention on the Elimination of All Forms of Discrimination against Women. 2016. para 62

public and regulatory frameworks for the protection, conservation and production of native seeds and the biocultural heritage of ethnic and peasant peoples and communities in the country.

B. In this sense, the indigenous and social organisations that brought the tutela action propose, in application of the precautionary principle, that the Colombian state should adopt real and effective biosafety control measures that will allow a transition towards the prohibition or moratorium of GM seeds and crops throughout the country, until comprehensive and exhaustive biosafety tests are carried out on the socio-economic, environmental and health impacts that demonstrate their safety in terms of not adversely affecting the environment, biodiversity, agro-food culture and the food sovereignty and autonomy of peoples and communities.

- C.** With regard to the mechanisms for the protection of native and creole seeds, the national government must build a participatory national public policy for the protection of native and creole seeds, which recognises and protects agrobiodiversity as common goods of ethnic and peasant peoples and communities, free of intellectual property and corporate control.
- D.** Provide the general public with complete and truthful information on the GM crops to be released; in particular, the process of prior consultation with indigenous peoples must be carried out, as required by current international and national standards.
- E.** Repeal Decree 4525, which regulates the Cartagena Protocol, and replace it with a biosafety standard that considers the environmental, socio-economic and health risks of genetically modified organisms in a comprehensive and scientifically rigorous manner.
- F.** Adopt all necessary positive measures to protect the rights to participation of all Colombians and especially indigenous peoples in decision-making regarding the introduction of genetically modified organisms.
- G.** Recognise the right of indigenous peoples, peasants and territorial entities to declare their territories free of GMOs and support these citizens' initiatives through the monitoring and implementation of this decision.
- H.** The country must progressively replace the importation of GM maize with national maize production, which will guarantee the country's food sovereignty and autonomy through family and agro-ecological agriculture.
- I.** The aspects of intellectual property on biodiversity and seeds, certification standards for the commercialisation of seeds, biosafety, among others, incorporated in international treaties, national laws and regulations and institutional programmes, which have prevented or limited the recognition of the rights of peoples and communities over their seeds, must be reviewed and modified.
- J.** To guarantee the participation of social, ethnic and community organisations, prioritising support for the work of rural women in the construction of policies and norms and in the support of initiatives and projects for access, use and productive projects for native creole seeds.
- K.** To make effective the recognition of the peasantry as a subject of special constitutional protection, already constitutionally included by the Colombian State.
- L.** Legal instruments must be implemented, as well as the strengthening and development of institutional programmes for the promotion and support of communities that allow for the protection and care of agro-biodiversity in their traditional agro-ecological production systems.
- M.** Guarantee the right of citizens to access healthy and safe food and the right to participate in decision-making about what we produce and consume. Food aid programmes must ensure that they do not include genetically modified organisms and components.
- N.** The national government should implement and support public policies for rural development with a territorial, holistic and differential focus on ethnic and peasant populations, with an emphasis on making the role of rural women visible, based on sustainable and biodiverse production systems that strengthen community, family and solidarity-based ecological agriculture.

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