

Dear Friends,

WOLA and the US Network in Solidarity for Afro-Colombian Grassroots Communities (NASGACC) periodically circulates packets of recent documents of interest concerning Afro-Colombian and Indigenous communities to policymakers, academics and others interested in supporting ethnic rights. In this packet you will find English translations of the following:

- 1) Executive summary of the Program on Global Justice and Human Rights of Los Andes University's *First Report on the Colombian Government's Compliance with the terms of Constitutional Court Order 004 of 2009 regarding the Displaced Indigenous Population*, March 2010.
- 2) Executive summary of the Racial Discrimination Watch, Center for the Study of Law, Justice and Society, Black Communities' Process (*Proceso de Comunidades Negras-PCN*) and the Program on Global Justice and Human Rights of Los Andes University's *First Report on the Colombian Government's Compliance with the terms of Constitutional Court Order 005 of 2009 regarding the Displaced Afro-descendent Population*, March 2010.
- 3) Buenaventura Declaration from Afro-Colombia and Indigenous organizations from Mesa Manglar organized by the Colectivo de Trabajo Jenzera with PCN and grassroots indigenous and Afro-Colombian communities, April 11, 2010.
- 4) Human Rights in the Pacific Coast of Cauca (Compilation of incidents from 2009 until April 8, 2010), COCOCAUCA, April 9, 2010.
- 5) The National Indigenous Organization of Colombia (ONIC) 's testimony presented at the US Congress's Tom Lantos Human Rights Commission Hearing on "The Rights of Indigenous Peoples: Latin America," April 29, 2010.
- 6) Reports of Paramilitary Control of Commerce in Chocó, *Semana*, January 18, 2010.
- 7) S.O.S. from Timbiqui, Cauca. Urgent action from various Afro-Colombian Community Councils in the region, May 10, 2010.

Sincerely,

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**First Report on the Colombian Government's Compliance with the terms of
Constitutional Court Order 004 of 2009 regarding the Displaced Indigenous
Population**

EXECUTIVE SUMMARY

**Program on Global Justice and Human Rights
Los Andes University**

This report examines the Colombian government's level of implementation and compliance with Constitutional Court Order 004 of 2009 pertaining to the displaced indigenous population.

In Order 004, the Court found that the country's internal armed conflict disproportionately affects indigenous peoples and endangers their physical and cultural survival. It observed three types of factors responsible for the disintegration, extermination and forced displacement of the indigenous population: (i) *factors directly caused by the conflict*, for example, militarization or belligerent confrontations occurring within indigenous territories, massacres, and false charges of rebellion or terrorism brought against indigenous persons; (ii) *factors related to the conflict*, as in the cases of territorial dispossession caused by economic actors interested in the land's natural resources or other actors interested in the territory's strategic location; and (iii) *factors that are aggravated by the conflict*, such as poverty.

The Court emphasized the factors that render the indigenous population more vulnerable to the causes of forced displacement, as well as the particularly harmful effects of these violations. Forced displacement has especially devastating consequences not only for the individual, but also for the indigenous group. The change in environment (often from rural to urban), conditions of poverty, and threats to the group's leaders that often accompany forced displacement all contribute to the cultural, social and physical destruction of an indigenous people that has been displaced and its identity as a group.

The Court further found that the Colombian government's response to this situation was inadequate, being confined mostly to the expedition of norms, documents and other statements that are seldom applied in practice.

In conclusion, the Court decreed two principal measures: (1) By July 2009, with the participation of the indigenous organizations, the government should design a Program of Guarantees, directed to attending all displaced indigenous persons and preventing further acts of forced displacement. The government should also determine a timeline for the Program's implementation and follow-up. (2) By the same date, the government must design and begin to implement a Plan for Ethnic Preservation and Protection (*Planes de Salvaguarda Étnica*) for each of the 34 indigenous peoples identified by the Court to be in serious danger. These individual Plans should be agreed upon with the corresponding

indigenous group and include mechanisms for strengthening territorial rights and cultural integrity, among other aspects.

The government submitted progress reports on October 31, 2009 and January 31, 2010 to the Court, describing its compliance with the Order 004. On the basis of these two reports, the Program on Global Justice and Human Rights (PGJ) evaluated the level of implementation and compliance with the decision by the government entities responsible for discharging the obligations, in particular the Ministry of the Interior and Justice (MIJ) and *Acción Social* (AS)¹.

In its analysis, PGJ utilized the Constitutional Court's indicators for measuring compliance, both in terms of steps taken and concrete results produced, as well as the variables typically used by the Court to evaluate public policy. PGJ's objective was to make explicit to the national government the amount of compliance that is pending and how such compliance should be achieved in order to attend to the population of victims of forced displacement more effectively.

This methodology thereby allowed PGJ to produce a complete and systematic diagnosis of the level of compliance of Order 004, classifying the level of compliance for each individual order contained therein as non-compliance, low compliance, medium compliance or high compliance.

After thoroughly analyzing the information presented by the government, PGJ arrived at the following conclusions:

1. The government did not design and implement the measures ordered within the timeframes set out by the Constitutional Court. According to the government, the failure to meet the Court's deadlines was due to a mutual decision with national indigenous leaders to spend more time implementing the methodology for designing the Program and Plans.
2. In any event, PGJ found that the implementation of the methodology has been extremely slow and inefficient. **The excessive delay, combined with the urgency of the situation, lead PGR to classify the government's level of compliance with the Court's orders as low compliance. The government has barely entered the first stages of designing the Program of Guarantees and the Plans for Ethnic Preservation and Protection. Thus, the moment when implementation will actually begin is completely indefinite.**

In addition to the low compliance of Order 004's provisions, PGJ found the following information to be particularly troubling:

- **The framework of the government's draft proposal for the Program of Guarantees explicitly invokes the National Development Plan and the**

¹ *Acción Social* is the Presidential Agency for Social Action and International Cooperation and the government entity that directs the National System for the Integral Attention to the Displaced Population.

current administration's Democratic Security Policy, thus contemplating permanent military presence in all territories affected by the armed conflict, including indigenous territories. This is extremely worrisome for several reasons. First, in order to achieve its objective, the Program's framework must not ignore the fundamental importance of territory and autonomy for indigenous peoples. Often, it is precisely the military's unauthorized presence in their territory that places the indigenous communities in greater danger. Second, in a 2008 ruling, the Constitutional Court ordered the suspension of all of the projects in the Development Plan that affect indigenous peoples, until the plans for these projects are first consulted with them. Thus, before invoking the National Development Plan, the government at the very least must evaluate the extent to which the obligations of the 2008 ruling have been met.

- According to the government's reports, **in situations where one indigenous group is present in different geographical departments, the Plan for Ethnic Preservation and Protection will be divided into sub-plans corresponding to each department.** This fragmentation is completely contrary to the purpose of the Plan, which is supposed to fortify the unity and integrity of the indigenous groups as such. Division according to geographical criteria constitutes a failure to respect and acknowledge the identities of the indigenous peoples.

In addition, PGJ analyzed the extent to which public policy in the area of forced displacement prevention and attention has included a “differential focus” (*enfoque diferencial*)—that is, the extent to which the government's policies take into account the special cultural and social characteristics of the indigenous population that make them especially vulnerable to forced displacement. PGJ found that, despite the fact that inclusion of this perspective is a constitutional obligation, the policies' references to a “differential focus” are purely rhetorical and essentially have no effect in practice.

Lastly, with a view toward promoting efficient and timely compliance of Order 004's provisions, PGR concludes this report with a series of specific, concrete recommendations for both the Constitutional Court and the national government.

Bogotá, Colombia
March 2010

**First Report on the Colombian Government's Compliance with the terms of
Constitutional Court Order 005 of 2009 regarding the Displaced Afro-descendent
Population**

EXECUTIVE SUMMARY

Racial Discrimination Watch

Center for the Study of Law, Justice and Society
Black Communities' Coalition (*Proceso de Comunidades Negras*)
Program on Global Justice and Human Rights, Los Andes University

This report examines the Colombian government's level of implementation and compliance with Colombian Constitutional Court Order 005 of 2009. The individual terms contained in Order 005 specify the plans and measures that must be undertaken by the government to address the precarious situation of displaced Afro-Colombians. In so doing, they take into account the disproportionate impact that forced displacement has upon the Afro-Colombian population, the heightened vulnerability of displaced Afro-Colombians in comparison to displaced, non-ethnic minorities, and the principal factors that contribute to and perpetuate this situation: (1) structural exclusion; (2) mining and agricultural activities carried out by outsiders on Afro-descendent ancestral territories; and (3) deficient legal and institutional protection for collective territories. In addition to specifying the plans and measures that must be implemented, Order 005 also indicates the corresponding authorities who are responsible for discharging these obligations and for involving—throughout the entire process—the participation of the Afro-descendent communities or their representatives.

For the majority of the plans and measures decreed, the Ministry of the Interior and Justice (MIJ) and *Acción Social* (the Presidential Agency for Social Action and International Cooperation, hereinafter "AS"), in its capacity as the entity that directs the National System for the Integral Attention to the Displaced Population, had the obligation to present progress reports to the Constitutional Court on October 30, 2009 and January 18, 2010. These reports should provide information on the design of the different plans and, for some of the plans, information on their implementation status.

On the basis of the October and January reports presented by the MIJ and AS, Racial Discrimination Watch (RDW) evaluated the implementation and level of compliance by the government entities responsible for addressing the situation of the displaced Afro-descendent population. RDW's objective was to make explicit to the national government the amount of compliance that is pending and how such compliance should be achieved in order to attend to the population of victims of forced displacement more effectively.

In its evaluation, RDW utilized the Constitutional Court's indicators for measuring compliance, both in terms of steps taken and concrete results produced, as well as the variables typically used by the Court to evaluate public policy. This methodology thereby

allowed RDW to produce a complete and systematic diagnosis of the level of compliance of Order 005, classifying the level of compliance for each individual order contained therein as non-compliance, low compliance, medium compliance or high compliance.

After a detailed analysis, RDW finds that in general, there is a lack of concrete actions that would allow the State to comply timely with the orders contained in the Court's 2009 decision. In particular, the information provided in the government's progress reports leads to the conclusion that:

- (1) Of the six principal orders decreed by Order 005, all six merit the classification of **NON-COMPLIANCE**.
- (2) The advances reported are limited to ideas, proposals, meetings, paperwork, and the design or adoption of general measures, from which the displaced Afro-descendent population has not benefited directly.

The following key examples, among others, support these findings:

- Given the humanitarian emergencies faced by confined² Afro-Colombian communities, the Court ordered the government to design and execute, by October 30, 2009, a plan to provide these communities with much needed emergency aid. According to its October and January reports, the government has designed a very preliminary and vague plan, which has not yet been implemented nor assisted a single individual.
- As the lack of legal and institutional protection for Afro-Colombian lands is one of the principal factors behind the magnitude of the forced displacement crisis, Order 005 required the government to design and implement a plan that would systematically analyze all Afro-Colombian territories. This analysis should include elements such as the territories' legal status, the existence of risks to their effective protection, and mechanisms to return the lands to the communities in the case of lands illegally and/or illegitimately expropriated. However, as evidenced in the January 2010 report, the MIJ has been simply incapable of acquiring this information from other governmental entities. The MIJ still lacks half of the municipal development plans that it needs, it has studied less than a fifth of the land titles adjudicated, and it has acquired copies of only 20% of the municipal budgets necessary for conducting the analysis.
- Order 005 identified particularly serious cases of forced displacement as well as certain displaced Afro-Colombian communities in conditions of extreme vulnerability—for example, communities whose very physical or cultural survival is in jeopardy. The Court therefore ordered the government to design specific plans of protection and aid for each of these communities. The government has

² Confinement, a form of displacement that has been particularly neglected, occurs when the Afro-descendent communities are forcibly displaced within their own territory, thus being restricted to a limited part of the territory and losing the ability to circulate freely or exercise control over their land.

fallen far short of its obligation to report by October 2009 on the status of these plans and their corresponding timelines: in October, *Acción Social* reported its unilateral decision to postpone compliance of this measure until after January 2010. Yet by January, it still had not started designing a single specific plan.

Furthermore, even when it is evident that some important steps have been taken, the government clearly has not complied with the deadlines and directives concretely laid out by the Court in Order 005. Although the progress reports themselves were presented on time, the government entities completely disregarded the other goals set by the Court in this regard.

In addition to the general non-compliance of the Court's orders, the quality of the information presented merits special attention. The annexes are disorganized and do not enable the Constitutional Court to evaluate the information quickly and efficiently. In some aspects, the information given was insufficient. In others, the government provided numerous pages with information completely irrelevant for the purpose of the progress report, as if to cover up the lack of compliance with an abundance of documents. In fact, the annexes contained multiple copies of the same documents.

In a country context where there are no specific, systematic policies or programs that reflect concrete actions by the national government to protect the rights of the Afro-descendent ethnic minority, the gravity of the situation endured by displaced Afro-descendents in particular urgently requires the government's compliance with Constitutional Court Order 005. For effective compliance to occur, the government must assume its obligations without delay and more diligently undertake actions that truly respond to the dispositions set forth by the tribunal in Order 005 of 2009. RDW therefore concludes this report with a series of specific, concrete recommendations for both the Constitutional Court and the national government, in an effort to promote efficient and timely compliance of Order 005's provisions.

In September 2010, RDW plans to publish its Second Report on the Colombian Government's Compliance with the terms of Constitutional Court Order 005 of 2009, which will also be made available on its website: odr.uniandes.edu.co.

Bogotá, Colombia
May 2010

Buenaventura Declaration: Indigenous And Afro-Colombian Statement On Pacific Territory In Colombia

Pacific mine you are selling, you are destroying is worse, A curse on it to break, you my heart!

Nemesio Yupanqui

Afro-Colombians and indigenous peoples of the territory-Pacific region and their grassroots organizations, declare emergency of our communities because of ecocide that has been perpetrated against our forests, rivers and mangroves, impoverishing the diversity of life, contributing to the extinction of many animal and plant species, uprooted from our ancestral lands and putting our communities at the edge of ethnocide.

We can not close our eyes and remain silent unless given the gravity of what is happening in our territories. Nor can we hide the fear that overwhelms us to see how the destruction of the forests which provided shelter us and give us life, joy and freedom. We fear losing what Indians and blacks have built up over many years of peaceful coexistence between our peoples, respecting the laws of nature dictates, to which we tied our lives and of which depend the welfare and future of present and future generations of our peoples.

While discussing the continued worth of the communities in the area, our development planning and organizing our practices in environmental resource management, economic self-interest get others that go beyond our strength, ruining our cultures, fatally wounding the territory and tearing organizations ancient peoples, the true owners of the Colombian Pacific.

It is our belief that the Pacific territory resembles the human body. Has life. Any part that hurts, it affects the whole organism. The abuse they received the watershed of one of its rivers, harms the whole territory. This was understood by our ancestors and we follow that wise precept transmitting to our children, for therein lies the key to our survival, and then comes the solidarity and mutual assistance between the rivers, we must keep practicing.

Today we are discussing the protection of the Mangrove, living space unique in the world and crucial to the lives of many people. We are at a crossroads. Or defend the mangroves and the thousands of species living there, or erased our lives, but also the life of the resurgent, children and indigenous and black girls who have not even born and they deserve to live in these vital ecosystems. The mangrove forest is so important to human life, the species and the planet, we propose that damage to this ecosystem are classified as crimes against humanity.

With the Social Emergency convened today, we are calling all our brothers in the Colombian Pacific, the black and indigenous organizations, friends of the diversity of life and culture, scientists, scholars and lovers of this rich and generous region. In order to call all those who value diversity, to react against very serious violations that occur in all these areas, especially those that are privately owned collectively by the indigenous and black:

1. Gold mining. The gold mining is overflowing in Zaragoza (Dagua River), with irreversible damage to the environment and ecosystems downstream and highly detrimental to the black communities and indigenous communities of the Middle and Lower Dagua. There about 300 bulldozers working day and night, turning the bed and changing the river's course. This situation has been tolerated and even allowed by local public authorities, regional and national. The dead, wounded, prostitution, alcoholism, the cost of living and the arrival of new and "legalized" undertakings create uncertainty and fear in the region. This mining is spreading like a cancer to other rivers of the Pacific. A deep-sea dredging works at the mouth of Majorca. In the river Anchicayá (San Marcos) are also operating several backhoes.

We view with great concern the mapping of applications and titles that have been submitting INGEOMINAS and the Ministry of Mines in the Colombian Pacific. This ignores the agreements that the Colombian State has committed itself to international agencies and so gravely infringes the rights of communities, it destroys vital ecosystems for food communities. As environmental authorities in our territories, let alone traditional mining, the barequeo, practiced since ancient times by the communities, as a complementary forms of income.

2. Fumigation equally affecting coca crops and crops' basic foodstuffs. "They fail to control the production of coca paste, but if you contaminate soil and water, and settled the genetic base of crops and biodiversity. Worse, violate the rights to food, health and the environment healthy. We know the evils that bring these crops of coca. Not only hurt the environment, but that are implanted with violence, to induce the native population to grow coca. The killings and displacement produced by the production, synthesis and illicit trafficking are a disaster for our communities and our organizational processes. The social order imposed by government armed groups destroy their own communities. Worse, many young people engaging in surveillance and control activities with which also makes the authorities of the communities. The subsequent abandonment of own food production and the dependence of the flow of illegal resources of these economies leading to the uprooting of the population, a situation that ethno-territorial peoples ethnocide leads to the disappearance of ethnic traits give social cohesion.

But the control of illicit crops through fumigation, the accusations of the villagers of

helping one or another armed group that benefits from the cultivation of coca, threats, intimidation to the community, restrictions on mobility and the purchase of gasoline and food, also cause serious damage to our communities. In most cases it is still more expensive to remedy than the disease.

3. The laissez-faire environmental authorities and in particular the CVC (Corporación Autónoma Regional del Valle del Cauca) against attacks upon the nature, enlarge this picture of our peoples grievances. The aforementioned mining, commercial-scale mangrove, the tomb illegal and naidí milpesos palm, the oil spill at Bahia Malaga and dumping of wastes into rivers and the sea, should be checked urgently. The Judicial and Land Office and the Ministry of Environment, should also take emergency and act now.

4. But if we denounced the laxity of the CVC in this abuse of the environment, we are also aware that these looters and destroyers of the Pacific would not all that easy and could not act with impunity, of having mentors and supporters in government and beneficiaries within of our communities, promoting such situations, precisely covered the negligence of the corporation, no action, which as already stated, is destroying life in the planet's most productive ecosystems, mangroves, harming fishing communities and especially women living collection of shells, crabs and mollusks.

5. The threats have been given the leaders of our organizations, to denounce these facts, it is an indication that capital is now pounce on resources also come from illicit activities.

6. Lack of real consultation on major infrastructure projects that are implemented on the backs of the communities, despite the negative impacts of these initiatives. There are no reported less adequate consultation with communities on the construction of the Port of Aguadulce, port development of river deltas and Dagua Anchicayá and urbanization of the lower Dagua River, home to black and indigenous communities.

7. Of particular note is the development project for expansion and modernization Buenaventura port that is being carried out behind the town of Bajamar. These communities will be forcibly displaced and taken without regard to international standards and not bound by the conditions and rights, above all, without considering the dynamics of river-town, that break would affect the entire population of the rivers. Equally denounce not know the types of projects that will generate impacts and management plans to address such impacts.

The communities of the rivers we see that our trading networks products will be affected seriously, we have to use private ports and costly, that homes where we stayed when we arrived at Buenaventura will be moved to distant sites and landlocked, unstructured situation Parental networks, social and political, who established the communities that

had already suffered other movements, in an exodus that is not over. This situation is going to live after a wave of violence that killed more than a hundred people, many of them young.

8. Increasing militarization of the rivers. With the influx of cocaine to the Pacific and the increasing presence of armed groups, government social problems of these regions comes to being a phenomenon that should be tried in military terms. Economic development proposals pass into the background, because it is first to give a military solution to the problem of coca and armed groups. The biggest drawback of this policy is that all the inhabitants of the rivers where illicit crops come to be labeled as potential supporters of armed groups. In this regard we note with great concern the armed control of the territory with activities such as the adequacy of Málaga Bay military base and the heavy military presence in the rivers. This is more deinstitutionalizing the region, which favors more military presence and more violence of all armed groups.

9. Public policies, economic plans are legal and rearrangements altering and modifying the territorial guarantees of access, use and management of our collective territories, such as reform of the decree 622 of the Departmental Plan Parks and Water. These government initiatives that not only violate our rights, but unknown to international standards that honor the rights of our populations, such as Convention 169 of the International Labour Organization and the 'United Nations Declaration on the Rights of Indigenous Peoples' .

It is taking into account this situation DECLARE:

1. That we are convinced that saving the Pacific this unbridled exploitation of all ecosystems, is to help save the planet.
2. What are the traditional owners of the Colombian Pacific and our life and history is tied to these ecosystems and therefore assists us the legitimacy to demand that it stops the destruction of our territories.
3. We note, as acknowledged by the Swedish Academy to award the Nobel laureate economist Elinor Ostrom, the best and most efficient way to conserve natural resources occurs when the owners collectively manage them, meeting their vital needs for a good living.
4. We have made a firm commitment to work together and in solidarity between the organizations, endorse this statement, assuming the principle that what happens to a community, a territory, it happens to all and act accordingly.

5. To develop policies and legal initiatives that will infringe damage to all ecosystems of the Pacific, from which we derive our livelihoods, are declared as crimes against humanity, as we resist being displaced future environment.

6. To be alert and continue to denounce the threats and killings of members of our communities for daring to denounce these outrages against nature, are targeted by armed groups.

7. We invite all people of Afro-Colombian community councils and all the Councils of the Pacific indigenous peoples to adhere to this statement, we join together in a single beam to this important initiative to declare the Pacific in social emergency, as our lives are at stake and the future of Afro-Colombians and indigenous peoples.

- Association of Indigenous Councils of Cauca Valley, Pacific region. Actividades-rP.
- Palenque Congal, Buenaventura
- Proceso de Comunidades Negras - PCN
- River Yurumanguí Community Council
- Cajambre River Community Council.
- Community Council of Bajo Llano
- Assembly of Community Councils of the Valle del Cauca.
- Mallorquín River Community Council
- Raposo River Community Council
- Anchicayá River Community Council
- Community-based Organization Mina Vieja
- Organization of the United Black River-ONUIRA Anchicayá
- Malaga Bay Community Council
- Community Council of La Barra
- Joaquincito Indigenous Council, Naya River
- Indigenous Council Plateau
- Women piangueras Santa Cruz, San Joaquin and Puerto Merizalde - Naya River.
- Collective Bargaining Jenzerá

Matia Mulumba Center, Buenaventura, April 11, 2010

Human Rights in the Pacific Coast of Cauca³

(Compilation of Events from 2009 to April 8, 2010)

Guapi, April 9th, 2010

The associations of ethnic territorial of Afro-Colombian community organizations in the Pacific Coast of Cauca, with the goals of recognizing/demanding their rights as ethnic groups, find themselves concerned over the human rights and international humanitarian law situation in Cauca's coast. This situation is evidenced by targeted killings, forced disappearances, internal displacement, and their affects on our communities' collective and territorial rights.

In this sense, ethnic organizations would like to present to the national and international communities an overview of the human rights situation, a scenario whereby people, communities and our culture and worldview are at risk.

1. HOMICIDES IN THE REGION

Our colleagues Jose Felix Orejuela and Milton Grueso Torres were killed in Noanamito-Lopez de Micay, on January 21st and 22nd, respectively (perpetrators amputated one's hand and the other's fingers). The Board of Directors of the Community Councils of Manglares del Micay and the Regional COCOCAUCA have received threats. This situation generated forced displacement in the area. To this day, classes in the schools have not resumed under normal conditions. Teachers in the community of Noanamito are currently displaced and they have not come back since they find themselves relocated in other communities in the department of Cauca.

An Afro-Colombian man (unknown name "NN") was found dead on Tuesday, April 6th, 2010. His body exhibited signs that he was tortured and he was found with his arms and feet tied up. He was found by a fisherman in a mud stream (in the neighborhood of Santa Monica—an urban area of Guapi). As soon as the authorities were informed, his body was removed so that he could be identified.

Thursday, January 18th, 2010, at 8pm, Alexander Sandoval Grueso, a young man, 25 years of age, was killed in an urban area of Guapi (A neighborhood called 'El Pueblito'), apparently by a group related with Paramilitary strategies of ethnic cleansing, which seeks to eliminate what they call rats and Afro-Colombians.

A man who has not been identified (NN) appeared dead January 22nd, 2010 in the neighborhood of Olimpico in the municipality of Guapi.

Casildo Vicente Hurtado and "Choco" Aguilar were taken by an unidentified armed group at 9am on February 22, 2010. The man, a merchant by trade, and his worker (both Afro-Colombian men and natives to the community) were taken to the Port Community of Saija—under the jurisdiction of the Community Council of lower Saija-Timbiqui.

³ Translation from Spanish to English by Estella Hefti, WOLA intern.

Within three days their families were informed that they were killed, but their remains have yet to be returned.

At 4pm on Sunday, February 28th, 2010, Marcos Sinisterra was killed in the community of Calle Iarga (Community Council of Napi) located in Guapi Municipality. His three murderers shot him 12 times and they tied up his wife and kidnapped her for a year and three months. They also threatened to kill the witnesses. A brother of the deceased remains displaced.

At 8pm on November 22, 2009, Mr. Plinio Solis was killed in the community of Boca de Napi which forms part of the Community Council of Lower Guapi (Guapi Municipality).

On November 9, 2009, an Afro-Colombian man, known as “el Flaco” was killed with 8 gunshot wounds in the Community Council of Cuerval (Timbiqui Municipality).

An unidentified man was found dead on November 20, 2009, apparently from being shot in the community of San Bernardo which is located in the Community Council of La Cuenca del Rio San Bernardo Patia Norte (Timbiqui Municipality).

David Cuellar Arboleda was killed in the neighborhood of Santa Monica on October 28, 2009. It is believed that he might have had ties with a paramilitary group. The locals were concerned because on November 5, 2009, there were rumors that a group of six paramilitaries arrived in the neighborhood and that one of them a family member who supposedly wanted to avenge his death.

a) MISSING PERSONS AND PERSONS FOUND DEAD IN THE SAIJA RIVER

From the department of Puerto Saija (Community Council Lower Saija, Timbiqui Municipality) on Sunday, January 24th, 2009, three men by the names of Eliseo Castro, Wiston Castro and Richard Hurtado Quintero, went out with the intentions of going to Guapi by boat (25 fishing boat with a high velocity motor of 200 HP). That same day, around 2pm, they came out of the headquarters of the Guapi-Cauca Municipality heading towards Carmelo-Guapi. This was the place they were last seen. That day, family and kin found out about their disappearance, since the men never arrived at their destination. On Monday January 26 around 11am family members found out through a phone call that in the Bazan, Municipality of Charco (Nariño), that the three men had been killed. Their bodies were found in the boat which was semi-submerged.

On January 26, they found the body of Eliseo Castro floating in the river and 7 days later on February 2, 2009, the remains of the other two men were found floating around the area of the Port of Buenaventura.

b) VICTIMS OF DROWNINGS FROM THE COMMUNITY COUNCIL OF CUERVAL-TIMBIQUI

Residents say that on March 2, 2009, one of the many “unknown” boats with a big motor (150-200 HP) arrived. A person from that boat ordered Manuel Santos Garces to board the boat. Manuel was a hardworking man from the Cuerval community which belongs to the Community Council by the same name.

At 7:30pm he got on the boat and within 3 minutes of boarding, word spread that Mr. Manuel Santos had fallen in the water and drowned. This caused great surprise and consternation within his family and his community.

One day later, his body appeared floating in the water of the surrounding region in the community of Chacon-Timbiqui-Cauca.

c) MURDERS HAVE BECOME THE NORM IN THE URBAN AREA OF GUAPI

- A Young Man

In one case, Arley Fernandez Olaya, a 20 year old young man, was killed as a part of actions associated with the paramilitary group “Los Rastrojos” on Sunday, March 29, 2009 at 10:15am on 8th Street in the neighborhood of Bellavista, located close to the Mayor’s house in the block next to Baflin, No. 10 located in the same neighborhood.

The people in the area say that the homicide was perpetrated by 2 subjects who followed him to a few meters from his home and then shot him four times in the head. He was shot in broad daylight and in front of many neighborhood residents who at that time were walking in the streets of the neighborhood. In this area, however, everyone is afraid to talk or give information as to the perpetrator because the neighborhood is run by paramilitaries.

Hours before the murder, around 4am, this same group was about to kill a partner who is a member of the Association JUNPRO who was found leaving a friend’s house. It is important to note that JUNPRO Association is an important organization linked to civilian movement that lead to Transitional Article 55 that later resulted in law 70 of 1993 of the black communities that serves as the framework for the COCOCAUCA regional process.

His life was saved because Arley Fernandez Olaya (who hours later was killed) told them that he was not the person they were looking for. While they discussed the matter until finally, they left without committing the act.

This act occurred at the same time as the anniversary of the paramilitary massacre of Guapi, a day in which four people died, one of them a child.

- The Sargeant

Sargeant Alfabio Barragan (who is suspended and under investigation) of BAFLIM No. 10 based in Guapi was killed on holy Saturday, April 11th, 2009 in his place of business

next to the coliseum. His wife came into the store at 8:15pm and found him dead with a gunshot wound at the back of his neck.

No one knows the motives behind this and other killings. As such there is widespread fear amongst the population due to these acts. People ask themselves: Who will be next?

- A Woman

Sunday, June 7, 2009 several people noticed that a young lady had been killed by gunshots at 11pm in the neighborhood of San Pablo, located between streets 10 and 11. She appears to have been killed by a leader of the Los Rastrojos paramilitaries.

The alleged paramilitary member was detained by the police, and Monday, June 8, 2009, he was freed on the presumption that he would bury the deceased (who could not be identified). However, the murderer later got away on a high-speed motor boat.

- A Merchant Cut into 16 Pieces

Saturday June 6, 2009 at 3:40pm, several pedestrians noticed that gasoline merchant Octavio Castano who works at Pola Park in the urban area of Guapi-Cauca seemed worried, got on his motorcycle and disappeared.

A few days later on Thursday June 11, 2009, residents of the neighborhood of Fortaleza were tormented since the day before (Wednesday June 10, 2009) by a nauseating odor of something rotting. They proceeded starting at 7am to try to find the source of the offending smell which they believed to be a decomposing animal. Finally, at 7:20am they decided to lift the sewer cap located on 13th Street with CRA 7 and 8 and they found the cut up remains of a corpse.

Once the procedure of removing the pieces of the corpse from the sewer was completed, they proceeded to reconstruct the corpse and identify the deceased victim.

The town is shocked and horrified by this because “NEVER” in the history of this Afro-Colombian community have they had a case like this or anything similar to it occurred.

Residents conclude that the motive of this act, allegedly committed by the paramilitary group Los Rastrojos is to send a message to the local population. It is said that there are a number of people that have disappeared, but no one dares to report anything.

2. PRESENCE OF ARMED GROUPS AND INTIMIDATION

Communities are concerned by the constant threats received by their Community Councils. For example, in the Afro-Colombian Community Council in Action (Municipality of Timbiqui) an unidentified group made a threat through comments that they would bomb the community. On March 28, in the Community Council of Cuerval

(Municipality of Timbiqui), an unidentified group arrived with the purpose of intimidating the community.

ARMED GROUPS REMAIN PRESENT IN THE URBAN AREA OF GUAPI IN 2010

The neighborhood of Santa Monica (Municipality of Guapi), continues to receive large numbers of internally displaced peoples. Also in 2010 community members continue to hear and witness sounds of gunshots, intimidation and murders.

Paramilitaries continue to demand “taxes” (extortion) from small businessmen. Community members report a continued presence and growth of paramilitary groups. These groups are recruiting youth.

It is said that in the same manner, guerrilla groups are present in the area as well.

With the possible presence of the different armed groups, there continues to be an increase in risks against community leaders since these leaders work on issues of ethnic identity that focus on peace.

a) PARAMILITARIES MOBILIZED IN GUAPI-CAUCA IN 2009

In January of 2009, locals announced that paramilitary groups had returned to Guapi-Cauca in sets of 20-50 people (some in their own boats). A significant number of women entered their firing squads once the large paramilitary group of Guapi was completed and as locals began to flee from towns to the cities for various reasons. The paramilitary groups “Black Eagles”, “Los Rastrojos” and “New Generation” apparently had operation centers in this central sub-region—the South Pacific coast of Colombia.

Information gathered from local residents point to approximately 200 paramilitaries operating in the urban area of Guapi-Cauca. These paramilitaries can be found in different neighborhoods including Venecia, Bellavista, Opimpico, Zarabanda, la Fortaleza, Las Flores, Santa Monica, Pueblito and Puerto Cali.

b) PARAMILITARY PRESENCE IN THE COMMUNITY COUNCILS OF MANGLARES-LOPEZ DE MICAY (CAUCA)

The Manglares Community Council, an Afro-Colombian community in the municipality of Lopez de Micay (Cauca), is located in the lower part of the Micay river, a strategic location for access to the sea and communication with the Naya river (municipality of Buenaventura) and the Saija river (municipality of Timbiqui).

About three years ago, the formation of an Environmental Management Plan began for the collective territory. Since then, the town and the area have changed significantly with increased presence of armed actors.

Residents say that the area was a corridor for the FARC and that afterwards the military raided the area. Currently there are concerns that “unidentified civilians” are present in the area that are linked to the paramilitary group “New Generation”.

Residents, especially those in Noanamito, the most populated area of this Community Council, are concerned about the increased presence of paramilitary groups. They are worried about what may be triggered with their presence and the irreplaceable losses to their ethnicity they could experience.

c) SUSPICIOUS CALLS AGAINST LEADERS OF COCOCAUCA

Members of COCOCAUCA in Guapi-Cauca have been receiving suspicious calls. For example, Friday, January 30, 2009 at 7pm, an employee received a call from a woman with an accent from a rural/riverside area, who said her name was Margarita Orobio from Limones (Guapi-Cauca) and that she needed to meet with him. When asked how she got his cell phone number, she claimed it was just lying on the street. She invited him to meet at the park and said she was visiting the area staying until Sunday. The conversation lasted about ten minutes.

In light of these facts, it is likely that the paramilitaries were involved since the park area is their territory. What’s more is there are rumors that at night, around the “Pola Park” (located in a central, urban area) suspicious things occur that could endanger the physical integrity of persons that walk by.

d) THREATENING PAMPHLET IN GUAPI

Monday, April 13, 2009, in Guapi-Cauca, two days after the Sargeant from Baflim was killed, No. 10 Alfablo Barragan (who was suspended during the investigation of BAFLIM No 10- the river Batallion of the Marines based in Guapi), began to circulate a threatening pamphlet proclaiming the purging of society of prostitutes, drug addicts, sickly people, kidnappers, and young consumers, among others, which said, “we already have them identified”.

e) THREATS

Facing the threat of aerial fumigation carried out by the national government as a strategy to eradicate coca crops since February 2009, alleged drug traffickers have threatened to kill members of the Board of the Community Council of Manglares. The threats were discovered by one of the members of the Board on Monday, March 23, 2009, who had also heard previous threats from several of these people believe to be drug traffickers.

The Board is intimidated and scared but has not reacted. For this reason, the community has been notified that Community Council meetings will take place outside of the area in Guapi, and that its authorities will travel there to take part in them (this is the principal headquarters of COCOCAUCA), Buenaventura (Valle), in Popayan, capital of the department of Cauca, among others.

On Thursday, July 2, 2009, a member of the board of COCOCAUCA was intimidated and later threatened for his work in defending ethnic and territorial rights and being a part of the local, ethnic government.

On November 1, 2009, in the lower part of the Community Council of Lower Saija, threats were made against merchants and community leaders which has generated slow and steady displacement that could result in massive numbers of displaced.

Ruben Valencia was killed on July 15, 2009 in the town of “Cobao”, within the Community Council of Manglares. He was followed by an unknown man to his home where he was shot dead.

A watchman of an official building refused a package on June 30, 2009 and then on July 1st, 2009 was threatened via pamphlet for not receiving this package. The man felt compelled to leave Guapi immediately the same day he received the threat. Abandoned his work and went to another city because a friend of his told him he would be killed.

July 5, 2009, a healthcare worker was threatened because she apparently witnessed the robbery of a large motorboat of 200HP at 11am at the dock commonly referred to as “ESSO”. The woman was given hours to get her belongings and leave as soon as possible. She did so due to threats against her life.

f) BOMB DETONATIONS

- In Guapi

During the Uribe town hall meeting that took place on Saturday, May 9, 2009 at 3:15pm in Guapi-Cauca, a bomb went off in the power grid, which was felt by all of the surrounding houses in the municipality which has a population of approximately 16,500 people. The explosion occurred right at the moment when success of the democratic security policy was being discussed. It also happened during a time when this part of the country, similar to the nearby Pacific area, was plunged into the eye of the storm by State policies that increased factors generating war, targeted killings, unjustified deaths, and aerial fumigation which was killing people, among other things.

May 20, 2009, at 4:30am, a bomb went off with lower explosive power at the Guapi Police Station, affecting parts of the facilities. Fortunately, no one was injured, however windows, doors, ceilings, computer equipment was destroyed as well as other supplies and materials at the rectory of Vicariato Apostolico of Guapi, and two other houses that are located around it. In addition, the City Hall’s windows were also affected as well as the treasury for the Families in Action Programs. The military attributed this act to the FARC.

Wednesday, August 19, 2009, a bomb exploded in an area known as “the tourist pier”. This pier is the main point where people arrive in or leave Guapi via river or sea. A

seventeen year old youth died due to severe injury to his legs and face received from the detonation of the bomb. He was apparently the person who had transported the bomb.

The explosion of a grenade on December 7, 2009 at 11pm apparently was caused by some strangers who supposedly threw it at a Policeman on duty as a watchman in front of the Hotel Rio Guapi (a frequented location). As a result, a two year old girl and her young, 20 year old mother were killed as well as seriously injuring a police and affecting more than 10 people.

On July 21, 2009, a bomb was deactivated in the neighborhood of Santa Monica (an urban area of Guapi) by anti-explosive experts of the security forces that arrived from Bogota. Apparently, this was a bomb with high explosive power.

- In Micay

March 15, 2010 (a day after the elections), around 10am, a bomb went off near the town of Noanamito which fortunately caused neither damages nor victims.

- In the Community Council of Napi-Guapi

It is said that authorities found explosives in the town of Boca de Napi—Community Council of Napi—September 24, 2009.

3. FUMIGATION

These have become a constant and systematic abuse of the rights of Afro-Colombians inhabiting the Pacific coast communities to free and informed prior consultation in accordance to ILO Convention 169. The fumigations employ poisonous and highly toxic chemicals including glyphosphate. They are a violation against life, integrity, identity and the culture of our Afro-Colombian communities. These, also cause harm to the natural resources of our collective and ethnic territories and the environment in general.

- AERIAL FUMIGATION IN 2010

The national government, with a defiant attitude against those living on the Pacific Coast, performed aerial fumigations from January 5, 2010 to March 16, 2010 in all 18 Community Councils in the Pacific Coast of Cauca which corresponds with the Community Councils of Los Manglares de Micay, Mamuncia, Integracion, Playon Rio Sigui, Sanjoc, Cuerval, Napi, San Francisco, Chanzara, Alto Guapi, Guapi Abajo, Parte Alta Sur del Saija-CCPASS, Cuenca del Rio San Sernardo, Patia Norte, Negros Unidos, Negros en Accion, Renacer Negros and Parte Baja del Saija.

The collective territories of the Afro-Colombian communities have been contaminated by the reprehensible fumigations. They have affected the Afro-Colombian people, the cemeteries (sacred tombs have been desecrated), the plants, trees, and natural forests, the

food crops, the waters, rivers, and springs, the fish, the soil, the community aqueducts and the Municipality of Lopez de Micay, etc.

The health problems that have resulted are serious and include skin rashes, headaches, and vomiting, among other symptoms.

Mr. Simon Bolivar Hermann, a native of the community of Bajo Sigui (Lower Sigui)—Community Council of Playon rio Sigui (Municipality of Lopez de Micay)—was affected by the toxins whenever he went to sow his crops, leaving him with welts and wounds. He later lost his “sight”, as a result of the poison he was exposed to. In the Lopez de Micay hospital, he was then sent to departmental hospital of the city of Cali and later the Medical Center, Bahia Malaga (because of the pension received by his son Herman Alfonso Yimi who served in the security forces).

As a result of the contamination of the communities, residents of the Community Council of Napi have brought 3 boys and 2 girls (ages 3, 5, 7, 9 and 10) from rural areas to the urban area of Guapi, where they are treated at health institutions (2 of which were hospitalized, one boy and one girl). However, there are infinite cases of rashes and different types of sicknesses that continue to appear. Furthermore, 5 pregnant women (from the fumigated rural areas) had miscarriages, two of which were sent to Cali for 2nd and 3rd degree treatment, after being treated in the only hospital in Guapi (1st level).

As a result of this ethnocide and ecocide, massive amounts of people have been displaced. Two hundred people have been displaced from the Community Council of Napi (coming from the communities of Soledad, Belen and San Agustin) and about 150 people have been displaced from Alto Guapi. In the other Community Councils, there has been selective, trickling displacement, estimated to have displaced approximately 150 people.

In the Community Council of Timbiqui, the fumigations carried out on January 12 and 15, 2010 have affected the entire community especially children between the ages of 0 and 4, leaving two children dead. More recently, on March 12, resident’s homes and the rivers were sprayed, leaving two children under the age of 5 dead (from diarrhea, vomiting and skin rashes). On April 7th, another girl died. New outbreaks continue to occur.

The act of fumigation is outrageous and Afro-Colombian communities lament the genocide occurring against our territories and our lives with the loss of food crops and livestock (goats, bananas, plantains, papachina, corn and sugar cane). There have been some community initiatives to recuperate the plantain crops and our production of cane syrup.

The communities are affected as a whole, for example, in the Community Councils of Lopez de Micay there are around 1,000 families that have been the affected and damaged, of which at least 100 families have been identified who have food crops without the presence of coca.

The destruction of the jungle is also a cause for concern, in addition to the overall destruction of the economic development projects formed in cooperation with HOLLAND-ECOFONDO, FUPAD-USAID, UNICEF and DIAKONIE.

Additionally, the area near the San Pedro stream was sprayed, which is the source for the aqueduct that serves the center of the municipality of Lopez de Micay.

The problem is much worse than we can imagine. There is a famine and serious food security problems as a result of fumigation of the streams from which people drink their water and fumigation of their food crops.



National Indigenous Organization of Colombia – ONIC¹

The National Indigenous Organization of Colombia (ONIC) respectfully greets US Members of Congress and the audience. We are thankful for the opportunity to present our perspective on the Indigenous Communities of Colombia.

The Colombian Constitutional Court's Orders 004 and 092 of 2009 and Order 008 of 2010; the reports of the United Nations Rapporteur for Rights and Freedoms of Indigenous Communities from their visits to Colombia in 2004 and 2009; Amnesty International's February 2010 report; and several international and Colombian human rights organizations confirm that indigenous communities in Colombia face a humanitarian tragedy that worsens by the day.

At least three factors determine this situation: the economic model, the armed conflict, and the lack of specific policies that respect the rights of indigenous people.

Indigenous communities conserve the equilibrium, harmony and property of Colombia's diverse geological territories (jungles, mountains and plains) which are seen by the current economic model as a source of wealth.

The government's search for investment and extraction of natural resources implies the proliferation of mining concessions and infrastructural large scale economic projects or "mega-projects"; the expansion of agricultural boundaries for industrial cash crops; and the legalization of violent expropriations committed by armed actors.

In many parts of the country, the Colombian armed forces lead violent military occupations against communities in order to facilitate the implementation of mega-projects. The actions of guerrilla and paramilitary groups who seek control of our territories in order to secure the extortion of multinational companies are of equal concern. These confrontations, far from achieving an ideological objective, are over territorial control. This is the primary motivation for violence against the civilian population and forced displacement in Colombia.

More than 80% of our territories have been conceded for the implementation of economic projects without respect for our right to previous consultation. In September 2009, the Colombian state decided that the colonial reserves, which are over 190 years old, **DO NOT EXIST**.

Between 2002 and 2008, over **70,000** indigenous people were registered for individual or collective internal displacement; in 2009 alone, **6,201** indigenous people were violently expelled from their ancestral homelands.

During 2009, **114** indigenous people were murdered, a 63% increase from 2008.

While we have a normative framework that is progressive and legally constituted consultation processes, we do not have policies that favor the indigenous peoples that help resolve the historical abandonment, segregation and exclusion that we've experienced in decision making processes.

On the contrary, despite orders from the Constitutional Court, the Colombian Government has not complied. The Colombian Government's reservations, which were exposed by their abstention during the vote on the Declaration on the Rights of Indigenous People in the United Nations, remain valid.

32.4% of the indigenous population is not covered by healthcare. In 2009, 45 children from the Puinave, Curripaco, and Sikuni communities died from lack of medical attention.

Education is implemented using external models. High levels of illiteracy and drop-outs, in addition to low coverage, persist in indigenous communities. Teachers' salaries are discriminated against because of their ethnic background or because they are working with our communities.

US Members of Congress have already made statements on internal displacement specifically addressing indigenous populations. The situation becomes more worrisome because many indigenous people do not denounce violations; limitations of language and geography, in addition to the presence of armed actors, prevent them from doing so.

We are worried about the role of the United States in supporting policies that affect our cultures and can put our existence at risk. The Colombian Constitutional Court has signaled at least 34 indigenous groups that are at risk of *physically and culturally* disappearing. According to ONIC, the figure exceeds more than 64 groups. It is unthinkable that humanity would permit tragedies such as this in the 21st century by not revising cooperation policies with the Colombian Government.

We recommend that the United States Congress call on the Colombian Government to fully and without reservations apply the sacred rights in the United Nations Declaration on the Rights of Indigenous Populations through policies that are urgent, effective and agreed upon.

We also recommend that the US Congress make a statement on the situation of the communities that are at risk of extinction and acts to support our campaign in favor of these communities.

We are very pleased to see the introduction of House Resolution 1224 by Representative Hank Johnson of Georgia on *Recognizing and honoring the important work that Colombia's Constitutional Court has done on behalf of Colombia's internally displaced persons, especially indigenous peoples, Afro-Colombians, and women*. We hope that all Members of the US Congress co-sponsor this resolution and that the House of Representatives passes it soon.

We suggest that the US Congress ask the Department of State not to certify military assistance to the Colombia given the high number of abuses committed by the Colombian armed forces in indigenous territories; (extrajudicial executions and not applying the principle of distinguishing themselves from the civilian population). The Department of State should first verify that effective changes have been made in the conduct of the armed forces and that they have resolved the cases of violations already committed.

Similarly, we solicit that you revise the assistance given to fumigation policies because their implications are very grave for indigenous populations and nature.

We recommend that you do not consider discussing the Free Trade Agreement, with this government or whichever other one, without first complying with the fundamental right to previous consultation with the indigenous groups.

Just like the rest of the civilian population, the indigenous populations consider that the extradition of paramilitary leaders to the United States cannot be turned into an excuse for impunity for crimes against humanity committed against us. We recommend that you support truth, justice and reparation processes and peace initiatives through political dialogue.

Cooperation should be direct and in accordance with the priorities of civil society and indigenous groups.

Finally, we reiterate our thanks and urge you to continue these kinds of meetings with more frequency and impact.

Thank you.

¹¹¹¹ Translation from Spanish to English by Anthony Dest, Program Assistant, Washington Office on Latin America.

Semana.com

<http://www.semana.com/noticias-conflicto-armado/denuncian-control-paramilitares-comercio-choco/133684.aspx>

Reports of Paramilitary Control of Commerce in Chocó

*Unofficial translation from Spanish to English by Estella Hefti, WOLA intern.



Photo: Chocó, trade of is being carried out by a paramilitary member called ‘El Aleman,’ according to locals and human rights defenders.

Monday, January 18, 2010

Armed men with long and short weapons, carrying radios for communication that are at times dressed in camouflage, can be found in the Chocó municipalities of Riosucio, Carmen del Darien, and Belen de Bajira.

These municipalities contain fertile soils for cultivating African palms, fruits and vegetables. They are rich in hardwood trees and minerals and they count on fertile plains for livestock.

There, these armed men decide who can transport items via land or river as well as who they can trade with, what they are allowed to cultivate, how much timber they can exploit, and the quantity of food allowed can be transported by people. Violence, threats and what is called “exemplary deaths” are the means these men utilize to get others to obey them, according to reports received by Semana.com.

Last October, we (Semana) did a trip around various municipalities of Chocó to investigate how timber is harvested in the region. We discovered that the way this economic activity is being carried out is the same way that paramilitary member Fredy Rendon Herrera, aka 'El Aleman', and his Elmer Cardenas bloc, had imposed and destroyed the region between 1995 and 2006.

However, at the time (he controlled the area), no authorities would confirm who it was that was controlling this commerce. Read related Semana article: 'Timber: wealth and misery in Chocó.

New testimonies and documents obtained from State institutions confirm that persons who identify themselves as members of paramilitary groups are still imposing their will through bad methods.

After so many years of being kept in check by this organization, the inhabitants got to know their oppressors very well. Today, they report that many of those who made up the demobilized bloc of 'El Aleman' are those who are presently terrorizing them. The only difference is that now these persons have adopted "franchises" known as the "Black Eagles" and "The United Self-Defense Forces of Colombia."

Relaunching Efforts

These organizations have been operating for a long time. Since October 27, 2008, a pamphlet signed by the 'Gaitanistas Self-Defense Forces' announced their presence utilizing an underground strategy.

Since then, men dressed as civilians were placed in indigenous and afrocolombian territories to keep a close eye on the movements of these communities' leaders and to block these communities' efforts to organize themselves.

The indigenous and the afrocolombians are protected by law 70 of 1993, which states that they are the only owners of these territories that they have lived on for years and whose resources has sustained them. In other words, a great deal of the land in Chocó is owned by its people. To exercise their rights, they have to create organizations and claim their land titles. It appears that this is exactly what the armed groups want to avoid, even if they must do so with blood and fire.

With the passage of time, the paramilitary forces have no longer operated in an underground manner. They decided to make their armed presence known and to become more visible in order to control the area. They want to order where crops are sown, and cattle can be bred. Also they want control so that locals will obey their wishes. According to official documents obtained by Semana.com that is exactly what these armed groups are doing. Midlevel commanders that form part of 'el Aleman's' structures are the ones responsible for giving the orders. The very people who live in the area are the ones who can identify them.

In the presence of these armed groups, all commerce is controlled. Illegal roadblocks are utilized to control the buying and selling of wood, fuel and food, as well as to control transport. These men charge illegal taxes for all these activities. In areas where companies are interested in extracting minerals or cultivating land for palm trees or to become rich, local leaders are intimidated into negotiating their lands. The close presence (of these men) instills fear in the local people—this fear prevents them from reporting their presence to the judicial authorities or public forces. But despite this, locals do not stay completely quiet. They have figure out how to make their complaints heard.

Semana.com looked into detail into the case of an illegal security located at the entrance of Cacarica municipality. All rafts and boats that pass through there are detained by the members of paramilitary groups. The drivers of the boats are charged 200 thousand pesos for each entry or exit. The armed men limit the amount of food that the passengers can bring in and out. Food that goes beyond that limit is seized. Fishermen are charged for carrying six gallons of gasoline, the amount needed for them to be able to do their work.

That fact that paramilitaries continue to operate is something that could have been predicted. In the 1980s, the FARC's 34 and 57 fronts began to operate in this area. By the 1990s, the Elmer Cardenas' bloc arrived. A territorial dispute followed that led to the paramilitaries controlling the heads of the municipalities and the guerilla ruling the rural zones.

During the period of the territorial disputes, extremely violent acts were carried out against civilians. These included decapitations, enforced disappearances, quartering of bodies, rape and whatever other acts of violence that can be imagined. Eventually, 'el Aleman's' men began to dominate the area, its commerce, and the everyday activities of its local residents. For locals, the idea that these men would lose power is considered absurd.

Sources that have closely followed the developments of this illegal armed group explain that when 'el Aleman' demobilized he left key records in strategic places. Today it is a known fact these men were always there (never left) and that they are now intensifying their violence.

In turn, the FARC has reacted with more acts of war. Those that are most affected by all this violence are civilians. Many of the atrocities locals experienced a decade ago are being repeated.

Chronology of the Terror

In the last two months, four leaders in Chocó were assassinated. Starting this year Argenito Diaz, an afrocolombian leader of the territories of Jiguamiandó and Curvaradó was murdered.

Last December 17th, Manuel Moya, Graciano Blandon and his son Yair were killed. It appears that members belonging to the FARC guerillas' 57 front killed them.

On August 27th, 2009, Benjamin Gomez, who was protected by provisional measures issued by the Inter-American Court of Human Rights, was killed.

A 39 year old fisherman known as 'Chemita' was assassinated in Cacarica—possibly by members of a paramilitary group on July 5th.

In January 2009, a man was killed with a knife in Brisas (Carmen del Darien). It seems as though those that were responsible also formed part of the paramilitaries. Two weeks afterwards, locals spotted a corpse floating down the Curvaradó river.

Walberto Hoyos was killed on October 14, 2008. He was the leader of a legal case put in place in order to reclaim lands from which many persons living in Curvaradó and Jiguamiandó had been displaced from.

A month earlier, a peasant was found decapitated in Brisas after having reported the presence of the paramilitaries to the public forces on several occasions.

These deaths are qualified as 'emblematic examples'. That is, through these atrocities, armed groups aim to generate fear and unquestioning obedience among the rest of the populations.

The FARC is also present in this area and implementing their strategies by planting landmines. Eighteen year old John Edison Quinto died March 27th 2009 after stepping on one of these mines. Four young men that were with him were injured.

Facing Justice

From all of this violence occurring in Chocó, one must not lose sight of the fact that when paramilitary members acted in Elmer Cardenas' bloc, many businessmen, possibly benefited.

The attorney general's office is investigating 23 palm companies for occupying lands belonging to internally displaced people in order to cultivate palms. The judge is trying to establish whether or not these companies promoted these persons' displacement in order to obtain the lands located in Curvaradó and Jiguamiandó.

On December 9, 2009, Chocó's Litigious Administrative Court ruled in favor of the peasants of these territories and ordered the businesses to give back the lands to their rightful afrocolombian owners. The judicial process has been long and while it is taking place reports of paramilitaries threatening the locals continue.

All that is happening in Chocó is known by the ministries of defense and the interior, the military, the armada, the air force, the police, the attorney general, the human rights ombudsman, Social Action, the Colombian Institution for the Wellbeing of Families, local governments and the governor's office.

Hopefully, with time, no one will be able deny the fact that these atrocities have occurred in silence or without notice. They were warned that the war for Chocó's resources has not ended; on the contrary, it is gaining momentum.

S.O.S

Timbiqui, Cauca. Territories Located within the Colombian Pacific

Translation by Charo Mina Rojas of AFRODES USA

May 10, 2010

The Community Councils that form part of *Palenke El Castigo-Association of Community Councils of Timbiqui*, department of Cauca, denounce the presence of two excavators, apparently brought into the town by unknown people from the gold mining zone of Rio Dagua, municipality of Zaragosa (close to Buenaventura).

The communities had alerted that the irrational and illegal gold mining exploitation in Zaragoza where Community Councils are struggling to protect their territories and resources would move eventually to the Timbiqui zone, historically known for its rich reserves of gold. The issue was reported on April 29, 2010 by the Colombian regional newspaper *El Pais*.

The presence of excavators in the ancestral and collective territories of Afro-Colombian communities is a violation of the territorial, economic and environmental rights of these communities. No foreign mining exploitation can be done in those territories without a previous transparent and informed consent from that community. This right comes from ILO Convention 169 (arts. 6 and 7) and Law 70 of 1993 (law of the black communities). Violation of these regulations has demonstrated disastrous environmental, cultural and social consequences for the native communities, as are the recent cases in Zaragoza, and also in La Toma, municipality of Suares (Norte del Cauca region), where on April 5th eight miners were killed by paramilitaries, for not other apparent reason that discourage newcomers looking for gold, from where they are promoting and defending large scale multinational exploitation. It is important to remember that members of the Community Council of La Toma and members of the human rights organizations, such the Process of Black Communities (PCN), who have been very outspoken in defense of their rights, their ancestral territories and its resources, are declared ‘military target’ by the paramilitary group ‘Black Eagles’. These death threats have not been effectively addressed yet by Colombian officials.

While the Community Councils, the communities and the organizations of Timbiqui zone, stand up in order to protect their rights and autonomy, we ask you to act immediately to hold the Colombian government responsible for this situation, and urge its action to properly tackle the problem.

Please contact immediately the US Ambassador Bill Brownfield at 57+1 315-0811, and urge him:

- To urge the National Ombudsman Volmar Antonio Perez, to immediately investigate the situation in Timbiqui and take the proper measurements to ensure the communities' rights protection and safety.
- Ask the ambassador also to exhort Rosa Carlina Garcia, Director of the Office for Afro-Colombian, Raizal and Palenque affairs, to immediately assessed the situation and take action to properly tackle the matter.
- Also urge the ambassador to ask the Ministry of Interior and Justice to guaranty that the two excavators already in the area, are removed, and prevent that this situation is repeated.

Context

1. The irrational and illegal mining exploitation in the Rio Dagua, Zaragosa, is the result of Colombian government consistent disregard for the protection of Afro-descendants human rights and environment, and particularly the consequence of President Uribe's rampant disregard for the rule of law in relation to ethnic groups' human rights. The Zaragosa crisis happens in the context of the a mega-construction project of the double-sided highway Cali-Buenaventura, a government's infrastructure project, that received environmental license conditioned to the application of the recommendations and impact mitigation measurements contained in the study of environmental impact, and its different plans of management, mitigation and reparation, as part of a previous consultation process with indigenous and Afro-descendants. The incompetence of the government and institutions related to such matters to live up to their responsibilities of enforcing the study's recommendations, led to this problem.

2. In 1997 the Colombian government assisted by the Canadian International Development Agency, CIDA, in partnership with Martinez Cordoba, and Associates law firm, which represented several multinational corporations, and the Canadian Energy Research Institute -CERI, rewrote the mining code to open Afro-Colombian and indigenous property to exploitation (including reserve zones), erode labor guaranties for workers, and make environmental regulations more flexible. Law 685 was approved in 2001, during President Alvaro Uribe's first tenure, with the silent complicity of the politicians and legislators. Canadian corporations have great interest on the Colombian extensive mining resources, most of them located in ancestral indigenous and Afro-descendant lands.

3. Shaded by the mining code, the Ministry of Mines and Energy has extended numerous concessions for mining exploitation, in defiance of the right to participation, previous consultation and free and informed previous consent of the communities affected (ILO Convention 169 –art 6,7), Law 79 of 1993 (article 49), and the Constitutional Court ruling 005 of 2009. Only in the municipality of Suarez, department of Cauca, the Community Council of La Toma have been fighting 35 mining concession given to the multinational corporations Anglo Gold Ashanti (Souh Africa), Cosigo Resorts Ltd.

(Canada), without their knowledge. Five hundred of the 600 hectares of collective territory are in dispute. Over 1500 families, most of them miners face internal displacement from their lands. The struggle of the Community Council, the indigenous organizations and other human rights groups, labor organizations and City Councils, have granted them several death threats by the paramilitary group “Black Eagles”, operating in the area.

4. Despite national and international actions, despite the protective laws and the numerous recommendations made by UN international bodies, Colombian government, under president Uribe’s mandate, has not taken effective measurements to tackle the roots of these communities’ plight. In consequence more killings continued to happen, leaders are constantly threat, the communities face imminent danger, and it seem that illegal mining is plenty justified.