

To: Congressional aides

From: Marino Cordoba and Charo Mina Rojas, AFRODES USA; Nicole Lee, TransAfrica Forum; Monika Rizo of the Manuel Zapata Olivella Center for Human Development and Education; John Jairo, Organizacion Un Dia de Esperanza, Joseph Jordan, TransAfrica Forum Scholars Council and Gimena Sanchez-Garzoli, Washington Office on Latin America (WOLA)

Date: June 7, 2007

We were informed that President Uribe will be meeting with Members of the Congressional Black Caucus today. As such, we would like to share with you the following attached documents:

- 1) English translation of the consensus document given to President Alvaro Uribe by the Afro-Colombian, Raizal and Palenquera community at the Communal Council meeting that took place on June 3, 2007 in Cali.
- 2) Memo to Members of Congress who participated in the recent Congressional Delegation to Colombia from U.S. organizations and individuals who support the Afro-Colombian grassroots organizations and communities.

Last Sunday, June 3, 2007 a "Communal Council" meeting focused on Afro-Colombian concerns took place in Cali that included the participation of Representative Gregory Meeks and Barbara Lee of the Congressional Black Caucus. At this meeting President Alvaro Uribe was presented with a consensus document (first document attached) that was developed by the Afro-Colombian Congressional Caucus, the Association of Afro-Colombian municipalities, the High Level Consultative Commission and various Afro-Colombian organizations. Our partners, the Afro-Colombian grassroots organizations that formed part of this meeting, have asked that we inform you of the following points concerning this meeting:

- 1) The format utilized for this meeting by the President of Colombia did not correspond with the format of the core points were agreed to between representatives of the Afro-Colombian communities and the government at the meeting with the High Level Consultative Commission in March 2007. On June 3<sup>rd</sup> at noon, a copy of the document that was elaborated within the framework of the Communal Council was presented to a government representative so that the President could respond to the proposals that the black community developed in a joint fashion. Once our proposal was read to President Uribe, he opted to turn it over to the National Development Department. This is an entity that for years we have been discussing various items included in the document without receiving any responses. Our understanding was that the purpose of the Communal Council meeting was so that the President could respond to items that this Department has not responded to in the past years.
- 2) The Communal Council meeting was an opportunity for us to work towards advancing in the focus and definition of the public policies concerning Afro-Colombians. Social and economic indicators that describe the situation of Afro-Colombian communities in rural and urban areas point to the fact that there is a

situation of inequality in our communities due to the legacy of slavery, racism and the racial discrimination. Racism and racial discrimination are problems that our communities are forced to endure. Racism and racial discrimination is a problem that affects Afro-Colombians in all areas of our social, economic, political and daily lives. This is why we proposed that among things there is a creation of a National Plan for the Elimination of Racial Inequality, a national policy for reparations due to slavery, racism and violence and the development of specific mechanisms for Afro-Colombians in the millennium objectives and plan 2019. We think that these proposals can help contribute to improving the state of inequality that our communities live in now.

- 3) The response of the President to our proposals was surprising. He affirmed that in Colombia racism and racial discrimination does not exist. He reiterated that he is confident that there should be a system based on merits and not a system of quotas or affirmative action. Paradoxically, the acceptance on the part of the President of the CERD to receive complaints of cases of racial discrimination is an advance in combating racism and racial discrimination. Yet it is not acceptable that the government is willing to accept such complaints and it is not willing to formulate or change policies that change racial inequality for Afro-Colombians.
- 4) Afro-Colombians must not only confront poverty and exclusion. We are also disproportionately impacted by the internal armed conflict. Afro-Colombian communities are internally displaced and have been violently expropriated from our territories or “confined” (unable to flee due to restrictions of movement) in our territories. We are subjected to humanitarian crises such as the one that is currently taking place in El Charco (Nariño) where the armed groups are clearly violating international humanitarian law. Our leaders continue to receive threats in various parts of the country. A recent example of this took place last week in the North of Cauca Department in Guapi where our leaders who were questioning the cultivation of “African” oil palm in our territories (an effort supported by President Uribe) and the activities of mining companies were harassed. Our right to previous consultation on all matters that concern our territories and communities is constantly being violated.
- 5) The Communal Council meeting that took place on June 3<sup>rd</sup> is another example of the lack of sensibility and lack of political will that the national government and President Uribe show for Afro-Colombian concerns. The negation on the part of the President that racism and exclusion exist in Colombia is a lack of respect and consideration of the ethnic plurality that exists in Colombia and is found in our National Constitution. Such a negation helps explain the attitude and actions that the government has taken with regard to our communities.

To: Members of Congress traveling to Colombia and Panama in June 2007  
From: Marino Cordoba, Charo Mina Rojas and Otoniel Paz of AFRODES USA; Wilder Peña and John Garces of Organización Un Día de Esperanza; Nicole Lee of TransAfrica Forum; Humberto Garces and Monica Rizo of the Manuel Zapata Olivella Center for Education and Development; Norma Jackson of Benedict College; Joseph Jordan, TransAfrica Scholars Council and Gimena Sánchez-Garzoli, Washington Office on Latin America

Date: May 30, 2007

We are happy to know that you will be traveling to Colombia. As organizations and individuals who follow the situation of Afro-Colombian communities closely, we wish to prepare you for your trip with a brief summary of the priority issues of concern of our Afro-Colombian grassroots partners.

**Internal Displacement:** With an estimated 3.8 million internally displaced persons, Colombia contains the second largest IDP population in the world. Afro-Colombians and indigenous persons make up a disproportionate number of the total IDP population. The situation of Afro-Colombian IDPs has not significantly improved despite several important rulings by Colombia's Constitutional Court. There remains a wide gap between the stated actions of the Government regarding IDPs and the reality seen on the ground. Afro-Colombians are under registered in the official IDP registry due to many factors including a fear of being formally identified as an IDP since this can lead to further intimidation or violence from illegal armed groups operating in the areas of "refuge." As a result of displacement, Afro-Colombians are losing their territories, collective rights and territorial identity. Displacement leads to the rupture of family structures that places women, adolescents and children in a very precarious and vulnerable state.

Afro-descendant internally displaced persons have few prospects for return to their areas of origin because their lands have been usurped by illegal armed groups. Those in areas of refuge, such as cities, face discrimination due to their race and stigmatization for being IDPs. A differentiated approach to Afro-Colombian IDPs who require additional protections has not been adopted by the government. New displacements of Afro-Colombians such as the recent displacement of over 7,000 persons in Nariño due to combat between the Colombian armed forces and the FARC, as well as continued activities of the illegal armed groups continue to take place. Many Afro-Colombian IDPs have organized themselves, and groups such as AFRODES<sup>1</sup> have proposals for how to address their immediate and long-term needs and rights within the framework of Afro-Colombian rights in a sustainable and practical manner. At present these proposals are not seriously considered nor supported by the Colombian government. It is important that future programs and policies formulated to address the concerns of Afro-Colombian IDPs are done with the full consultation of and implementation by Afro-Colombian grassroots leaders and the leaders of the communities the programs are designed to benefit.

**Negative Consequences of the Fumigation Program on Afro-Colombians:** The fumigation effort negatively affects Afro-Colombian communities. It has caused internal displacement, affected the food security of rural populations by destroying legitimate crops, contaminated water sources used by rural populations and caused health problems such as skin rashes<sup>2</sup>. Further, the fumigation effort is not leading to its intended results – coca cultivation and cocaine production continue<sup>3</sup>. Afro-Colombian communities have made alternative proposals to authorities that include manual eradication efforts accompanied by

sustainable economic development projects. Such proposals are not supported by the government.

**Critical Situation in Buenaventura:** The human rights and humanitarian situation of Afro-Colombians residing in Buenaventura municipality merits special attention. On May 15 *The New York Times* reported that Buenaventura has the highest homicide rate in Colombia and that murders in this Afro-Colombian port city increased an estimated 30 percent last year and that over 220 persons have been killed thus far in 2007<sup>4</sup>. Buenaventura experienced 38 terrorist attacks such as car bombs in 2006 and the hospital admitted 174 patients due to such attacks and stray bullets. Our partner, the Black Communities Process (PCN), whose Afro-Colombian member organizations are present in Buenaventura, sent us a very troubling document<sup>5</sup> summarized below that sheds more light on what is happening in this municipality:

Although the formal demobilization of the paramilitaries in Buenaventura took place in November 2004, paramilitaries continue to operate. In February 2005, the first post-demobilization massacre took place and since then paramilitaries continue to fight among themselves and with the guerillas. Some 441 persons have been selectively killed and eight massacres have taken place due to leadership disputes and “ajustes de cuentas” (adjustments of accounts) among these groups. In 2006, paramilitaries from the Calima and Pacifico blocs who became dissatisfied with the negotiations with the government decided to launch a new operation in Buenaventura to attempt to re-establish control over areas they lost during the demobilization. They have implemented a social cleansing and anti-guerilla effort that has led to the deaths of 5-12 youths every weekend. Paramilitaries from other regions are also operating in the city and there is a new group made up of former paramilitaries that the local Afro-Colombian population recognizes who calls themselves the Peasant Self-Defense for the Pacific. Such groups are recruiting new members, forcing locals to pay them “taxes,” and terrorizing the civilian population (threatening, murdering and disappearing people). At the same time, militias of the FARC have violently taken control of neighborhoods formerly controlled by the paramilitaries (Lleras, La Inmaculada, Juan XXXIII and La Playita). FARC militias also extort the local population by forcing them to pay “vacunas” (taxes).

Civilians living in the rural area of Buenaventura have not fared much better. They are continuously caught in the crossfire among the various armed groups. In 2006, the armed forces undertook 26 operations in the collective territories of Afro-Colombians thus increasing insecurity for civilians. The FARC committed six selective killings in the Yurumanguí, Naya and Mayorquín rivers. Combat operations have also taken place between the FARC and the ELN guerillas generating restrictions of foodstuffs and paralyzing the activities residents of the Naya River. Afro-Colombian leaders are greatly concerned about the growth of coca cultivation that is a direct result of the invasion of these groups in the area. Since 2007, some 6,821 persons became internally displaced in the rural areas of the municipality.

The facts above clearly show that in Buenaventura municipality the paramilitary demobilization process has been a failure, that current anti-narcotics efforts supported by the U.S. are not preventing the spread of coca cultivation and that the internal armed conflict rages on taking a heavy toll on Afro-Colombian civilians. **We encourage the delegation to talk to PCN while in Colombia about how to adjust U.S. foreign policy and programs so that they address the specific situation<sup>6</sup> of Buenaventura and are more effective in reaching their goals.**

**Violations of Afro-Colombian rights in Nariño:** In addition to internal displacement and confinement of civilians in Nariño, two scenarios that are devastating to Afrodescendant communities, there exists a systematic violation of the rights of Afro-Colombians in this Department. According to RECOMPAS<sup>7</sup>, an organization that consists of 14 community councils which represent 208 villages and an estimated population of 60,000 Afro-Colombians, the growth of coca cultivation, the activities of the illegal armed groups and the anti-narcotic efforts are leading to a deterioration of Afro-Colombian communal values, destruction of food security for communities, social deterioration and severe violations of human rights. Paramilitaries who demobilized are reorganizing themselves or lending their services to narco-traffickers. In the coast of Nariño, paramilitaries have formed new groups that exert violent control over areas such as the Patía River so that they can secure the traffic of drugs. In the municipality of Tumaco, the cultivation of “African” oil palm is associated with Afro-Colombians losing their territories, destruction of one of the most biodiverse regions in the world and violence (including killings of Afro-Colombian leaders). Some of the persons assassinated, such as Francisco Hurtado Cabezas and Yolanda Ceron, were historical leaders of the Afro-Colombian movement<sup>8</sup>.

**Law 70 and the previous consultation mechanism:** Law 70 of 1993 (English text attached) guarantees the collective property rights of Afro-Colombian communities and it institutionalizes their communal land rights. The law also includes provisions regarding economic and social development mechanisms, protection of cultural identity and Afro-Colombians’ rights to ethno-education, social services, training, health and human rights. The law prohibits discrimination and racism against Afro-Colombians in the public sphere. It is designed to ensure that Afro-Colombian communities are consulted and participate in the planning and implementation of development projects in their communal lands and emphasizes that they are the stewards of their territories. Articles 6 and 7 of International Labor Organization Convention 169, establishes the “previous consultation mechanism” that states that authorities must consult with indigenous communities and their authorities in “good faith” and through appropriate mechanisms on issues pertaining to use of their territories. Decrees 1745 and 1320 specify the function of the Community Councils and the prior consultation mechanism for Afro-Colombian communities. The Community Councils represent the communities and are tasked with the administration, governance and decisions regarding the territories and their inhabitants and other duties associated with the territories that are collectively titled.

The rights of Afro-Colombians found in Law 70 have not been fully implemented. Legislation that was introduced and passed under the Alvaro Uribe administration significantly undermines and in some cases contradicts the provisions found in law 70<sup>9</sup>. Such laws include the Mining Law, Water Law, Forestry Law and the Rural Development Law (still under consideration). Such laws favor resource extraction projects at the expense of Afro-Colombian communities’ collective rights. According to the Rapoport Center of the University of Texas’ School of Law<sup>10</sup>, “the Forestry Law and the Rural Development Law “have been sites of direct contestation over the future of Afro-Colombians decision-making power within their territories. Their formulation and implementation has excluded Afro-Colombian community representation, and has sought to encourage de facto privatization and alienation of lands that are supposedly inalienable.”<sup>11</sup>

**Afro-Colombian concerns about the Free Trade Agreement<sup>12</sup>:** Afro-Colombian communities are opposed to the Free Trade Agreement. They are concerned that the agreement will pit their communities against heavily subsidized U.S. agri-business exporters; and that this will cause even greater impoverishment of already marginalized ethnic

minorities hard hit by the internal armed conflict and violence. Much of the displacement of Afro-Colombian communities is directly related to trade, as politically powerful export industries such as “African” palm oil<sup>13</sup>, timber, mining and oil interests have colluded with paramilitary groups to use force to displace Afro-Colombian communities from their traditional territories in order to expand exports to the United States. Afro-Colombian communities are concerned that the investment rules in the trade agreement with only encourage further violence, as they make it even more difficult for communities to contest natural resource contracts signed by the national government without the consultation or participation of their communities. The result will be an increase in such contracts, and the violent displacement that has traditionally accompanied them. Additionally, the agreement's intellectual property laws will strengthen patent rights of multinational corporations, leading to an increase in the cost of health care, already cost-prohibitive for poor Afro-Colombians, and will threaten ownership of traditional medicines. **All of the above concerns were shared with the U.S. Congress in 2006 before the agreement was signed. None of these concerns have been adequately addressed by the "deal" recently announced between some congressional Democrats and the Bush administration.**

**Exclusion and Racism:** Although Afro-Colombians have traditionally been the stewards of territories rich in natural resources, the socio-economic indices show that there exists great inequality for this population. The rate of human development for Afro-Colombians is only 0.66%, the lowest among Colombia's population. Between 30% and 50% of Afro-Colombians' basic needs are not satisfied. Retention in elementary school for Afro-Colombians is 41% (rural) and 60% (urban). For the rest of the Colombian population the statistics are 87% and 73% respectively. For every 100 Afro-Colombians that finish school, only 2 have access to education at the college level. According to official reports and records<sup>14</sup>, Afro-Colombian urban and rural communities have the lowest social and economical indicators in the country. These indicators point to the negative effects of historical and systematic marginalization, exclusion and racial discrimination on a group of persons. It should be noted that Afro-Colombians are underrepresented in official statistics, which leads to poor services, lack of social investment in areas inhabited by Afro-Colombians, and the general situation of inequality in which the majority of the Afro-Colombian community experiences today.

#### **Long-Term Plan for Sustainable Development of Afro-Colombian Communities<sup>15</sup>:**

Following the creation of a constitutional and international legal framework that permits Afro-Colombians to look after their own development (Law 70/1993<sup>16</sup>, Law 121/1991, and the Durban Action Plan, 2002, among others), Afro-descendants have presented various developmental initiatives to the government. Some of these initiatives were integrated in the CONPES documents. The CONPES is the technical document prepared by Colombia's planning department that guides policymakers and budget appropriators on the strategies they should employ when implementing Colombia's national development plan.

Development proposals by the Afro-Colombian communities have only been partially considered or implemented in the CONPES documents for the years 1997, 2002, 2004 and the national developmental plans for the years 1995, 1998 and 2000. Although part of the Afro-Colombians' ideas are considered in CONPES documents they are not fully integrated in the documents and the documents are not fully implemented. In other words, the Afro-Colombian communities' proposals are partially considered but they do not become a reality.

In accordance with CONPES 3310/2004, the Department of Planning and the Ministries of Interior and Justice (Ethnicities Directorate) and the High Level Consultative Commission

of the Black Communities agreed to designate the Sub-Commission of Development and Planning as mediator for the development of a Long-Term Plan for Sustainable Development for Afro-Colombian communities. The creation of this Long Term Plan will take place in the second phase of this process, and includes outreach, education and consultation among the Afro-descendant communities. Right now the process is in its first phase. Phase one includes the formulation of a technical proposal that defines the terms of reference of this effort and details how phase two will be carried out.

**We encourage U.S. policymakers to support the development of the Long-Term Plan for Sustainable Development for Afro-Colombian communities and to ensure that Afro-Colombian initiatives are fully integrated, considered and implemented in this process. This effort was decided on by the designated representatives of the Afro-Colombian communities and is being developed in consultation with the broader representatives of Afro-Colombian territories; as such it should serve as the main point of reference for addressing Afro-Colombian communities' development concerns.**

---

<sup>1</sup> For Afro-Colombian grassroots organizations' analyses of the situation of Afro-Colombian IDPs and recommendations see the following documents: AFRODES, ASOMUJER y TRABAJO, PCN y CNOA. *Informe para el Relator de Derechos Humanos de Naciones Unidas para el Tema de Desplazamiento Población Afrocolombiana en Situación de Desplazamiento*, 2006. AFRODES and Global Rights, "Los Derechos Humanos de las Comunidades Afro-Colombianas 2005," Informe para la Comisión Interamericana de Derechos Humanos, 2006; Report of Brookings luncheon seminar with Geiler Romaña of AFRODES, available at: [www.brookings.edu](http://www.brookings.edu)

<sup>2</sup> WOLA and TransAfrica Forum. *Aerial fumigation is contributing to the worst recent humanitarian crisis*, April 7, 2006. Available from [www.transafricaforum.org](http://www.transafricaforum.org)

<sup>3</sup> For detailed analysis of coca cultivation numbers and cocaine production, please go to [www.wola.org](http://www.wola.org)

<sup>4</sup> According to document prepared by Afro-Colombian leaders, 40% of the homicides are related to fighting among narco-traffickers, another 25% are due to the internal armed conflict, 7% due to personal revenge, 6% due to criminality, 1% due to actions of the armed forces and the rest are undetermined.

<sup>5</sup> Internal report.

<sup>6</sup> PCN with the support of organizations such as AFRODES USA, AFSC, WOLA, TransAfrica Forum and Global Rights has been raising awareness of the situation in Buenaventura in their visits. In March 2007, they presented on Buenaventura at the OAS and last week they presented to the Special Rapporteur of People of African Descent and Racial Discrimination of the Inter-American Commission on Human Rights.

<sup>7</sup> RECOMPAS. *Pronunciamiento Oficial de RECOMPAS Sobre los Cultivos de Palma Aceitera y la Afectación en los Territorios Colectivos de la Población Afro-Colombiana en la Costa Sur de Nariño*, 2007.

<sup>8</sup> PCN. La Situación de las Comunidades Afro-Colombianas, Síntesis del Informe Presentado en la OEA, Marzo 6, 2007.

<sup>9</sup> AFRODES USA and WOLA, Questions Posed to Afro-Colombian Grassroots Leaders Visiting for the OAS Hearing on the Situation of Afro-Colombians, March 2007. available at [www.wola.org](http://www.wola.org)

<sup>10</sup> The Bernard and Audre Rapoport Center for Human Rights and Justice, The Robert S. Strauss Center for International Security and Law, and LLILAS. *Unfulfilled Promises and Persistent Obstacles to the Realization of the Rights of Afro-Colombians*, A Report on the Development of Lay 70 of 1993 Submitted to the Inter-American Commission on Human Rights, May 4, 2007.

<sup>11</sup> Ibid.

<sup>12</sup> See Afro-Colombian and Afro-Peruvian letter to Members of U.S. Congress, November 13, 2006. Available at [www.wola.org](http://www.wola.org)

<sup>13</sup> See PCN, AFRODES USA and WOLA, *Six Reasons Afro-Colombian Leaders are Opposed to the Cultivation of African Oil Palm in Afro-Colombian Territories*, available at [www.wola.org](http://www.wola.org)

<sup>14</sup> PCN presentation OAS Hearing on Situation of Afro-Colombians, March 6, 2007.

<sup>15</sup> Documents prepared by AFRODES, AFRODES USA and PCN.

<sup>16</sup> Article 57 in Law 70/93 states: "The National Government will create a commission to study and to formulate a developmental plan for the Black Communities. This commission will begin to operate once the President of the Republic is elected and with the approval of the national development plan CONPES. That plan will propose long-term policies and will become the frame of reference so that policies of the National Development Plan respect the ethnic diversity of the Nation and promote the sustainable development of those communities in accordance with their own vision. This will be a technical commission with ample knowledge of the realities of the Black Communities. And, in order to create it, the proposals of the Black Communities will be taken into account. The Department of National Planning will be responsible for financing the expenses for its proper functioning. Complete English translation by Prof. Norma Jackson of Benedict College of Law 70/93 is available at the following link: [http://www.benedict.edu/exec\\_admin/intnl\\_programs/other\\_files/bc-intnl\\_programs-law\\_70\\_of\\_colombia-english.pdf](http://www.benedict.edu/exec_admin/intnl_programs/other_files/bc-intnl_programs-law_70_of_colombia-english.pdf)



CRLN



May 18, 2007

Dear Member of U.S. Congress,

Our Afro-Colombian partners have asked that we forward you the attached letter concerning the Communal Council meeting that will take place in early June. As organizations and individuals who closely follow the situation of Afro-Colombian communities we are happy that Members of the U.S. Congress are considering participating in this meeting and that you are interested in ensuring that the human and territorial rights of Afro-Colombians are respected. With this in mind, we encourage you to ensure that the recommendations made in the attached letter are implemented.

Sincerely,

Marino Cordoba and Charo Mina Rojas  
Association of Internally Displaced Afro-Colombians USA

Nicole Lee  
TransAfrica Forum

Joseph Jordan  
TransAfrica Forum Scholars' Council

Monica Rizo and Humberto Garces  
Manuel Zapata Olivella Center

Danielle Wegman and Gary Cozette  
Chicago Religious Leadership Network

Gimena Sánchez-Garzoli  
Washington Office on Latin America

Heather Hanson  
U.S. Office on Colombia

Martha Pierce  
Chicago Metropolitan Sanctuary Alliance

John Garces  
Organización Un Día de Esperanza

Afrokolombia, May 16, 2007

Dear Member of Congress,

We would like to thank you for your interest in the human rights situation of Afro-Colombian communities and, in particular, for your decision to participate in the Communal Council meeting that the Colombian government has scheduled to take place in early June 2007. Regarding this upcoming meeting, we respectfully ask that you take into account the following:

1. **The Communal Council format.** Although the establishment of the Cali Communal Council in December of 2006 and the proposal for the creation of another such Council represent important steps forward, there is a general consensus among the Afro-Colombian communities that the participation of our communities, organizations, and leaders in these meetings has been very limited so far. It is our opinion that these meetings neither offer a true dialogue nor bring about solutions to the many problems plaguing our communities. In Colombia, within the framework of the implementation of Law 70 of 1993, there exists a High Level Advisory Commission that allows for the participation of the national government, as well as that of representatives from our communities. In the last session of the High Level Advisory Commission held in Cartagena in March 2007, the community representatives proposed, and approved, an expanded High Level Advisory Commission which is more favorable and adequate for the discussion of policies that will benefit Afro-Colombians. We support this decision.

2. **The agenda.** Some of the rights of the Afro-Colombians have been recognized in the present Colombian legislation; but steps towards the implementation of those rights have not been supported by the state. We believe that the agenda of an expanded High Level Commission should center on the ethnic rights of the Afro-Colombians, so that the meeting between our communities, the President of the Republic, and his cabinet can be successful in developing the groundwork and the conditions for the development of policies that are effective in protecting the rights of Afro-Colombians. In order to have a productive dialogue, the points on the agenda as well as the methodology for its development should be determined by the spokespersons of our communities together with those of the government.

3. **Participation and participants.** In order to ensure that we have adequate and effective participation in this meeting with the President of the Republic and his representatives, we, the organized groups and representatives of the Afro-Colombian communities, should decide autonomously the topics to be discussed by our spokespersons and the time of their participation. The list of the attendees should be jointly selected by the government and our representatives. Additionally, the government should adhere to its commitments regarding guarantees, in order to avoid situations such as the one that occurred with the Cali Communal Council, where the government promised to finance the participation of members of the Community Councils of Tumaco, Timbiquí, and delegates of the Council of Bogotá, among others, and at the last minute it sent notice that it lacked the financial resources to mobilize their representatives.

Finally, it is very important for us to be able to have a dialogue with members of the congressional delegation who will participate in the Communal Council Meeting (Broader

Consultation Commission) and request that they meet with representatives of our communities prior to this meeting.

In the spirit of our ancestors,

Sincerely,

Comisión Consultiva Distrital de Comunidades Negras de Bogotá  
Asociación de Mujeres Afrocolombianas AMUAFROC  
Asociación de Parteras Unidas del Pacifico ASOPARUPA, Buenaventura, Valle  
Asociación de Mujeres Afrocolombianas, AMAFROCOL, Cali, Valle  
Fundación para el Desarrollo de la Mujer de Buenaventura y la Costa del Pacifico, FUNDEMUIER, Buenaventura  
Asociación para el Desarrollo Integral de la Mujer, la Juventud y la Infancia - ASOMUIER Y TRABAJO  
La Asociación Municipal de Mujeres – ASOM, Buenos Aires, Cauca  
Asociación de Afro-Colombianos Desplazados AFRODES  
Asociación de Municipios con Población Afrocolombiana AMUNAFRO  
Conferencia Nacional de Organizaciones Afrocolombianas CNOA  
Movimiento Nacional por los Derechos Humanos de los Afrocolombianos CIMARRON  
Proceso de Comunidades Negras en Colombia PCN  
Organización de Comunidades Negras ORCONE  
Federación de Organizaciones del San Juan FOSAN, Chocó  
Organización de Barrios Populares OBAPO, Chocó  
Foro Interétnico Solidaridad Chocó  
Asómanos Negras, Costa caucana  
Palenque Regional, Kusuto, Costa Caribe  
Palenque Regional el Congal, Buenaventura, Valle  
Palenque Regional Kurrulao, Tumaco, Nariño  
Palenque Regional Alto Cauca, Santander de Quilichao, Cauca  
Corporación Jorge Artel, Cartagena, Bolívar  
Consejo Comunitario San Basilio de Palenque, Palenque, Bolívar  
Fundación para la Formación de Líderes Afrocolombianos AFROLIDER, Cali  
Consejo Comunitario Mayor del Río Anchicayá, Buenaventura  
Consejo Comunitario del Río Raposo, Buenaventura  
Consejo Comunitario del Río Calima, Buenaventura  
Consejo Comunitario del Río Mayorquín, Buenaventura  
Consejo Comunitario del Río Yurumanguí Buenaventura  
Asociación Juvenil Juventud 500, Buenaventura  
Ku Mahana, Cali  
Colectivo de Jóvenes Kasimba, Cali  
Patrona y Sebastiana Cardenas, Cerrito  
Consejo Comunitario del Bajo Mira y Frontera, Tumaco, Nariño  
Consejo Comunitario del Río Patia ACAPA, Francisco Pizarro, Nariño  
Consejo Comunitario de la Cordillera Norte de Nariño, Cordicon  
La Fundación Etnia Verde, Tumaco, Nariño

Cooperativa de Profesionales y Estudiantes Afrocolombianos, Cooproafro, Tumaco  
Movimiento Gente Unida, Tumaco  
Consejo Comunitario de la Alsacia, Buenos Aires, Cauca  
Concejo Comunitario Cerro Teta, Buenos Aires, Cauca  
Consejo Comunitario de Pilamo, Guachene, Cauca  
Asociación Consejos Comunitarios del Municipio de Timbiqui, Cauca  
Consejo Mayor Palenque el Castigo. Timbiqui, Cauca  
La Asociación Juvenil Comunitaria, Buenos Aires, Cauca  
Corporación Ancestros, Popayán, Cauca  
Movimiento Cultural Sinecio Mina, Puerto Tejada, Cauca  
Linval Association for the Development of the Raizal People, San Andres Islas  
Native Afroanglo Foundation for Vindication, San Andres Islas  
Corporacion Conalpabi  
Asociacion Afrocolombiana de Desarrollo AFROCODES ASINPACIFICO  
Afrolibertarios, Barrancabermeja, Santander  
Dionisio Miranda, Representante a la Comisión Consultiva de Alto Nivel  
Bayron Sinisterra, Representante a la Comisión Consultiva de Alto Nivel  
Javier Pardo, Representante a la Comisión Consultiva de Alto Nivel

## Cali Consensus

### **Unity Document for the Participation of the Afro-Colombian Populations of Raizal and “Palenquera” in the Afro-Colombian Community Council II.<sup>1</sup>**

Santiago de Cali – June 3<sup>rd</sup>, 2007

Doctor Alvaro Uribe Vélez, President of the Republic of Colombia  
Honorable Congressmen of the United States of America  
Fellow Afro-descendant Gregory Meeks, leader of the delegation

Esteemed Guests:

We begin the presentation of this document by acknowledging Doctor Paula Marcela Moreno Zapata, Minister of Culture, Doctor Andrés Palacios, Vice Minister of Labor Relations, and by also acknowledging the presence of General Luís Alberto Moore, Doctor Alicia Ledesma, National Director of Public Prosecutors, and Carmen Inés Vásquez, Private Secretary of the Comptroller General of the Republic.

The “Cali Consensus” that we present today is divided in three parts: First, general considerations referring to the context of the Afro-Colombian Raizal and “Palenquera” populations. Secondly, a series of initiatives intended to advance the common goals of the Afro-Colombian Raizal and Palenquera populations, the Colombian government, and the United States Congress, whose solidarity we greatly value. And finally, a collection of proposals specifically directed to the President of the Republic of Colombia, all of which serve for the betterment of the situation in our communities.

Mister President; Esteemed International Guests; Ladies and Gentlemen:

For the Afro-Colombians, the Raizals and the Palenqueras, this Community Council is an imperative occasion which allows us to deepen the discussion regarding how to correct the situation of Afro-Colombian inequality and exclusion, formulate and adopt public policy, foster political dialogue, and facilitate national and international solidarity.

We, the Afro-Colombians, the Raizals and the Palenqueras, populate the Atlantic and Pacific Coasts, San Andrés, Urabá, and the inter-Andean valleys, these being our historical and cultural native lands, although we are now also present throughout the nation, especially in the largest cities of the country. All of our regions possess innumerable natural, cultural, and geo-strategic resources, all of which stand in contrast to the high levels of inequality and unrealized basic needs.

---

<sup>1</sup> English Translation by WOLA interns Liz Bradley and Marissa Hall.

In effect, infant mortality amongst Afro-Colombians is four times higher than the national average; life expectancy is three years less than the national average; per capita income is three times less; and education in the Pacific region is thirty years behind the development of education in Bogotá.

The Afro-Colombians disproportionately suffer from the internal armed conflict, shown through forced displacement, which affects 30% of the population. Our communities' situation has been aggravated by the expansion of the cultivation of illicit substances in our territories, and the impact of fumigations. Yurumangui, Buenaventura, Naya, Cordillera, Urabá, and San Onofre are only some examples of the geography of suffering of our peoples.

The Raizal Afro-Colombians of San Andrés, Providencia, and Santa Catalina, and the Palenquera of San Basilio make up 26% of the Colombian population, numbering at 10.5 million people. The discrepancy between that statistic and the 4,400,00 people stated in the General Census of 2005 is due to the fact that in that census, the question of self-identification was not considered for all Colombians.

The fact that the General Census of 2005 counts only 4,400,000 Afro-Colombians, Blacks, Palenqueras, and Raizals, when in reality we number 10.5 million is indicative of the inappropriate census-taking methods.

In accordance with CONPES 3310 of 2004, adopted by the national government: "...the Afro-Colombian population, the Raizals and the Palenqueras [...] have shown indications that confirm the relative disadvantage of this population in comparison with the rest of the population. Even though the rate of unemployment is greater, statistics indicate inferior educational coverage for secondary and higher levels of education for the population who receives government subsidies, in comparison with the rest of the population."<sup>2</sup> However, in his presentation to the members of the Afro-Colombian delegation, the Special Rapporteur for Afro-descendants of the OAS, Dr. Clare Roberts, said that he has visited and spoke with various governmental ministers and that some had insisted that racial discrimination did not exist in Colombia. Concurring with what was told to the Special Rapporteur, and in contradiction to official State recognition, those responsible for Plan Colombia insist that "in affecting the poor of the countries, the Afro-Colombians shall benefit."<sup>3</sup> Some of the development policies initiated and supported by the national government in Afro-Colombian regions and territories, are not in accordance with what has been stipulated in Law 70 of 1993. Instead, important initiatives, such as the objectives of the Millennium Plan of 2019, do not incorporate specific measures oriented to improve situation of inequality experienced by these peoples. Moreover, the plans formulated and proposed by these communities have not received political backing and the necessary budget for their effective implementation.

---

<sup>2</sup> CONPES 3310, DNP 2004, p.6.

<sup>3</sup> Words of President Uribe in the 34<sup>th</sup> Congress of Fedepalma.  
([http://www.presidencia.gov.co/prensa\\_new/sne/2006/agosto/09/19092006.htm](http://www.presidencia.gov.co/prensa_new/sne/2006/agosto/09/19092006.htm))

The profound racial inequality that Afro-descendants, including Afro-Colombians, suffer from, as stated in the Third World Conference Against Racism by Robert Martin, is “...the result of brutal disadvantages and exclusion originally generated by systematic slavery, which have been transmitted from generation to generation, lived daily due to prejudice and racial discrimination, and have origins in the past but continue today. This inequality systematically manifests itself in all aspects of economic and social life throughout the country and in every region.”<sup>4</sup>

In regards to the specific situation of Afro-Colombians, the Inter-American Commission on Human Rights (1999) the UN International Committee on the Elimination of Racial Discrimination (1999), the UN Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (1996 and 2004) have provided a handful of recommendations. These, like the agreements set forth by the State in the Declaration and Plan of Action of Durban, have not been implemented by the State; this creates a powerful obstacle for the possibility to effectively resolve the unequal situation of the Afro-Colombians.

Since the Constitution of 1991 and Law 70 of 1993, Colombia has made advances in the legal recognition of the special rights of the Afro-Colombian population and has adopted beneficial policies. However, a great social gap persists; therefore, it is very important that there be a commitment on the part of the national government, and international cooperation and solidarity, in order to guarantee not only formal equality, but real and material equality as well. Mr. President, racism, racial discrimination, and inequality are obstacles to the advancement of democracy in our country.

**Afro-Colombian, Raizal and Palenquera women find themselves in disadvantaged socioeconomic situations. The World Conference on Women and the World Conference on Racism have recognized that Afro-descendant women are objective to multiple types of discrimination.**

#### **COMMON INITIATIVES OF THE AFRO-COLOMBIAN, RAIZAL, AND PALENQUERA POPULATIONS, THE COLOMBIAN GOVERNMENT AND THE UNITED STATES CONGRESS.**

1. That the offer of cooperation extended by USAID, in regards to Plan Colombia, establish a specific percentage of resources articulated in an integral program for the Afro-Colombian population, orienting technical and statistical cooperation in public policy for the inclusion of diversity and the continuation of public policy for the development and integration of the Afro-Colombian population in the Colombian democracy.
2. The promotion of an interchange of beneficial experience in terms of the recognition of civil rights, namely in the areas of education and employment. Dr. Uribe, we ask to you follow the example of the United States, in which

---

<sup>4</sup>Roberto Borges Martins, Division of Social Development, Santiago de Chile, March 2004.

public and private universities would be able to reserve 10% percentage of enrollment opportunities for Afro-Colombian students, and that the Law of Quotas for women be extended to Afro-descendants in Colombia, as has been suggested by the Afro-Colombian Congressional delegation, in the Law written by its members, with the help of more than two hundred professional Afro-Colombians on May 17<sup>th</sup>, 2007.

3. We also ask the United States government to guarantee that American businesses that work in Colombia, the companies that they establish, and future trade agreements that may develop, allot a percentage of their employment positions, at every level, to Afro-Colombians. This could serve as an example that undoubtedly would be emulated by Colombian businesses who have yet to consider doing so.
4. Scientific exchange, and technical and financial cooperation between United States universities and the Technical University of Chocó, and the Pacific University of Colombia, along with the strengthening of Centers for Afro-Colombian Studies in national universities. We commend the United States Embassy for establishing the Martin Luther King Jr. scholarship program, which provides more than seventy students access to an English education, but the coverage of this program should be amplified. This type of program would be complimented by an allotment of at least 10% of governmental and international scholarships to be awarded to Afro-Colombain people, which would fulfill the terms of CONPES 3310 on Affirmative Action.

It is of utmost importance that President Uribe shows his support for this initiative which is endorsed by some of the Congressional Black Caucus members, and other organizations interested in the Afro-Colombian population. This initiative hopes to be beneficial for Afro-Colombian leaders to be allowed to study in American universities, as a means to improve the productivity and abilities of this population. The means to this end would be provided by the global party ICETEX. This proposal would include the preparation of students for undergrad and post-graduate studies in the United States, as well as the capacity to serve in public office and as members of Congress.

5. That a percentage of the money and resources seized from narco-traffickers be reinvested into social programs for the economic development of Afro-Colombians. Decisions that President Uribe has made in this regard in the past few months have been very important, but it would be beneficial for all if both countries, in a coordinated effort, could established a fixed percentage that takes into account seizures in the United States as well.
6. That the United States government and the United States Congress provide economic support to strengthen the long-term integral development plan for all of the Raizal and Palenquera Afro-Colombian population, and Phase II of

the BID Program – Pacific Plan. These plans work to provide solutions to unmet needs in these communities, such as infrastructural work and initiatives for business development.

7. We appreciate the agreements between municipal governments and the Afro-descendant population to organize a national association of municipal governments and Afro-Colombian populations, AMUNAFRO, and the efforts being made by local governments to improve the wellbeing of Afro-Colombians. At the same time, we ask the United States Congress and the Colombian government to support this process of institutionalization and the improvement of social infrastructure in our municipalities as a necessary means of advancement and development.

## **RECOMMENDATIONS FOR THE PRESIDENT OF THE REPUBLIC OF COLOMBIA:**

### **Territory:**

- Declare territories occupied by or titled to black communities as “Peace Zones” and adopt the necessary measures to guarantee autonomy, stability, and sustainable development of these communities in these zones.
- That the government create a special line of credit within the financial system for the financing of productive projects in black communities without deposits and with low interest.
- That the government present to Congress, with utmost urgency, a protection law that would elevate collective territories of black communities to Afro-Colombian Territorial Entities (ETAS).
- To complete the process of collective land titling for black communities on the Pacific Coast and in similar zones, as a way of formulating and executing sustainable productive strategies for territories titled to black communities in Colombia.
- That the national government work with Afro-Colombian communities to formulate and implement a national program of endowment and acquisition of territories for black communities outside of the Pacific region.
- We ask the government to take the necessary steps to protect, conserve and sustainably develop the traditional territories, titled to and/or where black communities reside.
- To advance the strategic design and implementation of plans that strengthen community councils and autonomous management of their territories.

- To guarantee obligatory compliance with previous agreements in territories where there is a presence of black communities.
- That the Agriculture Financial Fund, *FINAGRO*, enable a line of credit that would permit the development of productive projects and the acquisition of land for black communities located in the inter-Andean valleys, with 100% financing and low interest rates.
- To guarantee black communities the priority rights of use of mining resources on collectively held lands and to execute a mining plan in the collective territories of black communities, within the framework of responsible mining and clean production.

The plan should include programs such as the recuperation of degraded areas, stimulate alternative productive activities such as forestry, fish-breeding, aviculture, porciculture, among others, for the development of productive family units to create a productive base to guarantee food security, sovereignty, and the sale of excess productive of the communities.

- That the national government recognize traditional ancestral occupation of territories occupied by black communities throughout the country, and prevent the territorial expropriation of zones such as the islands of Rosario and San Bernardo in the Department of Bolívar, through the application of Law 70 of 1993 and its regulatory decree 1745 of 1995.
- Supporting the legislative initiative of the Honorable Representative Odín Sánchez Montes de Oca, and the Afro-Colombian Congressional delegation, which looks to give back power and resources to community councils, given that today property tax law does not recognize municipalities in collective Afro-Colombian territories.
- We request that the national government immediately and completely return all illegally appropriated territories of black communities, including Jiguamiandó, Curvaradó, Alto Mira, and Frontera. There should be full restitution of collective territories belonging to the Afro-Colombians.
- We also request the adoption of policies that provide differentiated assistance of black communities affected by internal displacement.
- We ask for the replacement of policies of illicit crop fumigation in Afro-Colombian collective territories with policies for manual eradication and income substitution.

- We ask the President to endorse the initiative to promote the status of San Basilio of Palenque as a special municipality, as it has been declared by the UNESCO a “Cultural Patrimony of Humanity.”
- The Raizal population of San Andrés, Providencia, and Santa Catalina calls attention to the critical situation of internal displacement that they face due to the overpopulation of immigrants in these areas. They call for the development of Article 310 in the national constitution to expedite the special status of the Raizal and the creation of a special regional assembly to protect the cultural identity of the Raizal.
- That expired property titles, especially those that have to do with land in the region, become legal communal property of the Raizal community.
- That the INCODER guarantee black communities access to collective land titles for the wetlands in Urabá, as well as the beach usufruct that are located in the territories of black communities.

### **Human Rights:**

The State must:

- Comply with pacts, protocols, agreements, and international recommendations on human rights that have been ratified by the Colombian government.
- Apply a different focus in line with the framework of protection applicable to at-risk and displaced Afro-Colombian communities that would allow for the enjoyment of rights.
- Implement specific means of protection for Afro-Colombian women and youth that are concerned with and adopted by organizations and communities.
- Include in national statistics and registries information about ethnically-motivated violations of human rights.
- Adopt means of affirmative action that confront institutionalized racism and discrimination that is used against Afro-descendants in Colombia.
- Support Afro-Colombian participation in the design and implementation of a National Plan of Action for Human Rights and International Humanitarian Law.
- Actively regulate paragraph 2 of Article 20 of Law 335 of 1996 that refers to Constitutional and legal human rights relating to communication and

information of Afro-Colombian, Raizal, and Palenquera communities and organizations.

- Search for a politically negotiated strategy to end the social and armed conflict in Colombia with the participation of Afro-Colombian social organizations.
- Again, we solicit the national government to formally accept the competence of the UN Committee on the Elimination of Discrimination so that this body can take on Colombian discrimination cases when the domestic judicial mechanisms cannot adequately respond.
- We also ask for endorsement of the legislation that would penalize racism, introduced by the honorable House Representative María Isabel Urrutia Ocoro and by members of the Afro-Colombian Congress.

### **Socioeconomic Development:**

We invite the government to work with us in a concerted manner to formulate and execute the following actions:

- A National Plan for the elimination of racial inequality.
- National policy for reparations for slavery, racism, and violence.
- Redefine specific goals within the framework of the Millennium Development Goals.
- Elaboration and execution of ethno-development plans of Community Councils, which would provide for a process of tax exemption.
- Effective application of Decrees 804 of 1995 and 1122 of 1998, with a budget assigned for the implementation of Afro-Colombian ethno-education.
- Formulation of public policy for the strengthening of opportunities for securing resources for the Afro-Colombian community, in the development of the High Level Advisory Accords: a Sub-Commission of Planning, with the Department of National Planning, which pledges to assign section of budgets in the Annual Inversions plan 2007-2008.
- Formulation of public policy for the strengthening of cultural identity of Afro-Colombian peoples, and the allotment of resources for its execution in the 2008 budget.
- Formulation of public policy for Afro-Colombian entrepreneurship initiatives, and the allotment of resources for the creation of a capital fund. 10% of

national income from exports and imports would be used to finance the initiative.

- Strengthen higher education (Pacific University, Technical University of Chocó; 10% of enrollment designated for the Afro-Colombian population, ICETEX, and 10% of international scholarships reserved for Afro-Colombian population).
- Formulation, development, execution, and verification of state policy for the protection of Afro-Colombian social security (health, living, and employment).
- Creation housing plans, projects, and programs for the Afro-Colombian populations that find themselves in vulnerable conditions in urban and rural areas. These housing plans must not threaten spiritual and cultural conditions, by means of granting authority to community councils.

### **Institutional Strengthening and Participation:**

- We urge the government of President Alvaro Uribe Vélez to reestablish a Board of Affairs for Afro-Colombians that used to exist until 2003 but is now reduced to a sub-organization. This Board would be assigned the responsibilities that now belong to the Colombian Institute of Rural Development.
- The establishment of a special constituency of black, Raizal, and Palenquera communities in the Colombian Senate, and for government support for similar initiatives in the Assembly and city governments.
- The national government must promise that all laws and other influential government initiatives be concerned with protecting the cultural, territorial, and environmental integrity of the Afro-Colombian population in accordance with their fundamental economic, social and cultural rights.
- With this new outline of territorial ordinance, and in the new era of ethnic, environmental, and cultural relevance, we ask for support for the creation of a Department of the Pacific.
- We ask that the government incorporate a true ethnic perspective in forming gender-related policy, and that in turn, the government incorporate a true gendered perspective in policies for Afro-descendants, Raizal, and the Palenquera populations.
- Enforce Law 70 of 1993, especially chapters 4, 5, 6, and 7 with the participation of Afro-Colombians, Raizal, and Palenquera peoples.

- Establish two Congressional seats for Afro-Colombians, Raizal, and Palenqueras in the Senate, as is the case for the indigenous population.

**Mr. President, esteemed international guests:**

**All of these ideas require a dedicated response from you, Mr. President, as well as resources, time, mechanisms, and institutions responsible for their continuance and execution. Initially, we propose to form a commission with one of your delegates that will be respected among the international community and our communities. After about six months, the commission will present about the achievements and advances made on the points that result from this Second Afro Community Council. This document is an expression of unity and consolidation of the Afro-Colombian social movement. The initiatives outlined here are shared by: the delegation of Afro-Colombian legislators integrated by seven House Representatives; the High Advisory Commission, which is an example of cooperation and interlocution between the State and Afro-Colombian communities; the Association of Community Councils; a wide and representative number of grassroots community organizations; and the Municipal Association.**

**Thank you.**

**Law 70 of Colombia (1993): In Recognition of the Right of Black Colombians to Collectively Own and Occupy their Ancestral Lands.**

**English Translation**

**Translated by:**  
**Dr. Norma Lozano Jackson**  
**Benedict College**  
**Columbia, SC 29204**  
[jacksonn@benedict.edu](mailto:jacksonn@benedict.edu)  
**Dr. Peter Jackson**  
**Benedict College**  
**Columbia, SC 29204**  
[jacksonp@benedict.edu](mailto:jacksonp@benedict.edu)

You may copy and distribute this Translation in any medium provided that you include the following: This translation is the work of Norma and Peter Jackson of Benedict College, Columbia, South Carolina 29204  
[www.benedict.edu/exec\\_admin/intnl\\_programs/other\\_files/bc-intnl\\_programs-law\\_70\\_of\\_colombia-english.pdf](http://www.benedict.edu/exec_admin/intnl_programs/other_files/bc-intnl_programs-law_70_of_colombia-english.pdf)

## **LAW 70 OF 1993**

### **For Which Transitory Article 55 of the Political Constitution of Colombia was Developed**

#### **Decrees**

#### **Chapter I Objective and Definitions**

**Article 1.** The object of the present Law is to recognize the right of the Black Communities that have been living on barren lands in rural areas along the rivers of the Pacific Basin, in accordance with their traditional production practices, to their collective property as specified and instructed in the articles that follow. Similarly, the purpose of the Law is to establish mechanisms for protecting the cultural identity and rights of the Black Communities of Colombia as an ethnic group and to foster their economic and social development, in order to guarantee that these communities have real equal opportunities before the rest of the Colombian society.

In Accordance with what has been stipulated in paragraph 1 Article 55 of the Political Constitution, this Law will also apply in the barren, rural, and riparian zones that have been occupied by Black Communities that have traditional practices of production in other areas of the country and abide by the requirements established in this Law.

**Article 2.** For the purposes of the present Law, it is understood that:

**1. PACIFIC BASIN.** Is the region defined by the following geographic limits: From the summit of the Chiles Volcano bordering the Republic of Ecuador, continuing along the division of the Western Mountain Range waters, and the Cumbal and Azufral Volcanoes, until the Hoz of Minamá; crossing it, just below the mouth of the Guáitara River continuing through the division of the waters of the Western Mountain Range, along the Munchique Mountain, the Farallones de Cali, the Tatamá, Caramanta and Concordia Mountains; from these mountains, continuing along the branching of the waters to the Nudo de Paramillo; continuing to the Northeast up to the high point of Carrizal, along the branching of the waters to Río Sucio and Caño Tumarandó, into Río León to a point of Bahía Colombia along the left margin of the mouth of the Surinque River in the Gulf. Continuing along the line that defines the Gulf Coast of Urabá to the international landmark in Cabo Tiburón, from this point continuing through the line of the international limit between the Republic of Panamá and Colombia, to the midpoint between Punta Ardita (Colombia), and Cocalito (Panamá), over the coast of the Pacific Ocean, continuing along the coast to the mouth of the Mataje River, continuing along the international limits with the Republic of Ecuador, to the top of the Chiles Volcano, point of departure.

**2. RIVERS OF THE PACIFIC BASIN.** Are the rivers of the Pacific region, which comprise:

a) the Pacific flow made up of superficial waters of rivers and brooks that drain directly into the Pacific Ocean and its subsidiaries, the basins of the rivers Mira, Rosario, Chajul, Patía, Curay, Sanquianga, Tola, Tapaje, Iscuandé, Guapi, Timbiquí, Buey, Saija, Micay, Naya, Yurumanguí, Tumba Grande, Tumbita, Cajambre, Mallorquín, Raposo, Anchicayá, Dagua, Bongo, San Juan, Ijua, Docampadó, Capiro, Ordó, Sivirú, Dotendó, Usaraga, Baudó, Piliza, Catrippe, Virudo, Coquí, Nuquí, Tribugá, Chori, El Valle, Huaca, Abega, Cupica, Changuera, Borojó, Curiche, Putumia, Juradó, and other smaller tributaries which drain directly into the Pacific Ocean; b) the basins of the Atrato, Acandí, and Toló Rivers, that flow into Caribbean.

**3. RURAL RIPARIAN LANDS.** Are the lands bordering the banks of the rivers mentioned in the preceding paragraph that are outside urban perimeters as defined by the Municipal Councils of the area municipalities in question in accordance with the provisions of Municipal Regulation Code (Decree 1333 of 1986), and any subsequent added laws that develop or amend it and in which the respective community is settled.

**4. BARREN LANDS.** Are the lands situated within the borders of the national territory belonging to the State and no other owner, and that, having been categorized as such, shall return to the domain of the State in accordance with article 56 of Law 110 of 1913, and any other regulations that augment, develop, or reform it.

**5. BLACK COMMUNITY.** It is the group of families of Afro-Colombian descent who possesses its own culture, shares a common history and has its own traditions and customs within a rural-urban setting and which reveals and preserves a consciousness of identity that distinguishes it from other ethnic groups.

**6. COLLECTIVE SETTLEMENT.** It is the historic and ancestral settling of Black Communities in lands for their collective use, lands that constitute their habitat, and where they currently develop their traditional practices of production.

**7. TRADITIONAL PRACTICES OF PRODUCTION.** Are the technical, agricultural, mining, forestal extractions, grazing, hunting, fishing, and general harvesting activities of natural resources, customarily used by the Black Communities to guarantee the conservation of their lives and their self-sustaining development.

## **Chapter II Principles**

**Article 3.** The present Law is based on the following principles:

- Recognition and protection of ethnic and cultural diversity, and equal rights for all cultures that compose the Colombian nationality.
- Respect for the integrity and dignity of the Black Communities' cultural life.

- Participation of the Black Communities and their organizations, without detriment to their autonomy, in decisions that affect them and in those that affect the entire nation in conformity with the law.
- The protection of the environment, emphasizing the relationships established by the Black Communities and nature.

### **Chapter III**

#### **Recognition of the Right to Collective Property**

**Article 4.** The State will grant collective property to the Black Communities referred to in this Law, in areas that, according to the definitions in Article II, comprise barren lands located along the riverbanks in rural riparian areas of the Pacific Basin as well as those in areas specified in the second clause of Article 1 of the present Law: lands that they have been occupying in accordance with their traditional practices of production.

For all legal purposes the lands, for which collective property rights are established, will be called: The Lands of the Black Communities.

**Article 5.** In order to receive adjudicable lands as collective property, each community will form a Community Council as its internal administrative body whose functions will be determined by National Government ruling.

In addition to the functions determined by National Government ruling, other functions of the Community Councils are: to watch over the conservation and protection of the rights of collective property, the preservation of cultural identity, the use and conservation of natural resources; to identify a legal representative from the respective community as their legal entity, and to act as friendly conciliators in workable internal conflicts.

**Article 6.** Except for the grounds and the forests, collective grant lands under this Law do not include the following:

- Control over goods for public use.
- Urban areas of municipalities.
- Renewable and non-renewable natural resources.
- Legally constituted and protected indigenous territories.
- The subsoil and rural lands accredited as private property as per law 200 of 1936.
- Areas reserved for national security and defense.
- Areas of the national-park system.

Regarding the soils and forests included in the collective titling, ownership will be exercised as a social function with an inherent ecological function. Consequently, the use of these resources must take into account the following:

The use of the forest exercised under rules of law, as well as the exploitation of the forest for commercial purposes should guarantee the continuity of resources. In order to put

forward the continuity of resources, the authorization of a competent entity to handle forestal resources is needed.

Use of the resources should be done taking into account the ecological fragility of the Pacific Basin. Consequently, land grantees will develop conservation and handling practices that are compatible with ecological conditions. To this end, appropriate models of production should be developed, such as agrosilvopasture, agroforestry, and the like, designing suitable mechanisms to stimulate them and to discourage unsustainable environmental practices.

**Article 7.** In each community, the Black Community's portion of the land designated for collective use is non-transferable, imprescriptible, and non-mortgageable.

Only areas assigned to a family group can be transferred, whether through the dissolution of the group or any other cause indicated in the Law, but the preferential right to occupy or acquire the land can only fall to other members of the community, and, in their absence, to another member of the ethnic group, for the purpose of preserving the integrity of the lands and the cultural identity of the Black Communities

**Article 8.** For purposes of land adjudication, as stated in article 4, each community will present its respective request to the Colombian Institute of Agrarian Reform (INCORA). This body can initiate the official land adjudicating process.

A commission made up of INCORA, The Agustin Codazzi Geographic Institute and INDERENA, or their representatives, will develop, with prior information from the Community Council, a technical evaluation of the requests and will determine the boundaries of the area to be granted under collective property title.

**Article 9.** The following information should be attached to the petition:

- a. Physical description of the land to be titled.
- b. Ethno-historic antecedents.
- c. Demographic description of the territory.
- d. Traditional practices of production.

**Article 10.** Once the petition is filed, the respective regional general manager will order a visit to the interested Black Community; the visit should take place no later than sixty days from the day the petition is filed. Notice of the resolution to visit will be given to the interested Black group, to the respective organizations, and to the town's agrarian issues representative.

Once the visit is completed, a document with the following items should be drawn:

- Location of the land.
- Approximate size of the land.
- General land boundaries.

Number of black persons living on the land.

Name and number of foreigners who do not belong to the established community, indicating the approximate area of land they occupy.

A survey of the land to be titled.

**Article 11.** The Colombian Institute of Agrarian Reform, (INCORA) in a non-extendable period of (60) days, will issue the administrative Minutes through which the collective property will be adjudicated to the communities referenced in the present Law. Proper notice of the administrative Minutes will be given to the representative of the respective community, and once the notice is properly filed, it will constitute sufficient proof of title and ownership.

**Article 12.** For purposes of complying more effectively with the rights recognized in the present Law, the administrative procedure of land titling determined by the government through special ruling will honor the principles of efficacy, economy, and expediency.

For issues or rulings not included under this Law, the nation's general legislation on barren lands will apply whenever these issues are compatible with the nature, purpose, and recognition of the rights of the Black Communities to property as referenced in this Law.

**Article 13.** Land grants will be subject to any easements necessary for the development of adjacent lands.

Similarly, bordering lands that are property of the State will be subject to the necessary easements for the benefit of the lands of the communities in accordance with the current legislation.

**Article 14.** The administrative document that grants collective land ownership will bear proof of the responsibility to observe norms on the conservation, protection, and rational utilization of the environment's natural and renewable resources.

**Article 15.** Occupation of the lands adjudicated collectively to the Black Communities by people not belonging to the ethnic Black group to which this Law refers, would give the occupant neither the right to obtain title nor the recognition for any improvements made, and for all legal purposes the occupant will be considered an illegal occupant.

**Article 16.** Services for collective titling on behalf of the Black Communities referenced in this Law as well as the registration and publication of granting resolutions issued by the Institute of Agrarian Reform will be issued free of charge.

**Article 17.** From the date this Law comes into force until collective title is properly granted to a Black Community occupying lands under the terms established by this Law, the lands occupied by the communities will not be adjudicated nor will authorization be given to anyone else to exploit their natural resources without permission from the Commission as established in Article 8.

**Article 18.** Land adjudications to the Black Communities referred to in this Law can only be granted to the Black Communities themselves.

Land adjudications in violation of the previous Article will be considered null. The act of nullification of the respective resolution can be undertaken by the Colombian Institute of Agrarian Reform, the Agrarian Officers, or any other person, before the corresponding Administrative Court, within two years following its execution, or from the publication date in the Official Newspaper, whichever the case may be.

Without prejudice against previous statements, the Colombian Institute for Agrarian Reform can directly revoke land adjudication resolutions that it issues and that violate the present Article. In such cases, the expressed written permission of the respective title holder is not necessary. For everything else, the process of revocation will be conducted in accordance with Administrative Contentious Code proceedings.

#### **Chapter IV**

##### **Use of the Land and Protection of the Natural Resources and the Environment.**

**Article 19.** The traditional practices exercised over the waters, the beaches, the riverbanks, the secondary fruits of the forest or over the fauna and the terrestrial and aquatic flora for alimentary purposes, or the use of natural renewable resources for construction or home repair, fences, canoes, and other domestic elements to be used by the people of the respective Black Communities, are considered to be legal practices and, consequently, do not require permits.

These practices should be exercised in a manner that the renewal of resources, in quantity as well as in quality, is guaranteed.

Hunting, fishing or the harvesting of products for subsistence will have preference over any other quasi-industrial, industrial, or sports interest.

In accordance with Article 58 of the Political Constitution, collective property of the areas referred to in this Law should be exercised in accordance with the social and ecological functions inherent in this Law. Consequently, title grantees must be responsible for protecting the environment and for the renewal of natural resources, and they must assist the authorities in protecting that patrimony.

**Article 21.** In accordance with what has been stipulated in the previous Article, Black Communities which are part of the groups receiving collective title will continue to maintain, preserve, and favor the renewal of the vegetation that protects the waters, and to guarantee, through adequate use, the preservation of particularly fragile ecosystems such as mangroves and wetlands, and to protect and preserve species of wild fauna and flora that are threatened or that are in danger of extinction.

**Note.** The National Government will provide the necessary funds in order that the communities can comply with what has been stipulated in the present Article.

**Article 22.** For families or persons from the Black Communities living in areas protected by the Natural and National Parks System prior to the area becoming part of the Natural and National Parks System, INDERENA, or its agent, will define, in a proposed management plan, the traditional practices of said communities that are compatible with the nature, objectives, and functions of the area in question. In such cases, the administrative entity of the National and Natural Parks System will promote consulting mechanisms that include the participation of these communities.

If the persons to whom this Article refers do not comply with the management plan issued by said entity, an agreement between these persons and the INCORA will allow them to relocate to other areas where collective titling can be exercised.

**Article 23.** INDERENA, or its agent, will design mechanisms that will allow Black Community members to participate in the development of the areas around the National and Natural Parks Systems by offering them training as recreation education park-guides, as well as in ecological tourism activities developed in such areas.

**Article 24.** The administrative entity of natural and renewable resources, in agreement with the Black Communities, will regulate the collective use of forestal areas referred to in the present Law for the preservation of the forest.

For purposes of the use, processing or commercialization of forestal products obtained during the development of forestal concessions, the community may partner with public or private entities.

The State, to ensure economic success and sustainable development for the members of the region, will guarantee and facilitate technical training for community members in practices adequate for each phase of the production process.

For purposes of land resource exploitation as stated in this Article, priority will be given to proposals from members of the Black Communities, according to Article 13 of the Constitution.

**Article 25.** Areas collectively adjudicated to the Black Communities where, in the future, environmental authorities deem necessary the protection of species, ecosystems, or life systems for ecological reasons, special natural reserve areas will be created in whose delimitation, conservation, and management, the Black Communities and the local authorities will participate. In addition, the dispositions in Article 51 of this Law will apply. The government will regulate what has been stated in the present Article.

## **Chapter V**

### **Mining Resources**

**Article 26.** The Ministry of Mines and Energy dutifully or by petition from the Black Communities to which this Law refers may choose to identify and delimit in lands adjudicated to the Black Communities, mining zones where the exploration and exploitation of non-renewable natural resources should be carried out under special technical conditions for their protection, and with the participation of the Black Communities for the purpose of preserving their particular economic and cultural characteristics, without prejudicing their acquired or constituted rights, in favor of third parties.

**Article 27.** The Black communities to which this Law refers will enjoy pre-emption rights so that the government, through the Ministry of Mines and Energy, will issue a special license of exploration and exploitation in the mining zones of Black Communities over non renewable natural resources traditionally enjoyed by such communities. These special licenses could include other minerals with the exception of coal, radioactive minerals, salts, and hydrocarbons.

**Article 28.** If there were areas susceptible to be declared Indigenous mining zones and Black Communities' mining zones at the same time, the Ministry of Mines and Energy could declare said zones Joint Mining Zones, where the development of activities will be conducted with the understanding that the two ethnic groups will enjoy the same rights and responsibilities.

**Article 29.** Mining activities will be conducted taking into consideration prevention and control factors as well as the deterioration of the environment which may arise from these activities and that could be harmful to humans, to the hydro-biological resources, fauna, and other related natural renewable resources.

**Article 30.** The Black Communities, to which this Law refers, can resort to institutions and civilian mechanisms of vigilance and control of mining exploitation contracts under the terms mentioned in the public administration's general statute for contracts, the statutory law of mechanisms, institutions of civilian participation, and in the laws which modify or replace them.

**Article 31.** For the purpose of what has been stipulated in the aforementioned articles, the Government will regulate the requirements and other necessary conditions required for their effective application in accordance with current mining rules.

## **CHAPTER VI**

### **Mechanisms for the Protection and the Development of Human Rights.**

**Article 32.** The Colombian State recognizes and guarantees the Black Communities the right to an education in accordance with their needs and their ethnic and cultural aspirations.

A competent authority will take the necessary measures to ensure that the curricula adhere to this regulation at each educational level.

**Article 33.** The State will sanction and will prevent all acts of intimidation, segregation, discrimination or racism against Black Communities in all social spaces, at high decision making levels of public administration, and, in particular, in the mass communication media and in the educational system; the State will be vigilant in enforcing the principles of equality and respect for ethnic and cultural diversity.

To this end, the competent authorities will apply the corresponding sanctions in conformity with what has been established in the National Police Code, in laws regulating the mass media, in the educational system, and in other laws that may apply.

**Article 34.** The education of Black Communities must take into account their environment, productive process, and their entire social and cultural life. Consequently, the curricular programs will ensure and reflect the respect and fostering of their economic, natural, cultural and social patrimony, artistic values, means of communication and religious beliefs. The curricula should emanate from the Black Communities' culture in order to develop the different abilities and skills of the individual and the group that are necessary for growth within their social milieu.

**Article 35.** The State's education programs and services for the Black Communities must be developed and applied with their cooperation in order to respond to their particular needs, and these programs should encompass their history, knowledge, techniques, value systems, linguistic and dialectical forms, and all other social, economic, and cultural aspirations.

The State must recognize and guarantee the right of the Black Communities to create their own communication and educational institutions, as long as said institutions comply with the norms established by competent authorities.

**Article 36.** Education for the Black Communities must develop general knowledge and skills that will assist them in participating fully and equally in the activities of their local and national communities.

**Article 37.** The State should adopt measures to allow the Black Communities knowledge acquisition of their rights and obligations, in particular with respect to work, economic possibilities, education, health, social services, and rights that arise out of the Constitution and the Laws.

To this end, if necessary, they should have access to written translations and to the use of the media in their own languages.

**Article 38.** The members of the Black Communities must have access to means of technical, technological, and professional training that will place them on equal footing with other citizens.

The State must take measures to allow access to and to promote the Black Communities' participation in basic, general application of technological and professional programs.

These special training programs should be based on the economic environment, social and cultural conditions, as well as on the concrete needs of the Black Communities. The trainings should be conducted in cooperation with the Black Communities that must be consulted regarding the organization and operation of the programs. These communities will progressively assume the responsibility for the organization and the operation of said special training programs.

**Article 39.** In order to offer fair and equitable information about the society and culture of the Black Communities, the State shall be vigilant so that within the National Educational system the Black Communities' own cultural practices and contributions to the history and culture of Colombia are known and promoted.

In the social sciences area at all educational levels, the subject of Afro-Colombian Studies that conforms to the corresponding curricula should be included.

**Article 40.** The government will provide financial budgets to guarantee greater access to higher education opportunities within the Black Communities.

In addition, it will design mechanisms that will foster vocational, technological, and higher education training for the Black Communities at various levels. For this, a fund for scholarships will be created, administered by ICETEX, among others, for students from the Black Communities with few economic resources who excel academically.

**Article 41.** The State will support, by providing the necessary resources, the organizational processes of the Black Communities, in order to recover, preserve, and develop their cultural identity.

**Article 42.** The Ministry of Education will formulate and execute a policy of Ethno-education for the Black Communities, and will create a pedagogical commission to assess said policy with representation of the communities.

**Article 43.** In conformity with Ordinal 10 Article 150 of the Political Constitution, the President of the Republic is vested with extraordinary faculties so that, within exactly three (3) months from the enactment of the present Law, he may restructure the Colombian Institute of Anthropology- ICAN- Special Administrative Unit annexed to Colcultura, for the purpose of incorporating into its basic By-Laws, its functions, and its internal organization, basic necessary mechanisms to promote and carry out research programs on Afro-Colombian culture, in order that it can effectively contribute to the preservation and development of the Black Communities' cultural identity.

An Assessment Committee will be created to conceptualize a project decree to be undertaken by the government and which will be composed of three (3) House

Representatives and two (2) Senators chosen by their Directing Bodies and one (1) anthropologist nominated by the same Committee.

**Article 44.** As a protection mechanism for their cultural identity, the Black Communities will participate in the design, elaboration, and evaluation of studies of the environmental, socio-economic, and cultural impact of projects to be conducted in the areas referred to in this Law.

**Article 45.** To follow up on the dispositions of the present Law, the National Government will form a high-level Advisory Commission with participation from the Black Communities of Antioquia, Valle del Cauca, Chocó, Nariño, Costa Atlántica and other regions of the country referred to in this Law, as well as the participation of the Raizales of San Andrés, Providencia, and Santa Catalina,

**Article 46.** The Community Councils may designate by consensus the representatives of the beneficiaries of this Law for the required purposes.

## **Chapter VII**

### **Planning and Promoting Economic and Social Development**

**Article 47.** The State will adopt measures to guarantee the Black Communities referred to in this Law their right to develop economically and socially, according to their autonomous and cultural elements.

**Article 48.** In the National Planning Council created by Article 34 of the National Constitution, The Black Communities to which this Law refers will be given one representative named by the Government from a list of three candidates presented by them. In addition, equitable representation will be given to the Black Communities to which this Law refers in the corresponding territorial Planning Councils according to procedures defined in the Organic Planning Law.

**Article 49.** The design, execution and coordination of the plans, programs and projects of economic and social development that the government and the Technical International Cooperation may put forward for the benefit of the Black Communities to which this Law refers should be carried out with the participation of the representatives of said communities, in order to respond to their particular needs, the preservation of the environment, the conservation and qualification of their traditional practices of production, the eradication of poverty and the respect and recognition of their social and cultural life. These plans, programs, and projects should reflect the aspirations of the Black Communities in areas of development.

**Note.** The investments carried out by the private sector in areas that may affect the Black Communities to which this Law refers should respect the environment, the social interest, and the cultural patrimony of the Nation.

**Article 50.** The Government will promote and finance research activities geared to the promotion of human resources and the study of the realities and potentialities of the Black Communities in order to facilitate their economic and social development. In addition, it will facilitate the participation of these communities in the planning processes, coordination, execution, and evaluation of such research activities.

**Article 51.** The State entities in agreement with the Black Communities will further research activities, training, promotion, extension and transfer of appropriate technologies for the utilization and economic sustainability of ecological, cultural, social, and natural resources, in order to strengthen the economic and cultural patrimony of the Black Communities.

**Article 52.** The National Government will design special financial and credit programs to allow Black Communities to develop associations and partnerships for the sustainable production and use of their resources and to allow them equal participation in entrepreneurial partnerships with other individuals. To calculate the value of this contribution and to guarantee financial credit, the value of the resources to be used can be taken into account.

**Article 53.** In arid areas of the National Park System located in zones that are the object of this Law, appropriate models of production establishing economic stimuli and special conditions to access credit and training will be developed in conjunction with the Black Communities.

In addition, local communities in coordination with their organizations will develop mechanisms to discourage the adoption or pursuit of unsustainable environmental practices.

**Article 54.** The National Government will design adequate mechanisms in order that the Black Communities or their members who develop vegetable varieties or knowledge about the medicinal, alimentary, handicraft, or industrial use of animals or plants from their natural environment, first, that they be recognized as the possessors of that knowledge and, second, that they obtain the economic benefits as have other individuals or legal entities who develop products for national or international markets.

**Article 55.** The Government will create credit programs and technical assistance for the particular socioeconomic and environmental conditions of the Black Communities referred to in this Law.

**Article 56.** The autonomous regional Corporations with jurisdiction over the areas where collective properties are granted to the Black Communities referred to in Transitory Article 55 of the Constitution will have one (1) representative from those communities on their Directive Councils under terms defined by rulings issued by the National Government.

**Article 57.** The National Government will create a commission to study and to formulate a developmental plan for the Black Communities. This commission will begin to operate once the President of the Republic is elected and with the approval of the National Development Plan CONPES. That plan will propose long-term policies and will become the frame of reference so that policies of the National Development Plan respect the ethnic diversity of the Nation and promote the sustainable development of those communities in accordance with their own vision. This will be a technical commission with ample knowledge of the realities of the Black Communities. And, in order to create it, the proposals of the Black Communities will be taken into account. The Department of National Planning will be responsible for financing the expenses for its proper functioning.

**Article 58.** In the State's social investment funds there will be a management project unit to support the Black Communities in the training, identification, formulation, execution, and evaluation processes of the projects. The beneficiaries of this Law will be consulted for the development of this management project.

**Article 59.** For the purposes of planning, use, and enjoyment of the natural resources in accordance with National Government regulations, the hydrographic basins where the Black Communities grantees of collective title settle will constitute land units.

### **Chapter VIII Final Dispositions**

**Article 60.** The implementation of the present Law will take into consideration the recommendations of the Black Communities that will benefit from it through the consultative commission to which the present Law refers.

**Article 61.** The government will allocate the necessary resources for the execution of the present Law.

**Article 62.** Within a year following the implementation of the present Law, the National Government will assign the necessary budgetary proposals to begin operations of the functioning of the University of the Pacific, founded through Law 65 of December 14, 1988.

**Article 63.** Within the following two years from the enactment of this Law, the National Government will allot the necessary resources for the construction of the road that joins the States of Valle del Cauca and Huila, between the Cities of Palmira and Palermo. In addition, the necessary resources will be earmarked for the completion of the last stretch of the Panamerican Highway into the State of Chocó.

**Article 64.** The National Government may make budget transfers and may negotiate the necessary loans for the implementation of this Law.

**Article 65.** Within two years after the implementation of the present Law, the National Government will provide the necessary resources for the construction of a fluvial path from the Baudó River to Pizarro and a fluvial path from Buenaventura to Tumaco crossing Puerto Merizalde and Guapi, according to projects presented by Plaideicop.

**Article 66.** In accordance with Article 176 of the National Constitution, a special circumscription is established to elect two members from the country's Black Communities to participate in the House of Representatives.

**Article 67.** A Head Office for Black Community Affairs is created within the Ministry of Government, with permanence in the Council for Economic and Social Policies.

**Article 68.** The present Law is valid from the date of its promulgation and it supersedes contrary dispositions.

The Minister of Government, Fabio Villegas Ramirez, the Minister of Agriculture, Jose Antonio Ocampo, the Minister of Mines and Energy, Guido Nule Amin, the Minister of National Education, Maruja Pachón de Villamizar.

President of the Republic, César Gaviria Trujillo.

President of the Honorable Senate of the Republic, Tito Edmundo Rueda Guarín.

President of the Honorable House of Representatives César Pérez García.

Republic of Colombia National Government.

To be Published and Executed.

Issued in Quibdó on the 27<sup>th</sup> day of August 1993.