

Afro-Colombian Communities and the Senate Evaluate the 15 Years of Law 70

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SIEC, Actualidad Etnica, Washington, November 22, 2008. On November 13, Senator Oscar Suárez Mira organized a public hearing to evaluate the last 15 years of Law 70 of the black communities and its level of implementation. From the point of view of an international observer, this hearing was important because it underscored the need to strengthen the rights found in this innovative law which was developed by the Afro-Colombian civil rights movement. The panelists included Afro-Colombian authorities representing various community councils, Afro-Colombian grassroots organizations, the NGOs Justice and Peace and Global Rights and Colombian government representatives and Members of Congress.

The panelists were tasked with speaking on the progress and challenges they saw vis a vis the implementation of law 70. Some of the positives include the titling of more than 5 million hectares of land to Afro-descendant communities, the creation of community councils, the community councils' in turn creating their *life plans* (economic development plans) and councils' management of collective territories. Challenges expressed by the speakers included their great frustration with the Colombian government and its entities mandated to represent Afro-descendant communities. The Afro-Colombian grassroots leaders noted that the National Government ignores the development proposals developed by the community councils. The speakers noted that the community councils' plans are not integrated in the national development plans and that the government does not finance the development projects designed by the community councils.

Afro-Colombian grassroots leaders expressed concern at the Colombian Government's efforts to push palm oil projects in Afro-Colombian territories because they are problematic. They pointed out that the right to prior consultation on development projects implemented in their territories is not respected by the authorities when it comes to Afro-descendant communities. The speakers noted that the recently approved Decree 3370, introduced by the Interior Minister, "seeks to end prior consultation" for Afro-descendant communities. The speakers were critical of the Management of Black Community Affairs of the Ministry of the Interior because they move forward on economic projects without consulting the affected communities. They pointed out that this should be an office that reports directly to the President and not an office which is under the jurisdiction of the Ministries of the Interior and Justice. The Afro-Colombian leaders pointed out that this office should be designing public policies in conjunction with Afro-Colombian community councils rather than "being subordinate to what government officials might say." Various laws, including the Statute of Rural Development, were adopted by the National Government that weakened the rights of Afro-descendant communities.

Afro-Colombian grassroots leaders emphasized that the development projects in the Afro-descendent communities must be agreed upon by the Afro-descendent

communities and that the Management of Black Community Affairs of the Ministry of the Interior should support Afro-descendent communities. Also, they should implement real and effective public policy in favor of the communities that are committed to combating racial discrimination and promoting comprehensive development.

During the hearing, the Community Council Yurumangüi presented its civil society resistance project. This project was developed by Afro-Colombian grassroots leaders in order to prevent the possible loss of their rights over their territories and to prevent displacement of Afro-descendants to the cities. The presenters began by stating that the human rights situation of Afro-descendants in Buenaventura is extremely grave due to assassinations, forced disappearances, internal displacement, and the fact that the majority of these cases remain in impunity. The human rights situation combined with an increase of noxious interest in Afro-descendant territories lead the Community Council of Yurumangüi to figure out how to protect their rights. The Community Council decided that they had to act proactively to eliminate the causes of violence and displacement in their territories and began a process of pacifistic resistance. The inhabitants of this community began to strongly oppose the implementation of legal and illegal mono-cultural crops in their territories. The leaders explained that the coca plant is not part of Afro-Colombian culture and that the plant is very negative for their communities. The spread of coca has led to aerial fumigations that decrease food security and the health of members of their communities. They noted that coca crops come with illegal armed actors and this makes their territories vulnerable to land disputes. Such disputes lead to massacres and violence against their communities. The spread of coca also paves the way for non-Afro-Colombian outsiders to move in to their territories and this puts the traditional practices of Afro-descendants at risk of being lost.

All the dynamics involving coca increase the risk of that these communities will lose control over their territories and that these lands are expropriated from Afro-Colombian communities. In addition, coca increases social problems, such as prostitution and sexually transmitted diseases. These dynamics weaken local leaders' ability to organize their communities (their local organizational processes) and to preserve their cultural values. Part of the strategy implemented by the Yurumangüi Community Council is to act when coca crops are detected in the region. Even if it means putting their lives at great risk, members of the Community Council will remove the coca. The Community Council has also created a forum called *MINGA* whereby they educate their and other communities about the dangers that coca brings. The Community Council has developed numerous activities to educate Afro-Colombians about coca in an effort to stop its spread into their communities. It has distributed flyers, organized soccer games and group discussions.

During the day of the hearing, several human rights cases involving Afro-Colombians were presented. The cases most relevant to U.S. foreign policy towards Colombia included the situation of devolution of land to the Community Councils of Jiguamiandó and Curvaradó, the labor situation of the sugar cane workers in Cauca and Valle del Cauca, rapes of Afro-descendant women by members of the Colombian armed forces, and threats against Afro-Colombian leaders. The panelists underscored the need to

maintain the socio-cultural identity of the communities of Jiguamiandó and Curvaradó, Cacarica (Bajo Atrato) and Naya (Buenaventura) and to guarantee the legal titling of the territories Afro-Colombians have inhabited for decades. In order to resist displacement and violence, Community Council leaders have developed self-protection and resistance to internal displacement mechanisms known as “humanitarian zones,” “refuge areas,” and “biodiversity zones.”

It was noted that many contradictions in public policies designed by the Colombian Government and its actions. On the one hand, the National Government has placed a lot of financial resources into increasing cultivation of palm oil and supporting the activities of its military brigades. The third brigade, however, is responsible for the displacement of Afro-Colombians from their territories. On the other hand, the Attorney-General made declarations in favor of the Community Councils in several cases concerning the illegal occupation of Afro-Colombian lands such as in Curvaradó and in combating impunity in such cases. Yet in these cases, there exist links between businesses and paramilitaries including “Mono Leche,” and others like “Don Berna.” These men were extradited to the United States in May 2008.

Representatives of the Afro-descendant sugar cane cutters presented on their deplorable labor conditions and what they experiences in their work sites. They also talked about the protest they just organized that lasted more than fifty-five days. They noted that although the protest led to some achievements that there still lacked national awareness of their plight. They recommended that the model of “cooperative associations” is re-examined. The cutters pointed out that this model seriously weakens their rights because it does not allow them to obtain direct contracts with employers and that it prevents them from unionizing. At the hearing, the sugar cane cutters condemned the use of force by the Colombian authorities against the striking workers. Also they criticized the Colombian Government’s efforts to criminalize workers for advocating for labor rights.

The Community Councils of Alto Mira and Frontera (Nariño) denounced the increase of political assassinations of Afro-descendant leaders this year. They pointed out that the high number of threats that exist against Afro-Colombian leaders and communities. They said that they would prefer to “die speaking” rather than die in silence and not make the situation of Afro-Colombians visible. These representatives described the Afro-Colombian situation as “a combination of armed conflict and racism” which results in their basic rights being violated. They recommended that the Government’s Ministers improve their communities’ access to basic services. They noted that in their region there is only one healthcare facility and that persons have died because they could not get medical care. Their communities do not have access to potable water and it is difficult for persons to get an education.

Community Council members suggested that the United States demand that the Colombian Government not violate the communities’ human rights and that they work to foster equality for Afro-descendants. Another cause for great worry is the situation of young people in urban areas like Cali, where many young Afro-descendants are being

forcefully recruited and where there are cases of abuse by the Security Forces, due to racism and discrimination. As the Colombian State works on the issue of security, the need for investigations was emphasized in order to ensure young Afro-descendants are not treated as suspects or criminals, and that real and effective programs are developed in order to give young people alternatives to becoming involved in armed groups. Unfortunately, the hearing did not count on the major presence of the Afro-Colombian Congress. This is something that many participants from the audience interpreted as a sign of their lack of interest in concerns of the communities.

The Director of Black Community Affairs of the Ministry of the Interior expressed commitment to resolving the land disputes in the cases of Jiguamiandó and Curvaradó, Alto Mira and Frontera, and further committed to moving forward so that grassroots communities have increased participation in the decisions that affect them. Likewise, he defended the Decree 3340 as a positive step in that respect and argued that the Presidential Inter-Sectoral Commission on Afro-Colombians is a step forward towards resolving these communities' problems. Many grassroots leaders and Community Councils completely disagreed with this position. Afro-Colombian leaders have previously voiced their opposition to the Presidential Commission and at the hearing pointed out that Decree 3340 serves to weaken the consultation mechanisms found in Law 70.

At the beginning of the hearing, Senator López Maya, President of the Senate Human Rights Commission emphasized that they must guarantee the observance of Law 70 and that the Commission on Human Rights support the strengthening of ethnic communities' rights. Senator Mira expounded on the critical situation in the Afro-descendant communities and expressed that "only when the rights of all Colombians are guaranteed," will Colombia be a true democracy. He closed the event by praising the courage of those who presented at the hearing and recommended that the State adopt a policy for Afro-descendant communities. Also, he proposed that the international community work to ensure that Law 70 is implemented.

The international community, particularly the United States government, should listen to the Afro-Colombian leaders who presented at this Senate hearing and focus its political and financial support in strengthening the human rights and land rights of Afro-Colombian communities. The United States must change its anti-narcotics policy so that it does not add to the deterioration of Afro-descendant communities, and should politically and financially support innovative projects that seek to eradicate coca, as is being done in Buenaventura Municipality.

The new U.S. Administration, which will begin its work in January, should put an end to the inhumane and counterproductive aerial fumigation program and seriously invest in rural development, including alternative development projects designed directly with the Afro-Colombian community councils in the regions they inhabit. USAID should guarantee that it does not support economic projects implemented in usurped lands that were obtained through illegal means or coercion.

Most importantly, the U.S. should use diplomacy to guarantee the rights of the Afro-Colombians and to see that Colombia take strong steps to combat racial discrimination and protect Afro-Colombian leaders and communities. The new government should continue insisting on the advancement of labor rights like the right to unionize, and labor guarantees that comply with international standards in general and in particular when it comes to the situation of Colombia's sugar cane workers.

The U.S. Department of State is obligated to ensure that the Colombian authorities comply with Condition F of the U.S. appropriations law in order to receive military financing. The violations in Buenaventura, Cali and Bajo Atrato mentioned by those who presented at the hearing must be investigated by the U.S. Embassy before further military aid is provided to Colombia.

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