

6.1.12. Ethnic Chapter



6.1.12.1 Considerations

That the National Government and the FARC-EP recognize that ethnic peoples have contributed to building a lasting and sustainable peace, progress, economic and social development of the country, and have suffered historic conditions of injustice as a product of colonialism, slavery, marginalization, and dispossession from their land, territory, and resources. They have additionally been affected by the internal armed conflict and should be guaranteed full access to their human and collective rights in the context of their own aspirations, interests, and world views. Considering that ethnic peoples should have control of the events that affect them and their lands, territories, and resources while maintaining their institutions, cultures, and traditions, it is fundamental to incorporate the ethnic and cultural perspective for the interpretation and implementation of the Final Accord for the Termination of the Conflict and the Construction of a Stable and Lasting Peace in Colombia.

6.1.12.2. Principles

In the interpretation and implementation of all the components of the Final Accord for the Termination of the Conflict and the Construction of a Stable and Lasting Peace in Colombia an ethnic focus will be included. This is based upon the international, constitutional, and jurisprudential normative framework. It includes the principles of non-regression, recognized by the International Covenant on

Economic, Social, and Cultural Rights. The principles and rights acknowledged in the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), International Convention on the Elimination of All Forms of Racial Discrimination (CERD), Durban Declaration and Program of Action, United Nations Declaration on the Rights of Indigenous Peoples, and the International Labour Organization's Convention 169. In the interpretation and implementation of the Final Accord for the Termination of the Conflict and the Construction of a Stable and Lasting Peace in Colombia, an ethnic focus will be taken into account, as well as, the principles of self-determination, autonomy and self-government, participation, consult and free, prior, and informed consent; to social, economic, and cultural identity and integrity, and to rights over their land, territory and resources, which imply the recognition of their ancestral territorial practices, their right to restitution and strengthening of their territoriality, existing mechanisms for the protection and legal protection of the lands and territories occupied or possessed ancestrally and/or traditionally.

6.1.12.3. Safeguards and Guarantees

Substantial safeguards for the interpretation and implementation of the Final Accord of the Conflict for a Stable and Lasting Peace in Colombia:

The principal (and not secondary) character of free, prior and informed consent and the right to cultural objection as a guarantee of non-regression will be respected every time. As a result, the implementation phase of the Accords, as it pertains to ethnic peoples, must be met by guaranteeing the right to free, prior and informed consent respecting the constitutional and international standards. A transversal ethnic, gender, female, familial, and generational focus will be adopted.



In no case should the implementation of the accords be detrimental to the rights of ethnic peoples.

a. Regarding Integral Rural Reform.

In the implementation of the point of Integral Rural Reform, ethnic and cultural perspective, existing legal conditions of collective property, protection mechanisms and legal protection of lands and territories possessed or occupied ancestrally and/or traditionally, will be guaranteed. In addition, the entire integrity of territories including their cultural and spiritual dimensions, will be observed, along

with the strengthened protection of ethnic peoples at risk of extinction, and plans to safeguard them. Access to land, including the Land Fund (Fondo de Tierras). Ethnic peoples will be included as beneficiaries of the different measures agreed upon regarding access to land, without detriment of the acquired rights. The allocation of land and finalization procedures will be made with the goal of constituting, creating, healing, amplifying, demarcating, restituting, and resolving conflicts of land use and tenure. It will be understood that, in the case of ethnic peoples, the environmental function of the property and the individual and ancestral ties to the land come before notions of exploitation. Ethnic peoples and communities, with their representative organizations, will participate in the creation of any mechanisms designed to resolve conflicts regarding land use and tenure, as they pertain to conflicts that compromise their rights.

The Development Programs with Territorial Focus (Programas de Desarrollo con Enfoque Territorial, PDET), that will be developed in territories belonging to afrocolombian and indigenous territories, must follow a special consult mechanism for its implementation. This will be done with the purpose of incorporating ethnic and cultural perspectives on territorial issues that are focused on the implementation of life plans, ethno-development, environmental management plans and territorial order of ethnic peoples.

b. Regarding Participation.

Full and effective participation of representatives of ethnic authorities and representative organizations will be guaranteed in the different instances brought up by the implementation of the Final Accord, particularly those outlined in Point 2, and in instances regarding participatory planning. Measures will be adopted too guarantee inclusion of ethnic communities' candidates on the lists of the Special Territorial Districts of Peace (Circunscripciones Territoriales Especiales de Paz, CTEP) when their district coincides with their territories.

c. Regarding Safety Guarantees of Point 3.4

Ethnic and cultural perspective will be incorporated in the design and implementation of the Program of Safety and Protection for communities and organizations in territories. Strengthening of the safety systems of ethnic peoples will be guaranteed, recognized nationally and internationally as the Indigenous Guard and Cimarrona Guard.

d. Regarding the solution of the illicit drug problem

Full participation and consultation of ethnic peoples and their representative organizations is guaranteed in the design and execution of the National Integral

Substitution Program for Illicit Crops (Programa Nacional Integral de Sustitución de Cultivos de Uso Ilícito, PNIS). This includes the immediate action plans concerning ethnic peoples' territories. In any case, the PNIS will respect and protect the use and cultural consumption of traditional plants categorized as illicit. In no case will policies be unilaterally imposed regarding this use on the territories or the natural resources found on said territories.

- In the prioritization of the territories, the realities of territories belonging to ethnic peoples will be acknowledged, and territories affected by illicit crops that belong to ethnic peoples at risk of extermination will be taken into account, along with territories of ethnic peoples in a situation of confinement or displacement.
- The Demining and Cleaning Program in national territory areas will be developed in consultation of ethnic peoples and their representative organizations. First priority will be given to cases concerning the EMBERA people located in the municipality of Puerto Libertador in Córdoba and Ituango in Antioquia, cases concerning the JIW people located in the municipality of San José del Guaviare in Guaviare, cases concerning the Nukak people in the department of Guaviare, the municipalities of Mapiripán and Puerto Concordia in Meta, and cases in the municipality of Tumaco river Chagüí and concerning the Awá people in the Nariño department. Cases regarding Community Councils of Alto Mira, Frontera and river Chagüí, and the Buenos Aires municipality, and La Alsacia in Cauca will also be considered.
- As a gesture of willingness for peace, reparation, and humanity, the National Government, the FARC-EP, and the representative organizations of ethnic peoples commit to developing a program of settlement, return, and restitution of lands belonging to the indigenous Nukak people, the Embera Katío people of the Alto San Jorge Cañaveral reservation, as well as the territory of the Community Council of Alto Mira and border, Curvaradó and Jiguamiandó.

e. Regarding victims of the conflict: “Integral System of Truth, Justice, Reparation and Non-Regression”

- The design and execution of the Integral System of Truth, Justice, Reparation, and Non-Regression will respect the legal functions by traditional authorities within their territorial domain, in conformity with valid national and international standards.
- In the design of the different judicial and extrajudicial mechanisms agreed upon regarding ethnic peoples, ethnic and cultural perspective will be included. The right to participation and consultation in the definition of these mechanisms will be respected and guaranteed when necessary.

- In the frame of the implementation of the Special Jurisdiction for Peace, mechanisms will be created for the articulation of and coordination with the Special Indigenous Jurisdiction, according to the mandate of article 246 of the Constitution and, when appropriate, with ancestral Afrocolombian authorities.
- A special program of harmonization will be arranged by ethnic representative organizations, for the reincorporation of those who have been disconnected from their communities and wish to return, to guarantee the restoration of territorial harmony. A pedagogic and communicative strategy will be implemented to disseminate values of non-discrimination due to race or ethnicity, of women, boys, and girls disconnected from the conflict



f. Regarding Implementation and Verification

- A Special Instance of High Level with Ethnic Peoples will be created for the monitoring of the implementation of the accords, which will be agreed upon between the National Government, the FARC-EP, and representative organizations of ethnic peoples. The Instance will have the responsibility of acting as a consultancy, representative, and interlocutor of first order for the Commission for the Implementation, Following, and Verification of the Final Accord of Peace and Resolution of Differences (Comisión de Implementación, Seguimiento y Verificación del Acuerdo Final de Paz y Resolución de Diferencias, CSVR). This will not detriment the functions and attributions that have instances of self-government and existing participation.
- The sources of funding for the implementation of the accords will not involve the budgetary matters that have already been made between the National Government and Indigenous and Afrocolombian populations, entered in the current National Development Plan and other consulted and concerted policies.

Final Accord 24.08.2016 Pages 181 of 297

ⁱ Unofficial translation from Spanish to English by WOLA intern Cristina Camacho