



Forest Peoples Programme

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Mr. Iván Duque Márquez
President of the Republic of Colombia
Bogotá

15 November 2019

RE: NEED TO ABANDON ANY PROPOSAL TO REACTIVATE AERIAL SPRAYING IN COLOMBIA AS A HARMFUL AND INEFFECTIVE MEASURE

We, the undersigned organisations of indigenous peoples, Afro-descendants, local communities, and national and international civil society organisations, are writing this letter in order to urge you and your government to withdraw its proposal to reactivate aerial sprayings of illicit crops with glyphosate. We wish to express our deep concern about these controversial plans, reminding your government that experiences in the past have demonstrated that such a policy risks generating damage to ecosystems and resulting in harmful consequences for indigenous peoples, Afro-descendant communities and local people who depend on flora and fauna for their physical and cultural survival; and whose fundamental rights are threatened by these proposals.

Illicit crops are without a doubt a major problem that requires an urgent solution, but the policies and measures to address them must be effective and sustainable and should not cause more serious problems.

We therefore call for the aerial sprayings **not** to be reactivated as a measure to control the use of illicit crops and slow deforestation. This call is made in order to guarantee the fundamental rights protected in Judgement T-236 of 2017 and the Judicial Decree 387 of 2019 of the Constitutional Court, and in particular to uphold the right to free, prior and informed consent and prior consultation and other related collective rights of indigenous peoples, Afro-descendant communities and local people, especially territorial rights and rights to health and a healthy environment, cultural integrity, and food security.

Background:

In order to combat the production of illicit crops, the current government of Colombia has announced its intention to reactivate aerial spraying with glyphosate, as declared by the Minister of Justice in July 2019, via Judicial Decree 387/19 following up on Judgement T-236 of 2017.ⁱ The follow-up hearing on the Judgement before the Constitutional Court was convened at the request of government representatives who requested that the High Court moderate its 2017 decision, in order to allow the reactivation of aerial spraying. This petition communicated the government's concern about the interconnection between illicit crops and public order problems, alongside concerns regarding the impact that such crops can have on deforestation.ⁱⁱ

Concerns about illicit crops must be raised not only in relation to their impacts on people and the environment, but also in relation to assessing whether the solutions to curb the illegal growing are

sustainable, fair and efficient or actually risk making things worse. This assessment should evaluate the extent to which proposed interventions to stop the illicit crops have potential to achieve the main objectives of reducing forest destruction and guaranteeing respect for fundamental rights. The solution itself must do no harm. In this regard, the government announcement has triggered alarm at a local, national and global level, taking into consideration that studies have demonstrated that aerial spraying: 1) exacerbates deforestation by displacing illicit crops deeper into the forest; 2) impacts health and the environment, and in general affects the surroundings of local communities; and 3), violates the fundamental rights of indigenous peoples and other forest dependent communities, having an impact on their cultural and physical survival.

Aerial spraying would exacerbate deforestation:

There is objective evidence that aerial spraying “encourages the phenomenon of ‘triple deforestation’, a term that refers to the three-stage cycle of environmental damage caused by aerial sprays: first when forests are cleared to adapt them for illicit crops; second, the damage caused by sprays; third, the new deforestation cycle initiated in other places when the grower flees the area that is subject to spraying”.ⁱⁱⁱ The displacement of illicit crops to new remote areas is known as the “balloon effect”,^{iv} and responds to the high mobility of these crops.^v This effect has been replicated in several regions of the country at different times, where deforestation has considerably increased.^{vi} For example, studies indicate that the significant increase in illicit crops in Nariño in 2002 was the result of aerial spraying in the neighbouring department of Putumayo, within the framework of Plan Colombia. According to the United Nations Office on Drugs and Crime (UNODC) “Coca cultivation in Nariño gained importance in 2002, with a decrease of 40,000 hectares in the departments of Putumayo and Caquetá and an increase of 7,600 in Nariño”.^{vii} Let us just remember that according to figures of the Anti-Narcotics Police for 2002, Putumayo was the department that had the biggest amount of aerial fumigation, with an accumulated fumigated area of 71,981 hectares^{viii} (more than double the amount in 2001 in the same department), which in 2002^{ix} accounted for 55% of all the sprayed area throughout the country. As a result, crops were shifted to the neighbouring department of Nariño, which has since become one of the departments with the largest area of illicit commercial coca plantations.^x In this way, the fumigation pressure in Putumayo was a key factor that helped turn Nariño into an illicit crop-growing area. Years later, the ‘balloon’ effect was replicated in this same department: in 2016, a 16 percent reduction in crops through forced eradication in Tumaco coincided with an increase in the cultivation of these illicit crops in neighbouring municipalities of El Charco, Barbacoas and Olaya Herrera.^{xi}

Defective policies to tackle deforestation:

Official figures of the Institute of Hydrology, Meteorology and Environmental Studies (IDEAM),^{xii} indicate that deforestation in 2015 reached 124,035 hectares, increasing to 179,000 ha in 2016, 219,973 ha in 2017, and lately 197,159 ha in 2018.^{xiii} This shows an increase of 158.9% more deforestation compared to 2015. As a result, Colombia was the fourth most deforesting country in the world in 2018, and the seventh in terms of increased deforestation.^{xiv} The situation in the Colombian Amazon is of particular concern: in 2018, IDEAM identified that 70.1% of the country's total deforestation was concentrated in this region, reporting a loss of 138,176 hectares, 131.3% more than in 2015.^{xv} The Amazonian Institute for Scientific Research (SINCHI) identified in 2018 in this same region 38,950 heat sources. This means that between 2017 and 2018, fires in the Colombian Amazon increased by 43%. These fires were concentrated precisely in the north of the Amazon region, where the expansion of the agricultural frontier has been progressing in recent years: Guaviare, Caquetá, Putumayo, Meta and Vichada.^{xvi}

In 2018, the Supreme Court of Justice acknowledged that the inability of the Colombian state and its agencies to undertake effective control, surveillance and protection is one of the key factors behind the alarming figures of increased deforestation in recent years in the Colombian Amazon,^{xvii} reiterating that regulations have not been implemented diligently.

With current regulation and its poor implementation, reactivating aerial spraying would represent a breach of Colombia's duties and obligations in the light of national and international law on human rights, climate change and biodiversity protection,^{xviii} including orders of the Constitutional Court and the Supreme Court of Justice as well as applicable judgements of the InterAmerican Court of Human Rights (see below).^{xix} In addition, reactivating fumigation would be akin to adopting a policy that in the past proved to be ineffective, since it focuses on “ending the problem of coca and deforestation simply associated with a frontal attack on the direct cause, that is, the producer of coca leaf, and not the structural problem. This is a political framework that benefits large-scale exploitation of Amazonian resources [and] the accumulation of land by landowners, national and transnational companies, while a large mass of the rural population is legally condemned for possession of [sometimes illegal] smallholdings, a stagnation in the process of land titling, sluggish land use planning [for the territories of indigenous and Afro-descendant peoples and in relation to the legal recognition of smallholder lands]; a lack of employment opportunities, and [limited] political and social participation, which among others, are in the end the structural causes that force small producers to be linked to the illicit economy”.^{xx} Aerial fumigation will only promote more forest destruction, generate more rights violations and social and cultural damage via the reactivation of the cycle of “triple deforestation” mentioned above. This is the case, despite the fact that what is really needed are robust improvements in the implementation of policies that prevent land trafficking and land grabs, effective sanctions for those who benefit from the irregular and illegal expansion of the agricultural frontier, as well as measures that guarantee good governance and effective implementation of legislation that protects the environment and people.

Risks of militarization and negative impacts on human rights:

The displacement of illicit crops due to aerial fumigation in other areas not only causes environmental harm. It can also generate violations of human rights of local communities settled in the new areas, since crops do not grow on their own. There is objective evidence showing that the arrival of illicit crops brings with it armed actors, legal and illegal, and an increasing the number of conflicts and human rights violations linked to disputes over territorial control.^{xxi} In this respect, evidence presented before the Constitutional Court in its follow-up hearing of judgment T-236/2017, noted how “the high concentration of illegal crops, has a direct relationship with the increase in levels of violence and crime”. The evidence showed figures indicating that violence against human rights defenders increased in those departments with the highest concentration of illicit crops.^{xxii} Studies of previous experiences, such as Plan Colombia, have demonstrated with credible evidence how these policies - which include aerial crop spraying – have generated “the militarization of remote regions, [which] implied the systematic violation of human rights of local populations.”^{xxiii}

El Charco, in Nariño, is a good example. It illustrates the impacts on human rights of the aforementioned “balloon effect.” Between March and April 2007, during the time when illicit crops in the department increased as a result of the enforcement of aerial spraying in Putumayo, “four forced displacements took place due to the appearance of illegal groups known as “Águilas Negras” and “Los Rastrojos”, six air operations for eradication of illicit crops and the incursion of the Marine Corps and clashes with members of the 29th Front of the Farc-EP”.^{xxiv} In this context, according to the Office of the Attorney-General of the Nation, the situation of displaced populations, among which

Afro-Colombians are a majority, was aggravated because “the national government has not adopted measures to ensure that the operations carried out by the security forces [including fumigations] did not entail forced displacements or that, in cases where these have not been foreseen, measures have not been implemented to ensure that these displacements were less burdensome for the population.”^{xxv} This is how the relocation of illicit crops arises as a result of spraying in other geographic areas caused forced displacement of people, which in turn resulted in a denial of their rights to give or withhold prior consent to these extremely harmful interventions as well denying their rights to property, adequate food and housing, livelihood security, physical integrity and to culture.

In addition to the risk of past experiences being replicated, the revival of aerial spraying would generate a perverse incentive, considering that the current legal framework prohibits spraying in National Parks^{xxvi} and that the fumigation requires free, prior and informed consultation or consent in collective territories,^{xxvii} increasing the probability that illicit crops would be displaced into these territories after forced eradication, due to the ‘balloon’ effect.^{xxviii} In the Amazon region, this perverse incentive is particularly alarming, given that more than 50% of the area of the region is recognised as “Indigenous Reserves” (*resguardos*)^{xxix} and that 17% is part of the National Parks system.^{xxx}

In view of these major and significant risks, and in accordance with the jurisprudence of the Constitutional Court in its sentence T-236 of 2017, aerial spraying should not be reactivated, even if legislation is in force to prevent illegal deforestation, given that such regulations have not been diligently implemented, as shown by the most recent deforestation figures in Colombia.

Risks for Indigenous Peoples, Afro-descendants and rural communities:

In addition to the risks of stirring up armed conflict and exacerbating deforestation with the displacement of illicit crops, any reactivation of aerial spraying could result in violations of the rights of indigenous peoples and ethnic communities who have customary rights to their lands and resources, including rights to own, control and manage their lands, territories and natural resources, and withhold or grant their free, prior and informed consent over activities that may impact such rights and resources. These rights are all protected by the Constitutional Court and under international law. Likewise, serious damage to health and environment of all local communities is likely to be repeated if aerial spraying recommences, with serious repercussions on their sovereignty and food security, access to land, security of tenure and the right to development.

With regard to the specific rights of indigenous peoples and Afro-descendant communities, the Inter-American Court of Human Rights has established that prior consultation processes must have the aim of obtaining consent of affected indigenous peoples, considering that aerial spraying could have harmful impacts on their physical and cultural integrity.^{xxxi} In this sense, the Constitutional Court in its judgement T-236/17 established that aerial spraying programmes using toxic products to eradicate illicit crops generate “effects on licit crops, health, the environment and in general the surroundings of the communities”^{xxxii} affected, and therefore it becomes mandatory to undertake free, prior and informed consultation before implementing this policy in Afro-descendant and indigenous territories.

With this ruling, and the subsequent decision of “Tutela” T-300 of 2017,^{xxxiii} the Court reiterates and extends the protection of the right to prior consultation for the implementation of aerial spraying programmes, which had been recognized since 2003 in the Unifying Judgment-383/2003. This judgement upholds the right to ethnic and cultural integrity of the indigenous peoples of the Amazon, whose legal and traditional crops --including coca leaf crops in communities where it is considered a sacred plant --are adversely affected by aerial spraying.^{xxxiv} In the same ruling of 2003,

the Court ordered the creation of the Mesa Regional Amazónica, where the government committed itself to work in a consensual manner with indigenous peoples to regulate Article 7 of law 30 of 1986, in order to "guarantee the traditional use of coca and other plants from which narcotic substances are produced, for cultural purposes",^{xxxv} respecting the worldviews, spirituality and ancestral uses of the coca leaf by indigenous peoples. However, there has been no compliance with this condition required by the Court by the government as part of its current controversial proposals to reactivate the areal fumigations – giving rise to a further fundamental reason why fumigation must not recommence in this region.

Recently, according to Judgement T-063 of 2019, the Constitutional Court reiterated once more the expanded protection of the right of indigenous peoples to participate in public policy making on forests, recognizing the basis for free, prior and informed consent - and not just consultation -, in three scenarios which would be applicable in any case involving the reactivation of aerial spraying. The first, relates to indigenous peoples at risk of physical and/or cultural extinction.^{xxxvi} The second, relates to cases where a project, or impacts that it could have on affected peoples implies the "(i) transfer or relocation of the indigenous or tribal peoples from their place of settlement; (ii) the storage of hazardous or toxic materials in their territories: (and) (iii) measures that imply a high social, cultural and environmental impact that puts their livelihoods at risk."^{xxxvii} In accordance with the Court's jurisprudence, the third scenario in which free, prior and informed consent applies is when a measure, "norm, program, project, plan or policy, seriously affects their rights, in particular those of a territorial character."^{xxxviii}

Judgment T-063 of 2019 is consistent with the obligations of States Parties to the American Convention on Human Rights, ratified by Colombia. The Inter-American Court of Human Rights has explained that any impact on the property of indigenous peoples that prevents their physical and cultural survival requires their free, prior and informed consent. Specifically, the Court established that the "survival as a tribal people" must be understood as the ability of [indigenous peoples] to "preserve, protect and guarantee the special relationship that [they] have with their territory", so that "they may continue living their traditional way of life, and that their distinct cultural identity, social structure, economic system, customs, beliefs and traditions are respected, guaranteed and protected [...]".^{xxxix} The term "survival" in this context thus signifies much more than physical survival.

It is of great importance to highlight that, in the past, aerial spraying has been the cause of multiple violations of the territorial autonomy of indigenous peoples.^{xl} It would be necessary to assess the intensity of the impacts in each case to establish whether in the light of constitutional jurisprudence, free, prior and informed consent - and not just consultation - is appropriate, should the fumigation programme be reactivated. To determine the seriousness of the impact in the case of aerial fumigation, the jurisprudence of the Constitutional Court has established that "it is the ethnic communities who, through a process of dialogue with the responsible public authorities, must assess the impact that the aerial fumigation programme with glyphosate caused on their territories, on their cultural integrity or on any aspect of their worldview ("cosmovisión"). It is in this scenario that the impact on health, the environment and the territory in general should be evaluated, as an essential element for indigenous and ethnic existence and self-determination."^{xli} In the same decision, the Court stated that, "in the event that an agreement is not reached during the consultation process, the National Narcotics Council must, together with the representatives of the main indigenous authorities in Colombia, determine the degree of impact of the implementation of the PECIG in Orito and Puerto Caicedo on the fundamental rights of ethnic minorities under the

principles of proportionality and reasonableness, even more so as they involve measures that imply environmental risks and possible effects on human health ".^{xiii} In summary, the Court recognises that the intensity of the impact from aerial spraying can be very high, and that therefore the degree of participation of the communities in the definition of such a policy should be proportional, and therefore some cases requires consent.

In this context, it is a violation of collective rights of indigenous and Afro-descendant peoples to carry out fumigation without their free, prior and informed consent through their freely chosen representatives, since they could be seriously affected by this kind of intervention from the Colombian state. In addition, it is important to remember that free, prior and informed consent and consultation are a requirement for obtaining an environmental licence, taking into consideration that application for this licence demands an environmental and social risk assessment.^{xiii} In this study, the risks of impacts to the environment and health of all local communities that could be affected by the spraying programme should undoubtedly be considered. We recall that in Judgment T-236/17, the Court, after reviewing various studies presented by the parties and intervenors, concluded that "glyphosate spray programmes, due to their special characteristics, pose significant risks to human health. These risks have not been reasonably regulated by the administrative authorities, and the existing regulation has not been implemented diligently",^{xliv} so the *precautionary principle* should be applied. The impacts of aerial spraying on food security should also be taken into consideration, studying and assessing academic studies that show that "the spraying of entire territories as a strategy for coca eradication, far from controlling the expansion of coca, (instead) finishes off the traditional food crops of the local population and poisons rivers."^{xlv}

All of the above generates significant risks of violating the rights of indigenous peoples and rural communities to their land, resources, territories, culture, livelihoods, and food security. These communities are recognised by the Court as subjects of special constitutional protection.^{xlvi}

Conclusions and recommendations:

In conclusion, recognising that illicit cultivation is often a driver of deforestation and generates harmful impacts on the environment and human life, the undersigned call for measures to control illicit crops emphasising that effective solutions - other than aerial spraying - must be aimed at tackling the underlying causes of the expansion of these crops. We wish to remind you that T-236 (2017) of the Constitutional Court has established that aerial fumigation programmes can only be reactivated after adopting a regulation that "*must derive from an evaluation of health risk and others, such as environmental risk, within the framework of a participatory and technically founded process.*"^{xlvii}

We reiterate that there is strong evidence that aerial spraying with glyphosate poses a high risk of increasing deforestation, causing serious and irreversible damage to the environment, health and other fundamental rights of populations currently living adjacent to and/or outside the agricultural frontier, including subjects of special constitutional protection living in strategic territories and ecosystems. Based on all of the above, we recommend and call on you and your government to:

1. Suspend all proposals to reactivate aerial spraying in Colombia considering that:
 - a. It carries unacceptable social and environmental risks and that there is no regulation - or has not been diligently applied - to reduce these risks.
 - b. It is the most expensive eradication method,^{xlviii} less effective^{xlix} and with more side effects, such as those related to the violation of human rights.

2. Strengthen the territorial self-government of indigenous peoples and Afro-descendants communities over their collective territories, given that this approach is an effective strategy for halting deforestation, sustaining healthy and intact ecosystems, and controlling the harmful expansion of agricultural land for illicit crops.¹
3. Undertake consultation and agree with affected peoples together with civil society which sustainable, effective and fair measures are necessary to address the underlying causes of the expansion of illicit crops and deforestation.
4. Consider adopting and strengthening more sustainable and cost-effective measures, such as self-eradication by rural communities without the use of pesticides or other harmful substances.
5. Ensure that any proposed measures to tackle illicit crops that could have negative effects on the rights of indigenous peoples, Afro-descendants communities and local residents and/or the environment, are subject to participatory environmental and social risk and impact assessments before their adoption and application.
6. Ensure that government proposals, measures or decisions that could affect the collective rights of indigenous peoples, Afro-descendants communities and local people - including the right to their lands, resources and territories (and the related right to free, prior and informed consent), considers that certain interventions could undermine these and other connected fundamental rights and threaten their physical and cultural survival.

Respectfully,



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Signed and supported by:

Secretaría Técnica Indígena- Comisión Nacional de Territorios Indígenas, Colombia

OPIAC, Colombia

Proceso de Comunidades Negras (PCN), Colombia

Movimiento Ríos Vivos, Colombia

Comisión Interclesial de Justicia y Paz, Colombia

Indepaz, Colombia

Corporación Reiniciar, Colombia

Instituto de Defensa Legal, Perú

Fern, Bruselas

The Corner House, Reino Unido
Estonian Forest Aid (Eesti Metsa Abiks), Estonia
Rainforest Foundation Norway, Noruega
Rainforest Foundation US, EEUU

WOLA, EEUU
Amazon Watch, EEUU
Amigos de la Tierra, EEUU

Individuos:

Ana María Puyana, socióloga

cc.

Corte Constitucional, despacho del Magistrado Aquiles Arrieta Gómez ponente de la sentencia T-236 de 2017

Tribunal Superior de Bogotá, Sala Civil de Decisión Especializada en Restitución de Tierras, Despacho del Magistrado Jorge Eliecer Moya Vargas, encargado del seguimiento a la sentencia TC4360-2018, proferida por la Honorable Corte Suprema de Justicia

Procuraduría General de la Nación, Despacho del Procurador General Fernando Carrillo Flórez

ⁱ PRESIDENCIA (2019) *Comunicado del Ministerio de Justicia sobre el Auto 387 de 2019*. Available on: <https://id.presidencia.gov.co/Paginas/prensa/2019/190718-Comunicado-del-Ministerio-de-Justicia-sobre-el-Auto-387-expedido-por-la-Corte-Constitucional.aspx>

ⁱⁱ See from minute 53:20 onwards in the intervention available at: <https://www.portafolio.co/economia/gobierno/glifosato-con-precauciones-nuevas-posicion-de-duque-frente-a-la-corte-527175>

ⁱⁱⁱ CARRIZOSA, Joaquín; TENJO, Maira; ÁLVAREZ, Paula. (2016) *Deforestación, políticas nacionales y derechos de los pueblos indígenas en la Amazonía colombiana*. Afroeditores. Bogotá, 2016., pages 40-43; FERNÁNDEZ, Elsa. (2002) *El narcotráfico y la descomposición política y social. El caso Colombia*. Plaza y Valdez. México, page 129

^{iv} UNODC (2003) *Colombia. Coca Survey for December 2002 & Semi-Annual Estimate for July 2003*. Bogotá, September 2003, page 42

^v WOLA & INDEPAZ (2009). *La aspersión aérea de cultivos en Colombia. Una estrategia fallida*. Washington, 2009, page 67.

^{vi} Arenas, P/OCCDIGLOBAL. *Vuelta al Pasado*. In, Semana Sostenible No26. Bogotá. March-June 2019.

^{vii} UNODC (2011). *Colombia. Coca cultivation survey 2011*. Bogotá. June 2012. Page 23

^{viii} It corresponds to the sum of areas fumigated during a given time period. Op. Cit. UNODC (2003), page 41

^{ix} Ibid. page 41

^x “As from 2003, Nariño has continued to be in the group of the three departments with greater area under coca cultivation,....”. Op. Cit: UNODC (2011), page 23

^{xi} DURÁN, Angélica. (2019) *¿Se redujeron los cultivos de coca en el 2018?* In Razón Pública. Bogotá, 7 of July 2019. Available at <https://www.razonpublica.com/index.php/conflicto-drogas-y-paz-temas-30/12109-se-redujeron-los-cultivos-de-coca-en-el-2018.html?fbclid=IwAR2sJpfY4-MwYdxrD2HBXCqXbo6wIIYorw0AcovLuRSgrsYzrlzu6t8-N6A>

^{xii} IDEAM generates annual data on deforestation since 2013 using the Forest and Carbon Monitoring System

^{xiii} See GOBIERNO DE COLOMBIA (2018). “Plan Nacional de Desarrollo 2018-2022. Pacto por Colombia, Pacto por la Equidad” Bogotá, 2019, page. 406; IDEAM (2019) “Resultados de Monitoreo de la deforestación 2018”. Bogotá, 2019. Available at https://pidamazonia.com/sites/default/files/listado/Actualizacion_cifras2018FINALDEFORESTACION.pdf

^{xiv} See GFW (2019), *The World Lost a Belgium-sized Area of Primary Rainforests Last Year*, 2019. Available at <https://blog.globalforestwatch.org/data-and-research/world-lost-belgium-sized-area-of-primary-rainforests-last-year>

^{xv} Op.cit. IDEAM (2019); See also ARBELÁEZ, Ana María. *La reducción de la deforestación en la Amazonía no es significativa*. In La Silla Vacía, 20 August 2019. Available at <https://lasillavacia.com/silla-llena/la-reduccion-de-la-deforestacion-la-amazonia-no-significativa-71360>

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- ^{xvi} OTAVO, Samuel and MURCIA, Uriel. (2018) *La Amazonía se quema: detección de áreas con mayor ocurrencia de incendios de vegetación como estrategia para prevención y control*. In Revista Colombia Amazónica. Bogotá 2018. Available at https://www.sinchi.org.co/files/publicaciones/revista/pdf/11.%20Revista_Amazonica.pdf
- ^{xvii} Op. Cit SUPREME COURT OF JUSTICE (2018).
- ^{xviii} Under the Sustainable Development Goals with the 2030 Agenda, the Paris Agreement, the United Nations Framework Convention on Climate Change, the Convention on Biological Diversity, the New York Declaration on Forests, and the Tropical Forest Alliance 2020 (TFA 2020), the American Convention on Human Rights, ILO 169 on indigenous and tribal peoples in independent countries (ILO 169), Convention on the Elimination of All Forms of Racial Discrimination, and the Cancun Safeguards that accompany these obligations (decision 1 / COP.16).
- ^{xix} SUPREME COURT OF JUSTICE (2018) Judgement STC4360-2018. 5 April 2018. Reporting Judge Luis Armando Tolosa Villabona; OFFICE OF THE ATTORNEY-GENERAL OF THE NATION (2019). Directive 004 of 2019; CONSTITUTIONAL COURT (2017) Judgement T-236 of 21 April 2017. Reporting Judge Aquiles Arrieta Gómez; CONSTITUTIONAL COURT (2019) Judicial Decree 387 of 2019 to follow up on Judgement T-236/2017.
- ^{xx} Op.Cit. CARRIZOSA et al (2016), pages 43 and 44
- ^{xxi} ESPINOZA, A. (2011) "De lo global a lo local en los repertorios de acción de las organizaciones negras frente al conflicto armado en Buenaventura". In *Revista CS (7)*, 81-120. Universidad ICESI. Cali, page 87; see also GUZMAN, A.; MORENO, R. (2007) "Autodefensas, narcotráfico y comportamiento estatal en el Valle del Cauca" in Romero, M (Editor). *La ruta de la expansión paramilitar*, Bogotá: Corporación Nuevo Arco Iris
- ^{xxii} See minute 1:23 to minute 1:25 of the intervention, available at <https://www.portafolio.co/economia/gobierno/glifosato-con-precauciones-nuevas-posicion-de-duque-frente-a-la-corte-527175>
- ^{xxiii} Op. Cit. CARRIZOSA et al, (2016), page 50
- ^{xxiv} Op.Cit WOLA & INDEPAZ (2009), page 68
- ^{xxv} *Ibid*
- ^{xxvi} Article 102, Literal C of Decree 1843 of 1991; STATE COUNCIL, First Section, judgment of December 11, 2013, File 11001-03-24-000-2004-00227-01
- ^{xxvii} Op. Cit. CONSTITUTIONAL COURT (2017); CONSTITUTIONAL COURT (2003), Unifying Judgement 383 of 2003. Bogotá, 13 of May 2003. Reporting Judge Álvaro Tafur Galvis.
- ^{xxviii} Op. Cit. FERNANDEZ, Elsa. (2002), page 129
- ^{xxix} Op.Cit. CARRIZOSA et al, 2016, page 73.
- ^{xxx} According to PNN figures, the parks in this region total 8,251,867 hectares. Consulted on <http://www.parquesnacionales.gov.co/portal/es/parques-nacionales/>
- ^{xxxi} I/A Court H.R, *Case of Saramaka. People v. Suriname*. Preliminary Objections, Merits, Reparations, and Costs. Judgement of 28 of November 2007. Series C No. 172, par. 134 y I/A Court H.R, *Case of Saramaka. People v. Suriname* Interpretation of the Judgment on Preliminary Objections, Merits, Reparations, and Costs) Judgment of August 12, 2008 Series C No. 185, par. 37.
- ^{xxxii} Op. Cit. CONSTITUTIONAL COURT (2017)
- ^{xxxiii} CONSTITUTIONAL COURT (2017-2) T-3001 8 of May 2017. File T-4,615,032. Judge Aquiles Arrieta Gómez.
- ^{xxxiv} Op. Cit. CORTE CONSTITUCIONAL (2003)
- ^{xxxv} Artículo 3 numeral 5 del Decreto 3012 de 2005 por medio del cual se crea la Mesa Regional Amazónica para los pueblos indígenas de la Amazonía colombiana
- ^{xxxvi} CORTE CONSTITUCIONAL (2019) T-063 del 15 de febrero de 2019. Expediente T-6.529.317. Magistrado Ponente Antonio José Lizarazo Ocampo. Página 101.
- ^{xxxvii} *Ibid*, page 110, CONSTITUTIONAL COURT (2018) Sentencia Unificadora 123 del 15 de noviembre de 2018. Expediente T-6.529.317. Magistrados Ponentes Alberto Rojas Ríos y Rodrigo Uprimny Yepes. Página 44.
- ^{xxxviii} Op. Cit., CONSTITUTIONAL COURT (2017), CONSTITUTIONAL COURT (2012) T- 376 May 18, 2012. Expediente T-3331151. Magistrada Ponente María Victoria Calle Correa
- ^{xxxix} I/A Court H.R. *Case of Saramaka. People v. Suriname* Interpretation of the Judgment on Preliminary Objections, Merits, Reparations, and Costs. Judgment of August 12, 2008 Series C No. 185, par. 37.
- ^{xl} Op. Cit. CARRIZOSA et al, (2016).
- ^{xli} Op. Cit. CONSTITUTIONAL COURT (2017-2), page 44
- ^{xlii} *Ibid*, page 45
- ^{xliiii} Op. Cit. CONSTITUTIONAL COURT (2017), page 36
- ^{xliv} *Ibid*.

^{xlv} ESCOBAR, Arturo (2014). *Sentipensar con la tierra. Nuevas lecturas sobre desarrollo, territorio y diferencia*. Ediciones UNAULA. Medellín, 2014.

^{xlvi} CONSTITUTIONAL COURT (2012) C-644, August 23 2012. Expediente D-8924. Magistrada Ponente Adriana Margarita Guillen Arango; CORTE CONSTITUCIONAL (2012) tutela 763 del 2 de octubre de 2012. Expediente T-3.179.877. Magistrado Ponente Jorge Ignacio Pretelt; CORTE CONSTITUCIONAL sentencia de constitucionalidad C-371 del 11 de junio de 2014 Expediente D9799. Magistrado Ponente Jorge Ignacio Pretelt; CORTE CONSTITUCIONAL sentencia de constitucionalidad C-623 del 30 de septiembre de 2015. Expediente D9344. Magistrado Ponente Alberto Rojas Ríos; CORTE CONSTITUCIONAL sentencia unificadora SU-426 del 11 de agosto de 2016. Expediente T-5353319. Magistrada Ponente María Victoria Calle Correa; CORTE CONSTITUCIONAL, tutela T-461 del 29 de agosto de 2016. Expediente T5562292. Magistrado Ponente Jorge Iván Palacio; CORTE CONSTITUCIONAL tutela T-548 del 11 de octubre de 2016. Expediente 55589880. Magistrado Ponente Jorge Iván Palacio; CORTE CONSTITUCIONAL tutela T-549 del 11 de octubre de 2016. Expediente 5614043. Magistrado Ponente Jorge Iván Palacio;

^{xlvii} *Ibid.*

^{xlviii} According to Presidency figures cited by Dejusticia eradicating a hectare of illicit crops with aerial spraying costs \$ 72,000,000 COP, while voluntary substitution is estimated at the same source at \$ 40,000,000 per hectare eradicated. DEJUSTICIA (2019), intervention at the follow-up hearing of judgment T-236 of 2017 available at <https://www.dejusticia.org/litigation/le-dijimos-a-la-corte-constitucional-que-la-eventual-reanudacion-de-la-aspersion-aerea-de-glifosato-es-inconstitucional/>

^{xlix} According to UNODC at the end of 2019, the restocking rate in cases of spraying is 35%, while in the voluntary substitution it is 0.6%. Additionally, 30 hectares must be sprayed to eradicate one hectare. Cited for DEJUSTICE. IBID.

^l Negret, J.P.; Sonter, L.; Watson, J.; Possingham, H.; Jones, J.; Suarez, C.; Ochoa-Quinter, J.M.; Maron, M. *Emerging evidence that armed conflict and coca cultivation influence deforestation patterns*. En Biological conservation. In Press, 2019.