

*Report Summary**

VIOLATIONS OF AFRO-COLOMBIAN WOMEN’S HUMAN RIGHTS

A REPORT FOR THE UNITED NATIONS COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

100th Session, Geneva, Switzerland

November 23, 2019 – December 13, 2019

In response to the

COMBINED SEVENTEENTH TO NINETEENTH PERIODIC REPORTS OF COLOMBIA

Drafted by:

PROCESO DE COMUNIDADES NEGRAS (PCN), Cali, Colombia;
MADRE, New York City, USA;
HUMAN RIGHTS AND GENDER JUSTICE (HRGJ) CLINIC, CUNY SCHOOL OF LAW,
New York City, USA

Co-Sponsored by:

ASOCIACIÓN DE MUJERES AFRODESCENDIENTES DEL NORTE DEL CAUCA (ASOM)
Buenos Aires, Colombia

* This document summarizes a shadow report supplementing the Colombian Government’s combined 17th-19th reports to the Committee on the Elimination of Racial Discrimination (CERD Committee). It maps the shadow report themes with the CERD Committee’s List of Themes for Colombia’s review and CERD Articles, denoted as “*Theme:*” and “(Arts.)” respectively. Each section includes suggested questions and recommendations aimed at ensuring that the Colombian government complies with the Convention. For further details, references to the full shadow report appear as “[Report pp.]”.

I. PEACE ACCORD IMPLEMENTATION & AFRO-COLOMBIAN WOMEN’S PARTICIPATION	1
II. THREATS AGAINST AND ATTACKS ON AFRO-COLOMBIAN HUMAN RIGHTS DEFENDERS	2
III. SEXUAL AND GENDER-BASED VIOLENCE COMMITTED AGAINST AFRO-COLOMBIANS	3
IV. ACCESS TO HEALTHCARE FOR AFRO-COLOMBIAN SGBV SURVIVORS	4

Afro-Colombian women human rights advocates played a critical role in securing the historic peace between the Colombian Government and the Revolutionary Armed Forces of Colombia (FARC-EP). However, the Government's failure to fully implement the Final Peace Accord, particularly its hard-fought racial and gender justice provisions, means that Afro-descendant and Indigenous women continue to live disproportionately in conflict-ridden areas and to be at high risk for displacement and other violence, including sexual and gender-based violence. Longstanding state neglect of Afro-descendant regions, and the Government's failure to uphold key legal protections for Afro-descendants' collective and territorial rights leaves Afro-Colombian women and their communities disproportionately impoverished and vulnerable to armed actors. This report offers recommendations designed to ensure the Colombian Government upholds its human rights treaty obligations to protect Afro-descendant women and their communities from systemic discrimination, and to thereby contribute to lasting peace in Colombia.

I. PEACE ACCORD IMPLEMENTATION & AFRO-COLOMBIAN WOMEN'S PARTICIPATION [Report pp. 2-6] (ARTS. 2, 5 and 6), *Theme 7: prior consultation, and Theme 19: participation in Peace Accord implementation*

In part as a result of Colombia's systemic racism, Afro-Colombians, and in particular Afro-Colombian women, have been disproportionately affected by its decades-long armed conflict.¹ Through persistent mobilization, Indigenous and Afro-descendant women leaders and organizations secured the "Ethnic Chapter" in the Government's peace agreement with the Fuerzas Armadas Revolucionarias de Colombia (FARC-EP). The Chapter acknowledges the conflict's disproportionate impact on Afro-Colombian and Indigenous communities, and includes safeguards for their collective territorial and individual rights, and their participation in peace implementation.² The Final Peace Accord also incorporates a ground-breaking gender perspective, with provisions calling for women's participation in Accord implementation,³ all of which apply to Afro-descendant women. The Government has only sparsely implemented these racial and gender justice Peace Accord provisions, however, and has denied adequate funding to implement them in line with the agreed-upon Implementation Framework Plan (Plan Marco)

¹ Roosbelinda Cardenas, *The Anti-Racist Horizon in Colombia's Peace Process*, NACLA (Mar. 23, 2017), <https://nacla.org/news/2017/03/23/anti-racist-horizon-colombia%E2%80%99s-peace-process>; Proceso de Comunidades Negras, *Derrotar la Invisibilidad: Un Reto para Las Mujeres Afrodescendientes en Colombia, El Panorama de la Violencia y la Violación de los Derechos Humanos Contra las Mujeres Afrodescendientes en Colombia, en el Marco de Los Derechos Colectivos*, pp. 7-8 (Apr. 2012).

² Acuerdo Final Para la Terminación del Conflicto y la Construcción de una Paz Estable y Duradera, ¶ 6.2.3 (2016), altocomisionadoparalapaz.gov.co/procesos-y-conversaciones/Documentos%20compartidos/24-11-2016NuevoAcuerdoFinal.pdf; Roosbelinda Cárdenas, *The Anti-Racist Horizon in Colombia's Peace Process*, NACLA (Mar. 23, 2017), <https://nacla.org/news/2017/03/23/anti-racist-horizon-colombia%E2%80%99s-peace-process>.

³ Latin America Working Group Education Fund & Washington Office on Latin America, *The Fight for Inclusion: Advocating for a Gender-Sensitive Implementation of the Colombian Peace Accords*, pp. 1-2 (July 2019), <https://colombiapace.org/wp-content/uploads/2019/07/Advocating-for-a-Gender-Sensitive-Implementation-of-the-Colombian-Peace-Accords.pdf>.

indicators.⁴ It has also failed to meaningfully ensure participation by Afro-Colombians, including women, in all peace implementation mechanisms and planning processes.⁵ In addition, the Government limited Afro-descendants' opportunity for meaningful input in multiple legislative initiatives to implement the Accord,⁶ some with significant impacts on collective territorial rights.⁷ The Government also has failed to adequately coordinate with Afro-Colombian authorities to develop gender-sensitive collective security and self-protection systems as required under the Accord.⁸

Suggested Questions for the Colombian Government

1. What measures is the Government taking to strengthen implementation of the Ethnic Chapter and the gender justice provisions of the Peace Accord, in accordance with funding outlays envisioned in the *Plan Marco* indicators?
2. What measures is the Government taking to ensure participation by Afro-Colombian and Indigenous women and their communities in Peace Accord implementation, including (1) measures to address underrepresentation in the bodies charged with implementation, and (2) safeguards to ensure meaningful consultation, such as sufficient opportunities, adequate time, and an appropriate format for providing input?

We encourage the Committee to call on the Colombian Government to:

⁴ Kroc Institute for International Peace Studies, *Estado efectivo de implementación del Acuerdo de Paz de Colombia 2 años de implementación, Informe 3, Diciembre 2016 – Diciembre 2018* (9 April 2019), at 177, 223-225, 232-233 https://kroc.nd.edu/assets/321729/190523_informe_3_final_final.pdf; Interview with Afro-Colombian women human rights defenders (Sept. 29, 2018) (on file with MADRE) (names omitted for safety reasons).

⁵ Kroc Institute for International Peace Studies, *Estado efectivo de implementación del Acuerdo de Paz de Colombia 2 años de implementación, Informe 3, Diciembre 2016 – Diciembre 2018*, p. 173 (Apr. 9, 2019), https://kroc.nd.edu/assets/321729/190523_informe_3_final_final.pdf; Kroc Institute for International Peace Studies, *Special Report of the Kroc Institute and the International Accompaniment Component, UN Women, Women's International Democratic Federation, and Sweden, on the Monitoring of the Gender Perspective in the Implementation of the Colombian Final Peace Accord*, p. 34-35 (Oct. 2018), https://kroc.nd.edu/assets/297624/181113_gender_report_final.pdf; Interview with Afro-Colombian women human rights defenders (Jun. 10, 2018) (on file with MADRE) (names omitted for safety reasons); Verdad Abierta, *Indígenas y afros, excluidos del nuevo programa de protección para comunidades* (Apr. 27, 2018), <https://verdadabierta.com/indigenas-y-afro-excluidos-del-nuevo-programa-de-proteccion-para-comunidades/>.

⁶ Kroc Institute for International Peace Studies, *Segundo Informe Sobre El Estado Efectivo de Implementación del Acuerdo de Paz en Colombia*, p. 344 (Aug. 2018), https://kroc.nd.edu/assets/284864/informe_2_instituto_kroc_final_with_logos.pdf.

⁷ For instance, language in Decree-law 902/2017, which outlines who can access the land fund stipulated by the Peace Accord, guarantees Indigenous Peoples and peasant farmers (*campesinos*) access through a specific account, but excludes mention of access to a fund for Afro-descendant communities. Decreto-Ley Número 902 de 2017, Art. 18 (May 29, 2017).

⁸ Acuerdo Final Para la Terminación del Conflicto y la Construcción de una Paz Estable y Duradera, ¶ 3.4.1, 3.4.8, and 6.2.3(b) & (c) (2016), altocomisionadoparalapaz.gov.co/procesos-y-conversaciones/Documentos%20compartidos/24-11-2016NuevoAcuerdoFinal.pdf; Interview with Afro-Colombian women human rights defenders (Jun. 10, 2018) (on file with MADRE) (names omitted for safety reasons); *Indígenas y afros, excluidos del nuevo programa de protección para comunidades*, Verdad Abierta (Apr. 27, 2018), <https://verdadabierta.com/indigenas-y-afro-excluidos-del-nuevo-programa-de-proteccion-para-comunidades/>; Kroc Institute for International Peace Studies, *Special Report of the Kroc Institute and the International Accompaniment Component, UN Women, Women's International Democratic Federation, and Sweden, on the Monitoring of the Gender Perspective in the Implementation of the Colombian Final Peace Accord*, p. 32-33 (Oct. 2018), https://kroc.nd.edu/assets/297624/181113_gender_report_final.pdf.

- Commit technical and financial resources, including in the National Development Plan, to support implementation of the Ethnic Chapter of the Peace Accord, in accordance with the Plan Marco Ethnic Chapter indicators.
- Accelerate implementation through adequate funding of the gender provisions of the Peace Accord, including those related to the security guarantees of women leaders and human rights defenders and harmonize the National Development Plan with the provisions.

II. THREATS AGAINST AND ATTACKS ON AFRO-COLOMBIAN HUMAN RIGHTS DEFENDERS [Report pp. 6-12] (ARTS. 5 and 6), *Theme 22: protection of Afro-descendant and Indigenous human rights defenders, UNP functioning, and Theme 24: combatting multiple forms of discrimination affecting Afro-Colombian and Indigenous women*

Violence against human rights defenders and community leaders in Colombia continues, disproportionately impacting Afro-descendant, Indigenous, and rural leaders, as well as women leaders promoting Peace Accord provisions.¹⁰ As of the beginning of October there were 123 alleged assassinations of human rights defenders and social leaders in 2019.¹¹ The National Protection Unit (UNP), in charge of providing protection to threatened leaders, is overwhelmed, lacks adequate resources, and is unable to enact appropriate protection measures to address the risks.¹² Impunity remains high, and as of June 2018, there was no criminal sentence in 91.4% of 563 assassinations of human rights defenders registered between 2009-2017.¹³ Afro-descendant leaders who stand up for their collective rights and who report threats and crimes against them find themselves the target of baseless legal charges.¹⁴ On April 20, 2018, for example, threatened Afro-descendant women human rights defenders, Sara Liliana Quiñonez Valencia and her mother, Tulia Maris Valencia were arrested on baseless charges, denied bail and placed in maximum-security detention¹⁵ for nearly 15 months before being released on July 12, 2019 to await trial.¹⁶ Danelly Estupiñan, an Afro-descendant woman human rights defender from

⁹ CEDAW, *Concluding observations on the ninth periodic report of Colombia*, ¶¶ 10, 12, 16(a) UN Doc CEDAW/C/COL/CO/R.9 (Mar. 14, 2019).

¹⁰ Kroc Institute for International Peace Studies, *Estado efectivo de implementación del Acuerdo de Paz de Colombia 2 años de implementación, Informe 3, Diciembre 2016 – Diciembre 2018*, p. 103 (Apr. 9, 2019), https://kroc.nd.edu/assets/321729/190523_informe_3_final_final.pdf; Indepaz, *Separata de actualización, Todos los nombres, Todos los rostros*, pp. 25, 28 (May 23, 2019), <http://www.indepaz.org.co/wp-content/uploads/2019/05/SEPARATA-DE-ACTUALIZACION%CC%81N-mayo-Informe-Todas-las-voces-todos-los-rostros.-23-mayo-de-2019-ok.pdf>

¹¹ UN Verification Mission in Colombia, *Report of the Secretary-General*, ¶ 59, UN Doc. S/2019/780 (Oct. 1, 2019).

¹² Kroc Institute for International Peace Studies, *Estado efectivo de implementación del Acuerdo de Paz de Colombia 2 años de implementación, Informe 3, Diciembre 2016 – Diciembre 2018*, p. 189 (Apr. 9, 2019), https://kroc.nd.edu/assets/321729/190523_informe_3_final_final.pdf.

¹³ Programa Somos Defensores, *Más Allá de las Cifras: Segunda Parte*, pp. 67-68, (2018), <https://www.colectivodeabogados.org/IMG/pdf/masalladelascifraspweb.pdf>; See Shadow Report pp. 6-12 for further details.

¹⁴ See Shadow Report pp. 8-10 for further details.

¹⁵ JM Kirby, *Facing Wrongful Detention and Threats, Afro-Colombian Women Call for Justice*, Truthout (Mar. 17, 2019) <https://truthout.org/articles/facing-wrongful-detention-and-threats-afro-colombian-women-call-for-justice/>.

¹⁶ Proceso de Comunidades Negras, *Sara y Tulia en Libertad*, (July 13, 2019), <https://renacientes.net/blog/2019/07/13/sara-y-tulia-en-libertad/>.

Buenaventura, faces unfounded charges of slander and libel from the very office charged with investigating threats to her safety.¹⁷

Afro-descendant leaders have called for collective protection measures and for initiatives to address the attacks' root causes, such as illegal mining and large-scale industry's demands for territory.¹⁸ The Peace Accord obligates the Government, as part of its security guarantee to civil society organizations, to strengthen and recognize Afro-descendant and Indigenous Peoples' respective civil self-protection units, the Guardia Cimarrona and the Guardia Indígena.¹⁹ With proper training and material assistance, such as radios for rural areas that lack services,²⁰ the Guardia Cimarrona may be able to carry out its tasks in a robust manner, communicating to early warning systems and coordinating timely safety assistance, for example. The Government has refused to recognize the Guardia Cimarrona.²¹ It has also failed to uphold Afro-descendant Peoples' collective territorial rights, including Law 70 of 1993 and the right to free, prior, and informed consent, generating additional security threats from private interests seeking to carry out mining and mega-development projects in Afro-descendant territories.²²

Suggested Questions for the Colombian Government

1. What specific measures has the government taken since its last review by the CERD Committee to conduct thorough investigations and effectively prosecute individuals who threaten human rights defenders, including leaders and defenders of the rights of Indigenous and Afro-Colombian Peoples?²³

¹⁷ Amnesty International, *Urgent Action: Human Rights Defender at Risk* (July 1, 2019), available at <https://www.amnesty.org/download/Documents/AMR2306212019ENGLISH.pdf>; *Agentes del CTI asedian a una lideresa social de Buenaventura?*, El Espectador (July 2, 2019), <https://www.elespectador.com/colombia2020/territorio/agentes-del-cti-asedian-una-lideresa-social-de-buenaventura-articulo-868728>; See Shadow Report pp. 8-10 for further details.

¹⁸ Edinson Arley Bolaños, 'Las capturas por el atentado son un falso positivo': líder afro del norte del Cauca, El Espectador (June 19, 2019), <https://www.elespectador.com/colombia2020/territorio/las-capturas-por-el-atentado-son-un-falso-positivo-lider-afro-del-norte-del-cauca-articulo-866720>.

¹⁹ Acuerdo Final Para la Terminación del Conflicto y la Construcción de una Paz Estable y Duradera, ¶ 6.2.3.c (2016), <http://altocomisionadoparalapaz.gov.co/procesos-y-conversaciones/Documentos%20compartidos/24-11-2016NuevoAcuerdoFinal.pdf>.

²⁰ *La fatal deuda con las Guardias Indígena y Cimarrona del Norte del Cauca*, Verdad Abierta (Aug. 15, 2019), <https://verdadabierta.com/la-fatal-deuda-con-las-guardias-indigena-y-cimarrona-del-norte-de-cauca/>; Interview with Afro-Colombian human rights defender (Oct. 31, 2019) (on file with MADRE) (name omitted for safety reasons).

²¹ *La fatal deuda con las Guardias Indígena y Cimarrona del Norte del Cauca*, Verdad Abierta (Aug. 15, 2019), <https://verdadabierta.com/la-fatal-deuda-con-las-guardias-indigena-y-cimarrona-del-norte-de-cauca/>.

²² Interview with Afro-Colombian human rights defender (Oct. 31, 2019) (on file with MADRE) (name omitted for safety reasons); Taula Catalana per la Pau & Oficina Internacional de Derechos Humanos, *Acción Colombia, Cómo protegemos a quienes defienden los derechos humanos en Colombia: Aportaciones de voces expertas en el marco de la implementación del Acuerdo de Paz*, p. 34-35 (May 2018) <http://www.oidhaco.org/uploaded/content/article/1666555647.pdf>; Manuel Góngora-Mera, *The Ethnic Chapter of the 2016 Colombian peace agreement and the Afro-descendants' right to prior consultation: A story of unfulfilled promises*, p. 2 (Jan. 21, 2019), The International Journal of Human Rights, DOI: [10.1080/13642987.2018.1562920](https://doi.org/10.1080/13642987.2018.1562920)

²³ Committee on the Elimination of Racial Discrimination (CERD), *Concluding Observations, Colombia*, ¶ 28(c) U.N. Doc CERD/C/COL/15-16 (Sept. 25, 2015).

2. How many investigations have resulted in the identification, prosecution and conviction of material and intellectual authors of threats and attacks against human rights defenders and social leaders?
3. What measures is the Government taking to guarantee financial and institutional resources to Afro-descendant authorities and organizations to ensure their participation in creating and implementing gender-sensitive collective self-protection mechanisms, in accordance with Articles 3.4.8 and 6.2.3(c) of the Peace Accord, including by adequately resourcing and recognizing the Guardia Cimarrona?

We encourage the Committee to call on the Colombian Government to:

- ensure that all attacks on Afro-Colombian human rights defenders and leaders, including women, are promptly and thoroughly investigated and prosecuted; including by increasing the number of properly trained and sensitized legal personnel who can guarantee adequate and timely investigation and legal assistance.
- halt the targeting of Afro-Colombian human rights defenders, including women, with wrongful arrest, administrative imprisonment, and baseless litigation; and end criminalization of social protest.
- guarantee financial and institutional resources to ensure Afro-descendant authorities' and organizations' participation in creating and implementing gender-sensitive collective self-protection mechanisms, in accordance with Articles 3.4.8 and 6.2.3(c) of the Peace Accord, including by adequately resourcing and recognizing the Guardia Cimarrona.

III. SEXUAL AND GENDER-BASED VIOLENCE COMMITTED AGAINST AFRO-COLOMBIANS [Report pp. 12-18] (ARTS. 5 and 6), *Theme 18: prevention of sexual violence against Afro-Colombian and Indigenous women and access to justice, and Theme 20: investigation and redress to Indigenous and Afro-Colombian peoples under the Comprehensive System for Truth, Justice, Reparation and Non-Repetition*

The disproportionate impact of armed group presence in Afro-descendant and Indigenous Peoples' territories,²⁴ increases their risk of exposure to violence, including sexual and gender-based violence (SGBV).²⁵ The Government has failed to adequately consult with Afro-descendant authorities and women's organizations to implement effective, gender-sensitive security measures and support the establishment of local community self-protection mechanisms as required under the Peace Accord.²⁶ Colombia's Law 1257 of 2008, which establishes

²⁴ Washington Office on Latin America, *Ethnic Communities are the Pathway to Peace in Colombia's Abandoned Areas* (Oct. 31, 2019), <https://www.wola.org/analysis/ethnic-communities-pathways-peace-colombia/>; Kroc Institute for International Peace Studies, *Estado efectivo de implementación del Acuerdo de Paz de Colombia 2 años de implementación, Informe 3, Diciembre 2016 – Diciembre 2018*, p. 190 (Apr. 9, 2019), https://kroc.nd.edu/assets/321729/190523_informe_3_final_final.pdf.

²⁵ Kroc Institute for International Peace Studies, *Estado efectivo de implementación del Acuerdo de Paz de Colombia 2 años de implementación, Informe 3, Diciembre 2016 – Diciembre 2018*, pp. 190, 193 (Apr. 9, 2019), https://kroc.nd.edu/assets/321729/190523_informe_3_final_final.pdf.

²⁶ Acuerdo Final Para la Terminación del Conflicto y la Construcción de una Paz Estable y Duradera, ¶ 3.4.8, 6.2.3(b) & (c) (2016), altocomisionadoparalapaz.gov.co/procesos-y-conversaciones/Documentos%20compartidos/24-11-2016NuevoAcuerdoFin

entitlements for women victims of sexual violence to holistic treatment, free legal support and other services,²⁷ remains largely unimplemented as violence against women continues to rise.²⁸ In rural areas with significant Afro-Colombian and Indigenous populations, survivors of sexual violence lack adequate access to justice.²⁹ Due to the stigmatization and re-victimization they experience at the hands of State institutions, many women choose not to report sexual violence,³⁰ and many lack access to safe, accessible and confidential reporting mechanisms.³¹ Inadequately trained personnel in the sparsely available reporting centers in Afro-descendant territories have placed victims of domestic and other gender violence at grave risk of retaliatory violence.³² The Special Jurisdiction for Peace (JEP), a key transitional justice mechanism for conflict victims including victims of SGBV, has been continually under attack by lawmakers, jeopardizing its authority as a mechanism for all victims of conflict-related SGBV.³³

Suggested Questions for the Colombian Government

1. How many cases of sexual violence against Afro-Colombian women, youth and girls have been investigated since the last review by CERD of Colombia, and in how many of

al.pdf; UN Special Rapporteur on the situation of human rights defenders, *End of Mission Statement by the United Nations Special Rapporteur on the Situation of Human Rights Defenders, Michel Forst on his visit to Colombia* (November 20, 2018), <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23960&LangID=E>

²⁷ Colombia Law No. 1257 of 2008, Art. 8 (b).

²⁸ Sisma Mujer, *Ley 1257 Ocho años de obstáculos en la protección integral para las mujeres víctimas de violencias*, p. 73 (Nov. 2016),

<http://www.sismamujer.org/wp-content/uploads/2016/11/Ley-1257-ochos-a%C3%B1os-de-obstaculos-en-la-protecci%C3%B3n-integral-de-las-mujeres-v%C3%ADctimas-de-violencias.pdf>.

²⁹ Special Representative of the Secretary-General on Sexual Violence in Conflict, *Conflict Related Sexual Violence: Report of the United Nations Secretary-General*, ¶ 42, U.N. Doc S/2019/280 (Mar. 29, 2019),

https://reliefweb.int/sites/reliefweb.int/files/resources/S_2019_280_E.pdf; See Shadow Report pp. 15-17 for further details.

³⁰ Interview with Afro-Colombian human rights defender (Oct. 31, 2019) (on file with MADRE) (name omitted for safety reasons); Sisma Mujer, *24 05 2019 Boletín SISMA*, p. 7 (May 25, 2019),

https://drive.google.com/file/d/1tXOcyIrfUCIv7uUJCt5_YbPanHDevuL/view

³¹ Interview with Afro-Colombian woman human rights defender (Feb. 13, 2018) (on file with MADRE) (name omitted for safety reasons).

³² Interview with Afro-Colombian human rights defender (Oct. 31, 2019) (on file with MADRE) (name omitted for safety reasons).

³³ Washington Office on Latin America, *Rescuing Colombia's Post-Conflict Transitional Justice System* (Nov. 29, 2017), <https://www.wola.org/analysis/colombias-post-conflict-justice-framework-remains-vague-becoming-less-fair/>; El Heraldo, *Hay que descubrir vacíos en la JEP y ver cómo los solucionamos conjuntamente: Margarita Cabello* (June 11, 2019),

<https://www.elheraldo.co/colombia/hay-que-descubrir-vacios-en-la-jep-y-ver-como-los-solucionamos-conjuntamente-margarita>; W Radio, *Minjusticia presentará proyectos contra artículos polémicos de la Ley Estatutaria de JEP* (June 12, 2019),

<https://www.wradio.com.co/noticias/actualidad/minjusticia-presentara-proyectos-contr-articulos-polemicos-de-la-ley-estaturaria-de-jep/20190612/nota/3913944.aspx>; El Espectador, *Referendo o constituyente, las salidas que propone el uribismo para reformar la JEP* (May 16, 2019),

<https://www.elespectador.com/noticias/politica/referendo-o-constituyente-las-salidas-que-propone-el-uribismo-para-reformar-la-jep-articulo-860918>; El Nuevo Siglo, *Debate para eventual asamblea constituyente* (May 29, 2019),

<https://www.elnuevosiglo.com.co/articulos/05-2019-imparable-debate-por-eventual-asamblea-constituyente>; El Tiempo, *Uribe plantea sustituir a la JEP por sala especial en la Corte Suprema* (June 6, 2019),

<https://www.eltiempo.com/politica/congreso/el-planteamiento-de-uribe-sobre-la-jep-y-la-corte-suprema-de-justicia-371956>.

those were the victims provided services and reparations and the perpetrators brought to justice?

2. How many medical forensic specialists do the prosecutor's offices have to attend to cases of sexual and gender-based violence committed against Afro-descendant women, youth and girls, and in which localities are they established?

We encourage the Committee to call on the Colombian Government to:

- coordinate with Afro-Colombian women's organizations and authorities to develop community self-protection measures to address SGBV in territories experiencing ongoing conflict, and to establish safe and anonymous ways for victims to report conflict-related sexual violence without re-traumatization or fear of retaliation.
- Create mechanisms, programs and strategies that ensure Afro-Colombian women and girl SGBV victims, and particularly those residing in rural areas, have access to comprehensive support services, including legal aid services,³⁴ and reparations in accordance with Law 1257 (2008), developed in consultation with Afro-Colombian women's organizations.
- ensure meaningful access to justice for Afro-Colombian survivors of conflict-related sexual and other violence, including through both the JEP, and the Commission for the Clarification of Truth, Coexistence, and Non-Repetition, and ensure that these bodies receive and prioritize these cases.

IV. ACCESS TO HEALTHCARE FOR AFRO-COLOMBIAN SGBV SURVIVORS [Report pp. 18-22] (ARTS. 2 and 5), *Theme 10: Afro-Colombian and Indigenous Peoples' access to health services*, *Theme 15: preventing human rights violations against Afro-Colombians in Buenaventura*, and *Theme 18: measures taken under Act No. 1719 of 2014*

Afro-descendant sexual and gender-based violence (SGBV) survivors face substantial barriers to healthcare, due to discrimination and stigma in health settings, and the overwhelming lack of adequate physical and mental health infrastructure in many Afro-Colombian communities.³⁵ These barriers are compounded by high rates of displacement.³⁶ This systematic racial and

³⁴ CEDAW, *Concluding observations on the ninth periodic report of Colombia* ¶ 14(f) UN Doc CEDAW/C/COL/CO/R.9 (Mar. 14, 2019).

³⁵ *Caminando hacia Bogotá por la salud de Buenaventura*, Publimetro (Aug. 17, 2017), <https://www.publimetro.co/co/colombia/2017/08/17/caminando-hacia-bogota-la-salud-buenaventura.html>; Mateo Isaza Giraldo, *El viaje a pie entre Buenaventura y Bogotá por la salud del puerto*, El Colombiano (Sept. 8, 2017), <https://www.elcolombiano.com/colombia/salud/caminata-entre-buenaventura-y-bogota-por-la-salud-del-puerto-DY7265621>; Ana Carolina Bucheli Olmos and María Fernanda Vargas Jiménez, *Violencia sexual en el marco del conflicto armado colombiano caso: Chocó*, Thesis for the Universidad de Rosario, Facultad de Jurisprudencia, p. 31 (Jan. 2018), (on file at MADRE). See Shadow Report pp. 18-20 for further details.

³⁶ Interview with Afro-Colombian women human rights defenders (Sept. 29, 2018) (on file with MADRE) (names omitted for safety reasons); Castro A, Savage V, Kaufman H. *Assessing equitable care for Indigenous and Afrodescendant women in Latin America*. Rev Panam Salud Publica. 38(2) p. 98 (2015), pdfs.semanticscholar.org/4076/70c4c1e21886dc3bf6e6a241ea3066622325.pdf; United Nations Office for the Coordination of Humanitarian Affairs, *Humanitarian Needs Overview: Colombia*, p. 12 (2018) http://earlyrecovery.global/sites/default/files/hno_2018_en.pdf; *Defensoría alerta por incremento de la violencia en Tumaco* (Jan. 9, 2018) <http://defensoria.gov.co/es/nube/enlosmedios/6987/Defensor%C3%ADa-alerta-por-incremento-de-la-violencia-en-Tumaco>

gender discrimination deters Afro-Colombian victims from following up with medical providers.³⁷ As of 2017, in the majority Afro-descendant areas of Tumaco and Buenaventura, public institutions have perpetuated a false belief that victims must file a complaint with the authorities to receive medical attention.³⁸ This runs contrary to Colombia's Law 1719 of 2014, which mandates psychosocial and medical care for SGBV survivors.³⁹ This speaks to the Government's overall failure to implement Law 1719,⁴⁰ and means that untold numbers of survivors are unlawfully denied necessary emergency care in these majority Afro-Colombian areas. Human rights reporters find that in rural areas of Chocó, for example, Afro-Colombian women SGBV survivors lack access to necessary treatment in the wake of sexual assault or rape, including post-HIV exposure prophylaxis.⁴¹

Suggested Questions for the Colombian Government

1. What steps has the Government taken since the passage of Law 1719 of 2014 to educate healthcare providers about its provisions, and to ensure Afro-Colombian survivors of SGBV are provided comprehensive, accessible, affordable medical and psychosocial care with dignity?
2. What steps is the Government taking to ensure quality healthcare access for Afro-descendant and Indigenous women and their communities, including reduction in maternal mortality, and updated healthcare infrastructure in their territories?

We encourage the Committee to call on the Colombian Government to:

- ensure Afro-Colombian SGBV survivors' access to comprehensive medical treatment, mental health care and psychosocial support, provided by health professionals appropriately trained to detect SGBV and to treat its consequences, and ensure that the survivors of SGBV are promptly provided access to forensic testing.
- ensure that women and girls in rural and remote areas, particularly from Indigenous and

o.htm; *Más de mil desplazados en el país dejó la violencia en solo cuatro días: Defensoría*, RCN Radio, (Jan. 22, 2018), <https://www.rcnradio.com/mcontent/5b36b30a5f0049e5d12f92c6/amp>

³⁷ Interview with Afro-Colombian women human rights defenders, (Sept. 29, 2018) (on file with MADRE) (names omitted for safety reasons); Ana Carolina Bucheli Olmos and María Fernanda Vargas Jiménez, *Violencia sexual en el marco del conflicto armado colombiano caso: Chocó*, Thesis for the Universidad de Rosario, Facultad de Jurisprudencia, p.36 (Jan. 2018), (on file at MADRE).

³⁸ Médicos Sin Fronteras - Colombia, *A la sombra del proceso, Impacto de las otras violencias en la salud de la población colombiana*, p. 23 (Aug. 2017).

³⁹ Equidad de Mujer – Presidencia de la Republica, *Derechos de Víctimas - la Ley 1719 de 2014*, p. 1, http://www.equidadmujer.gov.co/ejes/publicaciones/Derechos-victimas-violencia-sexual-Ley_1719.pdf

⁴⁰ *Ley contra la violencia sexual no avanza*, El Nuevo Siglo (Nov. 16, 2016) <https://elnuevosiglo.com.co/articulos/11-2016-no-hay-avances-con-ley-contra-la-violencia-sexual-robledo>; see also, Sisma Mujer, *Ley 1257: Ocho Años de Obstáculos en La Protección Integral para Las Mujeres Víctimas de Violencias*, p. 74 (2016) (noting that after two years, the Government still had not developed a system to collect data on SGBV as required under the law),

<http://www.sismamujer.org/wp-content/uploads/2016/11/Ley-1257-ocho-a%C3%B1os-de-obstaculos-en-la-protecci%C3%B3n-integral-de-las-mujeres-v%C3%ADctimas-de-violencias.pdf>

⁴¹ Ana Carolina Bucheli Olmos and María Fernanda Vargas Jiménez, *Violencia sexual en el marco del conflicto armado colombiano caso: Chocó*, Thesis for the Universidad de Rosario, Facultad de Jurisprudencia, p. 36 (Jan. 2018), (on file at MADRE).

Afro-Colombian communities, including women with disabilities, have equal access to high-quality health care, including through accelerating the implementation of the “National Plan on Rural Health” and strengthening the implementation of the “Model of clinical safety for emergency obstetric attention.”⁴²

V. PROTECTION OF COLLECTIVE TERRITORIAL RIGHTS FOR AFRO-COLOMBIAN WOMEN AND THEIR COMMUNITIES [Report pp. 22-27] (ARTS. 5 and 6), *Theme 3: Law 70 of 1993 & implementation, Theme 7: prior consultation, Theme 8: implementation of the Victims and Land Restitution Act of 2011 and Law 70 of 1993, Theme 9: state mining policies, & Theme 17: displacement - prevention and protection for Afro-descendants*

Violence and displacement have disproportionately affected Afro-Colombian communities,⁴³ and have particularly violated their rights to territory and to practice their ancestral customs.⁴⁴ Afro-Colombian women have especially suffered disproportionate impact of the conflict and resulting forced displacement, and the Government’s failure to implement constitutionally-required victim reparations and protection programs has increased their vulnerability.⁴⁵ Meanwhile, the Government has erected arbitrary administrative hurdles that prevent Afro-Colombian communities from officially registering collective title to their lands under Law 70 of 1993.⁴⁶ Even where claims are recognized, in some instances the Government has failed to ensure communities’ access to territory illegally seized from them.⁴⁷ The Government has also taken measures that threaten Afro-descendant communities’ territorial rights, including, for example, authorizing large-scale mining in Afro-descendant territories without adhering to free, prior and informed consultation processes.⁴⁸ The repeated failure to

⁴² CEDAW, *Concluding observations on the ninth periodic report of Colombia*, ¶38(b) (UN Doc CEDAW/C/COL/CO/R.9 (Mar. 14, 2019)).

⁴³ Norwegian Refugee Council, *New wave of violence threatens Colombia’s peace prospects* (Aug. 8, 2017), <https://www.nrc.no/news/2017/august/new-wave-of-violence-threatens-colombias-peace-prospects/>.

⁴⁴ Comisión Interamericana de Derechos Humanos, *Informe Anual 2018: Capítulo V. Seguimiento de recomendaciones formuladas por la CIDH en el Informe Verdad, Justicia y Reparación: Cuarto informe sobre la situación de derechos humanos en Colombia*, ¶ 164 (Mar. 21, 2019), <https://www.refworld.org/es/cgi-bin/texis/vtx/rwmain?page=publisher&docid=5c9410564&skip=0&publisher=IACHR&query=colombia&searchin=title&sort=date>.

⁴⁵ Race & Equality, *Denuncias ante la CIDH de Incumplimiento de Mas de 10 Anos del Estado Colombia para Proteger Derechos de Comunidades Afrocolombianas en Situación de Desplazamiento Forzado* (Oct. 3, 2018), <http://raceandequality.org/es/espanol/denuncias-ante-la-cidh-de-incumplimiento-de-mas-de-10-anos-del-estado-de-colombia-para-proteger-derechos-de-comunidades-afrocolombianas-en-situacion-de-desplazamiento-forzado/>; See Shadow Report pp. 23-25 for further details.

⁴⁶ Observatorio de Territorios Étnicos y Campesinos, *Derechos territoriales de las comunidades negras: sistema de información sobre la vulnerabilidad de los territorios sin titulación colectiva*, p. 11 (2017), <http://etnoterritorios.org/index.shtml?apc=c-xx-1-&x=1299>; *Titulación colectiva de tierras: una deuda del Estado colombiano*, *Semana Sostenible* (Apr. 23, 2019), <https://sostenibilidad.semana.com/impacto/articulo/titulacion-colectiva-de-tierras-una-deuda-del-estado-colombiano/43904>.

⁴⁷ Kati Hinman, *For Afro-Colombians, a Slow March Toward Peace*, *NACLA* (Aug. 2, 2018), <https://nacla.org/news/2018/08/02/afro-colombians-slow-march-toward-peace>.

⁴⁸ Stephen and Elizabeth Ferry, *Mining and the Defense of Afro-Colombian Territory: The Community of Yolombó, Colombia*, *Revista Harvard Review of Latin America* (Winter 2018) <https://revista.drclas.harvard.edu/book/mining-and-defense-afro-colombian-territory-community-yolombó-colombia>;

consult with Afro-Colombian communities about development within their territories leads to forced displacement, threats, and forced disappearances by illegal armed groups used to pave the way for mega-development projects, such as mining and port development.⁴⁹ This generates additional threats to Afro-Colombian women who have historically defended and maintained their ancestral territories.⁵⁰ The proliferation of illegal mining in Afro-Colombian territories has also led to increased levels of violence against Afro-Colombian community leaders advocating for their collective rights.⁵¹

Suggested Questions for the Colombian Government

1. What steps is the Government taking to protect Afro-Colombian women and their communities' collective and territorial rights including:
 - a. ensuring full implementation and regulation of Law 70 of 1993 and fairly processing all collective land titling requests, including the 271 pending collective title requests;⁵²
 - b. fully implementing Law 1448 of 2011 and of Decree Law 4635, and land restitution provisions in the Peace Accord to guarantee restitution and reparations for Afro-Colombian victims of the conflict, accounting for the disproportionate impact of the conflict on Afro-Colombian women;
 - c. allocating sufficient resources to implement Comprehensive Rural Reform under the Peace Accord and ensuring full participation and prior consultation of Afro-Colombian women and their communities; and
 - d. adopting measures to ensure Afro-Colombian women, their communities, and Afro-descendant authorities are properly consulted before any development projects or programs that may affect them and their territories are approved and implemented?

Taula Catalana per la Pau and Oficina Internacional de Derechos Humanos, *Acción Colombia, Cómo protegemos a quienes defienden los derechos humanos en Colombia: Aportaciones de voces expertas en el marco de la implementación del Acuerdo de Paz*, p. 34-35 (May 2018) <http://www.oidhaco.org/uploaded/content/article/1666555647.pdf>; CLACSO, *Hacia El Buen Vivir: Desde lo cotidiano-extraordinario de la vida comunitaria*, p. 17 (2018); Interview with Afro-Colombian women human rights defender, (Oct. 1, 2018) (on file with MADRE) (name omitted for safety reasons).

⁴⁹ Taula Catalana per la Pau & Oficina Internacional de Derechos Humanos, *Acción Colombia, Como Protegemos A Quienes Defienden Los Derechos Humanos en Colombia: Aportaciones de Voces Expertas en el Marco de la Implementación del Acuerdo de Paz*, p. 34 - 35 (May 2018), <http://www.oidhaco.org/uploaded/content/article/1666555647.pdf>; Manuel Góngora-Mera, *The Ethnic Chapter of the 2016 Colombian peace agreement and the Afro-descendants' right to prior consultation: A story of unfulfilled promises*, *The International Journal of Human Rights*, p. 2 (Jan. 21, 2019).

⁵⁰ Proceso de Comunidades Negras, *Combatiendo a Las Mujeres Negras Como Si Fueran un Enemigo Bélico*, pp. 7-9 (Mar. 2019),

<https://renacientes.net/blog/2019/03/10/tercer-informe-sobre-sobre-la-situacion-de-mujeres-afrodescendientes-en-colombia-combatiendo-a-las-mujeres-negras-como-si-fueran-un-enemigo-belico/>.

⁵¹ Defensoría del Pueblo, *Informe Especial: Economías Ilegales, Actores Armados, y Nuevos Escenarios de Riesgo en el Posacuerdo*, pp. 224-225 (Sept. 2018), <http://defensoria.gov.co/public/pdf/economiasilegales.pdf>; Tatiana Naverrete and Mongabay Latam, *La lucha de un consejo comunitario contra la minería ilegal en Chocó* (Jun. 23, 2017), <https://sostenibilidad.semana.com/medio-ambiente/articulo/mineria-ilegal-en-choco-la-lucha-de-un-consejo-comunitario-contra-la-mineria/38094>.

⁵² Observatorio de Territorios Étnicos y Campesinos, *Derechos territoriales de las comunidades negras: sistema de información sobre la vulnerabilidad de los territorios sin titulación colectiva*, p. 11 (2017), <http://etnoterritorios.org/index.shtml?apc=c-xx-1-&x=1299>.

2. What measures is the Government taking to correct the error of excluding Afro-descendant peoples from the allocation of a specific account in the land restitution fund created under Decree 902 of 2017?⁵³

We encourage the Committee to call on the Colombian Government to:

- finalize the regulation of Law 70 of 1993 as a way to guarantee Afro-Colombian women and their communities their collective rights, in particular access to their urban and rural ancestral and collective territories; and guarantee collective title to those Community Councils that have already started the titling process.
- develop a plan, in consultation with Afro-Colombian women and their communities, and dedicate adequate funding to implement the Victims and Land Restitution Law (1448) of 2011 and Decree Law 4635 of 2011 to ensure Afro-Colombian women conflict victims receive land restitution required under the law.
- develop a plan in consultation with Afro-descendant authorities and women's organizations to guarantee their right to free, prior, and informed consent for any administrative actions, laws, programs, projects, and activities that may affect them.

⁵³ The law, which outlines who can access the land fund stipulated by the Peace Accord, guarantees Indigenous Peoples and peasant farmers (*campesinos*) access through a specific account, but excludes mention of access to a fund for Afro-descendant communities. Decreto-Ley Número 902 de 2017, Art. 18 (May 29, 2017).