



UPR PRE-SESSION 30 COLOMBIA

The **Familia Franciscana de Colombia** (Franciscan Family of Colombia - FFC), is a non-profit organization established in 1992, composed of religious men, women and laity belonging to congregations, institutes and Franciscan associations in Colombia. The FFC assumes commitments to the social, political and environmental reality of the country in conjunction with other organizations and in ecumenical and interreligious dialogue.

Franciscans International is an international non-governmental organization founded in 1989 with General Consultative Status in the Economic and Social Council of the United Nations since 1995. It supports Franciscan communities and organizations that work at local and national levels and offers support to raise their concerns to the UN to address structural causes of human rights violations.

The **Environmental Committee in Defense of Life** (CADV) it is based in the department of Tolima. It is a space for coordination of several social organizations, which aim to promote different public actions in defense of life and land, particularly the denunciation and rejection of macro-economic State policies on large-scale mining and polluting projects.

VIOLATION OF THE RIGHT TO PARTICIPATE IN PUBLIC LIFE

In the concluding observations on the sixth periodic report of Colombia regarding the exploitation of natural resources, the Committee on Economic, Social and Cultural Rights stated that it remained concerned that the outcome of consultations is not duly accounted for by the competent authorities. Despite the opposition of the communities, extractive projects still go ahead.

The Committee recommended that the State party take measures to give due weight to public consultations and “undertake thorough social and environmental impact studies on activities to exploit natural resources and that it ensure that licensing agreements concluded with private entities include measures to mitigate their impact on the enjoyment of economic, social and cultural rights, provide adequate compensation to affected communities and include appropriate measures to ensure the preservation of forests.”

The Committee also remained concerned at "reports of inadequate implementation of the process of prior consultation with a view to obtaining free, prior and informed consent" especially in favour of indigenous and Afro-Colombian peoples.

In the second cycle of the UPR, the Colombian government accepted several recommendations regarding indigenous peoples. In order to guarantee these recommendations, it is essential that the right to participation be respected.

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INTERNATIONAL AND COLOMBIAN LEGAL FRAMEWORK

The Colombian State has ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR), and has submitted to the verification of its obligations before the Committee on Economic, Social and Cultural Rights (CESCR). Additionally, Article 25 of the International Covenant on Civil and Political Rights (ICCPR) imposes on States the obligation to provide citizens with "the right and the opportunity... To take part in the conduct of public affairs."

Art. 103 of the Colombian Political Constitution provides for public participation in the exercise of their sovereignty through popular consultation. This Article is also supported by Article 1, 3, 9 and 93. Laws 134 of 1994 and 1757 of 2015 establish and regulate the mechanism of popular consultations. The mechanism implements the right to participation that is incorporated in the treaties that Colombia has ratified. The law recognizes that the popular decision is mandatory. In addition, Law 136 of 1994 states that it is necessary to hold a popular consultation when mining projects threaten to create a significant change.

However, the government continues to cling to its policy of exploitation, embodied in the 2014 – 2018 National Development Plan. The Plan proposes the fostering of competitive strategies and the creation of strategic infrastructure in view of "consolidating... mining-energy development for regional equity".

In December 2017, the Ministry of Mines and Energy together with the UPME - Mining and Energy Planning Unit launched the National Mining Development Plan by 2025. One of its objectives is: "Consolidate mining as a regulated, responsible and competitive business activity that contributes to national and international expansion".

However, in the regions where extractive megaprojects are developed, the interests and benefits of foreign investment prevail over the rights of the affected populations and, in particular, over the right to participate freely and actively in the important adoption processes of decisions that can affect their way of life. The case of La Colosa is emblematic in that sense.

Similarly, as the situation of the Embera Karambá indigenous community in the municipality of Quinchía demonstrates, the fundamental right of indigenous communities to prior consultation is frequently violated.

RECOMMENDATIONS

1. Accept and implement recommendations No. 15, 16 and 17 made by the Committee on Economic, Social and Cultural Rights related to popular consultations.
2. Design and implement development plans in harmony with the outcomes of popular and prior consultations, aimed at preserving life and respect for human rights.
3. Take concrete measures to support and legalize traditional or alternative development models that are chosen by the communities to promote their cultural, social, environmental and economic integrity.
4. Guarantee the adequate protection of human rights defenders, social leaders and environmentalists; carry out investigations into homicides, attacks and threats against these victims, preventing them from remaining unpunished.
5. Refrain from implementing the National Development Mining Plan with 2025 Horizons, due to the lack of planning with the communities, it is not framed within the post conflict context, it does not thoroughly consider the environmental impact mitigation, and it does not contemplates the importance of popular consultations.

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