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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Visit to Colombia

Report of the Special Rapporteur on the rights of Indigenous Peoples, José Francisco Calí Tzay*, **, ***

Summary

The present report reviews the situation of the Indigenous Peoples of Colombia on the basis of information received by the Special Rapporteur on the rights of Indigenous Peoples, José Francisco Calí Tzay, during his visit to the country from 5 to 15 March 2024.

The Special Rapporteur highlights the cooperative attitude of the State and the progress made in respect of the rights of Indigenous Peoples, although he emphasizes that violations persist due to the armed conflict, the lack of territorial guarantees and the impunity of extractive companies. Historical violence and discrimination have placed many Indigenous Peoples in danger of extinction. Colombia must move towards a lasting peace that respects and includes Indigenous Peoples, which requires, more than military security, access to public services and opportunities, a culturally sensitive approach and inclusion in the design and implementation of public policies.

* The present report was submitted to conference services for processing after the deadline owing to circumstances beyond the submitter's control.

** The summary of the report is being circulated in all official languages. The report itself, which is annexed to summary, is being circulated in the language of submission and English only.

*** The appendix to the present report is circulated as received, in the language of submission only.



Annex

Report of the Special Rapporteur on the rights of Indigenous Peoples, José Francisco Calí Tzay

I. Introduction

1. At the invitation of the Government, the Special Rapporteur on the rights of Indigenous Peoples visited Colombia from 5 to 15 March 2024. The present report contains his findings and recommendations, based on information received verbally and in writing before, during and after the visit.¹ The reports on the visits of previous Special Rapporteurs, in 2004 and 2009,² and the observations of other human rights mechanisms³ have also been taken into account.

2. During his visit, the Special Rapporteur met with the President of the Supreme Court, the President of the Constitutional Court, the President and judges of the Special Jurisdiction for Peace, the Attorney General and senators and representatives of Congress. He also held meetings with representatives of the Ministry of Foreign Affairs, the Ministry of the Interior, the Ministry of Justice and Law, the Ministry of Defence, the Ministry of Agriculture and Rural Development, the Ministry of Health and Social Security, the Ministry of Education, the Ministry of the Environment and Sustainable Development and the Comprehensive Victim Support and Reparation Unit. The Special Rapporteur met with a wide variety of members and representatives of Indigenous Peoples and with United Nations agencies, businesses and civil society organizations. In addition to Bogotá, the Special Rapporteur visited and held meetings in Amazonas, Cauca, Cesar, La Guajira and Valle del Cauca.

3. The Special Rapporteur wishes to express his gratitude to the Government and all institutions of Colombia for the invitation and for their cooperation. He is also deeply grateful for the support of the United Nations system in Colombia at a time when the Organization faces a liquidity crisis.

4. The Special Rapporteur urges the Government and all the people he spoke with to be vigilant to the risk of reprisals against any individuals, organizations or Indigenous Peoples that participated in the meetings held during the visit. Should any reprisals occur, the Government should condemn them, support the individuals or groups concerned and ensure investigation and non-repetition.⁴

II. Legal framework and recent progress

5. According to the 2018 census, more than 1.9 million people in Colombia, or 4.4 per cent of the population, self-identified as Indigenous; they belong to 115 different Indigenous Peoples located in almost all departments.⁵ There are 885 Indigenous reservations, which cover more than 350,000 km² – more than 30 per cent of the country's territory. The census recorded more than 151,000 families, or almost 800,000 inhabitants, living in these reservations. This means that the State must shoulder a significant burden in order to promote and protect the rights of Indigenous Peoples.

6. The legal and institutional framework that governs relations with Indigenous Peoples in Colombia is described in the reports on the visits of previous Special Rapporteurs, in 2004 and 2009. These reports highlighted the role of the 1991 Constitution in enshrining specific norms for the protection of the cultural diversity and the rights of the country's Indigenous

¹ As a protective measure, the Special Rapporteur will not disclose in this report the sources of information received.

² See [A/HRC/15/37/Add.3](#) and [E/CN.4/2005/88/Add.2](#).

³ See appendix.

⁴ [A/HRC/54/61](#), para. 19.

⁵ See <https://www.dane.gov.co/files/investigaciones/boletines/grupos-etnicos/infograf%C3%ADa-grupos-etnicos-2019.pdf>.

Peoples.⁶ However, Colombia has not yet adopted fundamental laws to guarantee the constitutional rights of Indigenous Peoples.

7. Since the previous visits, measures have been ordered under the Victims and Land Restitution Act (No. 4633 of 2011) with the aim of providing assistance, comprehensive redress and the restitution of land rights to victims belonging to Indigenous Peoples. The Special Rapporteur also draws attention to the case law of the Constitutional Court,⁷ in particular its judgments and orders on prior consultation; forced displacement; Indigenous territory and jurisdiction; life, integrity and security; children's rights; representation and self-determination; a healthy environment and biocultural rights; cultural identity and Indigenous autonomy; ethnic diversity, and the situation of the Wayuu people.

8. Under Decree-Laws No. 1953 of 2014 and No. 632 of 2018, a special regime was established for the functioning of Indigenous territories until such time as an organic act on land management is issued in accordance with article 329 of the Constitution. The Official Statistics Act (No. 2335 of 2023) established the duty to carry out all statistical production activities with respect for the country's diversity and the different characteristics of certain groups, and the duty to obtain and disseminate information on population groups with particular characteristics in order to guide decision-making.

9. Colombia is a party to the main United Nations human rights treaties. In 2009, it declared its support for the United Nations Declaration on the Rights of Indigenous Peoples. It has been a party to the Indigenous and Tribal Peoples Convention, 1989 (No. 169) of the International Labour Organization since 7 August 1991.

10. The establishment of the Comprehensive Victim Support and Reparation Unit⁸ was a major step forward. The Unit has granted redress for Indigenous persons in the form of monetary compensation and psychosocial rehabilitation, thus providing tools to mitigate harm, support emotional recovery and rebuild lives. Indigenous victims have also been granted measures of satisfaction designed to reconstruct the truth, disseminate historical memory and reaffirm dignity.⁹

11. The signing in 2016 of the Final Agreement for Ending the Conflict and the Building a Stable and Lasting Peace (the Peace Agreement) marked a historic milestone. The inclusion in the Peace Agreement of an ethnic chapter is to be commended. The Agreement contains several sections that should benefit Indigenous Peoples, including those on rural reform, political participation, a solution to the problem of illicit drugs and reparations for victims of the conflict. The establishment of the Commission for the Clarification of Truth, Coexistence and Non-Repetition and the adoption of its report in 2022, and the establishment of the Special Jurisdiction for Peace, are also positive developments.

12. The adoption of the National Development Plan 2022–2026, entitled “Colombia, World Power of Life”, following a broad consultation process with the participation of Indigenous Peoples, was another step forward. The Plan could represent a change in the relationship between the State and Indigenous Peoples. Adopted by Act No. 2294 of 2023, it sets out relevant standards on land and property rights; self-government and justice; free, prior and informed consent; life, security and freedom in Indigenous territories; access to public services, water, health, education, housing and food; scientific knowledge; and protection of the environment and biodiversity.

13. The fact that the Government put the National Development Plan 2022–2026 to a prior consultation process is another welcome development. The multipurpose land register and the Mining Act were also put to consultation. The Special Rapporteur notes that the Standing Committee for Consultation has been an effective mechanism for dialogue and is

⁶ Arts. 7, 8, 10, 13, 63, 68, 96 (2) (c), 246, 321, 329 and 330.

⁷ See judgments No. C-030/2008, No. A-004/2009, No. T-235/2011, No. C-463/2014, No. T-030/2016, No. T-302/2017, No. SU-123/2018, No. T-172/2019, No. T-614/2019, No. T-221/2021, No. SU-245/2021, No. A-1193/2021, No. SU-121/2022 and No. T-375/2023.

⁸ Act No. 1448 of 2011.

⁹ Information provided by the Government.

recognized by many Indigenous people, although some sought to interact with him directly during the visit.

III. Armed conflict

14. The armed conflict in Indigenous territories has not ended.¹⁰ Despite the signing of the Peace Agreement, Indigenous Peoples do not consider themselves to be living in a post-conflict situation but rather a post-agreement situation. Indigenous Peoples have always been affected by the armed conflict in an excessive and particularly severe manner. Warfare in their territories is usually intense, including in sacred and protected places, and has a disproportionate impact on women, children and older persons.¹¹

15. Indigenous representatives reported that they had great difficulty in joining the peace negotiations of 2016 and managed to participate only during the final stage, thanks to which they were able to secure the inclusion of the ethnic chapter in the Peace Agreement. However, the implementation of this chapter “continues to lag”.¹² A frequent complaint is that too much time is spent on planning and that there is still no clarity on the budget for implementation. Another complaint concerns the lack of a culturally sensitive approach in the implementation of the other points of the Peace Agreement.

16. It was agreed in the ethnic chapter that the Indigenous Guard should be strengthened. However, this has not happened. According to one source, there were 609,459 Indigenous victims of the armed conflict between the signing of the ethnic chapter of the Peace Agreement and 5 December.¹³ One problem has been the failings of protection mechanisms and early warning systems, which reportedly are not culturally adapted to specific needs.

17. Welcome progress has been made in transitional justice, including the macrocases of the Special Jurisdiction for Peace. Case No. 09 deals with serious crimes against Indigenous Peoples and territories and the Afro-Colombian, Black, Palanquera, Raizal and Roma populations. Macrocases No. 021, No. 042 and No. 053 also concern Indigenous Peoples and territories to a large degree. These proceedings in themselves reaffirm the dignity and provide redress for Indigenous Peoples. However, seven years after the Peace Agreement, there is an urgent need for these cases to advance to the trial stage. One aspect worth highlighting is the recognition of territories as victims of the armed conflict, as special participants in the judicial proceedings and as holders of the rights to truth, justice, reparation and non-repetition.

18. Indigenous representatives have encountered difficulties in participating effectively in the new peace negotiations and, when they have managed to participate, they have not been treated on an equal basis with the other negotiators. In these processes, Indigenous authorities are not seen as being in a government-to-government relationship. One major concern about the new peace processes is that Indigenous territories may be used as a bargaining chip in negotiations with illegal armed groups.

19. The above comes in addition to the historical structural racism to which Indigenous Peoples have been subjected. Stereotypes and prejudice have led State agents, illegal armed groups and private actors to identify Indigenous Peoples, families and individuals as allies or parties to the conflict. While it is true that illegal armed groups have recruited Indigenous persons, this does not remotely mean that all Indigenous persons are combatants. Indigenous Peoples have demonstrated that they are in favour of peace and non-violent ways of relating to and participating in society.

20. One of the greatest concerns of Indigenous Peoples is the forced recruitment of children. In 2023, there were 134 cases of recruitment of children, 71 (53 per cent) of whom were Indigenous.¹⁴ The crime of recruitment is the most representative of all the serious violations committed against Indigenous children in the conflict. Illegal armed groups are

¹⁰ A/HRC/55/23, paras. 10–19 and 52–55.

¹¹ A/60/358, paras. 57–64.

¹² S/2023/1033, para. 30.

¹³ See https://www.onic.org.co/images/Informe_sobre_DDPPII_Final_2023.pdf.

¹⁴ A/HRC/55/23, para. 16.

interested in children because of their resilience and knowledge of the community and the territory. Indigenous Peoples see their children as protagonists in the transmission of ancestral knowledge and practices.

21. It is thought that most recruitment is done for the purpose of obtaining intelligence. The children are recruited for a few weeks and are then supposedly released, but in reality they are returned to their communities to serve as informants, thus breaking trust within the family and fraying the social fabric. In some cases, the children are not welcomed back into their communities but are abandoned, which can lead to destitution, addiction or prostitution.

22. Another alarming consequence of the armed conflict is the sharp increase in suicide rates among children, who decide to take their own lives in order to avoid or free themselves from recruitment. Colombia does not keep statistics on this problem, nor does it have a differentiated public policy on mental health.

23. Anti-personnel mines remain present and continue to be laid in Indigenous territories. These devices, which cause death and mutilation and are an insult to Indigenous territories, are used as a tool for intimidation, social control and confinement. Following an armed confrontation between two illegal groups in Nariño in September 2023, it was reported that mines were laid in Indigenous territory, with the result that about 220 Indigenous persons, including newborns, children, young people, older persons and pregnant women, were confined for around 15 days without access to water, food or health services.

24. The persistence of forced displacement is another serious consequence of the armed conflict in Indigenous territories. According to the information received, 291,000 people were displaced in Colombia in 2022 and 200,000 in 2023, with Indigenous Peoples disproportionately affected.

25. Confinement and displacement negatively impact the lives of children, for example by interrupting their education. Many young people are forced to leave their communities to seek education and employment opportunities elsewhere. The Colombian Family Welfare Institute seems to lack a culturally appropriate approach to the process of separating children from their families and relocating them. In determining the best interests of Indigenous children, the authorities must consider the children's cultural rights and the need for these to be exercised collectively.

26. On 24 February 2024, an armed confrontation took place between two illegal groups in Wiwa territory (Sierra Nevada de Santa Marta). The following day, almost 300 people (including adults, children and pregnant women) travelled to Riohacha, fearing for their safety and their lives.

27. Assassinations and disappearances of Indigenous leaders and persons are among the most frequently reported violations of the rights of Indigenous Peoples in the context of the armed conflict. The impact of these violations is examined below.

28. Granting Indigenous Peoples full ownership of land, territory and resources and guaranteeing their autonomy, integrity and territorial protection, including through the Indigenous Guard, are their best defences against militarization, recruitment, murder, mine laying, confinement and forced displacement. Support for victims should be urgently strengthened, ensuring a differentiated approach in relocation protocols, return plans and follow-up to investigations and reparation measures.

IV. Indigenous Peoples at risk of extermination

29. By Orders No. 004/2009, No. 266/2017 and No. 351/2019, the Constitutional Court declared 71 Indigenous Peoples to be in imminent danger of physical and cultural extermination. However, faced with the armed conflict, the encroachment of extractive activities and limited access to culturally appropriate public services, the implementation of protection plans remains lacking or ineffective.

30. The gravity of the situation is further underscored by the fact that 35 of these peoples number fewer than 200 individuals. These include the Mapayerri, Tsiripu and Yaruro peoples

in the Orinoco region and the Hupdu, Juhup and Macaguaje peoples in the Amazon.¹⁵ Despite the emergency, many of the protection plans that were ordered have not been adopted. The Awa, Bari, Je'eruriwa, Kizgó and Uitoto peoples are also still awaiting the implementation of these measures.

31. In La Guajira, State inefficiency and mining and energy operations are leading to the physical and cultural extermination of the Wayuu people, the most numerous in Colombia. Excessive exploitation has caused serious environmental degradation, directly impacting their way of life – which is closely linked to their territory – and undermining their food sovereignty. Some 81.1 per cent of Wayuu have unmet needs, while 53.3 per cent live in extreme poverty. In the past decade, more than 5,000 Wayuu children have died of malnutrition or dehydration,¹⁶ despite Constitutional Court judgment No. T-302 of 2017, which demanded action to preserve the lives and integrity of Wayuu children. In this context, the monthly delivery of water tankers is a woefully inadequate response to the structural problem of access to water.

32. The armed conflict, the encroachment of extractive industries and the lack of adequate State policies and measures threaten the physical and cultural survival of at least 15 mobile Indigenous Peoples in voluntary isolation and initial contact. The Passé and Yuri peoples, who opted for isolation, continue to be threatened by illegal mining and the presence of armed groups. The creation of the Rio Puré National Park has not been effective in protecting them. Decree No. 1232 of 2018 was intended to protect these peoples, but it has not been sufficiently implemented. In 2023, the Land Restitution Court of Cundinamarca adopted a precautionary measure for their protection, but this has not yet been carried out.

33. The encroachment of extractive industries has led to the sedentarization of mobile Indigenous Peoples in initial contact, creating food and humanitarian crises. Examples of this are the Indigenous Peoples living on the Caño Mochuelo reservation in Casanare and the Nukak reservation, whose ways of life are threatened by deforestation and the presence of settlers. Agricultural development has led to ancestral territories being fenced off with barbed wire and even placed under surveillance with cameras and drones, limiting the mobility of Indigenous Peoples. The use of toxic agrochemicals in palm agriculture and livestock farming has contaminated essential natural resources, undermining the food sovereignty of peoples such as the Jiw.

34. Relocation and land restitution measures for mobile Indigenous Peoples in initial contact, who depend on territory for survival, have been inadequate. The Indigenous Peoples of Mapiripán received land without essential resources, and the failure to consider inter-ethnic relations has caused conflicts among the Jiw people. The Hitnü are still awaiting the restitution of their ancestral territory, while the restitution of land to the Nukak people did not consider their mobility patterns.

35. Many Indigenous Peoples in initial contact have been displaced from their ancestral territories to towns and cities. This forced urbanization has occurred in the absence of policies that adequately consider the territorial, cultural and linguistic needs of displaced Indigenous Peoples in initial contact, who thus face significant barriers in gaining access to basic services. Structural racism has been a major cause of their exclusion from the labour market, heightening their vulnerability. As a result, many Indigenous persons have been forced to live in extremely precarious conditions, including on garbage dumps.

36. Marginalization increases the risk that young people will be recruited to participate in illegal activities. In the absence of economic alternatives, Indigenous women and girls often fall victim to sexual abuse and prostitution, which leads to high rates of sexually transmitted diseases and the abandonment of children born of these relationships for fear that they will not be accepted by their communities. Alcohol and drug use among children disconnects them from their cultural roots. The situation is aggravated by the lack of culturally appropriate rehabilitation programmes.

¹⁵ See <https://www.comisiondelaverdad.co/resistir-no-es-aguantar>, p. 269.

¹⁶ See <https://www.dejusticia.org/litigation/crisis-la-guajira-decreto>.

37. Indigenous Peoples in initial contract have complained that externally imposed State political structures, such as mayors' offices, do not conform to their world-view and ancestral decision-making processes and therefore exclude the participation of their traditional authorities. Development plans for Indigenous territories are allegedly drawn up by national authorities without consultation and in Spanish, which few understand. The Je'eruriwa and Kichwa peoples of Sesquilé were excluded from consultations on the drafting of Decree No. 144 of 2023, which established a standing committee for consultation with the Indigenous Peoples and organizations of Cundinamarca.

V. Cross-border and plurinational Indigenous Peoples

38. Colombia is home to numerous cross-border Indigenous Peoples, including the Bribri, Embera, Inga, Kichwa, Kofan, Pasto, Siona, Wayuu and Yukpa peoples, whose cultural, economic and spiritual development is based on their transnational mobility and who define themselves as plurinational peoples. Despite being constitutionally recognized as subjects of special protection, many persons belonging to these groups have not yet been recognized as Colombian citizens, with the result that they are limited in the full exercise of their rights. Statelessness affects them considerably, owing to restrictions on access to civil registration and the fact that they are constantly subjected to forced displacement.¹⁷

39. The absence of the State in border areas and the lack of adequate infrastructure hinder access to health, education, food and water, territory, autonomy and culture.¹⁸ The situation is particularly bad for Indigenous Venezuelans seeking refuge in Colombia, who encounter different forms of discrimination, including xenophobia and violence.

VI. Indigenous Peoples in urban settings

40. About one fifth of the Indigenous population lives in urban settings, a good proportion having been displaced by armed conflict or extractive activities. According to the 2018 national census, 400,087 people in 851 municipal capitals and other cities self-identified as belonging to an Indigenous People. A prominent case concerns the Embera Katio, who in 2021 were forced to move to Bogotá, where they face severe difficulties due to insufficient access to basic services such as housing, healthcare, education and employment. They reside in informal settlements with poor infrastructure, which exacerbates their poverty and exclusion.

41. Also of concern is the low political representation of Indigenous Peoples in urban settings. In Bogotá, only 19 of the 80 Indigenous communities have recognized *cabildos* (Indigenous councils). Of those, only 5 are recognized by the Ministry of the Interior, which limits the ability of Indigenous Peoples to exercise their rights, including the right to participate in consultations.

42. For many urban Indigenous people, returning to their territories remains impossible. Violence or the risk of violence has not gone away, and some territories have been totally destroyed.

43. Despite the seriousness of these problems, Colombia lacks an adequate national public policy to address the specific needs of urban Indigenous Peoples. These vulnerable people need institutional support and mechanisms for protection and access to goods and services that are specifically designed taking into account their world-view, which would allow them to lead dignified lives and, above all, to overcome their situation of vulnerability.

¹⁷ Ombudsman's Office, supplementary document to the Ombudsman's report on the human rights situation of cross-border ethnic peoples.

¹⁸ Ibid.

VII. Indigenous women and lesbian, gay, bisexual, transgender, intersex plus (LGBTI+) persons

44. Indigenous women in Colombia face several major challenges stemming from the armed conflict, gender-based violence, racism and structural discrimination. In 2020, more than half of Indigenous victims of the armed conflict were women. They were subjected to sexual violence, aggression, threats, recruitment and attacks by illegal armed groups and State agents.

45. Indigenous women encounter difficulties in denouncing violations and overcoming impunity in the ordinary and Indigenous justice systems. There is an alarmingly high number of reported femicides, including one of a 5-year-old girl, and a lack of official statistics. Women who dare to report violations face personal threats and bureaucratic hurdles. There is a lack of culturally appropriate programmes for prevention, support, justice and follow-up by the competent institutions.

46. The opening of macrocase No. 11 before the Special Jurisdiction for Peace, in order to investigate gender-based, sexual and reproductive violence, is noteworthy. However, Indigenous women have faced obstacles in furnishing information in these proceedings. The lack of relevant public policies has been compounded by the failure to implement the Programme for the Protection of the Rights of Displaced Indigenous Women, ordered by the Constitutional Court.¹⁹

47. Barriers in access to health and education services mean that teenage pregnancy, sexual abuse and exploitation and child marriage and early unions are not prevented. In 2023, maternal mortality among Indigenous Peoples was three to four times the national rate. This high mortality is caused by the lack of economic resources and culturally appropriate medical care and by discrimination. Indigenous women are also subjected to the restriction of their autonomy in relation to sexuality and access to contraceptive methods.

48. The political participation of Indigenous women is also limited, and they are frequently excluded from consultation processes and the preparation of development plans. It is necessary that Indigenous communities deal with this issue themselves. Violations of Indigenous women's rights must be addressed comprehensively, involving all members of the community, with the aim of reducing gaps between men and women.

49. Indigenous lesbian, gay, bisexual, transgender, intersex plus (LGBTI+) persons face discrimination and rights violations, both within and outside their communities. The situation is so unfortunate that Indigenous transgender women have established a shelter in order to escape the violence and discrimination they experienced in their communities.

50. Indigenous transgender people face several obstacles in obtaining identity documents that reflect name and sex changes, including the high cost and a lack of sensitivity and knowledge among public servants. They also reported difficulties in obtaining access to culturally appropriate health services, including HIV diagnosis and treatment.

51. The severe discrimination suffered by Indigenous LGBTI+ persons translates into dire working conditions, particularly in the informal economy, which exposes them to exploitation, precarious living conditions and various forms of violence. Public institutions provide only a limited range of services in the area of assistance and training for Indigenous LGBTI+ persons, which increases their vulnerability.

VIII. Self-determination, self-governance and political participation

52. Despite the provisions of the 1991 Constitution, the State has not yet enacted the necessary legislation for the recognition of Indigenous territories as autonomous political entities with their own legal personality. This limits the autonomy of Indigenous Peoples.

¹⁹ Orders No. 092 and No. 237 of 2008.

53. The imposition of external State structures and the presence of economic and/or armed actors in their territories have profoundly weakened the self-governance structures of Indigenous Peoples. Consequently, they have been forced to depend on political structures that are foreign to them, such as reservations, municipalities, *cabildos* and community action committees, which has contributed to the loss of culture, fragmentation and weakening of their governance systems and ancestral authorities.

54. The implementation of Decree-Law No. 632/2018 with the aim of establishing Indigenous territorial entities, in accordance with article 329 of the Constitution, faces significant obstacles, including a lack of inter-institutional coordination and various administrative barriers, as the Constitutional Court has demonstrated.²⁰ This situation is exacerbated by the fact that Congress has opted to municipalize Indigenous territories, instead of establishing the territorial entities foreseen by the Constitution.

55. The registration of Indigenous authorities, representatives and organizations by the Ministry of the Interior is done in a manner that curtails the exercise of collective rights, by making them conditional on registration. The registration of Indigenous authorities, whose existence predates the State, should be a declaratory rather than a constitutive act. It is incumbent upon the Government to recognize and grant the effective legal personality of Indigenous Peoples, respecting their forms of organization and avoiding excessive requirements and formalities. The registration process is also hampered by the distances involved and cultural inaccessibility.

56. It is also troubling that illegal armed groups seeking territorial control have made Indigenous authorities into military targets. Indigenous spiritual authorities and guards – institutions central to the physical and cultural existence of Indigenous Peoples – suffer constant intimidation, threats and killings. In the case of the Awa people, armed groups have obstructed the functioning of their ancestral council, which is essential for the administration of justice and the exercise of traditional authority. Such attacks are causing a general imbalance that compromises the territories' spiritual integrity.

57. Despite precautionary measures,²¹ selective killings of Indigenous leaders have not ceased. According to the Instituto de Estudios para el Desarrollo y la Paz (Institute of Studies for Development and Peace), at least 320 leaders, including 47 women, have been murdered since the Peace Agreement.²² According to the Ombudsman's Office, Indigenous leaders in Cauca, Chocó, Nariño and Putumayo have been especially vulnerable.

58. It is alarming that many of these crimes have gone unpunished. Victims and family members face complications in obtaining access to justice and must contend with investigation processes that are slow and inadequate. One example is the case of José Miller Correa, murdered in March 2022.²³ This case is representative of a lack of justice that perpetuates a climate of insecurity and risk for leaders and defenders of Indigenous Peoples.

59. The fact that the protection measures taken by the authorities are not culturally appropriate or are not complied with increases the barriers to political participation. The early warnings issued by the Ombudsman's Office are highly important, but lack effective institutional follow-up. For example, in Putumayo, despite the early warnings issued between 2018 and 2021, institutional plans and actions to protect the lives and integrity of threatened persons and peoples have yet to be established.

60. The National Protection Unit reported that some steps have been taken to apply a differentiated approach in preventive measures for the protection of Indigenous Peoples, such as the attempt to strengthen the Indigenous Guard and to conduct in situ visits for risk

²⁰ Judgment No. T-072/2021.

²¹ Inter-American Commission on Human Rights, precautionary measures No. 53-23, No. 822-22 and No. 395-18.

²² See <https://indepaz.org.co/visor-de-asesinato-a-personas-lideres-sociales-y-defensores-de-derechos-humanos-en-colombia/>.

²³ See communication COL 9/2023. All communications and replies thereto mentioned in the present report are available from <https://spcommreports.ohchr.org/Tmsearch/TMDocuments>.

assessment. However, shortcomings were reported, with protective measures that were too rigid and not adapted to the Indigenous reality.

61. The repression of the “Minga” peaceful protests of 2021 and 2022 is cause for deep concern, especially as racism and structural racial discrimination were in evidence, as in the 2021 incident in which nine protesters were wounded by armed civilians – another crime that has gone unpunished.²⁴

62. It is necessary for the Government to adopt comprehensive measures to promote the effective participation of Indigenous Peoples in public life. The adoption of the Security, Defence and Citizen Coexistence Policy is important, although it is regrettable that Indigenous Peoples were not consulted on it. The Government should consult with Indigenous Peoples to ensure a differentiated approach in the implementation of these policies.

IX. Indigenous justice, access to justice and deprivation of liberty

63. Despite the recognition of Indigenous law and justice under article 246 of the Constitution and the constitutional mandate to legislate on the coordination of the Indigenous and ordinary jurisdictions, 33 years have elapsed without a law having been adopted. The Government seems to have recently completed a consultation process on a preliminary bill on the subject.

64. The prolonged absence of a legal framework has made it possible for the State to disregard Indigenous justice and impose ordinary laws on Indigenous territories and persons. There have been cases in which Indigenous persons have been tried, convicted and have completed their sentences in accordance with Indigenous justice, only to be prosecuted, sentenced and imprisoned again by the ordinary justice system, in violation of the *non bis in idem* principle.

65. Indigenous persons encounter persistent obstacles and limitations in access to justice, or have no access to justice at all. The main barrier has been language and the lack of cultural adaptation of the ordinary justice system when dealing with Indigenous victims or defendants. Many Indigenous people have to make long and dangerous journeys to reach the nearest municipal court.

66. The lack of cultural adaptation of the ordinary justice system has resulted in many Indigenous people falling victim to arbitrary deprivation of liberty. They have been convicted in proceedings they do not understand or do not take account of their world-view, or for acts they did not know were offences because the law regulating them was not accessible.

67. Worrying information was received regarding the overcrowding of Indigenous people in prisons. Prisons reportedly do not provide the safeguards or the conditions of detention necessary to house Indigenous persons and do not consider their particular needs based on their world-view, heightening their vulnerability.

X. Right to land, territory and resources

68. Recognition and protection of the territorial rights of Indigenous Peoples is a fundamental issue for ensuring their survival and establishing sustainable conditions for real peace. The relationship of Indigenous Peoples with their territories is particularly important, as it contains a spiritual and sacred connection that goes beyond the value attached to land as an economic asset.

69. Indigenous Peoples would not have suffered so many violations, including killings, displacement and recruitment, had the ownership, autonomy and integrity of their territories been recognized. Legal uncertainty surrounding these rights is conducive to conflict. A land

²⁴ See communication COL 6/2021.

management law that guarantees the full exercise of these rights should be adopted as a matter of urgency, in consultation with the Indigenous Peoples and with their participation.

70. When it comes to the recognition and protection of territorial rights, part of the problem relates to the demarcation, titling and restitution processes. The State has been unable to ensure procedures that effectively and swiftly resolve claims for the recognition of Indigenous territories. More than 1,000 claims are unresolved, some for decades.

71. The restitution of territorial rights is subject to delays at the administrative and judicial stages. It is worrying that the State has challenged the implementation of Decree-Law No. 4633 of 2011, which addresses the restitution of territorial rights. As at 2023, 632 applications for restitution had been registered, yet only 24 judicial decisions had been handed down.

72. Legal, administrative and procedural obstacles include the limited interpretation and fragmented understanding of the concept of territory and the failure to recognize Indigenous Peoples' cultural and spiritual connections and mobility patterns.

73. In some cases, the Land Restitution Unit has caused territorial conflicts and disputes between Indigenous Peoples and other communities. Land restitution applications have been submitted in respect of areas already granted to communities of African descent, as in the case of the Kofan people and the Villa Arboleda community council.²⁵ In other cases, lands handed over by the National Land Agency were subsequently occupied by third parties.

74. The case of the Embera Chami people of the Cañamomo Lomapieta reservation in Caldas illustrates the experience of peoples who obtained decisions recognizing their rights, which the State then failed to implement. In 2016, the Constitutional Court recognized Indigenous ownership of the territory.²⁶ However, the National Land Agency has been extremely slow to implement the judgment. In 2018, the reservation shared a proposal for implementation, but the Agency insisted on imposing a legal framework that takes into account neither the law itself, nor constitutional obligations nor international standards.

75. The Agency indicated that the process would be governed by two decrees (No. 071/2015 and No. 1824/2020) that reportedly give priority to rights acquired by third parties in the Indigenous territory. The judgment required the Government to consult with the reservation authorities in accordance with its Indigenous protocol and recognized the right of the Embera Chami to regulate mining in their territory through their own governance structures. Yet, despite the petitions made by the reservation authorities, illegal armed groups continue to carry out mining activities and the State takes no action to expel them. The National Mining Agency has apparently formalized mining interests in the reservation without consulting the reservation authorities, despite the judgment.

76. It is important that the comprehensive rural reform chapter of the Peace Agreement should be interpreted in the light of the provisions of the ethnic chapter, since rights over ancestral territories, whose ownership has not been formalized by the State owing to its own inaction for decades, must be recognized. As the first and only agrarian reform in Colombia, it is essential that it should be aligned with international standards on the rights of Indigenous Peoples. Problems such as forced displacement, occupation and confinement cannot be an excuse to deny Indigenous Peoples title to their ancestral territories, even if they have had to remain outside of them. It is reported that Indigenous traditional authorities have been ignored so as to avoid the identification of territories, especially during the creation of the land register.

77. Another problem is the pollution caused by activities to extract the natural resources found in Indigenous territories, which belong to Indigenous Peoples. For instance, in 2016, in the Department of Meta, there was a large-scale invasion of the territory of the Sikuni people²⁷ – mobile hunters and gatherers – by religious settlers. The settlers acquired between 32,000 and 44,000 hectares, despite much of the land being located on Indigenous ancestral

²⁵ Constitutional Court, *amparo* judgment No. T-177-21.

²⁶ Judgment No. T-530 of 2016.

²⁷ By Constitutional Court Order No. 004/09, this Indigenous People was declared at risk of physical and cultural extermination.

territory. This has led to illegal deforestation, large-scale agriculture and infrastructure development, including road-building, with a serious environmental impact. The case was reported to the regional environmental authority, which has yet to process the complaint. At the same time, Sikuani who reclaimed and peacefully occupied their land were forcibly evicted by the local government, backed by riot police, in 2022 and 2023.

78. The transition to a green economy and environmental protection have increased the pressure on Indigenous territories. An essential component of Indigenous Peoples' right to land, territory and resources is the inherent right to withhold consent, including in prior consultation processes, for any project to exploit resources in their ancestral territories. The following chapters will address in greater depth the issues of resource extraction, the green transition and consultation and free, prior and informed consent.

XI. Consultation and free, prior and informed consent

79. In Colombia it seems that there is extensive practice of holding consultations with Indigenous Peoples. While the State recognizes the right to prior consultation and established a competent body within the Ministry of the Interior, it is the Constitutional Court that has protected this right.

80. The Directorate of the National Authority for Prior Consultation reported that more than 16,000 consultation processes have been carried out in Colombia. However, according to the information received, these processes do not meet international standards. According to one of the many people interviewed, State officials and businesspeople have told Indigenous Peoples that they "cannot say no" in consultation processes, which nullifies the right of consent and renders it devoid of meaning. The case of the U'wa people, which was addressed by the Special Rapporteur in proceedings pending before the Inter-American Court of Human Rights,²⁸ is an example the violation of this right.

81. Despite the holding of thousands of consultation processes, the Special Rapporteur nonetheless received information on the human rights impact of activities and projects for which Indigenous Peoples' consent should have been sought, but was not. For example, it is claimed that Indigenous Peoples were not consulted on the National Comprehensive Programme for the Substitution of Illicit Crops.

82. In many cases, consultations begin after a decision has already been taken to commence the project, in breach of the requirement that consent must be prior. For example, based on the argument that the State owns the subsoil, many concessions for the extraction of resources in Indigenous territories are awarded without requiring the consultation and consent of the affected Indigenous People, consultation being merely a procedural requirement for the commencement of operations.

83. Such processes are expedited without allowing the time necessary for Indigenous participants to understand the implications or hold discussions among themselves according to their own internal deliberation mechanisms and time frames. They do not apply a differentiated approach that takes into account the cultural specificities, self-governance systems and world-view of the Indigenous People consulted. Another flaw in the consultation procedure is the lack of access to information in an appropriate language so that Indigenous persons can understand what they are being consulted about and what they are consenting to.

84. It is troubling that funding for consultation processes may come from companies involved in the project, which reveals that Indigenous participation is neither truly free nor on equal terms. It is particularly worrying that Indigenous women have shown frustration at not being able to participate in these processes because, in most cases, men are the only ones consulted. There is also concern about the "proportionality test" that allows projects to go ahead when they have been put to consultation but have not secured the consent of Indigenous Peoples.

²⁸ See <https://www.ohchr.org/sites/default/files/documents/issues/indigenouspeoples/sr/sirp-amicus-colombia-es.pdf>.

XII. Megaprojects and resource extraction

85. As the previous Special Rapporteurs highlighted, an underlying problem in Colombia is the failure to harmonize economic development policies, especially megaprojects for resource extraction, with the rights of Indigenous Peoples.²⁹ In this context, it is regrettable that the National Action Plan on Business and Human Rights was adopted without consulting Indigenous Peoples and that it does not include guarantees for the protection of their rights.

86. The private sector has taken several positive measures, such as the adoption of human rights policies and community relations manuals. However, such initiatives will remain insufficient in the absence of specific public policies for Indigenous Peoples that are consistent with the United Nations Declaration on the Rights of Indigenous Peoples.

87. The development of megaprojects without respect for territorial rights and without the consent of Indigenous Peoples has resulted in displacement, loss of culture and environmental degradation. The lack of environmental remediation seriously affects Indigenous Peoples, as their territories are their source of food, health and spirituality.

88. The Carbones del Cerrejón megaproject of the transnational corporation Glencore has been causing evictions and serious environmental damage for more than 45 years, affecting the Arhuaco, Kankuamo, Kogui, Wayuu and Wiwa peoples. Pollution has caused health problems such as cardiovascular disease, premature births and respiratory complications.³⁰ Mining has altered the region's water cycle, affecting food sovereignty and aggravating poverty and drought. Multiple judicial decisions intended to protect Indigenous Peoples' rights, such as the judgment on the diversion of the Arroyo Bruno stream,³¹ remain unimplemented. Wayuu women, who also benefited from an *amparo* judgment in their favour,³² have been threatened and face obstacles to the exercise of their human rights, especially the rights to health, to food and to a life of dignity.

89. In Cauca, the Coconuco, Misak and Nasa peoples have faced violence in the process of recovering their territories, currently in the hands of a transnational corporation. Since 2021, these peoples have held demonstrations and pursued claims for their rights, and have been met with violent responses.³³ The Transandino oil pipeline, which runs through Indigenous territories in Nariño, has polluted rivers and streams, undermining the food sovereignty and threatening the existence of the Awa people.

90. In the Amazon region, Indigenous authorities have reported irregularities in the granting of environmental licences and a lack of prior consultation. Pollution from oil spills and oil waste has harmed Indigenous Peoples' health, reduced their access to medicinal plants and caused mass fish die-offs, damaging the food supply. In 2023 there were 30 active oil projects in the Amazon. Since the incursion of an oil and gas company into their territory in 2012, the Siona people have been subjected to multiple violations of their rights, including the pollution of bodies of water, the absence of consultation and free, prior and informed consent and an uptick in violence, which has undermined their rights to life, integrity, liberty and personal safety. In the Vaupés Indigenous reservation, mining activity is adversely affecting the communities of Bogotá Cachivera, Murutinga and Timbo Betania, disturbing sacred sites and polluting water sources. In Putumayo, various economic activities carried out in Indigenous territories without consultation or consent have violated the rights of the Inga and Nasa Kiwnas Cxhab communities.

91. Agreements between governments and multinational enterprises to ensure the security of business facilities have resulted in militarization. In La Guajira, Putumayo and Santander, the presence of military bases and the actions of security forces have led to confinement, restrictions on mobility and forced displacement, with an impact on the rights and the basic needs of Indigenous women and children.

²⁹ E/CN.4/2003/90, paras. 37–43.

³⁰ See communications COL 7/2020, OTH 65/2020 and COL 8/2016.

³¹ Constitutional Court, judgment No. SU698/17.

³² Ibid., judgment No. T-614/2019.

³³ See communications COL 9/2022 and OTH 71/2022.

92. Agricultural settlement and encroachment, illegal mining and illicit crops are having an adverse impact on Indigenous Peoples in Meta and Vichada. These peoples are threatened by religious communities that have occupied Indigenous territories to carry out deforestation for farming. Illegal gold mining continues to harm many communities in Antioquia, Bolívar, Boyacá, Cauca, Chocó, Córdoba, Cundinamarca, Guainía, Nariño and Vichada.³⁴

93. Coca cultivation is conducive to deforestation, militarization, pollution and violence in Indigenous territories. About 70 per cent of the country's coca cultivation is concentrated in the Amazon region, especially in Putumayo and Caquetá. In 2020, 148 out of 767 Indigenous reservations were affected by coca plantations.³⁵

94. While the National Comprehensive Programme for the Substitution of Illicit Crops, adopted in 2016 in the framework of the Peace Agreement, is significant, one criticism levelled against the Programme is that Indigenous Peoples have not been consulted and their specific needs have not been taken into account. According to the Constitutional Court, implementation of the Programme has been deficient.³⁶ For some Indigenous Peoples, the coca plant has uses that are not only legitimate but central to their medicine, culture and economy. It is therefore imperative that the State does not criminalize its legitimate use, which is a fundamental part of Colombian Indigenous culture.

XIII. Environmental stewardship and ecological transition

95. The Special Rapporteur recognizes the importance of the National Development Plan, whose goals include making the energy matrix of Colombia cleaner, more efficient and more sustainable by reducing dependence on fossil fuels. However, Indigenous Peoples have expressed concern that the abuses described above will be repeated in the context of the green transition.

96. A case in point is the "Terra" project, announced in 2022, which consists of a large solar energy farm on the territory of the Arhuaco people, in La Guajira, which was approved by the Mining and Energy Planning Unit. Although the company responsible stated that members of the Arhuaco people are participating in the project, it was clear that a comprehensive and appropriate prior consultation process had not been carried out.

97. The same concern arises, to a significant degree, in connection with projects for reducing emissions from deforestation and forest degradation (REDD-plus), which are planned for 66 per cent of Indigenous territories. In 2022, more than 50 private-sector investments were made in REDD-plus projects in departments such as Amazonas, Guaviare and Vaupés, with a significant impact on 59 Indigenous reservations and 47 per cent of the Amazon region. The economic opportunities presented by the carbon market have attracted external actors to Indigenous territories, including illegal armed groups who have appropriated the economic resources that supposedly should have been given to Indigenous Peoples as the owners, custodians and protectors of the forests that capture carbon.³⁷

98. Despite the adoption in 2018 of a national REDD-plus strategy that includes social safeguards, it was reported that Colombia lacks effective operational safeguards and legal oversight for investments in the forest carbon market. Legislation on payment for environmental services requires prior consultation with Indigenous Peoples, which has not yet taken place. The national register of REDD-plus projects is under reconstruction, a process that reportedly has been tainted by a lack of transparency.

99. Impacts on Indigenous Peoples include violations of the right to consultation and free, prior and informed consent, a lack of transparency, disregard for self-governance systems and the exclusion of ancestral authorities from decision-making on REDD-plus projects. These problems have caused community divisions and inter-community tensions. For

³⁴ See <https://www.comisiondelaverdad.co/resistir-no-es-aguantar>, p. 160.

³⁵ Ibid., p. 158.

³⁶ Judgment No. SU-545/23.

³⁷ See A/HRC/54/31.

example, in Putumayo, a REDD-plus project divided a community and resulted in the forced displacement of some of its members.

100. One particularly alarming case relates to the recently contacted Nukak people. Without receiving the necessary support from public bodies, the Nukak signed a 100-year carbon credit contract without fully understanding its implications. This contract contains an exclusivity and irrevocability clause in favour of a private company. In the case involving Indigenous Peoples living near the Pirá Paraná River in Vaupés, 17 communities requested the protection of their autonomy from a REDD-plus project implemented without their consent, which has exacerbated social conflicts and tensions. In Cumbal, a carbon credit contract negotiated without prior consultation has caused conflict owing to a lack of transparency and an imbalance of power, undermining community cohesion and the environmental stewardship of an area measuring 49,000 hectares.

101. The Special Rapporteur has previously analysed in detail the obligations of States and the private sector in respect of the green transition.³⁸ In Colombia, it is necessary to hold consultations on and adopt a domestic regulatory framework on the green economy, which would set out the requirements for REDD-plus initiatives while recognizing and protecting Indigenous Peoples' rights to land, territory and resources and to free, prior and informed consent.

XIV. Economic, social and cultural rights

102. One of the most common complaints relates to the lack of access to quality public services in order to respond to urgent needs or situations, for example, in respect of the rights to health, food and education. Several Indigenous persons in need of urgent medical attention died after travelling for hours to reach the nearest health centre. Indigenous children suffering from malnutrition face insurmountable obstacles in reaching places where they can obtain food, such as markets or soup kitchens.

103. The failure to deliver an appropriate education programme has hampered the educational development of Indigenous children for decades. The Government must implement education policies that are sensitive to the realities and appropriate to the cultural specificities of students, including those who do not speak Spanish and those who attend residential schools far from their communities.

XV. Conclusions and recommendations

104. **The Special Rapporteur underscores the openness and cooperativeness of the Government, which recognizes the challenges and the need to advance in protecting the rights of Indigenous Peoples. He also highlights the progress made by Colombia in recent decades in the area of Indigenous People's rights. However, the failure to implement constitutional and other laws remains a problem.**

105. **During centuries of colonization and decades of armed conflict, Indigenous Peoples have suffered an endless litany of rights violations. This report contains many examples of the myriad violations they experience, which affect them in a cross-cutting manner and have brought many to the verge of extinction. For this reason, it is a matter of urgency that Colombia move forward on the path to a full, true and lasting peace that respects and includes Indigenous Peoples and provides redress for not decades but centuries of violence, exclusion, racism and racial discrimination.**

106. **It has been said that one of the causes of the armed conflict in Colombia is the State's absence from rural areas; however, this cannot be resolved by the militarization of Indigenous territories. The presence of the State requires more than security agencies; it means ensuring fundamental rights and access to quality public services,**

³⁸ Ibid.

which are translated into equal opportunities, with an approach that takes into account the culture and world-view of Indigenous Peoples.

107. The Special Rapporteur witnessed the efforts of many State officials and sectors of society to overcome these historical and structural challenges. However, he also observed with concern how institutionalized racism, corruption, bureaucratic inefficiency and the actions of armed groups and some companies have frustrated these efforts. Colombia must remain firmly on the path of change, consolidating its democratic institutions and mechanisms for justice, truth and reparation. This should be done in consultation with Indigenous Peoples and with their consent, including them at every step in the design and implementation of laws and public policies that promote and protect their rights. The below recommendations should be implemented in keeping with this approach.

108. The Special Rapporteur recommends that the State:

- (a) Enact appropriate legislation to guarantee the rights of Indigenous Peoples enshrined in international law and the 1991 Constitution;
- (b) Allocate adequate financial and human resources to execute without delay orders issued by the Constitutional Court and the inter-American human rights system in relation to the rights of Indigenous Peoples;
- (c) Fulfil without delay the agreements with Indigenous Peoples under the National Development Plan 2022–2026, with clear mechanisms for follow-up, impact assessment and targeting of investment in Indigenous territories;
- (d) Include the Indigenous perspective and the consultation of Indigenous Peoples in all policies relevant to them, such as the Security, Defence and Citizen Coexistence Policy.

Armed conflict

109. The Special Rapporteur recommends that the State:

- (a) Ensure the effective participation of Indigenous Peoples, including women and young people, in the implementation of the human security, anti-drug and “total peace” policies;
- (b) Implement the ethnic chapter of the Peace Agreement without delay, allocate adequate resources and monitor its implementation through participatory verification and follow-up mechanisms;
- (c) Engage in direct dialogue with Indigenous Peoples, independent of dialogue with non-State armed groups, with a view to building lasting peace;
- (d) Increase assistance for internally displaced or confined Indigenous persons through the introduction of adequate relocation protocols, the development of culturally appropriate return plans and the comprehensive follow-up of collective reparation measures;
- (e) Prioritize the protection of the rights of Indigenous children in negotiations with armed actors and strengthen prevention, response and care for Indigenous children, especially those affected by recruitment, use or sexual abuse;
- (f) Proceed urgently with the complete demining of all Indigenous territories.

Indigenous Peoples in specific situations

110. The Special Rapporteur recommends that the State:

- (a) Provide adequate financial and human resources to implement without delay: (i) protection plans in compliance with the orders of the Constitutional Court; (ii) the precautionary measure in favour of the Passé and Yuri peoples; (iii) Decree No. 1232 of 2018; and (iv) Constitutional Court judgment No. T-302 of 2017;

- (b) **Adopt appropriate policies for Indigenous Peoples in initial contact, including restitution of territories, taking into account their mobility patterns and providing redress for environmental damage and access to culturally and linguistically appropriate services;**
- (c) **Recognize the Colombian nationality of members of cross-border Indigenous Peoples, enabling them to effectively exercise their rights as Colombians, including the right of unrestricted access to public services, and conduct identification and documentation campaigns;**
- (d) **Adopt a national public policy to guarantee the rights of Indigenous Peoples in urban settings and an integration strategy with differentiated measures for displaced Indigenous Peoples;**
- (e) **Develop, in coordination with Indigenous women, appropriate indicators for the collection of statistics on violence, including femicide and sexual violence, against Indigenous women;**
- (f) **Provide adequate financial and human resources for culturally appropriate measures, to be taken in coordination with Indigenous women, to guarantee their right to sexual and reproductive health, and deliver programmes for the care and protection of women and girls in their territories;**
- (g) **Promote the political participation of Indigenous women in consultation and decision-making processes, and ensure their protection against the continued risk of violence, racism and discrimination;**
- (h) **Conduct awareness-raising on women's rights and discrimination and violence against women;**
- (i) **Ensure that the processes of the Colombian Family Welfare Institute respect the rights of Indigenous children in accordance with international standards, so to prevent the cultural estrangement of minors separated from their families and relocated outside their territories of origin;**
- (j) **Guarantee the rights of Indigenous LGBTI+ persons, including by removing barriers to access to identity documents, expanding the range of culturally appropriate health services and training public servants.**

Self-determination, self-governance and political participation

111. **The Special Rapporteur recommends that the State:**

- (a) **Adopt the necessary legislation and measures to recognize Indigenous political, territorial and environmental authorities and strengthen self-governance processes;**
- (b) **Change the registration process for Indigenous authorities, representatives and organizations so that their legal personality is established on a declaratory basis;**
- (c) **Develop the collective security strategies of the National Protection Unit, including by strengthening Indigenous territorial warning systems, the Indigenous Guard and self-protection mechanisms;**
- (d) **Redouble efforts and establish clear strategies to identify and punish those responsible for planning and perpetrating crimes against defenders of the human rights of Indigenous Peoples, including by strengthening investigation, promoting swift and culturally appropriate judicial proceedings and establishing a specialized unit within the Attorney General's Office to investigate these violations;**
- (e) **Introduce measures to guarantee the safety of Indigenous leaders and their communities, including during peaceful protests, preventing repression and ensuring their right to freedom of expression.**

Indigenous justice, access to justice and deprivation of liberty

112. The Special Rapporteur recommends that the State:

- (a) Adopt without delay the bill on the coordination of the Indigenous and ordinary jurisdictions, together with appropriate measures to protect Indigenous authorities that administer justice;
- (b) Develop and apply protocols for the cultural adaptation of ordinary judicial proceedings involving Indigenous persons;
- (c) Improve court infrastructure, Indigenous persons' access to courts, conditions of detention and culturally appropriate programmes for the rehabilitation and reintegration of Indigenous persons deprived of their liberty.

Right to land, territory and natural resources

113. The Special Rapporteur recommends that the State:

- (a) Adopt a land management law that ensures the full exercise of territorial rights and provides for the recognition of Indigenous territories as autonomous political entities with their own legal personality and the allocation of the necessary budgetary resources;
- (b) Take appropriate steps to clear the backlog of procedures for the recognition and formal restitution of territories and train institutions on the full significance that territories have for Indigenous Peoples;
- (c) Interpret the comprehensive rural reform chapter of the Peace Agreement in the light of the ethnic chapter, recognizing the rights of Indigenous Peoples over traditional and ancestral territories;
- (d) Improve coordination between the Land Restitution Unit and other bodies in order to prevent territorial conflicts and disputes.

Consultation and free, prior and informed consent

114. The Special Rapporteur recommends that the State:

- (a) Reform the Consultation Unit to ensure its autonomy and financial independence and avoid conflicts of interest;
- (b) Comply with international standards on prior consultation, including the right to give or withhold free, prior and informed consent, respecting the decision-making processes of Indigenous Peoples.

Development projects and ecological transition

115. The Special Rapporteur recommends that the State:

- (a) Develop a national action plan on business and human rights that is in conformity with the Guiding Principles on Business and Human Rights and international standards on the rights of Indigenous Peoples;
- (b) Effectively implement judicial decisions in favour of Indigenous Peoples, especially the orders of the Constitutional Court;
- (c) Ensure full reparation for environmental damage caused by megaprojects, guaranteeing access to food and drinking water and restoring the food sovereignty and health of affected Indigenous Peoples;
- (d) Carry out environmental protection measures in Indigenous territories affected by deforestation, infrastructure and large-scale agriculture;
- (e) Ensure that the security forces do not participate in actions that may cause violence, forced displacement or restrictions of the mobility of Indigenous Peoples;

(f) Investigate the influence of illegal armed groups on companies involved in extractive projects in Indigenous territories, including threats against and harassment of Indigenous leaders;

(g) Ensure that drug control measures respect the rights, needs and cultural characteristics of Indigenous Peoples, including ancestral practices and Indigenous medicine;

(h) Ensure the participation of Indigenous Peoples in the planning and execution of projects for the transition to a green economy;

(i) Regulate the carbon credit market in conformity with international standards on the rights of Indigenous Peoples, including a guarantee of transparency and accountability in registration, certification and implementation.

Economic, social and cultural rights

116. The Special Rapporteur recommends that the State:

(a) Adopt a holistic and culturally appropriate approach to eradicating poverty among Indigenous Peoples, allocating sufficient financial resources for the improvement of their own development and welfare models, strengthening education, health and social services at the community level and ensuring equitable and quality access to public services;

(b) Implement a public policy for the prevention of infant mortality due to malnutrition in Indigenous communities;

(c) Increase human, technical and financial resources to adapt the education programme to Indigenous cultural diversity.

117. The Special Rapporteur recommends that Indigenous Peoples:

(a) Establish, in coordination with Indigenous women, internal mechanisms to facilitate and promote their political participation in all spheres of decision-making, and address impunity in cases of femicide or violence against Indigenous women;

(b) Place Indigenous women at the forefront of efforts to harmonize women's human rights and the collective rights of Indigenous Peoples, recognizing the role of women in strengthening the integrity of Indigenous Peoples and the defence of their territories.

118. The Special Rapporteur recommends that public and private companies:

(a) Adopt explicit policies and guidelines on the rights of Indigenous Peoples that meet international human rights standards;

(b) Adopt human rights due diligence processes aimed at identifying, preventing, mitigating and repairing actual or potential impacts on the human rights of Indigenous Peoples, including measures to prevent and remedy environmental damage.

119. The Special Rapporteur recommends that the United Nations system:

(a) Continue to strengthen cooperation between United Nations agencies and the Government on the delivery of programmes for the promotion and protection of the rights of Indigenous Peoples, with a culturally sensitive approach, including the work of the United Nations Verification Mission in Colombia;

(b) Continue to support the State in implementing the recommendations of United Nations mechanisms on the subject of Indigenous Peoples' rights.

Apéndice

Visitas de Procedimientos Especiales del Consejo de Derechos Humanos

- Relator Especial sobre los derechos de los Pueblos Indígenas, visita de 2004 ([E/CN.4/2005/88/Add.2](#))
- Relator Especial sobre los derechos de los Pueblos Indígenas, visita de 2009 ([A/HRC/15/37/Add.3](#))
- Relator Especial sobre la situación de los defensores de derechos humanos, visita de 2019 ([A/HRC/43/51/Add.1](#))
- Relatora Especial sobre la trata de personas, especialmente mujeres y niños, visita de 2023 ([A/HRC/56/60/Add.1](#))
- Relator Especial sobre la promoción de la verdad, la justicia, la reparación y las garantías de no repetición, visita de 2023 (Conclusiones Preliminares)

Informes temáticos de la Relatoría Especial sobre los derechos de los Pueblos Indígenas

- Financiación verde, una transición justa para proteger los derechos de los Pueblos Indígenas ([A/HRC/54/31](#))
- Las mujeres indígenas y el desarrollo, la aplicación, la preservación y la transmisión de los conocimientos científicos y técnicos ([A/HRC/51/28](#))
- Áreas protegidas y derechos de los pueblos indígenas ([A/77/238](#))
- Los Pueblos Indígenas y la justicia ([A/HRC/42/37](#))
- Pueblos Indígenas que viven en zonas urbanas ([A/76/202](#))
- Agresiones y criminalización a que se ven sometidos los Pueblos Indígenas que defienden sus derechos ([A/HRC/39/17](#))
- Las consecuencias de los proyectos de desarrollo en gran escala o grandes proyectos de desarrollo en los derechos humanos y las libertades fundamentales de las comunidades indígenas ([E/CN.4/2003/90](#))

Amicus Curiae de la Relatoría Especial sobre los derechos de los Pueblos Indígenas

- Caso 11.754, *Pueblos Indígenas U'wa y sus Miembros Vs. Colombia*, ante la Corte Interamericana de Derechos Humanos, 27 marzo 2023.

Alto Comisionado de las Naciones Unidas para los Derechos Humanos

- Asistencia Técnica en Colombia ([A/HRC/56/71](#))
- Situación de los derechos humanos en Colombia en 2023 ([A/HRC/55/23](#))
- Situación de los derechos humanos en Colombia en 2022 ([A/HRC/52/25](#))
- Situación de los derechos humanos en Colombia en 2021 ([A/HRC/49/19](#))

Secretario General de las Naciones Unidas

- Misión de Verificación de las Naciones Unidas en Colombia ([S/2023/1033](#))
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- Los niños y el conflicto armado en Colombia ([S/2024/161](#))

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- [A/HRC/55/18](#)

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- Estudio sobre el impacto de la militarización en los derechos de los Pueblos Indígenas ([A/HRC/54/52](#))
- Estudio del derecho a la tierra ([A/HRC/45/38](#))
- Los derechos de los Pueblos Indígenas en el contexto de las fronteras, la migración y el desplazamiento ([A/HRC/EMRIP/2019/2/Rev.1](#))
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- Consentimiento libre, previo e informado: un enfoque basado en los derechos humanos ([A/HRC/39/62](#))

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- Comité para la Eliminación de la Discriminación Racial: Observaciones finales sobre los informes periódicos 17º a 19º combinados de Colombia ([CERD/C/COL/CO/17-19](#))
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- Comité de Derechos Económicos, Sociales y Culturales: Observaciones finales sobre el sexto informe periódico de Colombia ([E/C.12/COL/CO/6](#))

Examen Periódico Universal

- Conclusiones y Recomendaciones del 4º Ciclo ([A/HRC/55/7](#))

Comisión Interamericana de Derechos Humanos

- Observaciones y recomendaciones de la visita de trabajo de la CIDH a Colombia realizada del 8 al 10 de junio de 2021
- Verdad, justicia y reparación: Cuarto informe sobre la situación de derechos humanos en Colombia (OEA/Ser.L/V/II)
- *Derecho a la libre determinación de los Pueblos Indígenas y Tribales*, (OEA/Ser.L/V/II.), 28 de diciembre 2021

- Mujeres Indígenas (OEA/Ser.L/V/II. Doc. 44/17), 17 abril 2017
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