



THE LUTHERAN WORLD FEDERATION

A COMMUNION OF CHURCHES – EINE KIRCHENGEMEINSCHAFT – UNA COMUNIÓN DE IGLESIAS – UNE COMMUNION D'ÉGLISES

LUTHERISCHER WELTBUND – FEDERACIÓN LUTERANA MUNDIAL – FÉDÉRATION LUTHÉRIENNE MONDIALE

COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

COLOMBIA

75th session (3-28 August - 2009)

I. Documents

The following documents are available:

1. State's reports and country situations:

<http://www2.ohchr.org/english/bodies/cerd/docs/CERD.C.COL.14.doc>

2. List of Issues & Written replies:

http://www2.ohchr.org/english/bodies/cerd/docs/wreply_Colombia_CERD75.doc

3. Concluding Observations:

http://www2.ohchr.org/english/bodies/cerd/docs/co/CERD.C.COL.CO.14_spa.doc

NOTE: *These documents are also available from the LWF Office for International Affairs and Human Rights on request.*

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LWF Summary Report

On the 12th and 13th of August 2009, the Committee on the Elimination of Racial Discrimination has considered the combined tenth to fourteenth periodic reports of Colombia on its implementation of the provisions of the International Convention on the Elimination of All Forms of Racial Discrimination.

Legislation on racial discrimination

The Committee expresses concern that Colombia has no general provision forbidding discrimination on grounds of race and that legislation to incriminate acts of racial discrimination is not in full conformity with article 4 of the Convention. According to the delegation a draft bill against racial discrimination is currently under exam.

The State party should enact legislation forbidding discrimination on grounds of race and ensure that remedies are available to enforce such legislation. The State party should also enact specific penal legislation in accordance with article 4 of the Convention.

Discrimination practices in the public sphere

The Committee is concerned about cases of discrimination regarding access of members of ethnic groups to places open to the general public.

The Committee recommends that the State party adopts and enforces legislation to give access to any place or service intended for use by the general public.

Human Rights violation committed by illegal armed groups

The Committee noted with concern that the State party continue to face violent activities by illegal armed groups, drug trafficking group, paramilitary forces such as the FARC, the National Liberation Army (ELN) and other new groups. Massacres, antipersonnel mines, children rape, terrorist's action affects the rights of all citizens, especially those of Afro-descendants, indigenous communities and children. The delegation ensures that the State party does not support these illegal armed groups and is doing everything together with the army and the police to combat them. The delegation is asking the international community for more help in the fight against drug traffickers.

Human Rights violation committed by civil servants

The Committee was concerned about reports of violence committed by State agents against the indigenous and Afro-American communities. While the Colombian delegation acknowledges that public servants have committed violence against indigenous people, the State party ensures that judiciary measures against those who violate human rights are always taken. Guidelines have even been issued to recall the army's responsibility to commit to human rights.

The State party should protect Afro-Colombian and indigenous communities against human rights violations and prevent such violations in the context of the armed conflict. The State party should ensure that members of the armed forces avoid stigmatisation of Afro-Colombian and indigenous communities, guarantee the effective and strict compliance with adopted policies and regulations and

ensure that any acts of violations of human rights are promptly investigated and, when necessary, punished.

Protection of indigenous people and Afro-Colombian

The Committee is concerned over threats against and killings of Afro-Colombian and indigenous leaders. The Committee noticed the absence of civilian authorities in order to protect and assist the local population in areas taken up by the military.

- a) The State party should strengthen the Early Alert System by ensuring proper allocation of material, human and financial resources and implementing on a timely basis their alerts.**
- b) The State party should ensure that civilian authorities, including at departmental and municipal level, are involved in the coordination of preventive measures.**
- c) The State party should intensify measures to protect the security of Afro-Colombian and indigenous leaders**
- d) The State party should increase resource allocations for the community defenders of the Human Rights Ombudsman's Office and expand the programme in order to cover the most vulnerable Afro-Colombian and indigenous communities.**

Risk of extinction of some indigenous communities

The Committee is concerned over reports that certain indigenous peoples, especially in the Colombian Amazon, are on the brink of extinction as a result of the armed conflict. According to the delegation, the State party is providing protection to the most vulnerable communities in the field of food security, health education, improving housing, drinking water, sanitation, environmental control, disease control, strengthening organization of infrastructure, building roads, bridges and schools, and protecting and strengthening family structures, among other measures.

The State party should ensure the protection of the existence of these people and the exercise of their human rights.

Internally displaced people

The Committee is concerned over reports that humanitarian assistance, protection and facilitation for the repatriation of indigenous people and Afro-Colombians are not always provided. According to the delegation the State party has put in place a National Plan of Assistance for the Displaced and has established a national registry that has already allocated \$ 2.2 billion to help the 3 million displaced people in terms of housing and land.

The State party should ensure the implementation of the National Plan of Assistance for the Displaced, and pay particular attention to the rights of Afro-Colombian and indigenous women and children. The State party should ensure that national policies are sufficiently funded and carried out at departmental and municipal level and that safe return for the displaced to their original lands is facilitated.

Reparation procedure

The Committee regrets that insufficient information is available on how the recognition of victims' right to reparations has been implemented in relation to Afro-Colombian and indigenous victims.

The State party should ensure the effective implementation of reparations, including restitution of lands, without discrimination.

Rights to land

The Committee is concerned that Afro-Colombian communities and indigenous people face the following obstacles in exercising their rights to land: violence against community leaders, forced displacement, bureaucratic claims procedures, fraudulent acquisition and occupation of their territories by armed groups. The delegation ensures that there is no discrimination practices against indigenous people when they register complaints over lands. The national programme for reparation involves an independent process to assess indigenous people's right to reparation as well as protection measure for victims and witnesses.

The State party should reduce bureaucratic claims procedures and take effective measures to protect communities from violation when attempting to exercise their rights. The State party should pay more attention to the restitution of land titles to displaced Afro-Colombian and indigenous communities.

Access to socio-economic rights and development

The Committee is concerned that Afro-Colombians and indigenous people continue to face *de facto* racial discrimination in the areas of employment, housing and education. The Committee is concerned that policy on special measures is not accompanied by adequate resource allocations and that their implementation is not effectively monitored.

- a) **The State party's policies should give more attention to the structural causes which result in the exclusion from access to socio-economic rights and development.**
- b) **The State party should increase resource allocations for policy implementation including at the departmental and municipal level, and ensure that they are monitored in an effective and transparent manner.**
- c) **The Committee underlines the importance of consultation with relevant communities in the elaboration of development plans and affirmative action policies**

Justice

The Committee noted with concern that perpetrators of crime against Afro-Colombians and indigenous peoples commonly enjoy impunity and that legal advice for these communities is insufficient and not always provided in indigenous languages.

- a) **The State party should ensure that the Office of the Prosecutor General manage comprehensive data on the ethnicity of victims and perpetrators.**
- b) **The State party should reinforce the provision of legal advice and ensure that adequate interpretation in court proceedings is provided in indigenous languages.**

- c) **The State party should improve the conditions of detention of Afro-Colombian and indigenous persons, who are in prison in large numbers.**
- d) **The State party should guarantee that victims receive just and adequate reparation.**

Consultation mechanism

The Committee expresses concern over reported cases of natural resource exploitation taking place on the land of Afro-Colombian and indigenous people without their prior consultation and consent.

The State party should adopt and implement legislation which regulates the rights to prior consultation in order to ensure that all prior consultations are undertaken in a manner which respects the free and informed consent of the affected communities. The Committee recommends that the State party seek technical advice from the OHCHR and the ILO for this purpose.

Free access to education

The Committee is concerned that the State party does still not provide free primary education and that illiteracy rates remain significantly higher among Afro-Colombian and indigenous children. According to the delegation illiteracy has already decreased significantly these last years. The government has also established a special education programme in rural areas for the young people from 15 to 24 year old who have no access to school. The Ministry of Education is also currently waiting for more resource to give all the population access to education. The delegation also ensured that Colombia guaranteed free education to children of poor indigenous and Afro-descendant families.

The State party should guarantee that Afro-Colombian and indigenous children are provided with free primary education. Strategies should be devised in close consultation with the affected communities, receive adequate resource allocations and involve departmental and municipal authorities. Gender perspectives should be duly considered in such educational policies.

Healthcare

The Committee is concerned that life expectancy and health indicators are considerably lower for Afro-Colombians and indigenous peoples, while maternal and infant mortality as well as chronic malnutrition rates are significantly higher, compared to the mestizo population. The Committee is concerned over the lack of adequate and accessible health services among these communities and over insufficient data on health indicators and on related policy measures to improve them.

The State party should devise a strategy to guarantee that Afro-Colombians and indigenous peoples are provided with quality health care. The implementation of such a strategy should be ensured by adequate resource allocations, active participation of departmental and municipal authorities, collection of indicators and transparent progress monitoring. Particular attention should be paid to improving access to health care for Afro-Colombian women and children. The Committee underlines the importance that targeted measures to improve the

standard of living, including improved access to clean water and sewage systems, be linked to health indicators.

Census of the population

The Committee notes that the results from the census of 2005 differ from other population surveys.

The Committee recommends that the State further improve its compilation of information on the situation of ethnic groups in the economic, social and cultural fields. The Committee also recommends that the State party ensure that future census questions are formulated in a manner that permits and encourages self-identification of persons belonging to ethnic or indigenous groups.

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