

**Mandates of the Working Group of experts on people of African descent; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on minority issues; the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance; and the Special Rapporteur on extrajudicial, summary or arbitrary executions**

REFERENCE: AL  
COL 5/2015:

3 February 2015

Excellency,

We have the honour to address you in our capacity as Chair-Rapporteur of the Working Group of experts on people of African descent; Special Rapporteur on the situation of human rights defenders; Special Rapporteur on minority issues; Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance; Special Rapporteur on extrajudicial, summary or arbitrary executions pursuant to Human Rights Council resolutions 27/25, 25/18, 25/5, 25/32, and 26/12.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning individual cases of human rights violations as well as specific concerns particularly affecting the Afro-Colombian community.

According to information received:

On 3 August 2015, **Mr. Gilmer Genaro Garcia Ramirez**, the legal representative for the Afro-Colombian Community Council of Alto Mira y Frontera and member of RECOMPAS (Network of Afro-Colombian Community Councils of the South Pacific) was shot and killed by the armed group the Revolutionary Armed Forces of Colombia (FARC) near the Rescate de las Varas (Tumaco). Mr. Gilmer Genaro Garcia Ramirez was a human rights defender for Afro-Colombian rights and for the past five years he had denounced repeated death threats and persecution against him and members of his community council.

On 16 August 2012, Mr. Gilmer Genaro Garcia Ramirez's sister, **Ms. Yerly Maricel Garcia**, was killed in Tumaco, when armed men seeking Mr. Gilmer Genaro Garcia Ramirez, failed to locate him. Mr. Gilmer Genaro Garcia Ramirez is thought to have been under attack because of his defence of ethnic-territorial

rights in particular the defence of the autonomy and neutrality of Afro-Colombians from the illegal armed groups was perceived to be an affront to local FARC commanders. He was reportedly a beneficiary of protection measures by the National Protection Unit (UNP).

It is reported that Mr. Gilmer Genaro Garcia Ramirez's murder is not an isolated incident. Several members of this Afro-Colombian community council have reportedly been killed, threatened and attacked for similar reasons. In 1998, **Mr. Francisco Hurtado Cabezas**, the first legal representative of the Afro-Colombian Community Council of Alto Mira y Frontera was murdered. On 14 January 2008 **Mr. Pablo Gutierrez** of the Junta of Vereda El Pital was killed and in October 2008 **Mr. Armenio Cortes**, another member of the Afro-Colombian Community Council, was killed. According to information received, the 2008 murders resulted in the displacement of the entire leadership of the community council, including Mr. Gilmer Genaro Garcia Ramirez. In February 2012, a ruling by a judge in Pasto ordered the UNP to design and implement a protection plan for the leaders and members of this community council.

It is reported that Afro-Colombian human rights defenders continue to suffer harassment and death threats. On 23 July 2015, **Ms. Nicolasa Diaz**, human rights defender director of Casa Taller de las Moyas, and founder of Association for Social Research and Action (NOMADESC), received two threatening calls at around 9:45 p.m. The first call directed profanity at her while the second one stated, "good afternoon, we are calling from St. Gabriel Funeral Home. We just wanted to let you know that we have been watching your house and know that you will die soon." This event follows a robbery of Casa Taller in May, where the police investigator identified the possible suspects, but then exposed Ms. Diaz by bringing them to her house and asking her to identify them. A legal complaint has been filed against the investigator due to irregularities in the investigation procedures.

Similarly, on 21 July 2015, **Ms. Gloria Esther Sanchez**, ANAFRO delegate (national Afro-Colombian authority) and Afro-Colombian Community Council of Villa Gloria (Bolívar) representative, was approached by two men on an unidentified black motorcycle at 8:30 a.m. According to a legal complaint filed at the Attorney General's Office in Cartagena, the man in the passenger seat made threatening remarks, frightening Ms. Sanchez. The motorcycle stopped once again half a block down the road, and the individuals pointed at her and then to an alley. The people in the community realized there were actually two motorcycles in the neighbourhood, but the individuals fled the scene before the police arrived.

Days before, on 18 July 2015, **Mr. Adolfo Verbel Rocha**, a human rights defender and member of Movement of Victims State Crimes (MOVICE) Sucre chapter, found a letter stating that MOVICE members were "rats that were supposed to be exterminated". The letter continued by telling him he would soon be murdered. The letter also stated that one of the two men who murdered his

sister was free from jail and that the other would be released from prison soon too. He was told to watch himself and to tell his friend, Ms. Ingrid Vergara, about the letter. This event follows various 2015 incidents where unidentified people approached human rights defenders with threatening remarks, letters or pamphlets.

It is also reported that paramilitaries allegedly murdered Afro-Colombians in Buenaventura near the *humanitarian space* (Valle del Cauca). On 19 July 2015, Justicia y Paz reported that paramilitaries murdered 15-year-old afro-Colombian boy **Mr. Christian Aragon** just outside the humanitarian space in Buenaventura. Mr. Aragon had recently returned to the humanitarian space after fleeing for several months due to threats against him. Before being shot, Mr. Aragon had resisted forced recruitment. **Mr. Sol Angel Mina**, another individual who was walking next to Mr. Aragon, was shot as well. Both died after the attack. Before this attack, families, including those of the victim, had been non-violently protesting against child recruitment and the sexual exploitation of girls by paramilitaries. Community leaders in Buenaventura have also received threats.

**Ms. Danelly Estupiñan**, a member of the Black Communities Processes (PCN), an Afro-Colombian network organization, who actively denounced the negative impacts of the port expansion and development plans on communities, including alleged violations by the company TCBuen. On 23 November 2015, she reportedly received a death threat via a text message on her mobile phone: “Danelly, the end is near”. At 10 p.m., while talking on her phone, she realized the call was being tapped as a third voice said “I know where you are”.

It is reported that on 18 July 2015, **Mr. Danilo Obando**, a 24-year-old Afro-Colombian father, was murdered by what is believed to be members of the Police in Iscuande (Nariño). According to Cococauca, it is alleged that this was a “false-positive” killing in which the Police attempted to frame the victim as a guerrilla member. Colombia has previously been rocked by “false positive” (*falsos positivos*) cases that have led to high-ranking members of the military being sentenced to prison for human rights violations, in which civilians were executed by the armed forces and their bodies transported and manipulated to make them look like members of illegal armed groups killed in combat in order to increase body counts and receive related benefits.

According to information received, on 15 July 2015, **Mr. Jesus Esterlin Machado Renteria**, was kidnapped near the Afro-Colombian Community Council (Choco) in Vuelta. This kidnapping has reportedly intimidated the local community, which reports that their rights are being violated and that they are vulnerable to further abuses. In a press release, the Afro-Colombia network organization COCOMOPOCA notes that kidnapping violates international human rights law and that this incident is just one of several violations the community has fallen victim to.

Information about a number of threats against other Afro-Colombian leaders in Choco has also been received. These are allegedly related to their active stance against mining projects affecting their territory. On 11 September 2015, **Mr. Vianney Moya**, lawyer of COCOMOPOCA, following a march organized by the Dioceses of Quibdó, was reportedly pushed and insulted by two men on a motorcycle who said they knew he was opposed to illegal mining in Bagadó municipality. On 13 September 2015, two men on a motorcycle threatened his wife outside his house saying they were following their children. The legal representative of COCOMOPOCO, **Mr. Américo Mosquera**, has also reportedly been the object of intimidation, following the legal actions he presented against illegal mining in Afro-Colombian territories. On 13 September 2015, he was reportedly photographed and on 14 September 2015 members of the Liberal Party threatened that he would not reach 25 October alive. **Mr. Asnorald Mosquera**, the legal representative of the Piedra Honda Community Council in Bagadó municipality, allegedly received threats from the armed group National Liberation Army (ELN) guerrilla. On 15 and 19 June 2015, his relatives received messages and phone calls indicating that he should leave because his life was in danger. As a result he has left his municipality.

According to information received, on 30 June 2015, a negotiation committee was formed to discuss a list of demands presented by Union Sindical Obrera (USO) on 16 June 2015. Despite delaying tactics by the Meta Petroleum Corp, a subsidiary of Pacific Rubiales Energy, labour discussions between the union and Meta Petroleum Corp were planned to resume in August 2015. According to allegations, the Meta Petroleum Corp has pressured, extorted and even threatened workers who chose to join USO, in efforts to persuade new members to disaffiliate and isolate them from benefits such as technical training programs, contract renewals or employment when Ecopetrol assumes operations in the Piriri and Rubiales oil fields in June 2016.

According to information received, on 27 July 2015, unidentified individuals broke into the offices of **Kambiri, the National Network of Afro-Colombian Women, located in Cali** (Valle del Cauca). The perpetrators stole two desktop computers, a laptop computer, three printers, one projector, one video camera, and valuable sensitive information stored in USB drives and external hard drives. According to Kambiri's statement, it is believed that the theft was targeted towards the organization due to their work promoting human rights of Afro-Colombian women.

According to information received, on 8 February 2015, Mr. Sabino Lucimí received a text message, signed by Barcim and Águilas Negas paramilitary groups, with death threats against the leaders of the La Toma Community Council (Norte del Cauca): **Mr. Eduar Mina López, Ms. Francia Elena Márquez Mina, Mr. John Jairo Valverde and Mr. Sabino Lucumí Choco**. Their work received national and international attention since 2009, when they led a process to oppose the granting of a mining title and environmental licence for gold mining to an

individual (Mr. Sarria) without prior consultation of affected communities, at the same time as an eviction order against these communities was emitted. In response to a restraining order filed by Ms. Francia Márquez, the Constitutional Court ruled (judgement T-1045A/10) on the suspension of the mining and environmental licences until prior consultation was conducted. As a result of this process, these leaders, as well as **Mr. Lisifrey Ararat**, have reportedly been victims of threats.

In addition, the La Toma Community Council, as well as a number of Afro-Colombian authorities and organizations from Norte del Cauca, have led a broader mobilization, including a march on Bogota which led to a formal negotiating process with the Government, to defend their territory since 2014. This mobilization, led by Afro-Colombian women leaders, has led to a new wave of threats, harassment and attacks. For example, on 4 November 2015, **Ms. Francia Márquez** received a death threat from a local owner of mining excavators, **Mr. José Asarias Agudelo Guitérrez**, who had been detained for 30 days on charges of illegal mining and upon his release he threatened the community. **Mr. Victor Moreno**, legal representative of an association grouping 41 Community Council's in Norte del Cauca was reportedly forced to leave his home as a result of telephone threats. The La Toma Community Council received, as part of its protection measures, in December 2014, four motorcycles and 25 telephones: reportedly none of the motorcycles are working, nor are some of the phones.

We wish to express our serious concern about these allegations of killings and death threats targeting individuals and human rights defenders of African descent in Colombia and to call for action to investigate, prosecute and bring to justice the perpetrators of these acts and for more attention to prevent such killings and death threats in the future. Concerns are expressed at the intimidating and deterrent effect that these killings and threats of human rights defenders will have on human rights activists and individuals, who might fear for their safety in the execution of their legitimate human rights work.

We are also concerned by the alleged persistent structural discrimination faced by Afro-Colombians which affects the enjoyment of their economic, social and cultural rights. According to information received there are patterns of human rights concerns arising from business ventures (including environmental damage, displacement of persons, etc.); the negative impact of extractive projects and illegal mining on the livelihood of Afro-Colombians. It is reported that Afro-Colombians have faced a disproportionate impact of the armed conflict; a high percentage of Afro-Colombians have been victims of internal displacement, and the implementation of the Victims and Land Restitution Act is reportedly not adequately addressing the specific needs of Afro-Colombians. We are also concerned by the critical situation of violence faced by Afro-Colombians in the Port of Buenaventura, including the "*casas de pique*" ("chop shops" where victims were allegedly tortured and dismembered); reported discriminatory statements by high level authorities portraying Afro-Colombians as opponents to the

economic development; persistent discrimination against Afro-Colombian women, and the lack of effective protective measures for human rights defenders, in particular Afro-Colombians leaders that are under threat.

We are also concerned by allegations of the exclusion of people of Afro-Colombians in the peace process. Afro-Colombian community leaders have expressed concerns about their being left out of a process where significant decisions are being in relation to territories where they reside and would impact their cultural rights as well as the right to development.

Similarly, we are concerned that Afro-Colombians have been excluded in the consultation processes in relation to the National Development Plan (2015-2020), thereby limiting their opportunities for the enjoyment of their rights.

In connection with the above alleged facts and concerns, please refer to the **Reference to international law Annex** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

While we do not wish to prejudice the actions described in the above information, the alleged acts appear to be in contravention of international human rights law to which Colombia is obligated, including the right to life, protection from violence and intimidation against human rights defenders, protection from forced displacement, rightful ownership of land, as well as the enjoyment of civil and political rights, economic social and cultural rights that have been impinged. The above-stated allegations have also brought to the fore the need to address manifestations of racial discrimination faced by Afro-Colombians within the justice system.

We wish to refer your Excellency's Government to the principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders, in particular articles 6, 9 and 12.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.
2. Please provide the details, and where available the results, of any investigation, and judicial or other inquiries which may have been carried out in relation to the killings of **Mr. Francisco Hurtado Cabezas, Mr. Pablo Gutierrez, Mr. Armenio Cortes, Mr. Gilmer Genaro Garcia Ramirez, Ms. Yerly Maricel Garcia, Mr. Christian Aragon, Mr. Sol Angel Mina, Mr. Danilo Obando, the kidnapping of Mr. Jesus**

**Esterlin Machado Renteria**; and the threats (including death threats) against **Ms. Nicolasa Diaz, Ms. Gloria Esther Sanchez, Mr. Adolfo Verbel Rocha, Ms. Danelly Estupiñan, Mr. Vianney Moya and his family, Mr. Américo Mosquera, Mr. Asnorald Mosquera, Mr. Eduar Mina López, Ms. Francia Elena Márquez Mina, Mr. John Jairo Valverde, Mr. Sabino Lucumí Choco and Mr. Victor Moreno** Have complaints been lodged? If so, please describe how these have been processed and what has been the outcome. If no inquiries have taken place, or if they have been inconclusive, please explain why.

3. Please provide information on the measures taken by the Government in response to any of requests for information made by individuals affected and measures adopted to address impunity through the investigations of the alleged murders of Afro-Colombians leaders.
4. Please provide information on the status of the implementation of the Anti-discrimination Act and the results of investigations of cases of racial discrimination.
5. Please provide information on the status of the implementation of the Victims and Land Restitution Act.
6. Please provide information on: measures taken to ensure political participation of Afro-Colombians in decision making processes, the implementation of the free, prior and informed consent of Afro-Colombians; the right to land and resources of Afro-Colombians, including ancestral land.
7. Please provide information on: the involvement of Afro-Colombians in the peace negotiation process; the participation of Afro-Colombians in the preparation of the next Census to be carried out in 2016; measures adopted to ensure adequate access to health care services for Afro-Colombians taking into account their specific needs and access to justice for Afro-Colombians.
8. Please provide information on the steps taken by the Government to provide effective remedy to the members of the Afro-Colombia community, including reparation and measures taken to prevent racial discrimination.
9. Please provide information on any steps taken by the Government to implement the recommendations of the former Independent Expert on minority issues in her report on the situation of Afro-Colombians in Colombia (A/HRC/16/45/Add.1)

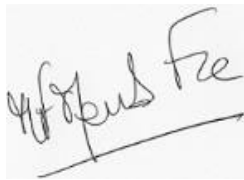
10. Please provide details and, where available, the results of any measures the Government has taken to ensure non-recurrence of violations of the rights of Afro-Colombians and to ensure that human rights defenders are able to carry out their legitimate work in a safe and enabling environment without fear of threats or violence of any sort.

We would appreciate receiving a response within 60 days.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

A handwritten signature in black ink, appearing to read 'Mireille Fanon Mendes-France', with a horizontal line drawn underneath.

Mireille Fanon Mendes-France  
Chair-Rapporteur of the Working Group of experts on people of  
African descent

Michel Forst  
Special Rapporteur on the situation of human rights defenders

Rita Izsák  
Special Rapporteur on minority issues

Mutuma Ruteere  
Special Rapporteur on contemporary forms of racism, racial  
discrimination, xenophobia and related intolerance

Christof Heyns  
Special Rapporteur on extrajudicial, summary or arbitrary executions





## **Annex**

### **Reference to international human rights law**

In connection with above, and without prejudging to the accuracy of these allegations, we would like to draw the attention of your Excellency's Government to the relevant international norms and standards.

In this regard, we wish to draw the attention of your Excellency's Government on the principles set forth in the Universal Declaration of Human Rights (UDHR) and International Covenant on Civil and Political Rights (ICCPR), which Colombia ratified on 29 October 1969. Articles 3 and 6 (1) of these instruments respectively guarantee the right of every individual to life and security and provide that these rights shall be protected by law and that no one shall be arbitrarily deprived of his life. Furthermore, we would also like to refer to the Principle No. 9 of the UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, (resolution 1989/65, annex, Economic and Social Council) which underlines that Governments shall undertake a "thorough, prompt and impartial investigation of all suspected cases of extra-legal, arbitrary and summary executions, including cases where complaints by relatives or other reliable reports suggest unnatural death in the above circumstances (...)". It should be noted that "the purpose of the investigation shall be to determine the cause, manner and time of death, the person responsible, and any pattern or practice which may have brought about that death. It shall include an adequate autopsy, collection and analysis of all physical and documentary evidence and statements from witnesses".

Further, we would like to remind your Excellency's Government of the duty to guarantee "[e]ffective protection through judicial or other means" to "individuals and groups who are in danger of extra-legal, arbitrary or summary executions, including those who receive death threats", according to Principle No. 4 of the UN Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions.

We would also like to refer your Excellency's Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, and in particular articles 1 and 2 which state that everyone has the right individually or in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels" and that "each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice".

Furthermore, we would like to bring your Excellency's attention to the following provisions, and in particular: article 12 paras 2 and 3 of the Declaration which provide that the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

We should further like to refer to the right to equality and non-discrimination in accordance with your Government's obligations under the International Convention on the Elimination of All Forms of Racial Discrimination, such as the one established in articles 2, 5 and 6. We specifically would like to refer to the recent observations and recommendations of the CERD Committee adopted upon consideration of the combined fifteenth and sixteenth periodic reports of Colombia in August 2015. The Committee, inter—alia, “urged the State party to take the necessary urgent steps to ensure the practical and effective implementation of [...] the Comprehensive Plan to prevent displacement and provide protection and care for the displaced Afro-Colombian population” in compliance with article 5 of the Convention.

We draw your attention to the “Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities”. In particular article 4(1) of the Declaration requires governments to take measures to ensure that minorities may exercise fully and effectively all their human rights and fundamental freedoms without any discrimination and in full equality before the law.