

TO:

Mr. Iván Duque Márquez, President of the Republic of Colombia

CC:

Ms. Marta Lucía Ramírez, Vice-President of the Republic of Colombia

Ms. Nancy Patricia Gutiérrez Castañeda, Minister of the Interior

Ms. Gloria María Borrero Restrepo, Minister of Justice and Law

Dr. Fabio Espitia Garzón, National Prosecutor

Mr. Carlos Alfonso Negret Mosquera, National Ombudsman

Mr. Fernando Carrillo Flórez, Attorney General of the Nation

Dr. Pablo Elías González Monguí, Director of the National Protection Unit

United Nations Office of the High Commissioner for Human Rights in Colombia

Mr. Michel Forst, United Nations Special Rapporteur on the situation of human rights defenders

30 May 2019

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Chris Grove
Executive Director

Your Excellency,

ESCR-Net - International Network for Economic, Social and Cultural Rights (ESCR-Net), is the largest global network of organizations and activists dedicated to obtaining economic, social, cultural, and environmental justice through human rights. The Network is comprised of 280 members, including organizations and activists from 75 countries.

We are writing to express our serious concern regarding the recent threats attributed to the Águilas Negras paramilitary group against human rights defenders in Cajamarca and Ibaguè, Tolima.

According to reliable information, during the morning of 14 May 2019, several members of the organizations Comité Ambiental en Defensa de la Vida, Conciencia Campesina, COSAJUCA, UCAT, and the president of the Municipal Council of Cajamarca received threats via email.

The threats refer to these organizations' involvement in promoting a popular consultation regarding mining exploitation in Tolima, and state *"it is time to cleanse the country of these fucking rats that pose as environmentalists and human rights defenders in Cajamarca."* Additionally, the threats accuse the members of the aforementioned organizations of enriching themselves from their work for human rights and of being connected to guerilla groups, and state *"our organization will not allow that, and we will end these guerilla sons of bitches one by one"*

On 26 March 2017, residents of the Cajamarca municipality decided via a democratic popular consultation to reject mining exploitation in their territory, including the “La Colosa” mining project, licensed to the multi-national Company AngloGold Ashanti. The decision halted what would have been one of the largest open-air mining projects in Latin America. We have knowledge that the human rights defenders involved in promoting the prior consultation are those who have received threats for their legitimate work to promote these processes of citizen participation and for the resolution of socio-environmental conflicts in a peaceful, constitutional, and democratic way.

We remind Your Excellency that, as a State party to the International Covenant on Civil and Political Rights (ICCPR), Colombia is obligated to respect, among other rights, the right to life; and this includes the general obligation to investigate any violation committed by State and non-State actors, and to provide protection through legal and/or other means to all persons whose right to life is at risk. The ICCPR also recognizes the right to peaceful assembly, the right to freedom of association, and the right to participate in public affairs, rights that Colombia must guarantee for those who defend the environment and human rights.

Additionally, Colombia is a State party to the International Covenant on Economic, Social and Cultural rights, which recognizes the right of all people to an adequate standard of living, including the right to enjoy a healthy environment and the highest attainable level of physical and mental health, and the rights to water and food, among others. According to the information we have received, all of these rights would be threatened as a result of open-air mining in the area. The sixth periodic report on Colombia that the Committee on Economic, Social and Cultural Rights undertook (52nd and 53rd session, September 2017 and the 78th session in October 2017), made the following observations and recommendations to the Colombian State with respect to the exploitation of natural resources:

15. The Committee notes with satisfaction that the State party has set up and conducts public consultations in communities that may be affected by projects to exploit natural resources, including agro-industrial projects. However, it remains concerned that the outcome of these consultations is not duly taken into account by the competent authorities and that, notwithstanding the opposition of the communities concerned, such projects still go ahead. The Committee is also concerned at the deleterious effect of these activities on the environment, including deforestation, which has a negative impact on the effective enjoyment of economic, social and cultural rights, particularly the right to an adequate standard of living and the right to health.

16. The Committee recommends that the State party take the necessary measures to ensure that the outcome of public consultations is given due weight and is taken into account by the competent authorities, and is then applied in collaboration with the affected communities. The Committee further recommends that the State party undertake thorough social and environmental impact studies on activities to exploit natural resources and that it ensure that licensing agreements concluded with private entities include measures to mitigate their impact on the enjoyment of economic, social and cultural rights, provide adequate compensation to affected communities and include appropriate measures to ensure the preservation of forests.¹

¹ E/C.12/COL/CO/6

The Universal Periodic Review (UPR) issued guidance to the Colombian State regarding the topic of popular consultations, stating that Colombia should “[e]nsure that the design and implementation of development plans are consistent with popular and prior consultations and are in line with international standards”² and “[c]ontinue strengthening the mechanisms for prior consultations with indigenous and Afrodescendent peoples, as well as popular consultations, in the light of the peace agreement.”³

The region of Latin America and the Caribbean has seen progress at the regional level to improve public participation in environmental issues. In September 2018, 11 countries from the region signed the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (known as the Escazú Agreement). In addition to promoting public participation, the Agreement will require member States to take measures to ensure the protection of human rights defenders.

Colombia has obligations in regards to the standards established in the UN Declaration on Human Rights Defenders, which recognizes the right of all people to promote and pursue the protection and fulfillment of human rights. Specifically, the Declaration contemplates “protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto o de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights”⁴ of human rights defenders.

Human rights defenders in Colombia face one of the most dangerous and violent contexts in the world. On May 10, 2019, the United Nations Office of the High Commissioner for Human Rights issued an official communication expressing its concern for the high level of assassinations, harassment, and threats toward human rights defenders in Colombia. According to the communication, 51 human rights defenders were assassinated in Colombia during the first four months of 2019.⁵

In his End of mission statement, after his visit to Colombia from November 20 to December 3, 2018, the United Nations Special Rapporteur on the situation of human rights defenders expressed serious concern for the situation of extreme and generalized violence toward human rights defenders in Colombia. He indicated the lack of implementation of the Peace Agreement, the existence armed groups, impunity and stigmatization and defamation of human rights defenders as factors that facilitate attacks against human rights defenders in the country. He also highlighted the particular vulnerability of human rights defenders in rural areas and that social conflicts tend to intensify in areas with megaprojects. The Special Rapporteur also made a series of recommendations to the Colombian State regarding the protection of human rights defenders.⁶

² A/HRC/39/6 – recommendation of Mexico

³ A/HRC/39/6 – recommendaton of Peru

⁴ https://www.ohchr.org/Documents/Issues/Defenders/Declaration/declaration_sp.pdf

⁵ <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24591&LangID=E>

⁶ <https://www.ohchr.org/SP/NewsEvents/Pages/DisplayNews.aspx?NewsID=23960&LangID=S>

According to the 2018 Global Analysis of Front Line Defenders, at least 126 human rights defenders were assassinated in Colombia in 2018. This is at least three times as many as the country with the second highest number of assassinated human rights defenders, according to the same study.⁷

In view of the seriousness of the threats faced by the aforementioned human rights and environmental organizations and defenders, we urge the State of Colombia to:

1. Carry out an independent, impartial, effective and prompt investigation to clarify the intellectual and material authors of the threats against members of the organizations Comité Ambiental en Defensa de la Vida, Conciencia Campesina, COSAJUCA, UCAT and the president of the Cajamarca Municipal Council; as well as try and sanction those responsible for these acts.
2. Provide protection, including necessary security measures, for human rights and environmental defenders, so that they may continue carrying out their work without harassment, persecution, threats or interference of any types, including protection for the members of the organizations Comité Ambiental en Defensa de la Vida, Conciencia Campesina, COSAJUCA, UCAT, and the president of the Cajamarca Municipal Council.
3. Request the director of the National Protection Unit, Dr. Pablo Elías González Monguí, order the corresponding party to undertake a risk assessment of the members of the organizations Comité Ambiental en Defensa de la Vida, Conciencia Campesina, COSAJUCA, UCAT, and the president of the Cajamarca Municipal Council.
4. Adopt the recommendations of the United Nations Committee on ESCR regarding popular consultations.
5. Adopt the guidance of the Universal Periodic Review (UPR) that request the Colombian State to promote the participation of communities and ethnic minorities in decisions related to the country's development, and in particular to respect popular consultations and the right to prior consultation.
6. Accept the decision of the March 25, 2017 popular consultation, in which the residents of the Cajamarca municipality decided not to accept mining activities in their territory.
7. Instruct the Attorney General to provide a detailed list of the results of the investigations of the threats against defenders of economic, social, cultural, and environmental human rights that have been denounced in the past ten years.
8. Publically denounce the attacks against human rights defenders and publically recognize the legitimate work of human rights defenders and their contributions to society.
9. Adopt the recommendations of the Special Rapporteur on the situation of human rights defenders issued in his End of mission statement.
10. Sign and ratify the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean.

Finally, we respectfully request to be informed regarding progress in this case.

Cordially,

⁷ Front Line Defenders (2019) *Global Analysis 2018*, page 4

Chris Grove,