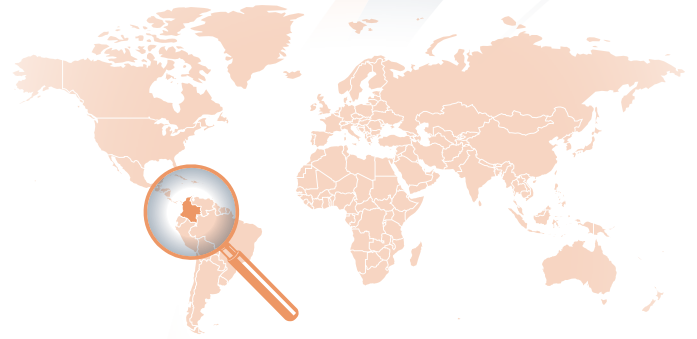


# RACISM AS A RISK FACTOR FOR ATROCITY CRIMES:

## A Case Study on Colombia<sup>1</sup>

Author: Isabel Cristina González Quintero—Psychologist and Researcher of African descent; Coordinator and editor: Vanessa Márquez Mena—Journalist and Director of *Vive Afro* Magazine

Colombia is a country located in the northwestern corner of South America. Its varied landscape, rich history, and broad blending of cultures make the country a truly diverse place. Colombia's variety of peoples is valued and celebrated, with more than 100 officially recognized ethnic groups, each with their own traditions, languages, and customs. These groups include Indigenous peoples, Black, Afro-Colombian, Raizal, and Palenquero communities, the Roma or Gypsy peoples, as well as the White-Mestizo population. The country's economy is based on the wealth of its natural resources, agriculture, manufacturing, tourism, and services. This economic diversity has fueled its growth and placed it as one of the strongest economies in Latin America. However, the country's economic standing is due in part to its colonial past, including a history of slavery. Racism and accumulation by dispossession have a deep connection with the current capitalist system that upholds structures of systematic impoverishment, marginalization, and violence in the country's ethnic populations. As a result, one must examine the influence of colonial political legacies on Colombia's current state institutions.



The following case study has been written by an independent consultant on behalf of the Global Initiative for Justice, Truth and Reconciliation (GIJTR). This case study is informed by a combination of desktop research, document analysis and interviews. It therefore reflects these perspectives and findings, as compiled and written by the consulting author(s). Interviewees have been anonymized to ensure their safety and privacy but GIJTR extends its gratitude for the time and participation of all interviewees.

## 1 A Brief Overview of Colombia's Colonial Past

Beginning in the 15th century and until the 19th century—a period that includes the systematic invasion, murder, and colonization of racialized peoples by persons from what is now modern-day Spain until the enforcement of the Manumission Law of May 21, 1851—an economic system was developed that was highly influenced by race.<sup>2</sup> This first system of wealth accumulation was based on the transatlantic slave trade, a centuries long systematic kidnapping of Africans who were purchased and sold by Europeans. With Africans converted into commodities, Europeans and their descendants were guaranteed a significant economic stream in both the initial sale of Africans as well as the subsequent sale of the descendants of those Africans. In other words, their profits were not restricted to the initial group of kidnapped people, since, like the Africans brought to the American continent as slaves, their descendants were also seen as merchandise. This multigenerational “commodity” meant the sale of kidnapped Africans, their children, and their grandchildren ensured a multiplier of capital for slaveholders and, therefore, an even greater amassing of wealth.<sup>3</sup>

Colonialism systematically relegated and erased any trace of African heritage. It wasn't just that the bodies of Africans were property, slavers also stripped Africans and their descendants of their language, culture, and knowledge. As a result, the enslaved population was denied access to the basic resources needed to lead a decent life. Slavery and servitude were legal because they were justified through the creation of a social pyramid, a hierarchical structure based on the classification of people by their phenotypical features: “in this pigmentocracy, skin color had virtue and evil; the White and European was considered superior, and the others did not even have a soul (...). They used these grounds as weapons to justify their racial ideologies: language, religion, and philosophy.”<sup>4</sup>

A second system of wealth accumulation was the exploitation of uncompensated labor of enslaved people. The unpaid work performed in haciendas, on cotton and sugar cane plantations, in the mines, and even within slavers' homes was appropriation of productivity of the enslaved population without any economic remuneration. Thus, for five centuries, slaveholders amassed enormous wealth that allowed their descendants to maintain their systems of rule. They maintained their status quo and exerted power to increase their wealth. These historical systems of wealth accumulation through dispossession and appropriation—though the systems present differently today—laid the foundations for underdevelopment of generations of racialized communities trapped in structural impoverishment.<sup>5</sup>

### THE GLOBAL INITIATIVE FOR JUSTICE, TRUTH AND RECONCILIATION

In 2014, the International Coalition of Sites of Conscience (ICSC) launched the Global Initiative for Justice, Truth and Reconciliation (GIJTR), a consortium of nine international organizations focused on offering holistic, integrative and multidisciplinary approaches to issues of truth, justice and reconciliation. GIJTR works primarily with local populations, civil society organizations, survivors and governments to develop transitional justice approaches that are victim-centered, collaborative, and support dignity, respect, inclusion, and transparency in societies emerging from conflict or periods of authoritarian rule. Since its founding, GIJTR has engaged with people from 76 countries, worked with 681 CSOs, and has conducted 463 community-driven projects and supported 7,460 initiatives dealing with human rights violations.

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As this exploitation was unfolding, the enslaved population did participate in various forms of resistance and some emancipation occurred. The main goal of the “cimarronaje” process was the development of alternative societies to colonial domination: spaces in which autonomy, freedom, cultural protection, the defense of equality, and protection of rights would be safeguarded. Alongside the escape and settlement of enslaved people in peripheral territories protected by the thick jungle (*palenques*), there were efforts by organized movements of the freed Black population within urban environments. For example, Afro-descendant political and religious leaders<sup>6</sup> backed by the Catholic church wished to be integrated into urban society and sought recognition of their rights and other basic issues within the Spanish colonial system. However, it was the fight for the country’s independence that led to the abolition of slavery in Gran Granada—what is now Colombia.

## Independence and Bolívar’s Broken Promise: Racism in the New Republic

The involvement of African communities and their descendants in the independence process that began in 1810 was based on specific expectations. Motivated by Simón Bolívar’s promise to abolish slavery and his ideals of a society with equal rights for all, he led many of the Maroons to support the army in the liberation campaign. However, as one artist and researcher notes, Bolívar never intended to build a truly democratic republic, and in fact assured potential backers of the war that he did not:<sup>7</sup>

*It was always part of Simón Bolívar’s plans to uphold the colonialist system once independence was won. He went to Jamaica to find sponsors to back the wars of independence. However, he specifically targeted the part of Jamaica under British rule. The British authorities rejected his request for support. Bolívar, in response, sent multiple letters to both the British authorities and to what is now Colombia, promising the British side that the freed territories would not become a second Haiti, i.e., they would not become territories occupied by free Black people. Despite his efforts, the British authorities rejected his request for support. That same year, he went to Haiti in search of funding, securing two sponsored expeditions with ships, weapons, and money.*

The only condition of Alexandre Petion, the president of Haiti at the time, was that in exchange for his help, Bolívar would declare the abolition of slavery in the territories that were being freed. However, he did not comply; as the war escalated, he threatened by decree to re-enslave the Blacks or *pardos* (free persons of African descent) older than fourteen years of age who did not join the liberating army.<sup>8</sup>

*Initially, their real aim was to build a government and a territory free of slavery. It was only afterward, due to the fear of creating a “pardocracy”, that is, a government led by people of African descent, that he embraced this view. Within his army and organization, he had two outstanding Afro-descendant generals, José Prudencio Padilla, responsible for liberating the northern region of the country, and Manuel Carlos Piar Gómez, who freed practically all of Guyana and contributed significantly to Colombia’s fight for independence. Meanwhile, Simón Bolívar focused on liberating Bogotá and the central part of the territory. Both were shot once the war was won due to the Creole elite’s fear of losing power.<sup>9</sup>*

The new era of recent independence and a country under the leadership of Simón Bolívar led to slow and unwilling attempts to fulfill the promises made to the Black population who served in the patriot army, both those that were already free, and to the enslaved (whose owners were compensated for their enlistment). For Bolívar's new republic and the Creole elite, freedom was to be granted first to those who participated in the war and their families. This liberated a great number of people, which led to the widespread belief that Bolívar advocated the abolition of slavery. However, it is important to note how wrong this understanding is since the freedoms granted to the enslaved did not become a fact until three decades after gaining independence. Although Bolívar passed laws that required hacienda owners to free slaves, his true purpose was not the abolition of slavery. This is clearly evidenced in the letters he wrote and sent to his government team stating he feared that granting freedom would be a threat to the system and the government,<sup>10</sup> as a lawyer and member of a women's activist group notes:<sup>11</sup>

*The system did not change, it simply changed ownership, because it continued exactly as it always had been, and with the same ideals. Since they intended to follow the European style to design the planning and development of the land, they began to question the process of internal slavery, as the transatlantic slave trade began to be banned on the European continent. That's when they realize it's not right, because they weren't following first-world models. So, from there, the freedom processes are finally made easier.*

Once the abolition of slavery went into effect on January 1, 1852, slave owners tried to argue that certain Black people should not be included in the abolition. As a result, the government had to enact an additional law on April 17, 1852, to clarify that abolition covered all Black persons in the territory. However, some slavers went to neighboring countries to purchase more slaves and find loopholes to warrant their new acquisitions. Moreover, in terms of reparations, the republic solely repaid the former owners for each manumission endorsement granted, and the value of the payment was gradually acknowledged by the state. By contrast, the former slaves were not compensated for their unpaid labor.

Since no action was taken to provide reparations for the general Afro-descendant population, many were left in a dire situation, especially those who were elderly, in poor health, or lacked capital. They had no choice but to continue working for the same families under similar conditions of servitude as before in order to survive.<sup>12</sup> The separatist racism in the Spanish colonial system gradually became structural racism in the budding republic; in fact, the rise of liberalism in the 19th century overlapped with growing scientific racism. Thus, the transition from an economic system rooted in slave capital production to one shaped by the legal abolition of slavery made little significant impact in the lives of people of African descent.

Although these people were formally considered free, in truth they were subject to a racial division of labor. This led to a belief that still exists today—certain jobs were meant exclusively for people of African descent, while other workplaces were mainly for the White population. Thus, the distribution of the state's productivity and financial resources remained unequal, thus maintaining White privilege and hindering the production of, redistribution to, and accumulation of capital to the Black population.

*It is important to remember that racism did not die with independence, it only changed how it worked in society. During the new republic, scientific racism was used as a tool to justify and maintain the racial discrimination that was already very prevalent in the country. These theories provided an apparent scientific basis for the belief in the superiority of the so-called “White race” established in colonial times (...) Using measurements of physical features, alleged intellectual differences and biological claims to support the idea that certain racial groups were inherently inferior and therefore deserved unequal treatment in society. These racist ideas influenced policy planning, affecting not only the racial division of labor, but also issues such as land ownership, access to education, or political participation.<sup>13</sup>*

### **The Myth of “Racial Democracy”: Structural Racism and Ethnic Social Movements**

By the nineteenth century, racial division in society was clear, with marked differences and inequalities between people of different racial groups. However, the state embraced a strategy called “racial democracy” that sought to mask divisions by promoting an image of racial equality and harmony. This allowed the government to say that there were no racial conflicts and to advocate for social inclusion of all people. These narratives of racial democracy fostered by the political and social elites of the time created false narratives that linked national identity to racial harmony and equality. The government and social elites were able to display a picture at the national and international level that the country’s various racial groups coexisted peacefully because the society was the result of centuries of miscegenation. It was a rhetoric based on appearances that masked a strategy to conceal and deny the racial discrimination of the early republican period. Based on this,

*[T]here was no reason to talk about racism or inequality because everyone was allegedly in harmony. This narrative of superficial equality led to the removal of the caste system in censuses, where people were classified according to their racial ancestry (Pardo, Mestizo, Mulatto, among others). And, although this could be considered an improvement on the surface, it also had negative consequences: While it eliminated the notion of human races, it also limited the ability to gather accurate data to provide differential rights and address racial inequalities.<sup>14</sup>*

During much of the colonial and post-colonial period in Colombia, an ideology of miscegenation and whitening of society prevailed, promoting the idea of a homogeneous society and denying or minimizing racial differences. This ideology was supported by the state and was reflected in the assimilation policies of the time. The myth of racial democracy was in stark contrast to the reality of the country, which made the experiences of Afro-descendant and Indigenous communities and other ethnic groups invisible. This resulted in a lack of recognition of their rights and unique needs, as well as a lack of public policies to address the historical and structural inequalities these groups faced.

“Black and Indigenous social movements expressed themselves in various ways in the wake of the development of racial democracy. Their efforts sought to highlight the discrimination that remained



despite the rhetoric of equality fostered by the dominant elites.”<sup>15</sup> By means of community organization, political mobilization, and the celebration of culture and identity, these movements aimed to reclaim the dignity and rights of Afro-descendant and Indigenous populations. They demanded real inclusion and participation in the country’s political, social, and economic processes, as well as recognition of their territorial and cultural rights. During this process, the leadership of the Indigenous communities and the organizational efforts of the Black communities that had already been underway since the 1970s were strengthened, leading to a movement of vindication of ethnic identity. Some movements came from an ethnic-territorial basis, made up of farmers, the Maroon movement, and those from an ecclesiastical background. Other groups with a smaller demographic presence also joined the struggle, such as certain immigrant groups and Roma (Gypsy) communities, who kept a rich cultural and linguistic heritage.

## **2 Increased Racial Awareness and the 1991 Constitution**

As the 20th century unfolded, a greater awareness began to grow regarding the importance of acknowledging and addressing racial and ethnic differences.

This led to the participation of communities by the end of the century, as reflected in the development of the 1991 constitution in Colombia. “During the drafting of the constitution, leaders and representatives of ethnic movements played an active role and participated in the discussions and negotiations to include provisions that would protect the rights of their communities.”<sup>16</sup> As a result, the 1991 constitution recognized Colombia’s ethnic and cultural diversity and provided specific rights for ethnic groups, for example, prior consultation in decisions affecting their territories and recognition of their cultural autonomy. They were able to place their demands on the political agenda and contribute to the construction of a legal framework that was more inclusive and respectful of the country’s ethnic and cultural diversity.

Despite this progress in terms of rights, the Afro-descendant communities did not realize their hope for a constitutional recognition of their identity as a differential ethnic group, in part, because they lacked representation: “in the absence of Afro-descendant constituents, priority was given to the participation of the Indigenous populations, which were represented. They undertook to represent the ethnic groups, but pointed out that they were not Afro-descendants, but Indigenous people. And it was all because the different Black movements did not agree on their candidate.”<sup>17</sup> As a result, a unit was established in the National Constituent Assembly called “ethnic affairs” instead of a specific bureau for Black communities. Thus, the focus was primarily on Indigenous peoples, who had the opportunity to gain control over the natural resource-rich territories in which they lived. In addition, it strengthened these communities’ historical knowledge of these resources, providing a new path to empowerment. It also led to national legislation regarding Indigenous intellectual and cultural property rights and environmental protections. In short, the Indigenous population was recognized as a distinct ethnic group and much less attention was paid to other groups, such as migrants, Roma peoples, and Afro-descendants.<sup>18</sup> Another challenge for the Black community was that some felt they were not culturally distinct enough to merit their own status:

*The problem with the Black communities is that they have not been seen as an ethnic group because sociologists such as Fals Borda, Indigenous representatives, and many of the members of the M-19 (urban guerrilla) said “gee, but they have no language, they have no tradition, they act like the rest of the Colombian community.” So the problem with the constitution from 1991 is that we are not included there, and it has to do with a matter of power and politics.*

*We were not reflected in the constitution because, first, we did not have representation. Second, the representation was through outsiders, and third, because those who had the power of science did not accept us as an ethnic group. Therefore, there was no reason for us to have differentiated rights, since to them we were just like any other Colombian. And to top it all off, the biggest problem the Black communities have ever had is the holy discourse of multiculturalism.<sup>19</sup>*

The constitution states that Colombia is a multicultural and pluri-ethnic country, where it is the obligation of the state to protect and guarantee diversity, as well as the cultural and natural wealth of the nation.<sup>20</sup> This view is part of a process that was embedded within the neoliberal multiculturalist wave of the 1990s. The purpose of multiculturalism is to ensure that migrants and ethnic groups that make up a territory are a functional part of the system, apparatus, and hegemonic culture, and even when it is “accepted” that they maintain distinctive cultural traits, multiculturalism serves as a tool to mask social inequalities.

Multiculturalism is stressed in the 1991 constitution, and with the precedent of racial democracy and miscegenation, the discourse of equality was fostered. “What are we going to make anti-discrimination laws for? What are we going to make ethnic quotas for? There is no reason to make special policies if everyone here is part Black, part Indigenous and part White.” Erasing all the unique features of the Black communities, these are the risks of the discourse of multiculturalism. At the end of this process, we did not stay with the text from 1991 and we were given the emerging Law 70.<sup>21</sup>

The purpose of Law 70 of 1993, also known as the Black Communities Law, is to ensure the recognition and due protection of the territorial, cultural, and political rights of the Afro-descendant communities in Colombia, while accepting their role and contribution to the country’s cultural and social diversity. This law introduced the right to collective ownership of their territories in the rural riparian areas of the Pacific Basin. It also seeks to preserve their cultural expressions, traditions and ways of life, while providing mechanisms for political participation to guarantee their representation at the local, regional and national levels.

This law for the Black communities promoted the protection and fostering of the Afro-Colombian intangible cultural heritage, and seeks to ensure the enforcement of their social, economic, and cultural rights. However, the fulfillment of Law 70 in Colombia has been hindered by issues related to the neoliberal economic model within the Afro-descendant territories. These challenges include inter-ethnic boundary disputes, political, administrative, and financial constraints, forced displacement, and the role of the agriculture industry, among others.<sup>22</sup> In this context, it is important to point out the systemic pattern in which structural racism, validated through the actions of state institutions, assumes a large part of the responsibility for the ineffectiveness of the full implementation of this law. As a result, the state fails to address the historical debt that the nation has to the Afro-descendant communities, and which is their only defense against the structural legacy of colonialism.

### 3 Deprivation by Extractivism: Economy, Resources, and Race

Colombia has one of the largest Afro-descendant populations in Latin America. In 2018, according to the National Administrative Department of Statistics (DANE), the country was home to 1,905,617 people who self-identified as Indigenous and 2,649 identifying as Roma. In the case of Black, Afro-descendant, Palenquero, and Raizal (NARP) people, 2,982,224 people self-identified as part of that community.<sup>23</sup> It should be noted that this census, the most recent at the time of publication, has been highly questioned by government entities and Afro-descendant organizational processes in Colombia because it shows numbers that allegedly suggest a decrease in the NARP population compared to the 2005 census. Although DANE admitted that there were errors in the ethnic self-identity question in November 2019, the consequences for this community are alarming, and discussed below. It is worth noting how the communities are distributed geographically:

*Afro-descendants are present in different departments of the country. In Chocó (74%) and San Andrés (57%) over 20% of the population self-identifies as such. Most of the ethnic population is found on the Atlantic and Pacific coasts, with departments where there is a significant overlap between the Indigenous and Afro-descendant populations (particularly La Guajira, Cauca, Chocó, and Nariño). In contrast, in Boyacá, Cundinamarca, and Norte de Santander, less than 1% of the population identifies itself as Afro or Indigenous.<sup>24</sup>*

Due to the strong presence of Afro-descendants, the Pacific coast is one of the regions that has preserved the rich cultural heritage, music, dances, medical practices, and other customs of the community. However, that is also where underdevelopment persists as the region has the highest levels of poverty and inequality compared to the rest of Colombia. These territories face the same challenges as in past centuries—lack of guaranteed full access to essential state goods and services for the Black population. In many cases, economic and territorial interests may override the rights of communities supported by legislation. “The exploitation of natural resources, the expansion of farming and livestock projects, and the lack of acknowledgement and titling of ancestral lands are examples of this (...) governments in pursuit of totalitarian sovereignty and their alliances with the private sector have turned the habitat of Black people into conflict areas.”<sup>25</sup> One of the main reasons for systematic violation is lack of legal title to collective territories, and the Black communities face several challenges in this regard. Issues range from bureaucracy and lack of institutional resources to economic interests that conflict with territorial rights granted by law.

*Law 70 is only half-regulated and, more importantly, there are no economic resources for its proper administration by the Afro community councils. We are supposed to have the right to the land in these areas, but the use of natural resources in the subsoil was left out of our ownership, and this is a very delicate political debate because it has to do with the profits from oil, gold, platinum, and other minerals in the subsoil, which until now has been at the state’s disposal. If a third party claims mining rights, the voice of the communities cannot stop it.<sup>26</sup>*



To understand this point, it is crucial to explain the economic basis of the country. As previously mentioned, the production model brings together national public and private capital, as well as foreign investment. Colombia, as a neoliberal state with an extractivist economy, has carried out a series of reforms that have promoted trade liberalization, the privatization of public enterprises and the attraction of foreign investment. Its extractivist economy relies heavily on the exploitation of natural resources, such as oil, gas, coal, gold, and other minerals, where the oil and mining industries have been key pillars for producing tax revenue. However, the revenue that comes from these resources rarely benefit the local communities that live there. “This neoliberal development model has been justified as a way to encourage the entry of foreign capital into the country and boost economic growth, but growth for whom? If most private and transnational companies such as Rugby Mining, AngloGold, or Atico Mining work specifically in territories historically inhabited by ethnic communities, this should mean a greater improvement in the quality of life of this population, but what we see are the same conditions of poverty and, in addition to this, parastatal extractivism.”<sup>27</sup>

### **Conflict in Colombia and the Violent Impact on Race**

The internal armed conflict in Colombia, which has been raging across the country for more than 60 years and whose victims primarily have been the Black communities, brings with it war, the lack of land management plans, and the absence of state protections. All of this has had a devastating impact on local communities and hindered their socioeconomic development since the conflicts between various parties—including guerrillas, paramilitaries, military forces, and criminal gangs—are due to explicit interests in extractivism in these ancestral territories.

These parties have used various strategies against ethnic communities—such as forced displacement, massacres, and targeted killings—to dominate the natural resources and gain strategic trafficking routes. “The illegal economies in these territories assert their presence by using violence to maintain their control over mining areas, illegal logging, and coca crops, in addition to fishing without respecting environmental regulations.”<sup>28</sup> Their ancestral collective territories are coveted not only for the wealth of their natural resources, but also as strategic areas since, due to their proximity to the sea, it is easier to ship illegal merchandise internationally.

Of the tactics mentioned above, forced displacement is one of the most devastating consequences. Ethnic communities are forced to abandon their traditional lands due to violence and pressure from illegal armed groups and military forces. They face extremely poor conditions typical of this type of exodus, including shortages of food, housing, and medical care. Even if they are not displaced, their movement is forcibly restrained. Restricted areas and roadblocks make it difficult for ethnic populations to access basic public services, further isolating these communities and limiting opportunities.

There has been widespread violence and abuse against ethnic communities during the armed conflict. Killings, massacres, kidnappings, and sexual violence, leaving behind a trail of trauma and suffering. In addition, the conflict has directly impacted cultural preservation by destroying conservation mechanisms. Moreover, ethnic communities have often been accused of working with one side or the other in the conflict, which has led to stigmatization and threats against their leaders and members. As leaders and authorities face violence and intimidation, this in turn weakens their own governance systems.

Therefore, not only have the state and the private economic sector participated in the structural impoverishment of these communities, but illegal armed groups have been perpetrating violence against the territories with the largest Afro-descendant population:

*We are one of the main regions where there has been the greatest displacement, and this violence is specifically aggravated by the racial factor.*

*Although this armed occupation has taken place in other territories of the Nation, it is particularly in the territories where the Afro-descendant population is located that these dynamics of control, extortion and dispossession are much crueller, and the consequences are much more devastating, with a strong element of dehumanization of their bodies. Women and girls of African descent, because of their gender and age, are seen as spoils of war by these groups, as if they were easily available, as if they did not have to ask for permission, as if they were still objects—goods of the colonists, of the former slayers, of the former kidnappers.<sup>29</sup>*

Today, Colombia is among those countries with the highest number of internally displaced people. Among all ethnic groups in the country, the Palenquera population was the most affected by this phenomenon due to the extractivist economy in the territory forcing its inhabitants to move. This migration usually moves groups toward the country's urban centers. It also tends to occur due to the lack of basic services, such as education, health, infrastructure, and security. This lack of investment in human development has created a significant gap compared to other areas of the country. "Multidimensional poverty rates are very high in ethnically configured municipalities versus majority White territories where these rates are lower. From this angle, we speak of a racialized multidimensional development."<sup>30</sup> The concentration of political and economic power in the central government and in the country's main cities has focused development primarily in urban areas, thus failing to prioritize resources to invest in the development of the country's peripheral areas, perpetuating development gaps. An example as basic as sewage systems illustrates this point:

*There is the issue of public sewage in the city of Quibdó, which, being the capital of the department of Chocó, still does not have a sewage system. This is unacceptable. The Quibdó community has been asking for this since the sixties and seventies. They have held civic strikes asking for water and sewage and today, in 2023, this has not been accomplished. This is yet more proof of institutional racism. The institutional practices of governments allow this analysis, which is very different from what happens in other parts of the world where there are norms that effectively segregate groups based on their racial condition. But what we see in Colombia is hidden racism.<sup>31</sup>*

It is important to highlight that social leaders and human rights defenders remain critical to the defense of rights of the communities they represent. They serve as spokespersons for the collective interests that demand an improvement in the quality of life in their territories. Ethnic authorities and leaders have fought racism by uniting to maintain control over their collective ancestral territories and protect them from the interference of both commercial and armed forces that sustain neoliberal development models in these regions. At the same time these leaders must resist being profiled as guerrillas due to their activist role. They ensure differential, timely, and quality access to essential state services. The leaders accept these roles, aware of the danger this invites into their lives and those of their loved ones. No one who defends

human rights in Colombia—especially those who defend their territory—seems to be safe. In fact, social leaders and human rights defenders are killed in Colombia more than anywhere else in the world;<sup>32</sup> a humanitarian crisis known as reorganizing genocide. This is a process that tries to break and restructure the social links between the inhabitants of coveted territories through murder, terror, and violence, systematically “eliminating” their centers of resistance and imposing a specific political, economic, and social development model that promotes extractivist and plantation projects.<sup>33,34</sup>

*The genocide in Colombia is a reorganization project that had three stages. It began with the enforcement of the economic model, for which the genocide of the Patriotic Union (leftist political party) was used. It continued with the removal of the chance of social reorganization through the social atomization caused by democratic security, treating opponents of the economic model as “terrorists,” thus perpetuating the symbolic genocide. Finally, it uses the murder of social leaders to expand the reorganization project in places that are still resisting the desired hegemonic financial model.<sup>35</sup>*

Since the signing of the peace agreements on September 26, 2016, as of July 30, 2023, 1512 leaders and human rights defenders have been killed; 424 massacres have been committed, and 380 signatories to the peace agreement have been murdered.<sup>36</sup> According to the annual report of the Office of the United Nations High Commissioner for Human Rights (OHCHR) presented in 2022 regarding human rights in Colombia, there has been an increase in public order difficulties, restriction of mobility, and setbacks in the protection of the rights of Indigenous and Afro-descendant populations in municipalities such as Antioquia, Cauca, Chocó, Nariño, and Valle del Cauca. The report verified the murder of 116 human rights defenders out of 256 reported, of which 15 were Afro-descendants and 26 were Indigenous people.<sup>37</sup> However, “it is striking that the number of Indigenous and/or Afro-descendant victims only represents 35.4% of the total [verified], despite the fact that most of the crimes against human rights defenders were recorded in departments with a predominantly ethnic population. In this regard, we believe this may be a sign of the underreporting of violence or human rights violations against leaders and Black/Afro human rights defenders.”<sup>38</sup>

This underreporting indicates a statistical invisibility because official research tools do not account for people’s ethnic-racial affiliation; a bias that may compromise the reliability and accuracy of the results. This not only undermines confidence in the conclusions of this type of study, but also denies the existence of a racial factor, which contributes to the risk of committing atrocity crimes, since the collective territories of ethnic communities are the focus of the state’s development plans and the profits of illicit groups. This was evidenced by the declarations of Salvatore Mancuso, drug trafficker and former paramilitary chief of the United Self-Defense Forces of Colombia. At the Single Hearing for Contribution to the Truth held on May 11, 2023, by the Special Jurisdiction for Peace (JEP), Mancuso exposed how many of the mainly ethnic villages were surrounded and censused by these paramilitary groups in complicity with the national army, in order to regulate the delivery of food to their inhabitants and restrict free access to these regions. Moreover, Mancuso reported that they acted “militarily” against any person who was pointed out as an “internal enemy”<sup>39</sup>—any person supposedly belonging to or supporting the guerrilla subversion ranks. This favored the argument that more combat casualties were necessary for the national army and the access of extractive industries to the collective territories. “In fact, there were so many victims that Commander Carlos Castaño asked us to be careful because we were attracting

a lot of attention from national and international human rights organizations (...) we were meeting and collaborating with the cattle ranchers, farmers, and coal companies in the area (...) in our war we swept away the population, who was forced to move because of the terror we were inflicting.”<sup>40</sup>

The murder of social leaders and human rights defenders, as well as the massacres committed, seek to impose, without opposition, their social, political, and economic logic in the country’s ethnic territories. This is done to complete the implementation of their extractivist development model and thus intensify the accumulation of wealth and power for a few at the expense of the impoverishment of the rest of the population.<sup>41</sup> For more than 28 years, Afro-descendant communities in various areas have been claiming from state institutions more than 3,278,980 hectares of land from which they were displaced. However, as displacement increases, the communities face restrictions in accessing the deeds to their territories, leading to a stagnation in the enforcement of their ethnic-territorial rights.<sup>42</sup>

## **4 Progress Toward a Nation of Inalienable Rights: Contemporary Struggles and Resistance**

The progress in the organization of Black communities and their social movements in various rural and urban spaces throughout the country has allowed them to improve their ethnic self-recognition and their realities, which in turn has made it possible to continue in a more targeted manner in the fight against anti-Black racism. This resistance has required the state and its institutions to provide better safeguards for the fulfillment of the collective rights of Black communities and created an obligation to guarantee opportunities for communities to participate in political scenarios. This has achieved the transversality of the ethnic differential approach, which is recognition of the importance of integrating the ethnic perspective in all government policies, programs, and actions. This is accomplished through regulations, guidelines, decrees, and directives that require the ethnic dimension be considered in planning, execution, and evaluation of policies and programs, as well as resource allocation. State and local institutions have adopted the ethnic approach, including the National Land Agency, the Unit for Victims, the Ministry of the Interior, the Ministry of Health and Social Protection, as well as various public policies. Some even look at the mainstreaming of the ethnic approach from the perspective of intersectionality, recognizing that there are multiple forms of discrimination and inequality that affect racialized people.<sup>43</sup>

The inclusion of the ethnic chapter in the Peace Agreement was successful. Its purpose was to ensure the rights of Black, Afro-descendant, Raizal, Palenquero, and Indigenous peoples in the implementation stage of the agreement. This created a method for institutional adjustment to meet the requirements under an intersectional approach. This chapter highlights the extent of the damage inflicted by the armed conflict on its main victims, a large part of the ethnic communities. It is acknowledged that this conflict still exists in the collective ethnic territories. Furthermore, ethnic communities continue to have a right to prior consultation, a process that enables them to participate in decisions that may impact their lands and ways of life.

However, these achievements are met with challenges and resistance. The indifference and deliberate negligence shown by the state in its execution of these policies reveals the discrimination and racial prejudice ingrained in Colombian society. The prevalence of political and economic interests of certain sectors and elites in the country hinders the efficient execution of public policies for ethnic communities. This is because those groups take over strategy and management of resources that are vital to the proper operation of the agencies and institutions that protect the rights of racialized communities.

Such is the case of DANE, when it decreased the NARP population in its 2018 census. That reduced the royalties earned<sup>44</sup> through use of non-renewable resources in their territories, since, as one interviewee stated: “the value of the royalties is also in accordance with the amount of Black population in the territory. That is why we say that we need a real assessment.”<sup>45</sup> In the case of Chocó, development plans are not carried out in the territory, decontextualizing their real needs.

*As a result, those of us who are the real beneficiaries do not participate much in planning. Usually, national entities develop a project and we are merely notified that they are beneficiaries of this process. The worst part is that they only get to know the territory when they come to execute the project. It is then up to us to adapt to a series of situations that do not fit our real needs. For example, for farming, we use specific features to carry out our production, but the Rural Development Agency comes with a project and its own staff to impose another model.<sup>46</sup>*

In addition, many spaces of power gained by the Black communities are currently managed by contractors or public officials with no ethnic affiliation or sensitization. For example, in the Afro-Colombian Integration House in the municipality of Bello (Antioquia) most of the management staff is White-Mestizo, including its director. A local civil servant commented that “those who control the mayor’s office are not interested in respecting ethnic quotas; what is happening with the Afro House is proof of this. They do not even bother to educate their officials (...) There are several testimonies where they re-victimize the Black population that uses these spaces for claiming their rights. The irony.”<sup>47</sup> However, an official in that office responded that “as a social worker, but also as a woman who, because of my experience, I am respectful of all types of people. I am very respectful of the different ethnicities, so I can justify my role in this institution.”<sup>48</sup>

Ethno-education initiatives are another ongoing challenge for Afro-descendant communities who wish to expand the understanding of their historical contributions. The course on Afro-Colombian studies, created by Law 70 for public and private educational institutions, has also been affected by negligence and lack of political will, because, although it is regulated by Decree 1122, few institutions teach it. An educator comments that:

*There is no real interest in training teachers in ethno-education, and they do not even want to teach it because they say that it takes time away from teaching students subjects required by the ICFES [Colombian Institute for the Evaluation of Education] or in the Saber tests.<sup>49</sup> The Ministry of Education does not act to ensure compliance, because the Ministry could easily say to the schools: “if the school does not comply with this, I will not certify it.” They have the power, but they do nothing. No one in government lobbies for the subject.<sup>50</sup>*



While Afro-descendant communities are protected by an anti-discrimination law, Law 1482 of 201, it does not fully address cases of racism. Although there is case law on ethnic issues, it has shortcomings and has not been a true solution to the issue of racial justice in the country. As explained by a civil servant in Medellín, “there is legislation for non-discrimination, which classifies racism, but the lack of awareness of this issue within other agencies in the inter-institutional complaint process causes the victim to be re-victimized.”<sup>51</sup> This is why the state bodies responsible for providing justice are not concerned with adopting an ethnic approach that would allow them to understand the impact of racism on the complaint process. The delays in assistance and access to justice for the Afro-descendant population are ethnic-related barriers, in addition to the general lack of awareness, which is yet another obstacle. When the state, the justice system, and Colombian governments do not acknowledge that there is structural racism that appears in these types of dynamics, it causes a revictimization of the population.

## **5 Final Thoughts and Recommendations**

The state and predominately White-Mestizo civil society actively create and sustain racist practices that directly affect Afro-descendant communities in Colombia. Although there has been significant progress in the recognition and fulfillment of the rights obtained by ethnic communities, the combination of several systems of oppression (economic, political, cultural) continues to hinder the goal of ensuring that the majority of Black people have access to public goods and services. In Colombia, structural and institutional racism are deeply rooted in its colonial past and leave its ethnic groups constantly vulnerable to heinous crimes. From this perspective, there are several recommendations to help eradicate racism in Colombia.

### **Recommendations for Civil Society**

Civil society organizations and groups are key to fighting racism and discrimination and building more tolerant societies. They play an important role in raising awareness, remaining vigilant, and reporting racist acts. It is vital that the ethnic organizational processes and Afro-descendant communities consolidate approaches. They must categorically reject all acts of racism and urge society as a whole (including state institutions) to put an end to such practices. It is crucial that Afro-descendant organizations and social movements promote and drive anti-racist initiatives through accessible and ongoing education for all of civil society. This will help mitigate racist behaviors in family, community, and local relations from the outset. At the heart of this approach there must be an unwavering commitment to eradicate racism in all its forms.

### **Recommendations for the State**

Given the lack of precision around the number of Afro-descendant leaders who have been victims of violence in Colombia, we recommend drafting regulations at the national level that require phases and times to collect data on the infringement of the rights of Afro-descendant leaders and human rights defenders. Related, all official monitoring tools related to human rights violations should include an ethnic-racial variable to avoid underreporting on racialized populations.

As for the right to ancestral collective territories, we recommend more effective regulation of all articles contemplated in Law 70 of 1993, which are currently inactive due to bureaucracy and a lack of will on the part of the government. Finally, we recommend improving fiscal responsibility regarding projects focused on Afro-descendant communities. This requires strengthening budget allocations for the implementation of the differential ethnic approach in public policies and operational plans in order to ensure long-term sustainability, transparency, and accountability. This is particularly true for projects such as the National Development Plan for Afro-Colombian communities, which is in its seventh version and has a very high rate of non-compliance.

## Recommendations for International Agencies

Resolutions and declarations issued by entities such as the United Nations are not binding, in legal terms, on the actions of member states regarding the commitment to eradicate all forms of racism and discrimination. Bearing this in mind, it is important that these international entities focus on providing long-term support for Afro-descendant organizational processes. This includes both providing more flexibility and significantly broadening their financing, allowing them to boost the various anti-racist initiatives in the country. By increasing the financial resources available to ethnic organizations, international agencies could effectively contribute to the development of stronger programs, awareness campaigns, and empowerment projects that comprehensively address the deep-rooted intersectional inequalities in Afro-Colombian communities.

While no one solution or institution can eradicate the centuries of structural, institutional, and social racism that has been embedded in Colombia since its colonial days, these recommendations are intended to reflect a multi-party approach. Empowerment of ethnic communities, public enforcement of laws and policies by the state, and support from the international human rights community are key toward a racially equitable path forward.

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## Endnotes

- 1 The following case study has been written by an independent consultant on behalf of the Global Initiative for Justice, Truth and Reconciliation (GIJTR). This case study is informed by a combination of desktop research, document analysis and interviews. It therefore reflects these perspectives and findings, as compiled and written by the consulting author(s). Interviewees have been anonymized to ensure their safety and privacy but GIJTR extends its gratitude for the time and participation of all interviewees.
- 2 The term was coined by Europeans to support the invasion, colonization, evangelization and supposed “civilization” of subjugated societies, using physical attributes as an excuse to classify people.
- 3 Amanda Hurtado, “Plan Nacional de Desarrollo NARP desde la perspectiva de sus derechos” (National NARP Development Plan from the perspective of their rights) (course, Escuela Superior de Administración Pública, November 13, 2022).
- 4 Interview with human rights activist, May 2023.
- 5 Hurtado, “Plan Nacional de Desarrollo NARP desde la perspectiva de sus derechos.”
- 6 For the purposes of this text, Afro-descendants are understood to be people belonging to the Afro-Colombian, Black, Raizal, and Palenquero communities.
- 7 Interview with artist and researcher, June 2023.
- 8 “Esclavos y negros en la independencia”. Mauricio J. Chávez Bustos, accessed May 30, 2023, <https://www.banrepcultural.org/biblioteca-virtual/credencial-historia/numero-247/esclavos-y-negros-en-la-independencia>
- 9 Interview with artist and researcher, June 2023.
- 10 Oscar Vargas, La abolición de la esclavitud en Colombia y Panamá (1851), Lotería Magazine, 2007, PDF, <https://tribunaldecuentas.gob.pa/wp-content/uploads/2013/05/La-abolicion-C3%B3n-de-la-esclavitud-en-Colombia-y-Panam%C3%A1-1851.-Mgdo.-Oscar-Vargas-Velarde.-Tribunal-de-Cuentas.-pdf>
- 11 Interview with lawyer and women’s activist group member, June 2023.
- 12 Colectivo de Mujeres Wiwas (Wiwas Women’s Collective) Instagram page, accessed June 13, 2023, <https://www.instagram.com/colectivowiwas/?hl=es>
- 13 Interview with museum curator and researcher, May 2023.
- 14 Interview with lawyer and women’s activist group member, June 2023.
- 15 Interview with human rights activist, May 2023.
- 16 Interview with member of gender equality organization, May 2023.
- 17 Interview with lawyer and researcher, May 2023.
- 18 Cristina Torres Parodi, “Evolución del concepto etnia/raza y su impacto en la formulación de políticas para la equidad”, Revista Panamericana de Salud Pública 22, n.º 6 (2007): 405- 416.
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- 21 Interview with member of gender equality organization, May 2023.
- 22 Interview with national community leader, August 2023.
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- 25 Interview with members of nonprofit artists organization, May 2023.
- 26 Interview with consultant based in Antioquia, June 2023.
- 27 Interview with consultant based in Antioquia, June 2023.
- 28 Interview with museum curator and researcher, May 2023.
- 29 Interview with multiple activists.
- 30 Hurtado, “Plan Nacional de Desarrollo NARP desde la perspectiva de sus derechos”.
- 31 Interview with civil servant based in Tadó-Chocó, June 2023.
- 32 Noticias Unó Colombia, “Crudo informe de HRW sobre asesinatos de líderes sociales en Colombia”. YouTube video, Published on January 17, 2022. <https://www.youtube.com/watch?v=OJYNrOAR6OI&list=WL&index=106>.
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- 35 Juan Castañeda, “El genocidio reorganizador en Colombia: el asesinato de líderes sociales y defensores de derechos humanos como genocidio contra un grupo nacional”, Revista Latinoamericana de Derechos Humanos 32 (2021): 1-23.
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- 39 It was a doctrine that established a stigma against government opponents, under the argument that they could increase instability and endanger progress of the country.
- 40 JEP Colombia, “Audiencia Única de Aporte a la Verdad Salvatore Mancuso | Sesión 2 | 20230511”, YouTube video, 3:28:42, published July 19, 2023, <https://www.youtube.com/watch?v=C9v-vpYIGxM&list=WL&index=105>.
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- 42 Truth Commission, “Resistir no es aguantar”. Accessed on August 8, 2023, <https://www.comisiondelaverdad.co/resistir-no-es-aguantar>.
- 43 Interviews with multiple activists.
- 44 Royalties are the payments made by oil and mining companies to the Colombian state for exploiting deposits of a non-renewable natural resource. Oil companies provide between 8% and 25% of the value of crude oil production to the state. The revenue is used to satisfy the basic unmet needs of departments and municipalities, such as basic education, health, drinking water and sewage, among others, as well as to fund large projects that will benefit the region.
- 45 Interview with consultant based in Antioquia, June 2023.
- 46 Interview with civil servant based in Chocó, June 2023.
- 47 Interview with civil servant and environmental advocate, May 2023.
- 48 Interview with local civil servant based in Bello, May 2023.
- 49 The Saber tests are external standardized assessments used by the (ICFES), which measure students’ performance.
- 50 Interview with ethno-educator, May 2023.
- 51 Interview with civil servant in Medellín, May 2023.

