



USAID
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INDIGENOUS ASSESSMENT

USAID/COLOMBIA

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Indigenous Assessment

USAID/Colombia

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I. EXECUTIVE SUMMARY

The purpose of the present study is to provide inputs to USAID/Colombia for the design of a new program for Afro-Colombian and indigenous populations, focusing on the indigenous population component. This study presents an overview of the current situation of indigenous communities in Colombia from their own perspective. This vision is complemented with USAID previous activities targeted at the indigenous population as well as with the perception of other stakeholders such as Colombian governmental institutions and international cooperation donors seeking to address indigenous communities' needs.

This is a short term study, which has prioritized primary information from direct sources, as well as the review of documents produced in dialogue scenarios with indigenous communities. It is based on interviews and focus groups with authorities, indigenous organizations, government agency's officials, ministries representatives, USAID implementing partners, and other international entities. Special attention was given to the review of secondary quantitative information sources, such as national census and databases. Documents produced by indigenous organizations, governmental institutions, research centers and universities, and international donors were also analyzed. Due to the broad number and cultural diversity of the indigenous communities in Colombia, the information was grouped into five natural macro-regions, and, in some cases, by sub-regions, proposed by the indigenous organizations and most of the studies reviewed. (see appendix).

According to the 2005 General Census of the DANE¹, the indigenous population of Colombia is 1,392,623 people, which is equivalent to 3.43% of the total population of the country. Amongst them, one third (32%)² lives outside their ancestral territories and do not own a legally recognized collective land. Their settlements – which originally were exclusively rural – have changed over the last twenty years, and today, two out of every ten indigenous people live in urban centers for several reasons including cultural transformations, the difficult conditions in the indigenous reservations, and forced internal displacement.

According to the Organización Nacional Indígena de Colombia (ONIC, National Indigenous Organization of Colombia), there are 102 indigenous groups: 87 are legally recognized, ten are in the process of being recognized, and eight are undergoing cultural recuperation processes. The main differences between these communities are related to linguistic and territorial factors. There are 65 languages with official status within their

¹ According to the general census done by DANE (Departamento Administrativo Nacional de Estadística, National Statistical Department), which is the organism responsible for planning, gathering, processing, analyzing, and publishing official statistics in Colombia, 445,084 Indigenous Communities live outside of their territories. For more information see <http://www.dane.gov.co>

² http://www.dhcolombia.info/spip.php?page=article_pdf&id_article=681

territories, and they inhabit 27 departments in the country, although their population is concentrated in five of them: Guajira, Cauca, Nariño, Córdoba, and Sucre.

The indigenous communities of Colombia have deep knowledge regarding their own environment, allowing them to develop adequate settlement and production strategies, and to implement construction techniques adapted to their environmental conditions and to their own forms of social and political organization. The authorities in these communities, being the traditional doctors, elders, wise men, or the *Cabildos*, are in charge of promoting active community participation in all decisions which affect them, as well as watching over the allocation, conservation, and defense of their lands and territories (reservations), administering internal justice, resolving legal issues, and imposing punishments. Within indigenous authority bodies, both ancestral authorities and young indigenous professionals participate, seeking to integrate their *Cabildos* into the globalized world.

During the 70's, the first national and regional indigenous organizations were created. Aimed at satisfying their demands, the first public policy targeting indigenous communities was implemented. These organizations also played a critical role in the Constitutional Reform of 1991. As result, Colombia was recognized as a multi-ethnic and multicultural country and a special indigenous constituency (Circunscripción Especial Indígena) was established, so as to guarantee an adequate representation of their own interests at the Legislative Bodies (Senate and Chamber of Representatives).

Currently, there are 4 national indigenous organizations: the Organización Nacional Indígena de Colombia (ONIC, National Indigenous Organization of Colombia), the Organización de los Pueblos Indígenas de la Amazonía Colombiana (OPIAC, Organization of Indigenous Communities of the Colombian Amazon), Autoridades Indígenas de Colombia (AICO, Indigenous Authorities of Colombia), and the Consejo Territorial de *Cabildos* de la Sierra Nevada (CTC, Territorial Council of *Cabildos* of the Sierra Nevada). There are also various important regional indigenous organizations, as well as the Autoridades Tradicionales Indígenas (AATI, Indigenous Traditional Authorities) in charge of managing Reservations and Indigenous Territories.

Starting with the Constitution of 1991, the State has incorporated the demands of the Indigenous communities in three complementary dimensions: 1. The acceptance, definition, and protection of ethnic territorial rights; 2. Declaration of the inalienability status of collective territorial properties, and 3. Recognition of the right to have their own forms of government.³ As a consequence, indigenous territorial entities have the right to self-government and justice administration through their own authorities; to set taxes, participate in the Nation's income, manage their own resources, and provide public services at the local level, such as health, education, basic sanitation, and community infrastructure. On this matter, the most relevant achievement has been gaining administrative authority with access and ability to manage fiscal resources. That is, the

³ These dimensions were granted Constitutional Rank with the ratification of the new Political Constitution of Colombia (1991), by stipulating the unalienable, unseizable, and unprescribable character of indigenous reservations and recognizing their status as a collective property.

National Government transfers resources from the Nation's Current Income (ICN), to the "indigenous *Cabildos*" through the municipal authorities.

The regulation of both the Indigenous Territorial Entities (ETIS) and of public policies has generated tension between indigenous communities and the State around the following elements:

1. The absence of a clear regulation on indigenous reservations, the occupation of their ancestral territories by external agents, and the scarcity of productive lands hold by indigenous communities, especially in the Andean Region. In addition, the precarious conditions of indigenous families and the weak response offered by State's institutions have contributed to draw an extremely vulnerable scenario.
2. The restrictions the Colombian Government has recently posed regarding its support to the UN Declaration on the Rights of Indigenous Peoples, which has been seen as violating and harming constitutional principles and some other treaties ratified by the Colombian State. The main reservations of the Colombian Government refer to the property of subsoil, the right to veto, and the agreement on military actions within indigenous territories.⁴
3. The absence of an integral and systemic indigenous public policy which has been replaced by a cross-cutting indigenous strategy, which implies the need for the indigenous governments to deal with multiple stakeholders within the Colombian government at several levels: national, departmental, and local.
4. The practice of tribal justice in its coordination with the ordinary justice. Main problems have arisen in acknowledging the indigenous authority and differentiating it from the ordinary justice. The implementation of the Special Indigenous Justice system, which has faced difficulties
5. The inadequate provision of health and education services. In spite of the fact, that it has been acknowledged that these services must respond to their characteristics and needs, and that they need to be provided in agreement with the traditional indigenous authorities, there is an insufficient and scarce investment by the State, and lack of direct management of the indigenous communities.
6. The exercise of an effective environmental authority over their territories. This aspect is linked to the issue of a real prior consultation process, because their collective rights over the territory are affected by the lack of regulations and clarity over the procedures on how natural resources are going to be exploited by external agents outside of their communities.
7. The humanitarian crisis afflicting indigenous communities and the persistent omission by the State in terms of protection of their basic rights, which has led some of them to come at risk of extinction. The indigenous communities argue that most violations come from: 1) the presence of drug trafficking; 2) the military confrontation of armed actors; 3) the implementation of "development" megaprojects. In the last case, because an effective prior Consultation process has been barely carried out, and despite the fact that some of these activities have been sued and stopped by

⁴ Letter of the Vice-minister of Multilateral Relations to the High Commissioner of the UN for Human Rights. Report A/HRC/12/34, of July 15, 2009, Argument 66.

constitutional protection actions in their favor, most of them are not objected nor punished by the State.⁵

8. The lack of an effective political representation and participation at decision making levels. This is due to their relatively modest population size and their cultural and socioeconomic characteristics. Second, to the general lack of acknowledge of Colombian society over the existence and conditions of the indigenous communities, The scarce visibility in the country, including limited access to mass media which led in turn to little public knowledge on their demands. The Constitution of 1991 tried to address this issue, by establishing the special indigenous constituency (Circunscripción Especial Indígena) for the Senate of the Republic (2 representatives) and for the Chamber of Representatives (1 representative). Such representation is seen by indigenous leaders as insufficient.

Despite the tensions above described, during the last 20 years, the indigenous communities have contributed, with some limitations, to shape important changes in political participation issues, as well as in constitutional reforms and transformations which have led Colombia to legally recognize its multicultural and multi-ethnic condition. On this regard, one of the main achievements was the creation in August of 1996, of the Mesa Nacional de Concertación de los Pueblos Indígenas de Colombia (National Dialogue and Consensus Board of the Indigenous Communities of Colombia). This Board provided the framework for the creation of the National Commission of Human Rights, and the National Commission for Indigenous Territories. The objective of these mechanisms is to reach agreements in the design and implementation of policy aimed at guaranteeing the respect for the life and integrity of indigenous communities in the country. However, their implementation has been irregular and limited.

Similarly, during the last decade, the Colombian Constitutional Court has made exceptional ruling decisions regarding the legal protection of indigenous communities' rights⁶, including political, cultural, territorial, and judicial autonomy; active participation through prior consultations; the respect of their cosmogony and the recognition of their ancestral territories as Indigenous Territorial Entities (ETI). The Court not only has assisted the indigenous communities in getting access to land and other renewable resources, but also in setting principles for autonomous jurisdiction and competence within the indigenous territories. However, there are various challenges that the

⁵ In this sense, the ONIC identified three main types of megaprojects: 1) construction of infrastructure such as the Interoceanic Canal, the Panamerican Road to open the "Plug of el Darien", the construction of megaports on both coasts, the construction of hydroelectric plants; 2) the development of agro-industrial crops such as banana, plantain (Multifruits S.A. and Del Monte), and african palm, this last one destined to the production of biofuels (Palmura S.A., Inversiones Agropalma, Palmas S.A., Palmado Ltda., Palmas De Curvaradó S.A., Palmas De Bajirá e Inversiones Fregni Ochoa); 3) the illegal exploration and exploitation of natural resources such as wood, the arracacha tree, precious minerals, and hydrocarbons. Ibíd. ONIC. 2004. Pp. 165-166

⁶ Anaya, James. 2010. La situación de los PPII en Colombia: seguimiento a las recomendaciones hechas por el relator especial anterior. Relator Especial de Naciones Unidas sobre la situación de los DDHH y las libertades fundamentales de los indígenas. Naciones Unidas. A/HRC/15/34/ 8 de enero de 2010. Párrafo No.7.

indigenous authorities must overcome in order to establish productive dialogue, adequate agreements, and improve the political incidence of their demands.

During the last five years, the actions implemented by the Colombian Government and international donors targeting the indigenous communities have been important. The Agencia Presidencial para la Acción Social y la Cooperación Internacional (Presidential Agency for Social Action and International Cooperation) and the main donors have implemented over 193 projects benefiting indigenous communities, investing nearly \$80.1 million dollars of which, \$62.7 million dollars come from international donors' organizations while \$17.4 million dollar correspond to national expenditure. These figures, however, do not include projects and resources reaching directly the indigenous territories which could also have had a positive impact in these communities.

Since 2000, USAID has implemented several development programs aimed at improving the conditions of populations affected by violence, drug trafficking, illicit crops cultivation, and the actions of illegal armed groups. These programs are: Democracy, Alternative Development, Attention to Displaced and Vulnerable Populations, and Support to Demobilization and Reintegration processes.

None of these programs have an exclusive line on indigenous communities, though they are considered part of USAID target populations, which are those who have suffered human rights violations, and who have a high degree of basic needs unsatisfied, matching the geographic criteria of intervention of the programs.

However, USAID has implemented a significant number of projects targeting indigenous communities, providing an important number of success stories and lessons learnt which have guided the recommendations of the present study. According to the available information⁷, during the last 5 years, USAID has been implementing more than 138 projects, investing over \$23.5 million dollars.⁸

Below are some key recommendations are proposed for future USAID/ Colombia programs benefiting indigenous communities:

- I. National Issues: A) Promote awareness within the public opinion regarding the conditions and conflicts to which indigenous populations in the country are currently subjected to. B) Strengthen the dialogue and consensus between indigenous communities and the State. C) Strengthen indigenous organizations and state institutions' capabilities in dealing with key issues such as national public policies, prior consultation, security plans (planes de salvaguarda), dialogue and consensus committees, information and research; indigenous reservation border delimitation,

⁷ It refers to the information received from USAID on the mentioned programs, with some limitations: there is no specific information on the demobilization program, the information on displaced population is not comprehensive and has no data on the resources of projects developed by the OIM, and on the ADAM program, there was no information on resources from 20 of the 37 projects.

⁸ It has been taken an exchange rate equal to the current level, as estimation. But numbers could be higher if variations of the exchange rate were taken into account.

land titling and legal actions, territory security, human rights, and international humanitarian law.

2. Geographic Focus Issues. A) Consolidate activities in the departments of Cauca, Putumayo, Nariño, Tolima, and Huila, focusing particularly on the strengthening of the autonomous governments, the production and commercialization of agricultural products at regional, national and international levels, where there have been previous success experiences; support their governance and justice training schools. B) Special attention should be placed in the Department of Chocó which faces an acute humanitarian crisis situation due to subsistence problems and the continuous presence of conflicts generated by external actors. Actions should be focused on food security, social infrastructure, sanitation and public services with emphasis on quality of water; environmental conservation and forestry development. C) Support the collective work undertaken by the Sierra Nevada communities, regarding the *Planes de Ordenamiento Territorial* (POT, Land Use Plans) and support the strengthening processes of the Chimila and Yutpas communities, who are in a dramatic humanitarian situation. D) Initiate activities in the Amazon and Orinoco regions, to guarantee the adequate inclusions of their leaders in the national dialogue and agreement processes with the State, in issues related to public policies and prior consultation. E) Implement pilot programs with indigenous communities at risk of extinction, in the design and implementation of their Life Plans, safeguards plans, and their coordination and integration with the municipal development plans, developing methodologies and activities that could be replicated. F) Implement projects aimed at mitigating the impact of climate change and preserving the environment. G) Work together with local governments to provide support to indigenous populations which have been displaced towards urban centers, and that have no possibilities of accessing the job market or social insertion in the reception centers. H) Implement programs which benefit indigenous communities who are settled in border zones, particularly with Ecuador and Panama.
3. Strengthening of autonomous governments at local level: A) Strengthen traditional authorities' legitimacy. B) Strengthen the administrative management of the *Cabildos*. C) Consolidate the operational mechanisms of autonomous justice. D) Promote production and commercialization processes. E) Implement social, public works, and basic social services projects. F) Promote environmental protection programs, particularly in forestry management and recovery of degraded areas. G) Support the design and implementation of "life plans" which should be articulated to municipal development plans.
4. Protection and prevention of impacts generated by conflicts of external actors: Support the re-allocation or safe return of displaced populations to their territories.
5. Population issues: A) Promote actions which aim to protect and promote women and children well being within their indigenous communities, in accordance with their cultural characteristics. B) Strengthen programs related to social infrastructure, communications projects, and specific productive processes. It is also urgent to develop a program, which addresses the issue of domestic violence and the protection of children.
6. Methodological issues: A) Develop a participative model where indigenous communities and state institutions can interact. B) Combine collective actions (creating networks, coalitions and alliances to favor training, exchange of experiences,

incidence, and learning processes among peers through workshops, internships, or work commissions) with development processes of specific initiatives, in selected indigenous groups through the provision of funds and the support of civil works. (The document provides a precise methodology to implement the different phases of the projects' development).

7. An independent Indigenous Component: Because of the specific work requirements needed in working with indigenous communities, it is highly recommended that within the USAID planned program, indigenous communities will be addressed through a specific component; and that only in some cases should actions aimed at strengthening inter-ethnic experiences with the afro-Colombian population be developed.
8. Finally, it is important to mention that the above recommendations should serve as the foundation for the construction of a cooperation strategy with indigenous communities. Therefore, they should be incorporated or strengthened within other USAID future or currently in implementation programs, with no need to overlap activities or territories.