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Colom**p**bia

Curbaradó and Jiguamiandó

Challenges continue
for the return of stolen land

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FIRST, THE COMMUNITIES OF CURBARADÓ AND JIGUAMIANDÓ,¹ LOCATED IN THE MUNICIPALITY OF CARMEN DEL DARIÉN, DEPARTMENT OF CHOCÓ, WERE VICTIMS OF FORCED DISPLACEMENT. LATER, THEY HAD TO FACE THE VIOLENT SEIZURE OF THEIR LAND BY PALM OIL COMPANIES. NOW, AS THE COMMUNITIES HAVE RETURNED TO THEIR REGION AND ORGANISED TO DEFEND THEIR RIGHTS, THREATS AND SELECTIVE MURDERS HAVE INCREASED. NONETHELESS, THE RETURNED COMMUNITIES HAVE BEEN ABLE TO REMAIN IN THEIR TERRITORY. THEIR OBJECTIVE: THE LEGAL RESTITUTION AND PHYSICAL RETURN OF THEIR LAND.

Photo: Charlotte Kesi



Land in the Lower Atrato —especially the immense wetlands created by the Atrato and Murindó Rivers— is exceptionally fertile.

COVETED LAND

Until the beginning of this century, the Curbaradó and Jiguamiandó River Basins were considered to be among the greatest environmental reserves in the world. Land in the Lower Atrato — especially the immense wetlands created by the Atrato and Murindó Rivers—is exceptionally fertile.² However, vast areas of this territory have been subjected to large-scale monocropping³, extensive cattle ranching, and massive timber exploitation, which leave no place for plant and animal life or the ancestral inhabitants of this region.⁴

ARMED CONFLICT, FORCED DISPLACEMENT AND INTERNMENT

In 1996 and 1997, several mass displacements took place in the Lower Atrato⁵ when paramilitary groups —with the alleged participation of the Colombian national army⁶— carried out counter-insurgency manoeuvres in the region⁷. These operations, known as “Operation Genesis” or “Black December” left a trail of death, disappearances, destruction, burnt property, and thousands of people forcibly displaced.⁸ In just Curbaradó and

Jiguamiandó, approximately 3,000 Afro-descendent and mixed-raced people were forcibly displaced. For many years, most of the inhabitants lived in situations of displacement in shelters or with family members in other regions of Antioquia and Chocó.⁹ In 1999, the displaced families began to return to Jiguamiandó,¹⁰ and in 2006 to Curbaradó,¹¹ even though the armed conflict has continued in the region.¹²

Since then the returned population has confronted pressure exerted by illegal armed actors. For instance, paramilitary groups —resorting to a strategy of collective punishment and submission



WHAT ARE THE HUMANITARIAN ZONES AND BIODIVERSITY ZONES?

The Humanitarian Zones are a community initiative to continue to resist in the territory despite the onslaught of the armed conflict. In order to achieve this objective, the members demarcate and visibilise the areas they inhabit and prohibit the entrance of any armed actor, whether it be legal or illegal. These zones are based on the principle of distinction between civilians and combatants under International Humanitarian Law (IHL)¹⁹ and represent a protection tool for the civilian population living

in the midst of the armed conflict. They are also supported through national legislation, including Article 22 of the Colombian Constitution, establishes that “peace is a right”. The Inter-American Court of Human Rights has supported the establishment of Humanitarian Zones as a “positive mechanism for protecting the civilian population from actions perpetrated by the different armed actors in the region.”²⁰ Biodiversity Zones have also been established to protect the environment and life.

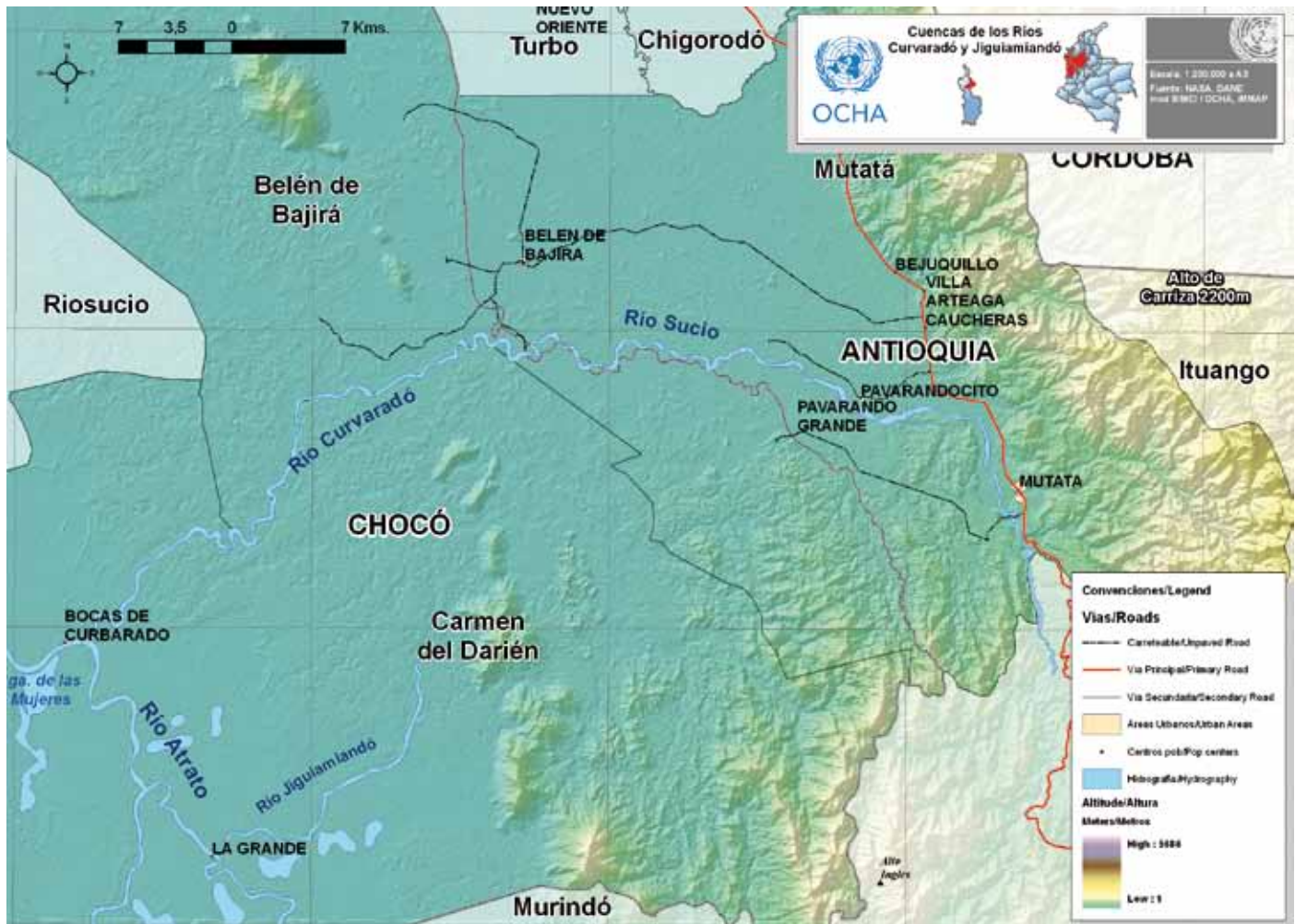
RETURNING TO THEIR LAND: ESTABLISHING HUMANITARIAN ZONES AND BIODIVERSITY ZONES

In 2006, the displaced communities from the Curbaradó River Basin began to return under the leadership of Enrique Petro Hernández, a small-scale farmer from the region. Petro donated five hectares of his private property to establish the first Humanitarian Zone in Curbaradó. When the small-scale farming families reached the area, they found that the land seized by the paramilitaries had been turned into large-scale oil palm plantations.¹⁷ The first 14 families uprooted the palm trees and constructed temporary housing. As a means of self-protection, these families, and others that were going to return, decided to establish Humanitarian Zones and later Biodiversity Zones. In 2011, the Curbaradó and Jiguamiandó River Basins had eight Humanitarian Zones and approximately 50 Biodiversity Zones.¹⁸

COLLECTIVE TERRITORY

The territories of the Jiguamiandó and Curbaradó River Basins are a part of the collective property granted through Law 70 of 1993 to Afro-descendent peoples.²¹ According to this law, collective land is non-transferable, imprescriptible, and unseizable, recognising that collective property has an inherent relation to the ethnic and cultural identity of these





peoples.²² The collective territories are administered by governing boards within the community councils, which are elected through popular vote by the community members.²³

THE VIOLENT SEIZURE OF LAND CONTINUES

Despite being a collective territory in which land may not be bought or sold, different companies have been able to acquire land in the Curbaradó and Jiguamiandó River Basin.²⁴ In fact, in February 2011, the Superintendent of Notaries and Registration, a Colombian State institution, concluded that 17,720 hectares belonging to the traditional community in the area of Curbaradó and Jiguamiandó had been acquired illegally. Different irregularities have taken place including the alleged signing of contracts by people who were already deceased, the increase of hectares sold, falsification of documents, and coercion and direct threats against the inhabitants in order to force them to sell their property.²⁵

In 2010, the Prosecutor’s Office issued arrest warrants against 24 palm oil businesspeople that had allied with paramilitary groups to displace these communities and steal their property.²⁶ In April 2011, 15 people—including palm

oil businesspeople, former paramilitaries and politicians—were served summons for the violent seizure of land in this region. “In their desire to economically exploit the collective property (...) the companies were really fronts that concealed the arrangement or alliance between the self-defence forces and businesspeople in order to continue to commit crimes in the Lower Atrato in Chocó”, according to the Prosecutor’s Office.²⁷

UNIDENTIFIED INDIVIDUALS INVADE LAND IN CURBARADÓ

In addition to the illegal acquisition of land, the Biodiversity Zones in Curbaradó were invaded in December 2010 by hundreds of unidentified individuals from Urabá, Córdoba, and several municipalities of Chocó. They built shacks, cut down trees, cleared out land, diverted streams to plant crops, and occupied a plot that the Camelias community had designated to be a forest reserve. According to denunciations made by the small-scale farmers and published by the Inter-Church Justice and Peace Commission (CIJP), more than 300 hectares were affected in Camelias and Andalucía, rural communities within Carmen del Darién municipality.

MURDER OF COMMUNITY LEADERS

As the communities have organised to defend their rights, selective murders of leaders have increased.²⁸ In 2010, nine small-scale farmers who were leading processes to recover seized land were murdered in Urabá.²⁹

Orlando Valencia, an inhabitant of the Curbaradó River Basin, was one of the voices violently silenced when, in 2005, members of paramilitary groups from the “Elmer Cárdenas” Block forced him onto a motorcycle.³⁰ His body was later found with a shot to his head and signs of torture.³¹

In 2008, alleged paramilitaries murdered Ualberto Hoyos, an inhabitant of the Caño Manso community that had recently returned to the area. Previously, in September 2007, the brothers Miguel and Ualberto Hoyos had survived an attempt against their lives. The Hoyos brothers carried out a fundamental role in the return of 80 displaced families to the Caño Manso community in the Curbaradó River Basin. Miguel Hoyos had also provided testimony in the case of the murder of the farmer Orlando Valencia during hearings carried out in 2006.



María Ligia Chaverra, former legal representative of the Curbaradó High Council and leader in the process to return to the region, was the target of a plan to kill her in 2008.

In 2009, alleged paramilitaries murdered Benjamín Gómez, an 80-year-old farmer, inhabitant of Caño Manso, and community council member.³²

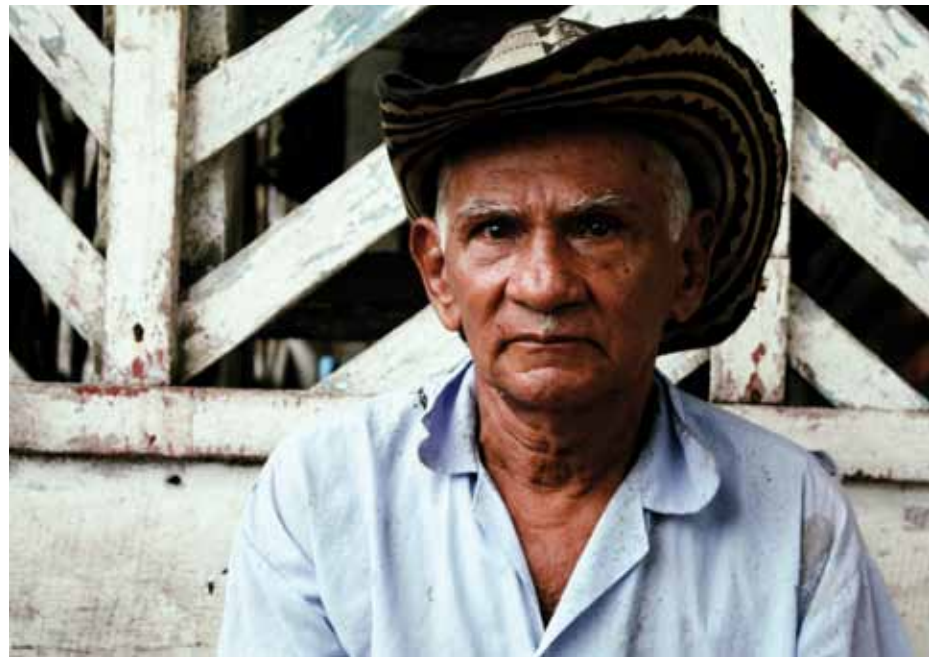
In 2010, alleged paramilitaries murdered Argenito Díaz, who was 42 years old and a member of the board of directors of the Curbaradó River High Council. According to CIJP, “he participated actively in preparing and presenting the writ of protection against the businesspeople in order to recover the collective private property in Llano Rico.”³³ Díaz had been threatened in August 2008.³⁴

DEATH THREATS

According to information from the Inter-Church Justice and Peace Commission, the leaders demanding the return of their land have received threats on an ongoing basis over the last several years. For instance, Enrique Petro Hernández has received many telephone threats over the last years from alleged members of the illegal group “Black Eagles”. María Ligia Chaverra, former legal representative of the Curbaradó High Council and leader in the process to return to the region, was the target of an assassination plan in 2008.³⁵ Both of these individuals have been granted provisional measures from the Inter-American Court of Human Rights.³⁶

National and international organisations have intervened on many occasions for the safety of the ancestral inhabitants of the region. However, few results have been achieved and the threats

against their lives have not decreased, despite all of the measures that have been decreed. In this respect, in May 2010, the Constitutional Court ordered the Ministry of Interior and Justice to design and put implement an individual and collective prevention and protection plan for the population and communities in the Curbaradó and Jiguamiandó River Basins that take into account the recently deteriorated security situation and the vulnerability of the communities.³⁷



In 2006, the displaced communities from the Curbaradó River Basin began to return under the leadership of Enrique Petro Hernández, a small-scale farmer from the region. Petro donated five hectares of his private property to establish the first Humanitarian Zone in Curbaradó. Over the last years, Petro has received many telephone threats from alleged members of the illegal group “Black Eagles”.

CRIMINAL PROSECUTIONS

On 27 October 2010, the Inter-Church Justice and Peace Commission learned that 15 to 20 arrest warrants had been issued against members of the lower councils from Curbaradó and Jiguamiandó. Additionally, CIJP has revealed that the case on the murder of Manuel Moya and Graciano Blandón relies on baseless accusations that have never been legally established. These accusations are based on statements by a demobilised guerrilla member and another individual who has continually slandered CIJP and other international organisations in the area over the years.³⁸ Some of the leaders currently under investigation have provided statements in the criminal case against palm oil businesspeople and cattle ranchers allegedly responsible for the violent seizure of land and mass displacement in Curbaradó and Jiguamiandó at the end of the 1990s.

ENVIRONMENTAL IMPACT – DECREASED BIODIVERSITY

In addition to the grave human rights violations perpetrated in the area, oil palm crops have caused extensive environmental damage. In 2005, a report by the Human Rights Ombudsman’s Office concluded that: “A decrease in biodiversity, principally water and forest resources, has been detected in the large plantations. Furthermore, erosion and sedimentation of the rivers has increased as a result of the mass deforestation.”³⁹



Photo: African Palm in Jiguamiandó.

THE INTER-AMERICAN COURT OF HUMAN RIGHTS ORDERS PROTECTION FOR THE COMMUNITIES

In 2003, the Inter-American Court of Human Rights granted provisional measures to these communities, ordering the Colombian State to “adopt such measures as may be necessary to protect the life and the right to humane treatment of all the members of the Communities of Jiguamiandó and Curbaradó and ensure that the beneficiaries of these measures can continue to live in their usual residence, without fear of coercion or threat, and that displaced persons may return to their homes or to the ‘humanitarian areas’ established by these Communities.”⁴⁰ The Court ratified these measures several times, most recently in 2010.⁴¹

THE CONSTITUTIONAL COURT ISSUES RULINGS IN FAVOUR OF THE INHABITANTS OF THE HUMANITARIAN ZONES

The Constitutional Court has also followed up on the issues faced by these communities. Order 005 of 2009, the goal of which the protection of the fundamental rights of the Afro-descendent population subjected to forced displacement, highlights the gravity of the lack of protection and the vulnerability faced by the communities of Curbaradó and Jiguamiandó. With respect to the reports of the threats, persecution, surveillance, attempted murders, and disrespect for the cultural symbols and expressions of these communities, the Constitutional Court ordered the Colombian government to “adopt without delay the measures issued by the Inter-American Court of Human Rights.”⁴²

Later, in Order 448, the Constitutional Court expressed “uncertainty with respect to the representation of the Curbaradó community, since (...) it is not clear who legitimately represents the Curbaradó Community Council.”⁴³ Given this situation, the Court decided to suspend the administrative restitution and physical handing over of the collective territories until the process to carry out a census and description of the population has been completed—in order to identify the traditional inhabitants of the area—and the legitimate authorities of the collective territories has been clarified.⁴⁴

TIMELINE

- 1996-97** Forced displacement of approximately 3,000 inhabitants from the Curbaradó and Jiguamiandó River Basins.
- 2000** The Constitutional Court requested that the Ministry of Interior provide adequate protection measures for community members and leaders.
- 2003** The Inter-American Court of Human Rights granted provisional protection measures for the communities of Curbaradó and Jiguamiandó.
- 2005** Leader Orlando Valencia, inhabitant of one of the Humanitarian Zones, is murdered by paramilitary groups.
- 2006** The displaced population begins to return. The first Humanitarian Zone is established in Curbaradó.
- 2008** Alleged paramilitaries kill Ualberto Hoyos, inhabitant of the Caño Manso Humanitarian Zone.
- 2009** Alleged paramilitaries murder Benjamín Gómez, inhabitant of the Caño Manso Humanitarian Zone.

Alleged paramilitaries murder Argenito Díaz, member of the Curbaradó High Council.

The Prosecutor’s Office orders the arrest of 24 palm oil businesspeople and cattle ranchers who are under investigation for their responsibility in forced displacement in the Curbaradó and Jiguamiandó River Basins.
- 2010** The Constitutional Court requests that the Ministry of Interior and Defence provide adequate protection measures for community members and leaders.

The Constitutional Court issued Order 448 to suspend an impending handing over of land until the competent authorities carry out a census to determine the legitimate owners of the land.
- 2011** A report by the Superintendent of Notaries and Registration, a Colombian state institution, concluded that 17,720 hectares belonging to the community in the area of Curbaradó and Jiguamiandó were acquired illegally.



FUNDING AGENCIES

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 On the cover: A man working on his land in Curbaradó.
 Photo courtesy of Adrian Johanson.
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 not necessarily reflect the views of Peace Brigades
 International or its funding agencies.

1. These communities are made up of 2,125 people, 515 families, most of whom are Afro-descendent. "La protección de las comunidades afrodescendientes en el sistema interamericano: reflexiones a la luz del caso de las comunidades de Jiguamiandó y de Curbaradó", *Revista Electrónica Iberoamericana*, 2010
2. "El Chocó que desconocemos", *El Espectador*, 22 May 2010
3. Especially oil palm, pineapple, and yucca.
4. Afro-descendent and mixed-raced people.
5. Displacements were recorded in the Cacarcía, Salaquí, Curvaradó, Vigía de Curbaradó, Domingodó, Jiguamiandó, and Riosucio River Basins, among others. More than 50 communities were displaced in the region of the Lower Atrato. Most of the people went to Turbo and Pavarandó (Antioquia) or Riosucio (Chocó). Some communities also crossed the Darién towards the border with Panamá. "Un llamado por el Chocó", http://www.disaster-info.net/desplazados/informes/rut/Bojaya/rutboj_5llamado.html
6. According to Freddy Rendón Herrera, aka "El Alemán", former paramilitary chief of the Elmer Cárdenas Block, the regional paramilitary structure known as the Peasant Self-Defence Forces of Córdoba and Urabá (ACCU) provided troops, while State security forces made sure "not to obstruct the ACCU's expansion in the areas where Operation Genesis was being carried out". "¿Quién mató a Argento?", *El Espectador*, 24 January 2010; "La complicidad entre militares y paras en el Urabá Antioqueño", *Verdad Abierta*, 26 April 2011
7. "El 'dossier' de los palmeros", *El Espectador*, 26 January 2008
8. Operation Genesis forcibly displaced 10,000 small-scale farmers. "Operación Génesis: exigiendo justicia", PBI Colombia, October 2009
9. "La Tramoza — Derechos Humanos y Palma Aceitera — Curvaradó y Jiguamiandó", CIJP and CINEP Database, 25 January 2006
10. "Informe sobre la visita al terreno en relación con las medidas provisionales ordenadas a favor de los miembros de las comunidades constituidas por el Consejo Comunitario de Jiguamiandó y las familias del Curbaradó, municipio del Carmen del Darién, departamento del Chocó, República de Colombia", Inter-American Commission on Human Rights, 20 February 2009. See: <http://www.cidh.oas.org/countryrep/MPColombia2.0.09.sp.htm>
11. Interviews with inhabitants from the Humanitarian Zones in Curbaradó, PBI Colombia, November 2010
12. In 2000, paramilitary incursions forced the population to flee into the jungle. On 12 September 2001, the Puerto Lleras and Pueblo Nuevo massacres occurred in the Jiguamiandó River Basin, which caused new mass displacements of the population. *Ibid.* 6
13. "Confinamiento de población civil: Una aproximación conceptual para

- la caracterización de este fenómeno en Colombia", Consultancy for Human Rights and Displacement (CODHES), 28 June 2005
14. Definition of confinement: This entails the situation of violations to rights and freedoms—including restrictions to the freedom of movement and access to indispensable means of survival—committed against the civilian population as a result of explicit or implicit practices of military, economic, political, cultural, social or environmental control employed by legal or illegal armed groups within the framework of the armed conflict. "Comunidades confinadas en Colombia", PCS, 29 November 2004
 15. Order 448 of 18 May 2010, Constitutional Court
 16. "Nota de Seguimiento N°005-01 Primera al Informe de Riesgo N° 031-09 A.I.", Human Rights Ombudsman's Office on Risk Evaluation of the Civilian Population as a result of the Armed Conflict, Early Warning System, 23 March 2011
 17. "La palma de aceite y la usurpación de territorio a las comunidades negras", *Voltairenet*, 9 March 2006. See: <http://www.voltairenet.org/articulo136486.html>. According to the Superintendent of Notaries and Registration, 23,000 hectares of collective property were seized by palm oil and livestock companies. Order 448
 18. Interview with member of the Inter-Church Justice and Peace Commission (CIJP), April 2011
 19. Definition of International Humanitarian Law: Set of rules, established by treaties or custom, applicable in international and non-international armed conflicts, which are also known as the "law of armed conflicts" or the "law of war". Its goal is the reduction of the suffering of victims and the protection of essential resources for their survival, through limiting the adversaries' choice of war methods and means. See: <http://www.dicc.hegoa.ehu.es/listar/mostrat/59>
 20. "Medidas Provisionales respecto de la República de Colombia. Caso de las comunidades del Jiguamiandó y del Curbaradó", Order of the Inter-American Court of Human Rights, 15 March 2005
 21. Law 70 of 1993, Official Gazette No. 41.013, 31 August 1993. See: http://www.secretariasenado.gov.co/senado/basedoc/ley/1993/ley_0070_1993.html
 22. *Ibid.*
 23. "El Chocó que desconocemos", *El Espectador*, 22 May 2010
 24. *Ibid.*
 25. "Curbaradó y Jiguamiandó: La gran prueba de la restitución de tierras de Santos", *La Silla Vacía*, 18 March 2011
 26. "Las tierras de Curbaradó, de nuevo invadidas", *Verdad Abierta*, 14 January 2011

27. "Por despojo de campesinos en Chocó irán a juicio 15 personas", *El Tiempo*, 14 April 2011
28. "¿Quién mató a Argento?", *El Espectador*, 24 January 2010
29. "Oscar Maua, otro líder de despojados de Urabá asesinado", *Verdad Abierta*, 26 November 2010
30. "Alias El Alemán reconoce crimen", Colombian National Army, 29 October 2008
31. "Orlando Valencia", Inter-Church Justice and Peace Commission, 24 October 2008. See: <http://justiciaypazcolombia.com/ORLANDO-VALENCIA>
32. "Asesinado Benjamin Gomez, habitante de la Zona Humanitaria de Caño Manso", Inter-Church Justice and Peace Commission, 7 September 2009
33. "Asesinado Argento Díaz, líder de Llano Rico", Inter-Church Justice and Peace Commission, 15 January 2010
34. *Ibid.*
35. "Empresario busca sicario ordenando asesinar a Ligia María Chaverra y Manuel Denis Blandón", Informe 65, CIJP, 13 February 2008
36. "Medidas provisionales respecto de la República de Colombia, asunto comunidades del Jiguamiandó y Curbaradó", Order of the Inter-American Court of Human Rights of 30 August 2010
37. Order 448 of 2010, Constitutional Court
38. "CIJP denunció la existencia de 15-20 órdenes de captura contra líderes de las Zonas Humanitarias y de Biodiversidad del Curbaradó y del Jiguamiandó", *Constancia*, CIJP, 27 October 2010
39. *Ibid.*
40. Inter-American Court of Human Rights, Case of Jiguamiandó and Curvaradó, Provisional Measures, Order of 5 February 2008
41. The communities of Jiguamiandó and Curbaradó were granted a series of provisional measures by the Inter-American Court of Human Rights in the Orders of 6 March 2003, 17 November 2004, 15 March 2005, 7 February 2006, 5 February 2008, 17 de noviembre de 2009, y 30 de agosto de 2010.
42. Order 005 of 2009, Constitutional Court. See: http://www.unhcr.org/refworld/publisher/COL_CC_49cabc2.0.html
43. Page 23, Order 448 of 2010, Constitutional Court. In this decision, the Constitutional Court describes an internal conflict on the governance of the communities due to uncertainty on the legitimate representatives of the Afro-descendent communities in the Curbaradó River Basin. The Curbaradó High Council is currently represented by three different governing boards. One was elected in April 2008, another in September 2009, and the third in April 2010.
44. Constitutional Court, Order 448, 18 May 2010



Member of a Humanitarian Zone, Photo: Charlotte Kesl

PROTECTING HUMAN RIGHTS DEFENDERS IN COLOMBIA SINCE 1994

Peace Brigades International (PBI) is a non-governmental organisation recognised by the United Nations, which has maintained a team of international observers/accompaniers in Colombia on an ongoing basis since 1994. PBI's mission is to protect the working environment of human rights defenders, who face repression due to their non-violent human rights activities.

PBI Colombia teams remain in the field, at the request of local organisations, accompanying persons and organisations under threat. This fieldwork is complemented by significant dialogue and advocacy with civilian and military authorities, as well as with NGOs, the Church, multilateral bodies, and the diplomatic corp, in order to promote human rights and disseminate information on the human rights situation in Colombia.

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PBI International Delegation

Development House
56-64 Leonard St., London
EC2A 4JX, UK
Tel. (+44) 20 7065 0775
admin@peacebrigades.org

PBI Colombia Project

Rue de la Linière, 11
1060 Brussels (Belgium)
Tel. (+32) 2609 4400
info@pbicolombia.org

PBI Delegation in Colombia

Apartado aéreo 36157
Bogotá (Colombia)
Tel. (+57) 1287 0403
info@pbicolombia.org

