

**INTERNATIONAL
CONVENTION
ON THE ELIMINATION
OF ALL FORMS OF
RACIAL DISCRIMINATION**



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Addendum

COLOMBIA 1/

[24 September 1984]

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- I. Notes on indigenous legislation.
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1/ A political-administrative map of Colombia and a number of demographic charts provided by the Government of Colombia with the present report are available in the secretariat's files to any members of the Committee who may wish to consult them.

See the initial report submitted by the Government of Colombia in document CERD/C/85/Add.2 and for its consideration by the Committee see documents CERD/C/SR.655 and SR.656.

PART I. GENERAL

1. It should be noted, as a fundamental principle of this report that in Colombia there is no racial discrimination based on race, colour, descent, or national or ethnic origin. Persons resident in Colombia enjoy the exercise of human rights and fundamental freedoms in the political, economic, social and cultural spheres and all other spheres of public life, except in a few cases which, as will be seen below, relate to public rights reserved by the Constitution and laws for Colombian citizens.
2. We shall analyse thoroughly and in detail the articles of our laws which proclaim the civil rights and social guarantees that make up the essence of a genuine constitutional democracy. Colombia is a free State in which political democracy has been maturing with the passage of time.
3. In order to make human rights effective in Colombia, they have been incorporated in the National Constitution in the form of guarantees, but this does not in itself ensure effective recognition of political freedoms. The principle of the legality and separation of the branches of public authority and the control of the acts of the Administration constitute the most effective instruments for the legal protection of human rights.
4. In Colombia, in addition to the legal guarantees, there exists the Public Prosecutor's Department, a special body whose chief functions include the supervision and investigation of the rights of individuals.
5. The Colombian Constitution establishes a general system of guarantees in the following articles:
 - (a) The subordination of the power of the State to the rule of law (art. 2);
 - (b) The accountability of public officials for violation of the provisions of the Constitution and for any conduct that encroaches upon the rights and freedoms recognized in the Constitution (arts. 20, 21 and 51);
 - (c) The functional distribution of public authority between branches which act separately but collaborate harmoniously in the attainment of the purposes of the State (art. 55);
 - (d) The existence of various types of control - participation, representation and inspection - over the acts of persons in positions of authority (arts. 59, 143, 118, 121 and 122);
 - (e) The supremacy of the provisions of the Constitution over the laws and acts of the Administration (arts. 2 and 215);
 - (f) The functioning of a widespread system of control of constitutionality (arts. 85-90, 214 and 215).

The right to life

6. This right is pre-eminent among the legal rights of the individual and an essential requirement for the enjoyment of other rights.

7. In Colombia, euthanasia and abortion are punishable; the death penalty does not exist.
8. In accordance with article 16 of the Constitution, the Colombian authorities have been "established" to protect the lives, honour and property of all persons residing in Colombia; in order to ensure that this purpose is achieved, the public authorities take preventive and enforcement action against anyone who makes an attack on the life or physical integrity of any human being, including an unborn child. The State also supervises conditions of safety, hygiene and salubrity in the common interest, in other words, public health.
9. In addition, in the defence of these interests, Decree-Law No. 2811 of 1974 exists in Colombia to protect the environment, bodies of water, forests, etc. and to prevent excessive noise.
10. Furthermore, article 19 of the Constitution states: "Social security is a function of the State. It shall be provided to those who, lacking the means of subsistence and the right to demand it of other persons, are physically unable to work."
11. To lack the minimum means of subsistence is inhuman, and for this reason social security is a function of the State. Obviously, however, the State can extend its services only to those who lack economic or physical means, and for this purpose they must fulfil the following requirements:
 - (a) They must have no means of subsistence or income from work or capital which enables them to meet their needs;
 - (b) They must not be entitled to receive maintenance from any other person; in other words, no other person may be under an obligation to provide them with maintenance as stipulated in the Civil Code.
12. In Colombia, there also exist private entities, foundations or institutions of public utility, defined as "non-profit-making bodies corporate established by private initiative, providing services of social value, in accordance with the wish of the founders" (Decree-Law No. 1050, art. 5 of 1968).
13. The supervision of these bodies is the responsibility of the President of the Republic (Constitution, art. 120, para. 19).
14. The death penalty does not exist in Colombia. This is laid down in article 29 of the Constitution, which states: "The legislature may not impose the death penalty in any circumstances". In other words, it is forbidden even to legislate on the question. As stated by Mr. Luis Carlos Pérez, the eminent Colombian criminologist, "Life is the mistress of the law, but the law cannot be the master of life."

The right to physical freedom

15. Article 22 of the Constitution states: "There shall be no slaves in Colombia. Any slave who sets foot in the territory of the Republic shall thereby be free".

Arbitrary detention

16. Article 23 of the Constitution states: "No person may be ... imprisoned, arrested or detained ... except upon a written warrant issued by a competent authority, in accordance with all the legal formalities and on grounds previously defined by law".

17. Consequently, any measure which, albeit temporarily, withholds the right to freedom must be adopted in accordance with the requirements of article 23 of the Constitution, which are as follows:

(a) The measure must correspond to an order in writing issued by the official legally responsible therefor. Nevertheless, there is an exception to the general rule whereby no person may be deprived of freedom except upon "a written warrant issued by a competent authority"; article 24 of the Constitution provides for the situation in which an ordinary citizen - in other words, a private individual not holding public office - may arrest another person without an order from a competent official. The relevant provision reads: "Anyone caught in flagrante delicto may be arrested and taken before the judge by any person";

(b) The measure must be taken in accordance with the legal formalities specified in article 441 of the Code of Criminal Procedure (CCP);

(c) The measure must be justified by a reason which has previously been provided for by law.

18. Under Colombian law, a person may be deprived of his freedom only in the following cases:

(a) When he is caught in flagrante delicto (Constitution, art. 24; CCP, art. 289, para. 9);

(b) When the Government orders the detention of one or more persons for reasons of public order (Constitution, art. 28);

(c) When a written warrant is issued for the arrest of the presumed offender for purposes of securing a statement (CCP, art. 426);

(d) When the presumed offender, after being summoned, fails to appear before the examining magistrate (CCP, art. 426);

(e) When a warrant is issued for the arrest of a defendant (CCP, art. 437);

(f) When the authority has publicly requested the arrest of an offender (CCP, art. 428);

(g) When a custodial sentence has been imposed (CCP, art. 699).

Habeas corpus

19. This is a further guarantee of the effectiveness of freedom. The Code of Criminal Procedure (CCP) establishes habeas corpus, in accordance with which any person deprived of his freedom for more than 48 hours is entitled, if he considers a breach of the law to have taken place, to request a criminal judge

or a combined criminal/civil court judge or circuit judge to investigate whether he was arrested or detained in breach of the legal formalities. If this was the case, the judge must order the immediate release of the aggrieved party and institute a criminal investigation of the arbitrary detention as effected by the responsible authorities.

Freedom of movement

20. Although article 23 of the Constitution does not directly provide for it, the guarantee that no person may be deprived of his freedom implies that all residents enjoy the rights laid down in article 22 of the American Convention on Human Rights:

"Article 22. Freedom of movement and residence

"1. Every person lawfully in the territory of a State Party has the right to move about in it, and to reside in it, subject to the provisions of the law.

"2. Every person has the right freely to leave any country, including his own.

"3. The exercise of the foregoing rights may be restricted only pursuant to a law to the extent necessary in a democratic society to prevent crime or to protect national security, public safety, public order, public morals, public health, or the rights and freedoms of others.

...".

The right to equality: "All human beings are born free and equal in dignity and rights" (Universal Declaration of Human Rights, art. 1).

21. Article 1 of the Constitution states: "It is the duty of all nationals and aliens in Colombia to live in accordance with the Constitution and laws, and to respect and obey the authorities". Article 57 of the Code of the Political and Municipal Regime reads: "The laws are binding on all inhabitants of Colombia, including aliens, whether domiciled or in transit, except in the case of the rights accorded to aliens by public treaties".

22. Article 11 of the Constitution stipulates that, in Colombia, aliens shall enjoy the same rights as those accorded to Colombians, although the law may, for reasons of public order, withhold or make subject to special conditions the exercise of certain civil rights as indicated in article 11 of the Constitution, which provides that political rights "shall be reserved for nationals". Aliens are consequently excluded from the right to vote and to be elected.

23. In addition, aliens are not permitted to hold public office involving authority or jurisdiction since, in accordance with article 15 of the Constitution, only nationals holding "citizenship" may have access to such posts. Aliens may not participate in national political affairs.

24. According to previous decisions of the Supreme Court of Justice and the Council of State in such cases, the Convention may not be applied directly; in order to invoke the Convention, provisions of domestic law which complement it are required to be implemented.

PART II. INFORMATION IN RELATION TO ARTICLES 2 TO 7

Article 2

25. Among the few racial groups within the Colombian population are the indigenous inhabitants, to whom the Government has at all times provided the greatest possible assistance. It has taken special measures to ensure that those indigenous inhabitants who require the protection of the State achieve adequate progress, with the object of guaranteeing them, in conditions of equality, the enjoyment and exercise of human rights and fundamental freedoms, such as the rights to housing, health, education, etc.

26. As a result of progress and the spread of civilization, indigenous lands were being plundered by settlers making inroads towards areas customarily inhabited by the indigenous population and made more accessible by improved transport and communications. The Government, conscious of the serious problem which could arise for these human groups, established the system of reservations, and subsequently indigenous reserves, to protect their land, conferring responsibility for the execution of the relevant programmes on the Colombian Agrarian Reform Institute (INCORA).

27. The indigenous population of Colombia is currently estimated at some 450,000, of whom 61.7 per cent are farmers, 14.6 per cent are livestock farmers, 15.8 per cent are engaged in agricultural and livestock activities, and 7.9 per cent are mainly engaged in hunting, fishing and harvesting as well as part-time agriculture.

28. INCORA has to date legally established a total of 128 indigenous reserves and reservations for 110,586 persons (20,239 indigenous families), who have settled in a total area of 10,961,393 hectares.

29. With regard to the titles granted to the indigenous communities, it has been the Institute's policy to legalize the uncultivated lands they have traditionally occupied, conferring on them the legal status of "reserves".

30. It should be noted that, for the purpose of distributing their plots, or "chagras" or "conucos" to use their indigenous names, each community is permitted freedom to distribute the land allotted to it among its members in accordance with its uses, customs and traditions.

31. If the indigenous inhabitants are occupying individual plots or if they are not organized into communities, their land is awarded to them in accordance with the same procedure as if a private individual was involved, as provided for in Decree No. 339 of 1984.

32. When cases of eviction of indigenous inhabitants arise, the Institute, or any person, immediately reports all relevant information to the competent authorities for the purposes of the enforcement of the general provisions applicable in Colombia in such cases. The chiefs of the regional commissions on indigenous affairs and Ministry of the Interior officials may give the indigenous inhabitants such assistance as may be appropriate.

33. As is clearly apparent from the statistics given below (valid at the time of the census), INCORA's work has been of considerable benefit:

Reservations:	34
Reserves:	94
Persons assisted:	110 586

34. To supplement our information on this point, we append notes on indigenous legislation and programmes executed by INCORA in respect of land for the indigenous communities (see annex I).
35. Measures have been taken to fulfil the undertaking to engage in no act or practice of racial discrimination against persons, groups of persons or institutions, and to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation. To protect the assets of the State and on the initiative of the Attorney-General of the Nation, a law has been enacted to punish and prosecute embezzlement. The law is characterized by its scope and consequences for public administration, since it lays down disciplinary penalties for embezzlement by State employees.
36. The law was introduced into our legislation with the aim of combating the wrongful manipulation of the levers of power for the benefit of members of the Government and their friends, and essentially in order to protect State assets, in other words, money which should be used for the benefit of the community. Under this law State employees, when taking up a public appointment are required to submit statements of their income, the income of their spouse and children, and the income of any companies in their name.
37. The penalties may include dismissal, ineligibility to conclude contracts with the State or to hold public office for a period of five years and, most important, the requirement that wrongfully obtained monies should be returned.
38. The Colombian Government has clearly demonstrated that it does not engage in racial discrimination against persons or groups of persons in granting asylum and refuge to citizens without discrimination as to nationality over the past two years.
39. Measures have been taken to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it existed. Decree No. 1817 relates to the prison system and is based on the principles of human rights.
40. The Governor-General of Prisons requested the Attorney-General to exercise supervision over the detention regime and over the execution of penalties.
41. In response to this request, the Attorney-General proposed the establishment of a joint board composed of representatives of the Attorney-General's Office and of the Governor-General of Prisons for the purpose of keeping the various prisons under continuing review. It was found that in some prisons there were still some punishment cells, despite the fact that these are prohibited under current legislation. The cells were ordered to be demolished forthwith and the governors in question were suspended or dismissed from their posts.
42. It should also be mentioned that in each prison a human rights committee has been set up, consisting of the prisoners themselves, for the purpose of defending and protecting their rights. This constitutes a clear example of democratic and humanist participation in the Colombian prison system.

43. An important measure to which attention should also be drawn is the promulgation of Decree No. 815 of 5 April, under which Mr. Belisario Betancur Cuartas, President of the Republic and Mr. Rodrigo Lara Bonilla, the assassinated Minister of Justice, introduced so-called "prisoners' leave".

44. Article 1 of the Decree stipulates that the Governor-General of Prisons may grant special leave for up to 72 hours to prisoners through an executable judgement, provided they meet a number of requirements.

45. As may be noted, this enactment constitutes a revolutionary step in prison legislation since it represents a departure from the old view that criminals must be shut up in prisons in order to pay off their debt to society. Similarly, it marks a new stage in the prison system and is in keeping with contemporary pedagogical thinking on prison matters, which will help to bring into being stages in the rehabilitation of persons who have been sentenced to imprisonment.

46. Measures have been taken to fulfil the undertaking to encourage, where appropriate, integrationist multiracial organizations and movements and other means of eliminating barriers between races, and to discourage anything which tends to strengthen racial division.

47. The indigenous inhabitants have been forming unions and associations of various kinds in order to strengthen their unity and assert their rights. All these organizations are respected and taken into account for the purposes of the consideration and adoption of measures for this sector of the population. They are invited to attend national forums and are even kept informed of events of an international character. At the national level they frequently organize forums which are attended by representatives of the various areas of the country, who originate from a number of different ethnic groups.

48. The areas in which the largest indigenous groups are situated are:

Andean region, consisting of the departamentos of Cauca and Nariño;

Eastern region, composed of the Orinoco region and the Colombian Amazon forest; the Guahibos are the largest group in this region;

Guajira peninsula in the north of the country, which is inhabited by Guajira Indians who, together with the Paeces, form the largest indigenous groups in Colombia.

49. As indicated in this report, there is no discrimination of any kind in Colombia. It may be stated that agricultural workers also have their own associations, which are active and have their legal personality recognized by the Government.

50. In prisons, too, prisoners have human rights protection committees which have been established pursuant to recent legislation.

51. Given the freedom of expression prevailing in Colombia, numerous non-governmental human rights groups, institutions and associations are active in promoting human rights and are widely publicized in the media. They organize meetings which are attended by persons prominent on the Colombian political scene, representatives of professional associations, university teachers, and so on (see annex II).

Article 3

52. Colombia's position with regard to apartheid has been one of condemnation in international forums. At the International Conference in Support of the Struggle of the Namibian People for Independence, held in Paris in 1983, Ambassador Diego Uribe Vargas strongly condemned apartheid.

53. The main points on which Colombia bases its condemnation of South Africa are the following:

(a) The illegitimacy and termination of South Africa's occupation of the Territory of Namibia;

(b) The rights of the Namibian people to self-determination and independence;

(c) As decided in the United Nations, the United Nations Council for Namibia is the legal Administering Authority of Namibia until such time as it attains its independence;

(d) The South African armed forces must be withdrawn from Namibia and free elections must be held under the supervision and control of the United Nations;

(e) South Africa must release all Namibian detainees, repeal legislation involving racial discrimination, halt political repression and permit Namibian exiles to return to their country.

54. The Colombian Government has spared no effort to make known its views on the question of Namibia and to express support for efforts to achieve the well-being of Namibia. The Colombian Government considers apartheid to be the most serious crime against humanity.

55. Diplomatic relations have never existed between Colombia and Namibia. Moreover, at no time in recent years has consideration been given to the establishment of any type of diplomatic relationship with South Africa; the situation is unfavourable in the light of the policy of strong condemnation which Colombia is pursuing in most international forums and which it reflects in most bilateral political instruments signed within and outside national territory (see annex III).

Article 4

56. Article 25 of Decree No. 2085 of 1975 relating to the sound broadcasting service in Colombia states: "Broadcasts which attack the Constitution and laws of Colombia may not be transmitted by the sound broadcasting services". Throughout this report we have been analysing entire chapters of the Constitution which proclaim the rights and equality of individuals. The above-mentioned article goes on to state that broadcasts may not be transmitted if they attack the institutions of the Republic, its international relations, the lives, honour and property of citizens, and proper respect for the lawful authorities, or if they incite to disregard of the law or disturbance of public order.

57. Article 26 of the Decree states: "Sound broadcasting stations shall not be permitted to broadcast jokes which are offensive to individuals, institutions or professions or words with double meanings which tend to undermine the dignity of, and respect for, the civilian, military or ecclesiastical authorities in Colombia or abroad".

58. The same Decree further stipulates that acts constituting an offence against the family or against sexual freedom and honour are not suitable broadcasting material.

59. With regard to the specifically penal measures intended to sanction acts declared to be punishable, article 40 of Decree No. 2085/75 imposes an obligation on sound broadcasting stations to transmit free of charge and without comment any corrections that may be necessary in connection with news bulletins, lectures, speeches or commentaries relating to persons who feel that they have been affected by the use of insulting, slanderous or offensive language in those broadcasts.

60. Such corrections must be broadcast promptly after receipt of the request from the person concerned and at the same time of day or night as the broadcast to which the correction is to be made. The person holding the broadcasting licence for the station in question may not be exempted from this obligation on these grounds.

Article 5

The right to equal treatment in the courts and all other organs which administer justice

61. Article 26 of our Constitution states: "No person may be tried except in conformity with laws enacted prior to the commission of the offence with which he is charged, by courts having competent jurisdiction, and in accordance with all formalities relevant to the case".

62. The emphasis on "no person" is ours and is intended to indicate that the constitutional provision has general application at all times, with no exceptions or prior conditions. This means that all persons are equal before the courts and all receive treatment previously provided for by law.

63. Article 26 lays down a number of procedural guarantees which prevent people from being sentenced without having been tried and convicted by a court.

64. These guarantees apply not only in penal matters, but in all cases where the authorities responsible for the administration of justice are required to make a ruling in order to apply the law to an individual case. In criminal trials, before imposing a penalty, the judge must determine whether the behaviour of the accused corresponds to the illegal behaviour laid down in the provision in question, and whether there are any grounds justifying the conduct of the accused. If these fair and objective criteria have not been taken into account, the verdict is deemed to lack impartiality and objectivity since the accused has not been permitted to explain the causes, in terms of time, manner and place, which led him to commit the act in question. These causes may possibly go some way towards exempting him from the penalty or diminishing it. Among the functions assigned by the Constitution to the highest-ranking prosecutor in the country, the Attorney-General of the Nation (who is elected by the National House of Representatives), is that of ensuring that the right of defence and the legality of penal processes are fully respected (Constitution, art. 143).

65. There are guarantees in Colombia for persons having to appear before a court of law:

(a) The offence must have been defined by law before the criminal acts took place;

(b) There must be rules governing the legal procedures through which justice is to be administered. However, the Constitution, in the second part of article 26, states that in criminal matters a permissive or favourable law, even if enacted after the offence, shall be applied in preference to a restrictive or unfavourable law;

(c) The judges or tribunals handing down a sentence must have the competence and jurisdiction to do so.

The right to personal security and State protection against any act of violence or attack on the person by public officials or by any individual, group or institution

66. As we have stated, the Constitution, in article 16, imposes an obligation on the State to protect the lives, honour and property of all persons residing in Colombia.

67. Not only does the law provide protection, but it punishes and endeavours to prevent attacks on the life and person of its citizens by public officials or by any individual, group or institution.

68. Thus, for example, in accordance with article 151 of the Constitution and article 32 of the Code of Criminal Procedure, the plenary Supreme Court of Justice tries cases involving crimes committed by the President of the Republic and Cabinet ministers.

69. Article 152 (chap. VIII) of the Penal Code provides for abuses of authority through an arbitrary or unjust act: "A public employee who, in cases not specially provided for as crimes, in the performance of his duties or exceeding his authority in such performance, commits an arbitrary or unjust act...". Article 153 also provides for abuses of authority through failure to report an offence.

70. As we have stated, Colombian laws punish abortion and euthanasia and lay down exemplary punishment for homicide, causing bodily harm and abandonment of minors and handicapped persons.

71. The crime of homicide, in its various forms, is covered in articles 323 to 330.

72. The law punishes not only persons who cause the death of another person, but also those who cause others bodily harm or impair their health in various ways.

73. It imposes punishment for personal injuries which cause illness or incapacity to work, bodily harm causing deformity, and injury entailing functional disturbance to an organ or member (disturbance meaning the anatomical or functional loss of an organ or member).

74. The Penal Code, in title V, defines offences constituted by attacks against public security (arts. 186-188). Article 186 defines the crimes of "conspiracy to commit an offence" when two or more persons conspire to commit an offence. Terrorism is defined in article 187, which states: "Any person who, with the aim of creating or maintaining a climate of anxiety or disturbing public order, uses means of collective destruction against persons or goods, shall be liable to ...".

75. Title V of the Penal Code, in chapters 2 and 3, describes offences constituting a public danger or those which may cause serious damage to the community, and other offences. Articles 189 to 206 define the offences of: arson, damage to common defence works, causing a flood or cave-in, disrupting a public or official transport service, sinking or damaging a ship, causing panic, disrupting communications, energy or fuel services, the possession or manufacture of, or trafficking in, dangerous substances or objects, and the use or launching of dangerous substances or objects.

76. Our laws also punish offences against public health, specifically the violation of sanitary measures, spreading epidemics, the contamination of water and rendering food and medicines unfit for consumption (Penal Code, arts. 203-206).

77. The Colombian State is very proud of its Public Prosecutor's Department, which is representative of the people, and is constituted by the Attorney-General of the Nation, the Government Attorney and the other officials established by law in Legislative Act No. 1, article 38, of 1979.

78. It is the duty of the Attorney-General of the Nation and his staff to defend human rights, the effectiveness of social guarantees, the interests of the nation and the national heritage, and to supervise public administration.

79. To this end, he has the following special responsibilities, as laid down in article 143 of the Constitution:

(a) To take decisions concerning complaints of violations of human rights and social guarantees by public officials or employees, investigate them and take appropriate legal action on them;

(b) To supervise the official conduct of public officials and employees, and to discipline them either directly or by calling for the imposition of a penalty, without prejudice to the responsibilities of the respective superiors and the relationship of the official concerned to an appropriate career. He is also responsible for ensuring that the competent authorities investigate acts by public officials or employees which might constitute a criminal offence;

(c) His functions include supervising the conduct of officials and employees of the judicial branch, and instituting, when necessary, the respective disciplinary sanctions vis-à-vis the Higher Judicial Council, the highest disciplinary tribunal in the judicial branch;

(d) He also represents the interests of the nation judicially, in person or through his agents, without prejudice to a decision by the body in question to appoint special agents when it deems appropriate;

(e) He ensures and investigates the observance by public officials of laws, judicial decisions and administrative provisions;

(f) As an inherent part of his functions, he is empowered, to submit to Congress for consideration bills relating to his office, in particular concerning the defence of human rights and respect for social guarantees;

(g) The House of Representatives performs certain supervisory functions;

(h) The Government Attorney is appointed by the plenary Supreme Court of Justice from a list of five or more names of members of different political parties submitted by the President of the Republic. One of the Government Attorney's main functions is to "direct and promote, in person or through his staff, the investigation of offences, ensure the presence of the alleged offenders during legal proceedings and promote their judgement in accordance with the dictates of the law";

(i) He also arraigns before the Supreme Court those officials for whose trial that court is responsible.

Political rights: the right to vote and to be elected, by universal suffrage, the right to take part in government and in the conduct of public affairs at any level, and the right of access, on terms of equality, to public service

80. Our country, which has a population of 27 million, has chosen representative democracy. Article 15 of the Constitution guarantees Colombians the right to be active members of the political community, stating: "Citizenship is a prerequisite for the exercise of the right to vote, to be elected and to hold public office involving authority or jurisdiction".

81. The following requirements must be fulfilled in order to secure citizenship. Persons must:

(a) Be over 18 years of age (Constitution, art. 14, para. 1);

(b) Not have renounced Colombian nationality or have had citizenship suspended by virtue of a court decision (these cases involve an accessory penalty for persons sentenced to ordinary or rigorous imprisonment). Citizenship must not have been suspended for a specific period coinciding with elections to public bodies.

82. Men and women over 18 years of age may vote in Colombia, without discrimination, with the exception of male and female military personnel in active service (Constitution, art. 168).

83. The national identity card must be presented when voting; if it is not presented because it has been lost, destroyed or mislaid, a person may not vote, despite his right to do so.

84. Colombians who are citizens may vote to:

(a) Elect the President of the Republic (Constitution art. 114). The President of the Republic must be elected on a single day by the direct vote of the citizens. He is elected for a period of four years.

(b) Elect senators, representatives, deputies, town councillors and Intendencia councillors (Constitution, art. 171).

(c) Elect four members of each of the Comisaria councils (Decree No. 1817, art. 4 of 1976).

85. Once the representatives have been elected by direct suffrage of the citizens, the House of Representatives elects the Attorney-General of the Nation and the Controller General of the Republic (Constitution, art. 102).

86. Similarly, the senators and representatives elect the President Designate, who replaces the President in the event of his temporary or permanent inability to hold office (Constitution, art. 74).

87. The judges of the Supreme Court of Justice and of the Council of State are elected by co-optation, i.e. from among their number (plebiscite of 1957, art. 12). This system is the most appropriate since it depoliticizes the country's highest courts of justice, by permitting no favours or agreements involving politicians.

88. The Supreme Court of Justice votes to elect the judges of the higher or district courts (Constitution, art. 156).

89. Colombian citizenship is a prerequisite for election to the following offices:

Candidates for election as President of the Republic or senator must be Colombian by birth (Constitution, arts. 115 and 94);

Candidates for election as senator must be Colombian by birth, in possession of citizenship and over 35 years of age, and must have held one of the offices specified by law (Constitution, art. 94);

Candidates for election as a member of the House of Representatives must be in possession of citizenship and be over 25 years of age.

90. No person who has been sentenced by a court to rigorous or ordinary imprisonment may be elected President, senator or representative. This does not apply to persons convicted of political offences.

91. Even if a person is in possession of citizenship:

(a) Permanent active members of the armed forces and the national police may not be elected to office. Nor may they exercise the right to vote or participate in political debates for as long as they remain in active service (Constitution, art. 168).

(b) The profession of the priesthood is incompatible with the discharge of public office. Nevertheless, Catholic priests may be employed in public instruction and social work.

Access, on terms of equality, to public service

92. Citizenship is a prerequisite for the exercise of the right to hold a public office involving authority or jurisdiction.

93. There are three categories of public employees: administrative, diplomatic or consular, and freely-appointed.

94. For public employees to exercise jurisdiction, they must be empowered to:

- (a) Settle, with binding effects, disputes submitted for their consideration;
- (b) Compel submission of all the elements required to bring proceedings to a conclusion;
- (c) Order evidence to be submitted and make rulings concerning evidence;
- (d) Enforce their decisions.

95. By virtue of the foregoing, judges and magistrates of the judicial branch are the only public servants who discharge jurisdictional functions when administering justice, although there are some exceptions, such as the function of the Senate in hearing cases submitted to the House which involve charges against certain officials (Constitution, art. 102, para. 5).

96. The public offices involving authority are those held by officials who are competent to initiate legal acts determining rights or duties.

97. Consequently, posts not involving authority or jurisdiction may be held by persons who do not possess citizenship, either because of their age (less than 18 years) or because of their nationality (aliens).

98. Executive, technical, advisory, professional, auxiliary and other posts may be held by persons less than 18 years of age, including aliens.

99. However, Decrees No. 2400 of 1968, No. 1950 of 1973 and No. 1042 of 1972 prohibit the following persons from holding public office:

(a) Persons who have been disqualified from holding official posts because of dismissal for disciplinary reasons;

(b) Persons who have been sentenced to rigorous or ordinary imprisonment, unless no wilful misconduct was involved;

(c) Persons over 65 years of age;

(d) Persons who do not possess the general and specific requirements for holding a particular post.

Other civil rights

The right to freedom of movement and the right to choose one's residence within the territory of a State

Freedom of movement

100. This right is not laid down in our Constitution, but since no provision is made for any restriction on the exercise of this right, it is presumed to be effective. Article 20 of the Constitution states: "Private individuals are answerable to the authorities only for violation of the Constitution or the laws". In other words, private individuals are permitted to do anything that is not specifically prohibited.

101. However, the National Police Code, in articles 96 to 100, lays down the obligation to protect freedom of movement and establish regulations concerning its exercise. The Code states: "No authorization is required for travel within national territory". Owing to the dangers of traffic, however, restrictions have been imposed through the traffic representatives (National Land Traffic Code).

The right to leave any country, including one's own, and to return to one's country

102. Colombia imposes no special restriction on the right of every citizen to leave the country whenever he wishes to do so, provided he is carrying a valid passport, except in the case of travel to Ecuador, with which there is a visa exemption agreement. For the purpose of avoiding the deportation of Colombian citizens from other countries, emigration officials also require travellers to produce visas for the countries they intend to visit, unless a visa exemption agreement has been concluded.

103. One real restriction which is of a universal nature, is that concerning legal impediments or impediments on minor children by their parents or to legal representatives.

104. For foreigners to leave the country, they may or may not require an authorization from the Alien Division of the Administrative Security Department (DAS), which, if it is required, will issue it upon presentation of the certificate of payment of income tax and other taxes, and after checking that the person has no legal impediments and that no warrant has been issued for his arrest. Tourists are exempt from these formalities.

105. With regard to the right to return to one's own country, it should be stated that Colombia has no legal measure preventing re-entry by Colombians. On the contrary, existing legal provisions and instructions authorize Colombian nationals to be repatriated through our embassies and consulates.

106. There is no special rule preventing foreigners from returning to their own country; this would only occur in the event of an order from a competent authority when the foreigner has been charged with an offence carrying a custodial sentence and while the trial is taking place.

The right to a nationality

107. Article 8 of the Constitution defines and grants Colombian nationality in the following cases:

By birth:

- (a) Persons born in Colombia who fulfil one of the following two requirements: their father or mother should have been born in Colombia or should be a Colombian national, or if they are children of aliens they should be domiciled in the Republic;
- (b) Persons of a Colombian father or mother who were born abroad and later became domiciled in the Republic.

By adoption:

- (a) Aliens who apply for and are granted naturalization;
- (b) Persons who are Spanish, American or Brazilian by birth and who, with the authorization of the Government, apply to be registered as Colombians in the municipality of the place in which they have taken up residence (Legislative Act No. 1 of 1936, art. 3).

108. Article 9 of the Constitution states that Colombian nationality shall be forfeited by obtaining naturalization in a foreign country and establishing domicile abroad; it may be recovered in accordance with the law.

The right to marriage and to choose a spouse

109. Our Constitution does not contain any specific provision determining the right to marriage and to choose a spouse. However, article 50 states: "The law shall determine matters relative to the civil status of persons and their consequent rights and duties".

110. The right to enter into marriage freely is one of the acts protected by the State, since the grounds for annulling a civil or religious marriage precisely include absence of consent by one of the spouses.

111. Nevertheless, provisions concerning marriage do exist, and one law provides for the annulment of marriages contracted between males less than 14 years of age and females less than 12 years of age.

The right to freedom of assembly

112. Article 46 of the Constitution states: "Any number of people may meet or assemble peacefully. The authorities may disperse any assembly which degenerates into disorder or riot, or which obstructs the public thoroughfare". This constitutional guarantee covers public hearings and demonstrations which are in the nature of peaceful assemblies, but excludes from all legal protection any gathering which could degenerate into unruliness and cease to be a meeting.

113. The right of peaceful assembly may be exercised when the participants do not become involved in conflicts degenerating into disorder (Penal Code, art. 128); disorder signifies violently demanding of the authorities that they take or refrain from taking a particular act within their competence.

The right to freedom of thought, conscience and religion

114. Article 53 of the Constitution reads: "The State guarantees freedom of conscience. No one shall be molested by reason of his religious opinions, or compelled to profess beliefs or observe practices contrary to his conscience.

115. "Freedom of all religious cults not contrary to Christian morality or to the law is guaranteed. Acts contrary to Christian morality or prejudicial to public order carried out in connection with, or under the pretext of, religious worship are subject to ordinary law. The Government may conclude, subject to later approval by Congress, agreements with the Holy See to regulate, on the basis of reciprocal deference and mutual respect, the relations between the State and the Catholic Church."

116. In addition, the Penal Code contains the following provisions protecting freedom of religion:

"Article 294. Violation of freedom of worship. Any person who, by means of violence, compels another person to perform a religious act or prevents him from participating in a rite of the same nature shall be liable to imprisonment for 3 to 18 months.

"Article 295. Prevention or disruption of the celebration of a religious rite. Any person who prevents or disrupts the celebration of a religious rite or function of any cult permitted in the nation shall be liable to imprisonment for six months to two years.

"Article 296. Damage or insults to persons engaged in, or objects intended for, religious worship. Any person who causes damage to objects intended for religious worship or to the symbols of any legally permitted religion or who publicly insults such worship or ministers of religion because of their office shall be liable to imprisonment for three months to one year."

The right of access to any place or service intended for use by the general public, such as transport, hotels, restaurants, cafés, theatres and parks

117. The Negro population of Colombia, which is relatively small in number, did not originate from this country since, as will be recalled, in colonial times the Spaniards brought some 20 million Negroes from Africa to perform forced labour and to reinforce the Indians in the new world. The Negroes landed in Cartagena de Indias and were sent to a number of Latin American countries. Several, however, remained in Colombia, working in Cartagena and elsewhere. Some fled to the Palenque Indians and to places on the Pacific Coast, where the largest numbers of Negroes are to be found today.

118. The area where the Negro population lives is the most popular among tourists in Colombia, and the national Government has accordingly given it a great boost in terms of infrastructure, public services and progress. Coloured persons occupy senior departmental and municipal posts, on the basis of merit.

119. The Negroes are a very cheerful people, and they and their music have been totally integrated with the rest of the country. In the Congress of the Republic, there are several Negro senators and representatives.

Economic, social and cultural rights:

The rights to work, to free choice of employment, to just and favourable conditions of work, to protection against unemployment, to equal pay for equal work, to just and favourable remuneration

120. Obviously, work is protected as an activity deriving from the free choice of the person performing it and having a lawful purpose.

121. Work may be termed authentic only when it is undertaken within a context of freedom and lawfulness.

122. Man's right to work is justified not only by remuneration, but by the fact that it enables him to meet his own and his family's needs; it gives him a feeling of usefulness to the community and contributes to the progress of the nation.

123. Article 17 of the Constitution reads: "Work is a social obligation and shall enjoy the special protection of the State".

124. Article 29 states: "Every person is free to choose a profession or trade. The law may require certificates of competence and may regulate the exercise of the professions".

125. The authorities are required to exercise supervision over the professions and trades in matters relating to public morality, safety and health.

126. Article 8 of the Substantive Labour Code states: "No person may prevent others from working or from engaging in the profession, industry or trade of their choice, provided that its exercise is lawful, except by a decision of a competent authority intended to protect the rights of workers or of society in the cases provided for by law.

127. Chapter VI of the Penal Code is entitled "Crimes against freedom of work and association."

128. Article 290 of the Code states: "Any person who, through violence or dishonest conduct, secures the withdrawal of employees or workers from the institutions where they work, or by the same means disrupts or prevents the free exercise of the activity of another person, shall be liable to ...".
129. If the activity described in the above paragraph results in the collective suspension or termination of work, the penalty is increased by one third.
130. In Colombia, working conditions, including the right to work in dignity and without danger to health, to have leisure time and to receive adequate training, are regulated and guaranteed by labour legislation, which establishes the same rights and guarantees for the benefit of wage-earners. However, these workers' rights may be improved on and expanded by employers through individual contracts and collective labour conventions and agreements.
131. In addition, and as a protection against unemployment, reference may be made to redundancy payments which, as their name indicates, represent an amount of money accumulated over years of service and provide compensation for dismissal.
132. The right of workers to secure wage increases may be exercised directly through verbal or written demands.
133. Nevertheless, in the case of general demands for a collective increase, the Constitution also guarantees the right to strike, except in the public services, which include power and water supplies, telecommunications, dairies, transport and so on. This provision is embodied in article 18, which further stipulates that the exercise of this right shall be regulated by law. The purpose of the provision is to prevent elements hostile to the State and public order from trying impulsively and without sufficient reason to spread anarchy in undertakings and cause sectors of the national economy to collapse.
134. The right to strike may be recognized only in respect of workers who are freely employed under a contract; the purposes of a strike may only be economic and vocational in character.
135. For a strike to take place, however, the procedures provided for in the Substantive Labour Code, including direct settlement and conciliation, must have been exhausted.
136. Strikes may not be indefinitely prolonged for obvious reasons, since they would eventually force an enterprise to terminate its activities or the workers' need of a wage in order to meet their essential requirements would jeopardize public order. The law grants the authorities powers to promote the establishment of an arbitration tribunal, whose deliberations and decisions are binding on the parties.
137. Since a strike originates from a labour dispute between employers and workers, the law does not allow public or community services to be disrupted by strike action.
138. The State, through the Ministry of Labour, has a responsibility to ensure that adequate benefits and wages are paid, that relations between workers and employers are improved, and that just claims are met.
139. Since wages are fixed in accordance with ability, experience, performance and a host of other factors, and may be fixed by agreement between the employer and the workers, the State, bearing this in mind, has decided by law to establish a minimum wage, which varies according to increases in the cost of living. It has established

this wage for both urban and rural areas, thus showing its clear realization that advantage may sometimes be taken of destitution in order to exploit illiterate workers. Decisions on this question are widely disseminated by radio broadcasts which reach the most remote areas, thus promoting among agricultural workers a broad knowledge of their rights in this respect.

The right to own property

140. In connection with the economic and social rights of individuals, in Colombia private property is respected, regulated and defined. Article 30 of the Constitution states: "Private property [is] ... guaranteed". Nevertheless, an owner's freedom to dispose of his property without interference by other persons is limited by the law and the rights of others. An owner may not abuse his rights in such a way that he may cause injury to others. Any damage caused by illegal acts or abuses of any other nature creates an obligation to pay compensation.

141. In order to obtain compensation, it is not an essential condition that the abuse should have been committed in bad faith.

142. In our legislation, the right to own property is limited by the rights of others.

143. Notwithstanding the guarantee of private property established in article 30 of the Constitution, the same article goes on to state: "Property is a social function which entails obligations".

144. For reasons of public benefit or social interest as defined by law, property may be expropriated by judicial decision and after payment of compensation.

145. Article 30 further states: "Nevertheless, the legislature, for reasons of justice, may determine the cases in which there is no ground for compensation, by a favourable vote of an absolute majority of the members of each Chamber".

146. The first paragraph of article 30 reads: "Private property and other rights acquired by just title by natural or juridical persons are guaranteed, in accordance with the civil law, and may not be disavowed or infringed by later laws. When the application of a law enacted for reasons of public benefit or social interest results in a conflict of the right of private persons with the necessity recognized by the same law, the private interest shall yield to the public or social interest".

147. In order that the expropriation of private property may be undertaken, Congress is required to determine whether reasons of public benefit or social interest exist. It so determines by means of a law in cases in which no compensation is payable (Constitution, art. 30).

148. Expropriations must be ordered by a Judge of the Republic, but before expropriation can be undertaken the relevant administrative procedure must be exhausted. In addition, the persons involved may appeal through the governmental channel and, when this is exhausted, an appeal may be lodged with the judicial authorities. If expropriation is undertaken, all kinds of legislation require the payment of compensation to the owners of the property in question.

149. Article 34 of the Constitution states: "The penalty of confiscation may not be imposed". In a decision handed down in 1979, the Supreme Court of Justice concluded: "Confiscation is plunder without compensation which results in the loss of the property confiscated without any form of indemnification".

150. Article 35 of the Constitution guarantees literary and artistic property, protecting it as transferable property during the lifetime of the author and for 80 years thereafter, by means of the formalities prescribed by law.

151. Article 35 goes on to state: "The same guarantee shall be extended to the owners of works published in countries using the Spanish language, provided that the nations concerned recognize in their legislation the principle of reciprocity, and without the necessity of concluding any international conventions for this purpose".

152. Industrial property is also guaranteed by the Constitution under article 120, paragraph 18, which confers authority to grant temporary protection to persons who have made inventions or useful improvements in accordance with the laws.

153. The law not only guarantees rights, but also prevents acts limiting the rights of individuals to engage in free enterprise. Thus, for example, article 31 of the Constitution states: "No law that establishes a monopoly may be applied until the persons who would thereby be deprived of the exercise of a lawful industry have been fully compensated".

The right of association

154. Article 12 of the Substantive Labour Code provides that the Colombian State guarantees the right of association and the right to strike under the terms prescribed by the Constitution and by law. Article 353 of the Code stipulates that, in accordance with the above-mentioned article 12, the State guarantees employers, workers and self-employed persons the right to freedom of association to defend their interests by forming professional associations or trade unions, which are guaranteed the right to unite or to defend themselves collectively. The State may not prevent citizens from uniting in order to undertake initiatives, efforts and programmes for the benefit of their community and families.

155. Article 44 of the Constitution states: "the formation of companies, associations and foundations that are not contrary to morality and the legal order is permitted. Associations and foundations may obtain recognition as bodies corporate".

156. In permitting and recognizing the right of association, the State also limits it in the sense that no one may form an association for purposes contrary to proper behaviour. It accordingly prohibits the existence of associations whose purpose is to undertake activities affecting public morality or detrimental to any legal right which enjoys the protection of the State.

157. Under the Constitution, three types of organization may be established:

Companies, which are of a commercial character, and receive labour and capital for the benefit of shareholders;

Associations, which are established with the aim of securing an improvement in the common weal and beneficial social objectives;

Foundations, which are of an eminently altruistic character, in other words, they are non-profit-making and exist to undertake research or charitable work.

158. Associations and foundations may acquire legal personality, for which purpose the Government has to recognize and approve their legal activity.

159. Companies are governed by the Commercial Regime. Article 120, paragraph 19, of the Constitution empowers the President of the Republic to supervise and inspect institutions of public benefit in order that their income may be maintained and duly applied, and that in all essential matters the desire of the founders should be fulfilled.

The right to form and join trade unions

160. Under article 353 of the Substantive Labour Code, and in accordance with article 12 of the same Code, the State guarantees employers, workers and self-employed persons the right to freedom of association in order to defend their interests by forming occupational associations or trade unions, which are guaranteed the right to unite or to defend themselves collectively.

161. Nevertheless, paragraph 2 of the same article goes on to state that, in exercising their rights and performing their duties, trade unions must abide by the rules set forth in the Substantive Labour Code, and are subject to government inspection and supervision with regard to matters of public order, particularly in the cases specified in the Code.

Protection of the right to form trade unions

162. Article 354 of the Substantive Labour Code states that, under the terms of article 292 of the Penal Code, no person may prejudice the right to form trade unions.

163. Trade unions in Colombia are divided by law into the following categories:

(a) Local branches, if they are composed of persons having a variety of occupations, jobs or skills who are employed in the same enterprise, establishment or institution;

(b) Industrial unions, if they are composed of persons who are employed in a variety of enterprises within the same branch of industry;

(c) Trade associations, if they are composed of persons having the same occupation, job or skill;

(d) Multi-job unions, if they are composed of workers having a variety of dissimilar or unrelated occupations. Such unions may be formed only in places where there are insufficient workers performing the same activity, occupation or job to form a trade association, and only for as long as this situation obtains.

Freedom of affiliation

164. Article 358 of the Substantive Labour Code states: "Trade unions are associations which workers are free to join or leave. The statutes shall regulate conditions and restrictions regarding admission, the reimbursement of dues or contributions to members in the event of voluntary withdrawal or expulsion, and joint participation in any mutual-benefit institutions which a trade union may have established with its members' contributions".

165. The article further states that the statutes may themselves restrict the admission of senior employees to local branches of trade unions.

The right to social security

166. The fact of being a member of a State community gives each person the right to participate in the well-being of that community, since the State must ensure that its members not only exercise rights but also fulfil obligations.
167. Social security in Colombia is established for all inhabitants of the country without exception of any kind.
168. The Colombian State has established a system of subsidies which, through economic solidarity mechanisms, make good deficiencies in social security for the benefit of the more disadvantaged social groups.
169. Article 16 of the Constitution stipulates that the authorities of the Republic are established to protect the lives, honour and property of all persons residing in Colombia, and to ensure fulfilment of the social duties of the State and of private individuals.

170. In Colombia, there are municipal, departmental and national hospitals which provide medical attention at extremely low cost. They have charitable departments which provide free treatment for persons who are unable to pay.

The right to education

171. Education is fundamental for the enjoyment of other human rights; education provides training and information and indicates the best way of making the most of life, controlling impulses, and reading, learning and understanding subjects of interest which are accessible only to those who have a minimum of education.
172. In view of the illiteracy rates in Colombia, the Ministry of Education has included within the curriculum for the high-school leaving examination literacy classes intended to ensure that pupils assist in teaching illiterate adults to read and write.
173. Article 41 of the Constitution guarantees freedom of education. The State, however, has the right to final inspection and supervision of institutions of learning public and private, in order to ensure the fulfilment of the social purposes of culture and the fullest intellectual, moral and physical development of students. In addition, article 120, paragraph 12, of the Constitution empowers the President of the Republic to establish regulations for, and direct and inspect, public education in Colombia.
174. Primary education is free of charge in State schools and compulsory to the extent determined by law. As a result of the plebiscite of 1 December 1957 (art. 11), it was stipulated that, as from 1 January 1958, the Government should spend not less than 10 per cent of its over-all budget on public education.
175. It is thus apparent that parents have the right to choose the type of education which establishes the essential basis for life in respect of moral, religious, intellectual, civic and physical education. Decree No. 1710 article 10, of 1963 provides that every person has a right to primary education as from the age of seven years. In addition, domestic servants are entitled to be released by heads of households in order to receive elementary education at night or even during the daytime as appropriate.

Article 6

176. The tenor of this article is reflected throughout this report, since, as has been pointed out under each of the preceding articles, in Colombia persons are equal before the law and the courts.

177. A person whose rights have been violated can apply to the judicial authorities to seek redress. The legal measures that must be used to this end depend on the nature of the act constituting the violation of rights. If the act constitutes a criminal offence, the person must report it and institute civil proceedings in conjunction with the criminal proceedings against the perpetrator in order to obtain compensation for the injury. If the act in question is not covered by criminal law and does not involve illegal acts by the public authorities, he may institute civil proceedings to sue the perpetrator for adequate compensation. If the violation of rights is the result of action by a public official, he may bring his case before an administrative court with a view to obtaining appropriate compensation.

Article 7

Information

178. Racial discrimination has been a recurrent phenomenon throughout mankind's history. The twentieth century, despite the progress it has witnessed, has been no exception, and today racial discrimination exists in every nation of the world with varying degrees of intensity and in a great diversity of forms.

179. In our country, whose population is made up of three ethnic groups (blacks, Indians and whites), the phenomenon is of some significance, especially as far as the indigenous population is concerned, with a marked emphasis on what the anthropologists term the "frontier areas". Aware of this fact, the Government has implemented a policy designed basically to attack the problem at its roots, which are in our view: ignorance, lack of information and lack of knowledge of the history and elements forming a culture.

180. In line with this approach, special importance has been attached to fostering awareness of the cultural and ethnic values of the various groups constituting our nation.

181. By way of example, the following specific activities in this direction may be noted:

- (a) The State radio, through its AM and FM services,
 - (i) Broadcasts the various United Nations reports and programmes on this subject, and
 - (ii) Devises special programmes on myths and legends, with particular emphasis on indigenous groups and ethnic minorities.

It should be noted that these programmes are prepared by notable Colombian experts in folklore and social research, and that the National Radio over whose frequencies they are broadcast has the most powerful transmitter in the Republic and can be heard in all parts of the country.

(b) Television channels are also deliberately used to promote the objectives mentioned: for the last two years, for instance, Audiovisuales, the State commercial and industrial concern, has been manning a series called "Yurupari" (a term meaning "transmission of art" in the indigenous language).

In this series, directed by anthropologists, a systematic survey is being conducted of the socio-cultural components of the various regions of the country, with special emphasis on folklore. Not only is the series broadcast at a popular viewing hour, but special arrangements have been made to record it on Betamax video cassettes so that it can be used as teaching material in educational centres and the most remote regions of the Republic.

182. As in the case of the previous item, the Government has attached special importance to implementing and publicizing the provisions of the Universal Declaration of Human Rights, for which purpose it has called upon the assistance of all the mass media, both State and private.

183. The Government's campaign for the achievement and strengthening of peace at the national and international levels spearheads the struggle for the realization of social justice based on the full exercise of citizens' rights, within the framework of the provisions of the Universal Declaration of Human Rights. Progress is being made in this direction every day, not only through the activities of the Contadora Group and the signature of peace agreements with armed national groups, but also in other areas contributing to that aim, one example being the recent development in the national prison system, where the so-called "punishment cells" were destroyed in every one of the country's places of detention by order of the Government.

184. We will also provide information on whether the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights, the United Nations Declaration on the Elimination of All Forms of Racial Discrimination and the International Convention on the Elimination of All Forms of Racial Discrimination are included in education and teaching.

The Colombian education system

185. The Colombian education system comprises formal education and non-formal education (see diagram 1).

186. Formal education is provided by means of a systematic sequence of periods of instruction in public and private establishments, with subjects graded according to level, and leads to diplomas and academic qualifications.

187. Non-formal education is provided without a systematic sequence of periods of instruction in educational establishments or elsewhere.

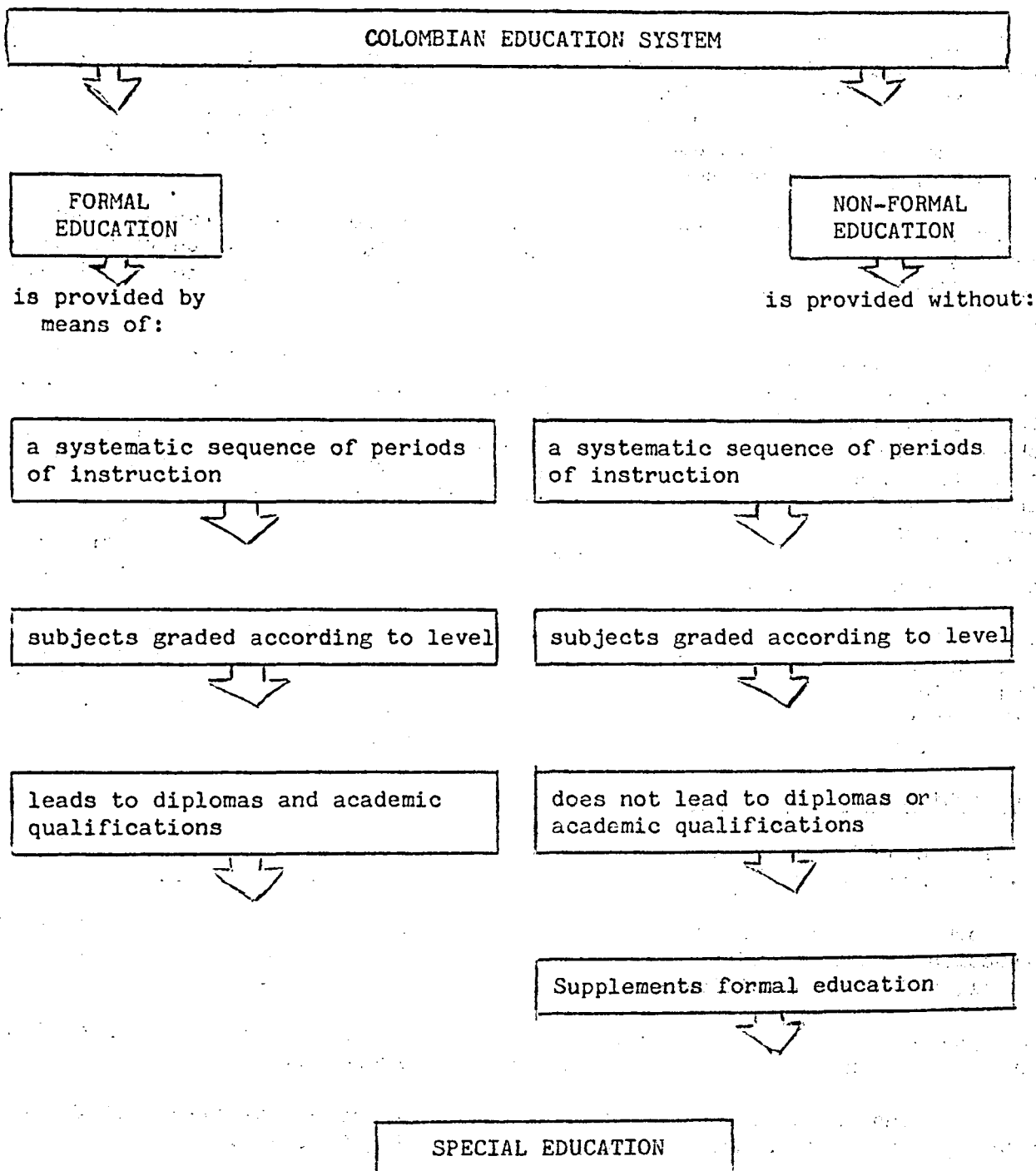
188. This kind of education does not lead to diplomas or academic qualifications and does not require subjects to be graded according to level.

189. Both formal education and non-formal education provide and develop special education.

Levels, grades and subjects taught in the education system

190. Despite the complexity of the education system, it may be described in simplified form in terms of levels, grades and subjects taught.

Diagram 1



191. Table 1 outlines the structure of education under these headings. Education from the pre-school to medium levels is under the direct supervision of the Ministry of Education through its three main directorates-general: the Directorate for Administrative Services, the Directorate for Administration and Inspection, and the Directorate for Training and Curricula.

192. The part played by the mass media (radio, press and television) has been decisive in publicizing government policies in the area of human rights and in identifying matters in this area which require action by the State.

193. In varying degrees, but without any exception, all the media have contributed, and are continuing to contribute, to efforts to ensure the speedy implementation of the Government's plans for the full application of the Universal Declaration of Human Rights in Colombia.

194. We are pleased to be able to confirm that, without exception, there has been exemplary performance in respect of the dissemination, promotion and protection of human rights, both in their overall conception and in the support extended to specific action by the State to promote these rights.

195. We are also gratified to report that in Colombia there have been no infringements of any kind by the media of the principles and values relating to human rights.

196. State supervision also extends to all Colombian film production (short and full-length films); in this area it is government policy to promote projects designed to contribute to a better knowledge and understanding of Colombia's ethnic variety and the ideal cultural, political and economic equality to which alone it aspires.

Teaching and education

197. This section will describe the legislative and administrative measures adopted in the field of education and teaching with a view to combating racial prejudices which lead to racial discrimination, and will include some general information on the teaching system.

198. It will also describe the measures taken to include, in school syllabuses and in the training of teachers and other professional personnel, programmes and subjects that contribute to a better knowledge of human rights issues and lead to greater understanding, tolerance and friendship among nations and racial or ethnic groups.

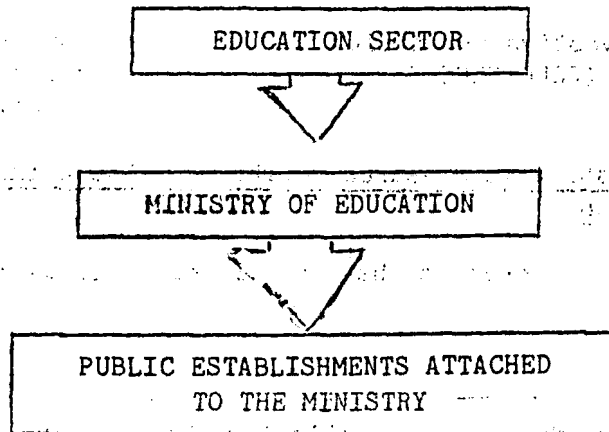
199. University education is supervised by the Colombian Institute for the Development of Higher Education (ICFES), which is attached to the Ministry of Education.

Table 1

LEVELS, GRADES AND SUBJECTS TAUGHT IN THE EDUCATION SYSTEM

TYPE	LEVEL	GRADES	SUBJECTS TAUGHT AND ACADEMIC QUALIFICATIONS
Pre-school education	For children under six years old		
Elementary education	Primary Secondary	1st to 5th 6th to 9th	School-leaving certificate in sciences - Mathematics - Natural sciences - Social sciences
			School-leaving certificate in technical studies Education Industry Agriculture Business studies Health and nutrition Physical education and recreation Community welfare
Medium-level education	Vocational medium level	10th and 11th	School-leaving certificate in arts subjects Fine arts Applied arts
Higher education	Vocational intermediate education	12th and 13th	Vocational intermediate technical qualification
	Technological education	12th, 13th and 14th	Technological and specialized qualification
	University education	12th, 13th, 15th, 16th and 17th	Doctors, Bachelors degrees Engineers
	Advanced or post-graduate education	18th to 20th	Master's and Doctor's degrees

Diagram 2



Education system

200. Diagram 2 shows the two main components of the education system, the Ministry of Education and the public establishments attached to the Ministry. The latter establishments are decentralized and perform the following general functions:

Establishments

Functions

Universities	Higher education
Colombian Institute for the Development of Higher Education (ICFES)	Higher education
Colombian Institute for Educational Funding and Technical Studies Abroad (ICETEX)	Educational funding
Youth and Sports Institute (COLDEPORTES)	Promotion of sport
Instituto Caro y Cuervo	Linguistics studies
Colombian Institute of Hispanic Culture	Co-operation, Hispanic cultural studies
Jorge E. Gaitán Museum and Centre	Cultural development
Colombian Cultural Institute (COLCULTURA)	Promotion of the study of Colombian culture
Colegio Boyacá	Academic studies
Instituto Nacional para Ciegos (INCI)	Instruction for the blind
Instituto Nacional para Sordos (INSOR)	Instruction for the deaf

Instituto Colombiano de Construcciones
Escolares (ICCE)

Builds and equips public
educational establishments

Fondo Colombiano de Investigaciones Cientificas
y Proyectos Especiales (COLCIENCIAS)

Conducts and promotes
educational, scientific and
technological research

Legislative and administrative measures relating to the elimination of all forms
of racial discrimination

201. The Constitution in force in the Republic of Colombia dates from
7 August 1886.

Legislation

202. Act No. 56 of November 1927 establishing the Ministry of Education contains
the following provisions relating to the education of children:

"Article 40. Parents, guardians and other persons acting in lieu of
parents are required to provide children with a minimum of education comprising
the necessary bases for life in the form of intellectual, moral and religious,
civic and physical instruction, as set out in the decree establishing
regulations concerning this Act. However, they are at liberty to select the
methods of complying with this obligation in one of the following ways:

- (a) Having the children educated in a school, either public or private,
and
- (b) Educating them at home".

203. Act No. 32 of 20 February 1936 relating to equal conditions for admission to
educational institutions contains the following provisions:

"Article 1. No primary, secondary or vocational educational establishment
may refuse to admit pupils on the grounds of illegitimate birth or social,
racial or religious difference.

"Article 2. Any violation of this provision by a professor, headmaster
or teacher shall constitute improper conduct and shall lead to the immediate
dismissal of the person concerned and permanent deprivation of the right to
teach in public establishments.

"Article 3. With regard to private schools, the refusal to admit pupils
on the grounds of illegitimate birth or social, racial or religious differences
shall involve loss of the State subsidy if they receive one, and of their
right, if they possess it, to have their diplomas and certificates recognized
by the State. In addition, the State shall render pupils of schools that fail
to comply with the provisions of this Act ineligible to apply for the diplomas
to which they would otherwise be entitled.

"Article 4. The acceptance of differences on the grounds stated in this act, in the internal regime of the establishments in question shall entail the same penalties".

204. Act No. 7 of 24 January 1979 establishing provisions for the protection of children stipulates:

"Article 2. Childhood forms a basic component of any policy directed towards social progress, and the State shall offer children and young people the possibility of playing an active part in all spheres of social life and a comprehensive and multi-faceted education.

"Article 3. Every child has a right to participate in the programmes of the State and in the elementary education provided to Colombians, without distinctions as to race, colour, sex, religion, social status or origin. Similarly, every child has a right to be educated in a spirit of peace and universal brotherhood.

"Article 4. All children from the time of their conception - whether in or out of wedlock - have a right to enjoy the special care and assistance of the State. The Government shall ensure the elimination of any form of discrimination in the legal regime relating to the family and of any distinction creating inferiority among children.

"Article 5. Every child has a right to a name and a nationality. This guarantee has as its counterpart the duty of the State to make every effort to ensure a responsible attitude in the younger generation.

"Article 6. Every child has a right to education, social security and welfare. It is the duty of the State to make provision for schools, school meals and the protection of children, particularly handicapped children who require special care.

"Article 7. Every child has a right to medical care, to access to culture and sport, and to live in the home of a family. A sick child has the right to rehabilitation and to be among the first to receive assistance in the event of a disaster.

"Article 8. Parents shall have a right to select the type of education which their children will receive. If there are no parents and no persons responsible for them, the State shall assume responsibility for the education of minors, in accordance with their age and abilities.

"Article 9. The State shall ensure that pre-school education is aimed at promoting and encouraging in children under seven years of age psychomotor development, sensitive perception, social integration and preparation for school activities. In rural areas and marginal urban areas, such programmes shall include a nutritional supplement for health purposes.

"Article 10. The State shall ensure that, in court cases concerning acts and offences by minors, the basic principles to be observed shall be the prevention of crime and the rectification of conduct, with the aim of comprehensive care which will permit their rehabilitation and reincorporation within social life.

"Article 11. The State shall encourage the active participation of the community in all child-oriented activities".

Decrees

205. Decree No. 038 of 1976 reorganizing the Colombian Education system, incorporates the pre-school level previously not a part of the system, as the first level and institutes a number of measures eliminating certain aspects of education which did not contribute to the complete education of Colombians.

206. Decree No. 1419 of 1978 set forth the basic rules and guidelines for the administration of curricula at the pre-school and elementary (primary and junior secondary) levels and for the vocational secondary and intermediate vocational streams. The decree establishes the objectives of the education system on which curriculum design and the development of the contents of each programme are based.

"Article 2. For the purposes of this decree 'curriculum' shall mean all the planned and organized activities in which pupils, teachers and the community participate in order to achieve the aims and objectives of education.

"Article 3. The planning of curricula for the pre-school elementary (primary and junior secondary), vocational secondary and vocational intermediate levels shall conform to the aims of the Colombian education system, which are deemed to be the following:

1. To contribute to the balanced development of the individual and society on the basis of respect for life and human rights;
2. To stimulate the development of attitudes and habits that promote the physical and mental health of the individual and the rational use of time;
3. To promote the individual's conscious and responsible participation as a member of the family and the social group, and to strengthen the links that further the identity and progress of society;
4. To encourage vocational development and training in accordance with the attitudes and aspirations of the individual and the needs of society, inculcating respect for work regardless of its nature;
5. To encourage in the individual a readiness to protect, conserve, renew and use natural resources and the goods and services of society in a rational manner;
6. To develop in the individual a critical and analytical scientific outlook, by inculcating principles and methods in each sphere of knowledge, so that he may participate in efforts to find alternative solutions to national problems;

7. To promote in the individual the ability to create, adopt and transfer the technology needed in the national development processes;
8. To encourage the development of permanent achievement-oriented attitudes and habits that motivate the individual to continue his education throughout his life;
9. To encourage the study of indigenous values, and knowledge of, and respect for, the values that are characteristic of the various human groups;
10. To stimulate mental development and the capacity for aesthetic appreciation, and to promote a climate of respect for the various religious beliefs;
11. To form a morally and civically responsible individual".

207. Decree No. 1142 of 19 June 1978 relating to education for the indigenous communities contains extensive legal provisions on this question which are intended to promote respect for, and the preservation of, the values peculiar to each community:

"Article 1. All educational programmes for the indigenous communities shall be planned, supervised and evaluated by the Ministry of Education, with the co-operation of the communities concerned.

"Article 2. For the purposes of article 23, paragraphs (f), (g), (h) and (i), and article 32, paragraph (h), of Decree-Law No. 088 of 1976, any educational programme carried out among the indigenous communities by international private or official bodies shall be regarded as international technical co-operation. No educational programme of this kind may be initiated without the consent of the communities concerned.

"Article 3. Educational facilities for the indigenous communities shall be provided free of charge at the official education establishments functioning within the indigenous communities or at outside establishments which are intended exclusively or largely for them. The Colombian State shall, through the Ministry of Education, allocate the requisite funds to cover the educational needs of such communities and set up contractual local administrative machinery, with the participation of the indigenous communities, for the purposes of effective decentralization of the management of the funds in question".

208. Decree No. 1589 of 30 June 1978 regulates the activities of the Instituto Electrónico de Idiomas, which is responsible for planning and executing the training of teachers of foreign and indigenous languages:

"Article 1. In conformity with the provisions of Decree No. 088, article 54, the Instituto Electrónico de Idiomas shall operate within the Division for the Co-ordination of Experimental Centres of the Directorate-General for Teacher Training, Refresher Courses, Curricula and Educational Facilities, in order to execute training programmes in foreign and indigenous languages, in accordance with the policies, plans and programmes designated by the Ministry of Education.

"Article 2. The Instituto Electrónico de Idiomas shall discharge the following functions:

(a) Plan the curricula for refresher courses, and ordinary and advanced training programmes in foreign languages, Spanish as a foreign language and indigenous languages for current teaching staff, and submit them to the Directorate-General for Training for consideration and approval;

(b) Plan, test and evaluate programmes of studies in foreign languages, Spanish as a foreign language and indigenous languages ... "

Decisions

209. Decision No. 3454 of 1984 establishes a number of general guidelines for indigenous education and adopts a programme of studies for the communities of the Sierra Nevada de Santa Marta.

"Article 1. Programmes for the formal and non-formal education of the indigenous communities shall be planned and carried out in accordance with the guideline or outline laid down by the Ministry of Education, as part of the 'ethno-development' approach and its educational component, known as 'ethno-education'.

"For the purposes of this decision, 'ethno-development' means the exercise of a people's social decision-making capacity concerning the management of its cultural resources in order to build its future in accordance with a plan that draws on its own values and aspirations; 'ethno-education' means a continuing social process, imbued with the indigenous culture and consisting in acquiring knowledge and values and in developing abilities and skills, which trains the individual to participate fully in the cultural control of his community.

...

"Article 6. The Secretariat for Education of the Departamento of El Cesar [is hereby authorized to apply] with the support of the Experimental Centre, the programme of studies or educational model proposed for the Arhuaca indigenous community, subject to such periodic evaluations and adjustments as the Directorate-General for Teacher Training, Refresher Courses, Curricula and Educational Facilities of the Ministry of Education may deem appropriate. The programme of studies to which this article refers shall comply with or achieve the following general objectives:

To respect and value indigenous culture by developing and carrying out bilingual and bicultural programmes related to the community's process of production;

To train pupils to defend their values, their land and the economy, and prepare them for life in the Sierra, in order to enable them to find constructive solutions to community problems and to decide on changes in their own development;

To ensure that the indigenous inhabitants harmoniously incorporate in their culture values and techniques of other cultures, in a relationship of equality and respect between the indigenous community and Colombian society;

To consolidate, within the community, the organization and maintenance of community methods of managing its cultural resources and, consequently, decision-making".

210. Decision No. 294 of 26 January 1978 authorizes the Tierradentro public education co-ordination authorities to implement an experimental curriculum for indigenous schools in the area.

"Article 1. The Tierradentro public education co-ordination authorities are hereby authorized to take the following action:

I. Research:

(a) On the theoretical aspects and methodological processes of bicultural and bilingual educational models;

(b) On the social, cultural and economic conditions of the communities concerned; and

(c) On the existing public education system in the area, its problems, successes and defects; and

(d) To devise short-term pilot projects to be conducted on a staggered basis in four schools.

II. A three and a half year testing period for the pilot projects provided for in the foregoing plan;

III. A six-month period for elaborating conclusions.

"Article 2. Authority is given to commence the second project, whose objective is to ensure that indigenous Paeces children learn reading, writing and basic arithmetic".

211. Decision No. 4292 of 1966 lays down the conditions which educational establishments must impose for admission and enrolment. Article 1 of the decision requires, in addition to other documents, a "certified copy of the birth certificate issued by a registry office". This requirement eliminates the question of freedom of the religion professed by the pupil or his family.

Programmes

212. The above-mentioned laws, decrees and decisions form the legal framework for curriculum planning, and for the administrative measures which cumulatively implement the provisions of article 7 of the International Convention on the Elimination of All Forms of Racial Discrimination. However, it is worth while to recapitulate them.

213. Decree No. 088 of 1976 restructures the education system and reorganizes the Ministry of Education.

214. Decree No. 1419 of 1978 sets forth the basic rules and guidelines for the administration of curricula at the pre-school and elementary (primary and secondary) levels and for the vocational secondary and vocational intermediate streams. It also establishes the purposes of education.
215. Decree No. 1816 of 1978 establishes the experimental centres responsible for providing training, refresher courses and in-service training for teachers throughout Colombia.
216. Decree No. 1002 of 1984 establishes the curricula for formal education from the pre-school to vocational secondary levels.
217. Decree No. 2762 of 14 October 1980 establishes the national training system.
218. The process of modernizing curricula, which has been under way throughout Colombia for more than six years, has produced a series of studies, including "general bases of the curriculum" and "general frameworks for curricula", and has given rise to the legal principles already outlined and other principles which are described below.
219. Philosophical principles: "In explaining the human prototype formed by Colombian society, philosophical reflection leads to the conclusion that this prototype is doubly conditioned, on the one hand, by existing social relations, and on the other, by the characteristics, requirements and aspirations of universal civilization as it approaches the twenty-first century. The world is becoming increasingly unified and the interdependence of countries is becoming more obvious. All countries, including Colombia, have become interdependent elements in an extensive worldwide system of political, economic, social and cultural interrelations. A new prototype of man as a cultural, historical and social being is emerging within this system".
220. Epistemological principles: "The various sciences are viewed as social products and practices ...".
221. Sociological principles: "The relations which exist between society and education ...", "the new social order ...", "ideas, values, feelings, traditions ...", "Colombian social reality ..., productive sector, basic services, demography".
222. Psychological principles: "Continuing research into activities ... channelled towards: theories or approaches which give priority to development; theories or approaches which give priority to the learning process".
223. Teaching principles: Active teaching; on the basis of these principles and programmes topics such as "Education for peace" and "Political institutions and democracy" are developed. These topics focus on understanding among human groups, regions and nations in general, and are developed at the national level. The social sciences in particular are a vehicle for promoting a knowledge of human rights and the principles enshrined in the United Nations Charter both in teacher training and in actual teaching.

Non-formal education

224. The State is giving particular attention to the problem of illiteracy; Decree No. 2346 accordingly launched the "Simón Bolívar" national literacy campaign, providing for the necessary resources and strategies for action which would reach all regions of the country and integrate large sectors of the population into national life.

225. The campaign pursues the following objectives:

The eradication of illiteracy in Colombia;

To provide the country with policies and a programme of continuing basic education for adults;

To teach the 3 million total illiterates in Colombia to read and write, and to give the 2 million persons who have relapsed into illiteracy the opportunity of benefiting from the campaign.

226. The campaign, known as "CAMINA", includes various non-formal education programmes such as education for the elderly and the Escuela de Padres, and is aimed at ensuring that no group is excluded from the benefits of education, science and culture.

227. It pursues the following objectives:

To improve the quality of life for man, the family and society in Colombia;

To bring the benefits of culture, technology and science to Colombian families through the mass media;

To help to resolve social problems by incorporating the family into a systematic process.

Higher education

228. One of the functions of the Colombian Institute for the Development of Higher Education (ICFES) is to make known and advise on the various guidelines that regulate the post-secondary education system. It has thus been deemed necessary to ensure that higher education conforms to social objectives, to adapt it to the needs of the country, to make it democratic and to strive, through academic quality, towards the effective training of human resources.

229. It should be noted that guidelines have been issued not only for higher educational establishments but also for their graduates, so as to enable them to discharge their professional social function by passing on their knowledge and skills to less favoured social groups which, because of their background or geographical location, have priority needs.

230. Mention should be made of the measures adopted by the present Government to democratize and simplify access to higher education by means of its open and distance higher education programme, whose execution has begun throughout the country in conformity with the guiding principles underlying its conduct and financing.

231. Decree No. 80, issued in 1980, organized the system of post-secondary education in Colombia, conferring on it the character of a public service intended to perform a social function by promoting the knowledge and reaffirmation of national values, the expansion of spheres of creative activities and the enjoyment of culture, the full participation of Colombians in the benefits of artistic, scientific and technological development deriving therefrom, and the protection and use of natural resources so that they may be adapted to meet human needs.

232. The relationship of research with teaching should create a critical spirit which endows the student with the intellectual capacity to assume with full responsibility the theoretical and practical options aimed at maximizing his personal skills and social development.

233. Because of its universality, the higher education system must provide facilities for all forms of science and for the continuing and flexible reformulation of new concepts of social organization, in a climate of respect for academic independence and freedom with regard to research, learning and teaching.

234. In conformity with all the above principles and in order to assert universality in their scientific and educational goals, the higher educational establishments will be open to all social forces, in communication with all the peoples of the world, involved with all advances in scientific and technological research, and receptive to all aspects of scientific thought. Consequently, education may not be restricted on grounds of race, belief, sex, or economic or social status; access to education will be open to those who, availing themselves of the equality of opportunity, show that they possess the requisite capacities and fulfil the academic conditions in every case.

Culture

235. Colombia has enacted a number of provisions intended to promote various forms of culture.

236. Act No. 34 of 1973 adopted a policy with regard to books as one means of democratizing culture, as may be seen from the following article:

"Article 1. Colombia hereby adopts a policy concerning books intended to achieve the following objectives:

(a) The democratization of books as a prime element in the dissemination of culture, the transmission of knowledge, and the development of social and scientific research;

(b) The preservation of the cultural heritage;

(c) The development of the national information system;

(d) The training and encouragement of librarians, archivists, and staff and workers in the graphic arts and book-related activities;

(e) The encouragement of authors;

(f) The promotion and support of book production in general and, in particular, of textbooks for the various academic levels;

(g) Promotion and support of the free movement of books;

(h) The encouragement of book production and marketing through appropriate taxation measures".

237. Decree No. 2616 of 1975 amends the statutes of the Colombian Cultural Institute (COLCULTURA). This official body is responsible for promoting and developing cultural activities in Colombia.

238. Its aims are the protection, reclamation, encouragement and popularization of the riches of Colombian culture, namely, the protection of existing resources, the reclamation of Colombia's rich cultural heritage, the encouragement of new creative activities and the popularization of all cultural events.

239. Following a policy of democratization, the Institute is endeavouring to bring to the broadest sectors of the population, without distinction as to race, social status, belief or any other factor, culture, information and cultural events by using a great variety of communication media.

240. COLCULTURA maintains that the quest for a national cultural identity which will successfully amalgamate widely differing characteristics, the most individual cultural traditions and their own forms of expression constitutes the basis for an understanding of, and respect for, the cultural diversity of the peoples of the world, sharing with them the universal cultural values of freedom, justice and brotherhood.

241. Decree No. 1652 of 1979 authorizes the promotion and organization of a semi-public company known as PROCULTURA for the production, marketing and distribution of all kinds of cultural materials.

United Nations Associations

242. Since 1976, there have been 23 UNESCO associated schools in Colombia. Their curricula include the following subjects:

Fundamental principles concerning human rights;

Peace and disarmament;

The New International Economic Order;

The environment;

A knowledge of other peoples and cultures.

243. The topic of human rights in practice is developed as an out-of-school activity, in conjunction with the local community.

UNESCO Clubs

244. UNESCO Clubs, with their respective associations, have been in existence in Colombia for a number of years and have approximately 20,000 active members. In particular, they promote the following subjects and activities:

Defence of cultural identity;

Human rights;

Peace;

International relations;

Work with the family and community, particularly the "Escuelas de padres";

Scientific matters;

The new world information and communication order;

Work with children from marginal districts;

Education and the environment;

Encouragement of reading.

245. It may thus be readily seen that the legislative and administrative measures, together with the supplementary formal and non-formal educational activities, implement and develop the provisions of article 7 of the International Convention on the Elimination of All Forms of Racial Discrimination.

Annex I

NOTES ON INDIGENOUS LEGISLATION

PROGRAMMES EXECUTED BY INCORA

I. BASIC LEGAL PROVISIONS

The legislation in force concerning the indigenous population consists of the following enactments:

1. Act No. 89 of 25 November 1890, "determining the manner in which the savages who are being converted to civilized life are to be governed". This Act was largely based on Act No. 90 of 19 October 1859 (no longer in force) and in particular article 11 thereof, in which provision was made for the joint ownership of reserves and the nullity of any transfer. It was a special law since it excluded from the general legislation of the Republic "savages" who were being converted to civilization through the missions (under the new Concordat, the missions agreement has been abolished and it is the joint government/Church standing commission which is now responsible for the missions referred to in the Act). Moreover, the indigenous communities converted to civilized life are not governed by the general law of the Republic in respect of reserves. Act No. 89 provided for the organization of indigenous councils, reserves for the protection of indigenous inhabitants and the division of reserve lands.
2. Departmental Decree No. 74 of 1898, establishing regulations relating to Act No. 89 of 1890. This Decree is in force in the departamento of Cauca and is valid in the other departamentos which previously formed part of the old departamento of Cauca.
3. Decree of 5 July 1820, promulgated by the Liberator Simón Bolívar, ordering the reserves to be returned to their original inhabitants.
4. Departmental Decree No. 50 of 1937 relates to acts forbidden to members of indigenous communities, segregation, the processing of complaints involving interference with property and other matters. Further to Act No. 89 of 1890, various laws were promulgated in respect of the division of indigenous reserves. These laws are not in force today as a result of the expiry of the 50-year period which could be extended by the governors of the departamentos in question for the purposes of the division of reserves. These laws were Act No. 104 of 16 December 1919, Act No. 38 of 19 November 1921, Act No. 19 of 23 September 1927 (with the exception of article 34), and Act No. 111 of 28 October 1931. Although Act No. 38, article 3, first paragraph, of 1921 states: "The indigenous populations dealt with in Act No. 89 of 1890 may not be assigned to any service by individuals or authorities of any kind unless they are paid the appropriate wage, stipulated in advance", this point was already provided for in article 22 of the Colombian Constitution, which reads: "There shall be no slaves in Colombia. Any slave who sets foot in the territory of the Republic shall thereby be free". The aim of the above-mentioned article 3 is also reflected in ILO Convention No. 107.
5. Act No. 60 of 1916, as amended by Act No. 135 of 1961.

6. Act No. 81 of 31 December 1958 relating to agricultural development. This Act establishes, and determines the functions of, the Indigenous Affairs Section, which is now known as the Division of Indigenous Affairs, within the Ministry of the Interior. It also establishes the Agricultural Development Fund for the Indigenous Communities and the Colombian Indigenist Institute, and provides for matters relating to reserves, legal disputes and secondary proof. With regard to the transfer of plots which may be allocated in accordance with article 9 of this Act, it leaves them subject to the provisions of article 34 of Act No. 19 of 1927.

7. Decree No. 2413 of 2 September 1961 establishes regulations concerning Act No. 81 of 1958 relating to the agricultural development of the indigenous communities.

8. Decree No. 1634 of 1960 relating to the Division of Indigenous Affairs. This Decree establishes the Reserves and Communities Section, the Indigenous Protection Section and the Commissions Office as integral parts of the Division, determines their functions and defines the membership of the Colombian Indigenist Institute established by Act No. 81 of 1958. Article 29 of Act No. 135 of 13 December 1961 relating to agrarian reform provides for the non-allocation of uncultivated land occupied by indigenous peoples, while article 58, third paragraph, empowers INCORA to expropriate properly worked land for the reorganization of the indigenous reserves and in general to provide land to the indigenous communities, in accordance with article 94 of this Act. It empowers the Institute to establish land reserves for indigenous groups or tribes which have no land and to divide indigenous reserves, after consultation with the Ministry of the Interior.

9. ILO Convention No. 107 concerning the protection and integration of indigenous and other tribal and semi-tribal populations in independent countries, which was adopted at the fortieth session of the ILO General Conference held in Geneva in 1957. The Convention was ratified by Act No. 51 of 19 June 1967, which had the effect of rendering without legal effect any provisions that run counter to it. Without going into details concerning the substance of this Act, attention may be drawn to the following main features:

(a) it obliges the Government to develop co-ordinated and systematic action for the protection of the indigenous populations, through measures enabling them to benefit on an equal footing from the rights and opportunities which national laws or regulations grant to other sectors of the population;

(b) it compels the Government, so long as the social, economic and cultural conditions of the indigenous populations prevent them from enjoying the benefits of the general laws of the country to which they belong, to adopt special measures for the protection of their institutions, persons, property and labour, taking account of the forms of social control existing among these populations, the nature of the problems which they face both as groups and as individuals when they undergo social and economic change, the danger involved in disrupting their values and institutions, and the need in every case to seek the collaboration of these populations and their representatives;

(c) it obliges the Government to recognize the right of ownership, collective or individual, of the members of the indigenous populations over the lands which they traditionally occupy. It further provides that, with the same purpose and in furtherance of this obligation, procedures for the transmission of the rights of ownership and use of land, which are established by the customs of the indigenous populations, shall be respected, within the framework of national laws and regulations, in so far as they satisfy the needs of these populations and do not hinder their economic and social development;

(d) it obliges the Colombian State to make arrangements in order to prevent persons who are not members of the populations concerned from taking advantage of these customs or of lack of understanding of the laws on the part of the members of these populations to secure the ownership or use of the lands belonging to such members;

(e) it provides that the Government shall adopt, within the framework of national laws and regulations, special measures to ensure the effective protection with regard to recruitment and conditions of employment of workers belonging to the indigenous populations so long as they are not in a position to enjoy the protection granted by law to workers in general, endeavouring above all to ensure admission to employment, equal remuneration for equal work, medical and social assistance, and the right of association;

(f) it confers on the Government a responsibility to take measures to ensure that the members of the indigenous populations have the opportunity to acquire education at all levels on an equal footing with the rest of the national community. It adds in this connection, among a number of other recommendations, that children's literacy programmes should be conducted in the pupils' mother tongue and that the various groups should be given classes in their vernacular language.

10. Concordat and Final Protocol, concluded in Bogotá on 12 July 1973 between the Republic of Colombia and the Holy See. These agreements were approved by Congress through Act No. 20 of 1974 and entered into force on 2 July 1975, when the respective instruments of ratification were exchanged in Vatican City. The missions agreement of 1953 was abolished, as a result of which the State assumed responsibility for the education of the indigenous inhabitants. A joint government/Church commission was established, and provision was made for the conclusion of contracts in the marginal areas which, in view of their boundaries, also extend to the indigenous communities.

11. Decree-Law No. 126 of 26 January 1976, modifying the administrative organization of the Ministry of the Interior. Article 1 (d) states: "It shall be the responsibility of the Ministry of the Interior to supervise the integrity of the areas designated as Indian reserves". Article 1 (f) enunciates the following responsibilities: "... to grant, suspend and cancel the juridical personality of boards, associations, communal action federations and confederations, and corporations and federations which undertake activities relating to the indigenous communities".

II. ACTIVITIES EXECUTED BY INCORA IN RESPECT OF LAND FOR THE INDIGENOUS COMMUNITIES

12. Basically, programmes may be summarized as follows: approval of programmes for the purchase of land for small-farm reserves and civil indigenous communities; establishment of indigenous reserves on uncultivated land, and drainage of indigenous reservations and reserves. The latter activity is being undertaken in conjunction with the Ministry of the Interior.

A. Programmes approved for the reorganization of reserves and areas occupied by indigenous civil communities

13. For the indigenous inhabitants of the Andean region (estimated population, 280,000), who for the most part live in old reserves or ordinary civil communities, in accordance with the provisions of Act No. 89 of 1890 and in order to resolve their serious problems arising from the small-farm system, INCORA has been conducting studies with a view to proposing the adoption of programmes for the purchase of land adjacent or close to the indigenous territories (Act No. 135, art. 58, of 1961 and Decree No. 1576, art. 22, of 1974).

14. To date the Managing Board of the Institute has given its approval to nine programmes of this type: five in Cauca, one each in Antioquia, Caldas and Risaralda, and one for the civil community of Tolima.

B. Establishment of indigenous reserves and reservations

15. In order to ensure the peaceful occupation by the indigenous population settled in the sectors known as Selva and Sabana (estimated at 170,000) of at least part of the uncultivated land which has constituted their traditional habitat, the Managing Board of the Institute has so far established 94 reserves and 34 reservations extending over 10,961,393 hectares (approximately 60 per cent of this area is unsuitable for agriculture and has been left in its original state, not only in order to enable the indigenous peoples to obtain jungle products, but in order that the vegetation thus preserved may act as protection for natural resources). This measure has benefited 110,586 indigenous inhabitants, comprising 20,239 families.

III. PROCEDURES TO BE FOLLOWED FOR THE ESTABLISHMENT OF AN INDIGENOUS RESERVE

16. By virtue of the authority vested in the Colombian Land Reform Institute (INCORA) under Act No. 135 of 1961, the Lands Title Division, through the Indigenous Reserves Section, initiates and completes the procedures relating to the establishment of indigenous reserves or the conversion of reservations into reserves, either ex officio or at the express request of the indigenous communities concerned. In some cases, these procedures are also initiated at the written request of related indigenous bodies, such as the Colombian Indigenous Organization (ONIC), or at the request of certain public bodies such as the Division of Indigenous Affairs of the Ministry of the Interior or the Administrative Department for Intendencias and Comisariías (DAINCO).

17. As determining factors for the initiation of the procedures leading to the establishment of a reserve, the Indigenous Reserves Section always takes into account the existence of the following:

- (a) An express request by the indigenous community or a related body;
- (b) Availability of funds for a timely visit by Section officials to the indigenous areas in question;
- (c) Prior information and survey on the indigenous community to be visited.

18. Other factors are described below, as elements in each administrative or technical step towards the aim of converting a reservation into a reserve or establishing a reserve.

19. Preparatory procedures. Any request for the establishment of a reserve is received, registered and filed as an initial step in the opening of the corresponding "dossier". These procedures comprise:

(a) Receipt. The request, together with documents relating to it which may be appended or may have already been received by the Section, are analysed and their salient points recorded, including the date of the request, the name(s) of the applicant(s), the place from which the request originated, the name of the (ethnic) group in question and any other data that may facilitate identification;

(b) Registration. In order to give an even more official character to the actions that will be taken concerning the request and for the purposes of subsequent action, the Indigenous Reserves Section requests the Office of the Legal Secretary to register the communication, for which purpose a number is allocated to it, enabling it to be filed in numerical order. Once the communication has been registered, it forms part of a "dossier", which is returned to the Indigenous Reserves Section;

(c) Filing. For the purposes of convenient access to the relevant documents, the dossier remains in the files of the Indigenous Reserves Section and is recorded in a card index. Cards note the salient features of the dossier, including its number, population data, location of the community and stage reached in action on the case.

20. Planning and preparation of visits. After the foregoing steps have been taken, every dossier is registered as pending, to be taken into account in the future planning of visits. The next step is taken by the Indigenous Reserves Section, which makes preparations for the visit to the indigenous community in question. These preparations consist of various activities, which are recorded in the relevant dossier. Generally speaking, they involve the following steps.

21. Preparation of the visit. Having analysed the information contained in the dossier, the officials designated to make the visit undertake the relevant pre-mission procedures, indicating - for approval by the deputy chiefs of the legal and administrative departments - the data concerning the purpose of the mission.

22. Among the preparations for the mission, the officials concerned have to consult in good time the relevant maps and census forms, which should contain demographic information concerning the indigenous community in question.

23. It should be noted that the availability of detailed and sufficiently large-scale maps constitutes an essential element not only in providing guidance for officials, but in identifying and checking or rectifying the names and locations of rivers, streams, lakes, villages, etc. in the area to be visited.

24. It is equally important to contact the Division of Indigenous Affairs within the Ministry of the Interior in order to co-ordinate action to be taken locally, since in many cases the co-operation of the Division proves essential in taking various steps vis-à-vis the local authorities, and in obtaining transport or assistance in the acquisition of information.

25. Writing the socio-economic and legal report or study. After the visit to the area and the collection of the information which, in detailed form and duly collated in the light of the purposes of the visit, will constitute the essence of the report, some or all of the following topics will be embodied in the report:

(a) Physical and geographical description of the area visited, outlining very objectively facts relating to soil, mountains, hydrography, rainfall pattern and amounts, and other meteorological data;

(b) Historical background, containing all relevant information on the settlement and the evolution of the human groups concerned. In this connection, special emphasis must be laid on the degree of permanency of the indigenous community's relationship with the area in question and the period during which the relatives or ancestors of members of the community began their occupation of the land, started developing it and constructed their dwellings;

(c) The situation of the human resources available to the community, identifying the chief demographic parameters, in particular data on the number of inhabitants and families, kinship, age categories, marital status, health, education, etc. Under this heading, information will also be given on social and religious matters, folklore, and the particular habits and customs distinguishing the community;

(d) As a basis for the decisions subsequently taken by the Institute's Managing Board and in the light of the recommendations made in the study, it must include a detailed analysis of the situation with regard to land occupancy and ownership. This section will comprise an account and compilation of titles constituting any indication or proof of ownership, either through certificates issued by the Spanish Crown or documents issued by the authorities during the colonial or later periods. By studying these documents, it is possible to establish the land occupancy situation, except in those cases in which the indigenous inhabitants are occupying territory recognized as uncultivated (owned by the State). In this case, ancestral and permanent occupancy of this territory must be demonstrated;

(e) In order to carry out the study, it is in many cases also necessary to evaluate the land occupancy situation of settlers living within the area inhabited by the indigenous population; in such situations, the possibility of conflict between settlers and indigenous inhabitants (frequently over land ownership) must be analysed in advance;

(f) Although they were prepared before 1982, the studies by the Indigenous Reserves Section merely delimited and assigned to the indigenous community concerned the territorial area designated as a reservation or reserve and a number of recommendations were made concerning the indigenous community's needs in the areas of education and health. As from 1983, however, the Section has been planning a minimum programme of agricultural development for the indigenous communities. With this objective in mind, any study prepared for the purposes of the establishment of reserves contains a special section analysing the infrastructure conditions and state of development of the community in question and outlining an investment plan intended to achieve an adequate level of development, enabling the community, through self-management and on a community basis, to improve the living conditions of its members.

26. Opinion of the Ministry of the Interior. When this study has been completed, it is sent, together with the relevant census and maps, on the basis of an order by the Lands Title Division and through the Office of the Legal Secretary, to the Division of Indigenous Affairs of the Ministry of the Interior for a favourable opinion concerning the viability of the establishment of the reserve, under the provisions of Act No. 135, article 94, third paragraph, of 1961.

27. Approval by the Managing Board. When a favourable opinion has been expressed by the Ministry of the Interior, and after approval by the Deputy Chief of the Legal Office, the dossier is sent to the General Manager of the Institute, together with the draft decision, for submission to the Managing Board for consideration and approval.

28. Registration and publication. Once the decision has been approved by the Managing Board, the dossier is returned to the Office of the Legal Secretary, which through official communications requests the following actions:

(a) Registration of the decision of the Managing Board, as a result of which the reserve is approved in the competent Regional Office of Public Records;

(b) Publication in the Diario Oficial;

(c) A communication is also sent to the competent mayor's office or inspectorate of the chief town in question in order that the inhabitants of the region may be informed by proclamation of the relevant decision.

29. When these actions have been taken, the dossier is returned for filing to the Indigenous Reserves Section.

IV.

LEGALLY ESTABLISHED RESERVES AND RESERVATIONS

(1966 - 30 June 1984)

NAME OF COMMUNITY	LOCATION	ETHNIC GROUP	NUMBER OF PERSONS 1/
Kilometer 6 and 11, Leticia-Tarapacá road*	Amazonas	Witoto-Ticuna	306
Puerto Zábalo and Los Monos*	"	Witoto	262
Monochoa*	"	"	256
Aduche*	"	Andoke	106
Arara**	"	Ticuna	282
Mirití-Paraná**	"	Yucuna-otros	1 200
San Antonio de Los Lagos and San Sebastián**	"	Ticuna	269
Santa Sofía and El Progreso**	"	Ticuna-Yagua	210
Nazareth**	"	Ticuna	192
Mocagua, Macedonia, El Vergel and Zaragoza**	"	Ticuna	721
Caimán Nuevo*	Antioquia	Cuna	350
San Matías**	"	Katio	143
Río Jarapetó**	"	Emberá	68
Cusay**	Arauca	Macahuan	103
San José de Lipa*	"	"	132
Los Iguanitos**	"	Cuiva	39
Cobaría*	Boyacá	Tunebo	1 183
Tauretes-Agua Blanca*	"	"	207

NAME OF COMMUNITY	LOCATION	ETHNIC GROUP	NUMBER OF PERSONS <u>1</u>
San Antonio del Fragua**	Caquetá	Inga	56
El Quince**	"	Witoto	59
Huitorá**	"	"	140
Puerto Naranjo, Peñas Rojas, Cuerazo, El Diamante**	"	Coreguaje	162
Consejo**	Casanare	Sáliva	69
El Duya, San Juanito, Paravare**	"	"	313
Macucuana*	"	"	70
Caño Mochuelo*	Casanare	Cuiva and others	2 500
El Suspiro**	"	Sáliva	34
El Saladillo**	"	"	28
Agua Negra**	Cauca	Páez	458
Guanguí**	"	Emberá	414
Infi**	"	"	219
Tumbichucué**	"	Páez	425
Iguana**	"	Emberá	184
Calle Santa Rosa**	"	"	161
Iroka**	Cesar	Yuco	264
Socorpa**	"	"	274
Río Verde*	Córdoba	Emberá-Katío	336
Tanela**	Chocó	Katío	110
Juradó**	"	"	680
Cutí**	"	Cuna	49
Arquí**	"	"	210
Tiosilidio**	"	Waunana	90
Cabeceras or Puerto Pizarío**	Chocó-Valle	"	326

NAME OF COMMUNITY	LOCATION	ETHNIC GROUP	NUMBER OF PERSONS: 1/
Salaquí-Pavarandó**	Chocó	Emberá-Katío	303
Beté, Auro Beté and Auro del Buey**	"	Emberá	109
Río Domingodó**	"	"	109
Tahami del Andágueda**	"	Emberá-Katío	1 054
Río Uva and Pogue**	"	Emberá	533
Río Lanas or Capá**	"	"	144
Papayo**	"	Waunana	129
Ríos Valle and Boroboro**	"	Emberá	218
Jagual Río Chintadó**	"	"	174
Tegoromá**	"	Waunana	168
Docordó-Balsalito**	Chocó	Waunana	165
Río Nuquí**	"	Emberá	127
Río Catrú and Dubasa**	"	"	617
Ríos Jurubidá, Chorí and Alto Baudó**	"	"	800
El Doce**	"	Katío-Emberá	110
Río Panguí**	"	Emberá	151
El Veinte, Playalta and El Noventa**	"	Emberá-Katío	175
Río Torreidó-Chimaní**	"	Emberá	200
Río Quiparadó**	"	"	102
Río Mumbú**	"	Emberá-Katío	111
Chagpien-Tordó**	"	Waunana	229
Unión Chocó-San Cristóbal**	"	"	256
Carraipía*	Guajira	Guajiro	1 000
Alta and Media Guajira	"	Wayúu	45 900

NAME OF COMMUNITY	LOCATION	ETHNIC GROUP	NUMBER OF PERSONS <u>1/</u>
Caño Negro**	Guaviare	Guahibo	78
Venezuela*	Guaviare	Guayabero	112
Barrancón*	"	"	120
La Fuga*	"	"	88
Barranco Ceiba and Laguna Araguato**	"	"	103
Kogui-Malayo**	Magdalena-Guajira	Kogui, Malayo, Ijka	5 000
Arhuaco Sierra Nevada**	Cesar-Magdalena	Ijke	3 500
El Turpial and La Victoria**	Meta	Achagua-Piapoco	164
Corocito, Yopalito and Gualabo*	"	Guahibo	239
San Rafael, Abariba and Ibibi*	"	"	2 500
Vencedor-Pirirí, San Juanito and Matanegra*	"	Guahib-Piapoco	241
El Tigre**	"	Guahibo	375
Corozal, Tapaojo**	"	Piapoco-Sáliva	275
Caño Jabón**	"	Guahibo	82
Caño Ovejas**	"	"	77
La Sal*	"	Guayabero	105
Macuare**	"	"	107
Guambi-Yaslambi**	Nariño	Cuaiquier	155
Motilón-Barí*	N. Santander	Motilón-Barí	1 300
Gabarra-Catalaura**	"	" "	133
La Samaritana*	Putumayo	Witoto	158
Jirijirí*	"	Witoto	196
Yarinal*	"	Kofán	207
Afilador*	"	"	36
Luzón*	"	"	80

NAME OF COMMUNITY	LOCATION	ETHNIC GROUP	NUMBER OF PERSONS <u>1/</u>
Santa Rosa de Sucumbíos*	Putumayo	Kofán	71
Santa Rosa del Guamuez*	"	Kofán-Inga	150
Buenvista**	"	Siona	124
Sibundoy Parte Alta**	"	Kansa	314
Chamí Río San Juan*	Risaralda	Emberá	1 908
Tinajas**	Tolima	Coyaimas-Pijaos	163
Burujón or La Unión San Bernardo**	Valle-Chocó	Waunana	172
Chamí Río Garrapatas*	Valle	Emberá	1 500
Chachajo**	"	Waunana	104
Río Dagua**	Valle-Chocó	"	42
Parte Oriental del Vaupés**	Vaupés	Cubeos and others	12 000
Río Grande**	Vichada	Guahibo	205
El Unuma*	Vichada-Meta	Guahibo-Piapoco	3 500
Saracure and Río Cada*	Vichada	" "	729
Caño Cavasi**	"	Guahibo	702
Ríos Muico and Guarrojo*	"	"	877
Caños Cuna-Tsepajibo-Warracaña**	Vichada	Guahibo	580
Santa Teresita del Tuparro**	"	Guahibo-Cuiva	803
Ríos Tomo-Weberi**	"	Guahibo	608
San Luis del Tomo**	"	"	259
Santa Rosalía**	"	Sáliva	88
La Pascua**	"	Guahibo-Cuiva	216
La Lanura**	"	Guahibo	149
Bajo Río Vichada	"	"	3 347

*/ Reservations

**/ Reserves

TOTALS: Reservations....32; Reserves....82; Persons....110,586

1/ The number of inhabitants in each reservation or reserve is that which existed at the time of the census conducted for the purposes of the relevant socio-economic and legal survey.

Annex II

NATIONAL PROGRAMME FOR THE DEVELOPMENT OF THE
INDIGENOUS POPULATIONS (PRODEIN)

I. OVERALL OBJECTIVES

1. The aim of the programme is to further the development of the indigenous populations within the context of national development, and to promote their active participation in the social and economic dynamics of the country.
2. The programme constitutes an integral strategy for development of the indigenous populations and seeks:

To support and promote the organization of the indigenous populations, and to ensure, with due respect for their cultural standards, their participation in the implementation of sectorial policies for indigenous development at the national, regional and local levels;

To consolidate indigenous territories by granting legal titles to those groups which still have none and by adopting a system of legal protection which will guarantee indigenous peoples the full exercise of their territorial rights, in accordance with their needs and traditional systems of exploiting their environment;

To organize, with existing institutional resources, a unified system for meeting the needs of the indigenous populations; this system will take into account the cultural characteristics of each group or community;

To promote, in co-operation with the indigenous communities and on the basis of the regionalization breakdown undertaken by DNP-UDS, regional diagnostic studies, the design and implementation of development benefits, and the improvement of the communities' living conditions;

To improve health and educational services for the indigenous populations by rationalizing the coverage of the national health and education systems and adapting these services to the specific features of each community.

II. GENERAL OUTLINE OF THE PROGRAMME

3. PRODEIN's underlying motivation is to ensure the participation of the indigenous populations in policies, plans and activities designed to promote their development.
4. Because of the absence of an integral policy, the indigenous populations have largely been left on the sidelines of development and have frequently been victims of it.
5. The present Government, through realistic criteria, is seeking to rectify the negative effects which economic growth and the modernization of rural areas are liable to cause in the indigenous communities.
6. PRODEIN understands the development of the indigenous populations to mean the strengthening of ethnic identity, the consolidation of community territorial links, and the voluntary adoption of modern alternatives for subsistence which will enable the community to improve the quality of its living conditions while maintaining its cultural identity and traditional methods of organization. Efforts will therefore

focus on the proper management of relations between the Government, government institutions and the indigenous populations based on respect for their culture, recognition of their ancestral forms of social organization, and the adoption of measures which will help these communities to benefit from the economic and social development of the country, on an equal footing with the rest of the population.

7. Indigenous populations differ significantly in terms of origins, language, kinship patterns, forms of authority, customs and traditions, and in the ways in which their economies are currently integrated into the national economy.

8. The different levels of development attained as a result of the linking of the indigenous populations to the national economy and their participation in the institutions of the larger society create a need for special measures to protect those communities which are less experienced in intercultural relations and may be threatened with arbitrary occupation of their territories through spontaneous settlement, the emergence of extreme forms of exploitation of the indigenous population, abrupt deprivation of their traditional means of support and the emergence of dissociative factors which may jeopardize their physical and cultural survival. A basic principle of the programme is that a solution to indigenous problems cannot be achieved without simultaneous activities aimed at the settlers occupying the zones adjacent to the indigenous territories.

9. It is thus important to carry out land use projects which, within the framework of the agrarian laws, will prevent the monopolization of uncultivated land, check improper occupation of that land and guarantee that it will be redistributed fairly. The pressure of settlement on the indigenous territories can be eased only by correcting the defective forms of land occupancy arising from disorganized and spontaneous settlement and by offering peasant families access to adequate credit, marketing and services.

III. STRATEGIES

10. PRODEIN's strategy for the promotion and development of the indigenous populations will be based on three general programming principles for social policy:

Co-operation with the indigenous populations for development purposes, through appropriate participation mechanisms;

Organization of the community with a view to development;

Inter-institutional co-ordination of the programme, with a clear definition of responsibilities, and concentration of resources and activities so that the social investment will yield the maximum benefit for the indigenous populations.

IV. PRIORITIES

11. The populations to be given priority in the implementation of the programme will be selected in accordance with the following criteria:

Indigenous communities in imminent danger of losing their territory;

Indigenous communities that are economically and/or culturally impoverished or threatened with a drastic change in their habitat as a result of spontaneous settlement or infrastructure works;

Small-farm communities;

Communities with high rates of malnutrition.

V. ECONOMIC COMPONENTS

A. Land

12. The State's overall land policy will be guided by the provisions of Act. No.31, article 11, of 1967, which recognizes the right of the members of the indigenous populations to collective or individual ownership of the lands they have traditionally occupied.

13. The following measures will be taken to develop these policies:

Recognition and legalization of the indigenous populations' ownership of the Amazon, Chocó and Orinoco forests, and granting them the territories they have traditionally occupied in the form of a reserve;

Clarification of the situation concerning the territorial reserves and reservations instituted to date, through indemnification and relocation of settlers who possess acquired rights;

Signposting and delimitation of reservations and reserves by erecting boundary marks and barriers;

Study of the economic, social and land occupancy situation of the small-farm reserves in the Andean zone, for the purpose of adopting land-grant programmes which will resolve their territorial deficit;

Full clarification of the land-ownership situation of the civil indigenous communities and certain reserves with ownership problems, for which purpose special land-grant programmes will be ordered.

B. Natural resources

14. The indigenous populations will be given priority in the development of the forest resources in the regions where they live. The State will provide the communities with technical and economic support for this purpose and will ensure that resources are properly used and that possible harmful effects on the environment are avoided.

15. In the territorial reserves of the Andean zone which have serious erosion problems as a result of indiscriminate tree-felling and excessive or improper use of the soil, a reforestation and environmental education programme will be conducted. The planting of communal woods under the direction of indigenous councils will be a priority task.

C. Economic development

16. The economic-development aspect of PRODEIN will comprise five main elements:

Study and execution of regional economic-development projects;

Support for community initiatives, especially in relation to the improvement of agricultural production;

General and technical adaptation of agricultural development and credit programmes to the specific features of the indigenous populations;

Improvement of market networks through the development of associative and co-operative forms of consumption and marketing;

Protection of the subsistence economies of populations having little contact with Colombian society from external factors which may endanger the social life of the indigenous communities.

D. Infrastructure works

17. The construction of access roads and bridges, the introduction of barges and the general communications infrastructure of the indigenous territories should be the subject of very specific projects, in which the consent of the majority of the members of the community will be of fundamental importance.

18. Works which are constructed in connection with agro-industrial projects and are promoted or accepted by the indigenous communities, will be given priority financing and development purposes.

19. Where the population feels it is necessary and human settlement conditions permit, work will continue on a number of rural electrification projects.

20. Regulations will be established concerning Act No.56 of 1981, which lays down provisions for public works relating to electricity generation, aqueducts and irrigation systems in order to give specific effect to this Act for the benefit of the indigenous populations.

E. Census of the indigenous population

21. It is proposed that a census of the indigenous population of Colombia should be carried out, with the support of the indigenous communities.

F. National frontier policy

22. Within the framework of the national frontier policy, programmes for the benefit of the indigenous populations will be promoted, with the aim of strengthening and complementing their economies, developing agricultural and livestock production, and consolidating traditional settlements.

VI. SOCIAL COMPONENTS

A. Community promotion and development

23. PRODEIN is seeking to help local indigenous population groups to make more effective use of their potential as social organizations and of their community resources.

24. The programme will accordingly promote the organization of the indigenous populations at the national and regional levels so that they may agree on development plans, programmes and projects, and at the local level so that they will have the autonomy necessary to manage and use their land and its resources and help solve the problems of the community by bringing State action into line with their culture and specific interests.

B. Education

25. Under Act No. 31 of 1967, educational programmes intended for indigenous populations have to be preceded by anthropological studies aimed at adapting educational methods and techniques to the learning needs of the indigenous peoples, and children are taught to read and write in their mother tongue.

26. Decree No. 1142 of July 1978, which establishes regulations concerning article 11 of Decree-Law No.88 of 1976 states that educational programmes may not be undertaken without the participation and consent of the indigenous communities, and that curricula must be adapted to the specific cultural features of these communities.

27. A guiding principle of PRODEIN in the educational field will be ethno-education. The programme will fill a number of gaps in the implementation of Decree No.1142 by providing for means and mechanisms of community participation, the decentralization of resources, and the adaptation of curricula to the specific features of the indigenous populations. The anthropological, pedagogical and linguistic training of teachers working in the indigenous communities, the encouragement of teaching activities, appropriate educational materials, an efficient system of supervision and advisory services for schools, and the training of members of the communities as teachers will give genuine effect to Decree No.1142.

28. Within the framework of the national education system and on the basis of the experiences of the Ministry of Education's "New School", a model indigenous school will be set up. It will essentially be a community school, with indigenous teaching staff, oriented towards active training, flexible promotion, community participation, and the development of a curriculum adapted to the environment and needs of pupils.

29. The communities will be the setting for technical training projects such as those sponsored by SENA, taking into account the institutional and community resources for developing new products, and seeking to improve agricultural management practices and the living conditions of the population.

30. The national ethno-linguistic research strategy will be to set priorities and redeploy the institutional resources intended for such research. It will include the study of indigenous languages with the object of producing alphabets and teaching materials.

31. Training of indigenous teachers will be a priority project in the educational field.

32. An experimental distance education project will be initiated, with an appropriate combination of on-the-spot and distance activity by teaching personnel in an indigenous region where the size and density of the population warrant action of this type.

C. Health

33. The following activities are proposed:

Determination of general health conditions in the indigenous communities through regional diagnostic studies and the provision of services pursuant to Ministry of Health decision No.10,013 of 1981;

Expansion of primary health care coverage and training of indigenous health care educators;

Provision of adequate drinking-water supply systems for stable indigenous communities;

Improvement of the nutritional standard of the indigenous populations through agricultural development programmes and stimulation of the consumption of regional products.

34. The general operational criteria in this field will be as follows:

Support will be given to projects intended to resolve the structural factors which give rise to and affect the high morbidity and mortality rates;

The provision of health services must co-exist and be compatible with traditional indigenous systems;

Health education for the community will occupy an important place within the programme. Prevention and environmental health activities will be preceded by educational campaigns.

Labour and social security

35. In accordance with labour and social security policy and in the spirit of the provisions of Act No.31 of 1967, efforts will be made gradually to extend existing social-security services to wage-earning members of the indigenous populations.

E. Community services

36. Action traditionally carried out in this field has consisted of the construction of schools, health posts and centres, aqueducts, latrines, indigenous council buildings and sports facilities.

37. Investments will be made in accordance with a plan of operations consistent with the activities of the national health and education systems; efforts will be made to avoid the duplication of functions and dispersal of resources.

F. Legal protection for the indigenous populations

38. The indigenous populations of Colombia have throughout history been the subject of special protective legislation, which has sought to preserve their institutions by granting and guaranteeing their rights as descendants of the earliest inhabitants of Latin America. Without any attempt to change this spirit of equity and protection, Colombia's copious indigenous legislation will have to be examined, Act. No.31 of 1967 and the agrarian laws thoroughly studied, and the necessary modifications made, with the participation of the indigenous inhabitants.

G. Defence of the pre-Colombian and indigenous historical and cultural heritage

39. The Colombian Institute of Anthropology (ICAN), together with the DNP, will submit to PRODEIN's advisory bodies specific proposals for the defence and preservation of the historical and cultural heritage.

H. Social research

40. State agencies will base their activities entirely on scientific research.

41. ICAN will design a national strategy for social, anthropological and linguistic research, which will guide PRODEIN activity and respond to the urgent needs of the indigenous populations. To this end, sufficient resources will be allocated and priority given to projects related to the development and improvement of the indigenous communities.

42. ICAN will involve the scientific community and public universities in this strategy; at the same time, it will ensure that the national scientific bodies direct and supervise the research.

VII. APPRAISAL OF STATE ACTION IN THE SECTOR

43. Until 1980, the proportion of resources allocated to the indigenous populations was much lower than that allocated to the rest of the country. The diagnostic study made by the DNP in that year indicated that in 1979 average per capita expenditure on the indigenous populations was 958 pesos, while national per capita expenditure was approximately 6,000 pesos. Beginning with that year, when a three-year plan was adopted, more resources have been appropriated but with no corresponding increase in efficiency of investment, owing to the lacunae in indigenous policy.
44. Because of the lack of support mechanisms, the specific body for indigenous policy, the National Council established by Decree No.2122 of 1971, has been unable to operate.
45. The co-ordinating body for indigenous programmes, DIGIDEC, has not carried out its work efficiently because of the lack of definite policies, dispersal of State activities in the sector, lack of administrative autonomy and technical shortcomings in indigenous planning.
46. There have been no mechanisms for noting the concerns and initiatives of the indigenous populations and transmitting them to the planning and policy-making bodies; moreover, no social participation bodies have been established as part of State effort in support of the indigenous populations.
47. With the exception of the diagnostic study carried out by the DNP in 1980, there have been no appraisals of State action vis-à-vis the indigenous populations. Scientific research in the anthropological, ethno-linguistic and sociological fields has not been linked to the tasks involved in the development of these populations.
48. Each State agency has been working without taking into account the actions of other bodies in the sector, which has led to a dispersal of resources, the duplication of functions and the dilution of responsibilities.
49. In order to overcome these difficulties and gaps, the following operational pattern will be adopted.

VIII. ORGANIZATION OF PRODEIN

50. PRODEIN will be directed by a National Committee, an inter-institutional committee and an Indigenous Council.

A. The National Committee

51. The Committee will be composed of the following members:

The Minister of the Interior or his alternate, who will chair the Committee's sessions;

The Minister of Defence or his alternate;

A representative of the Catholic Church;

The Director of ICAN;

The Director of DIGIDEC;

The Chief of DNP's Social Development Unit, who will act as secretary;

The Deputy Legal Director of INCORA;

The Director of the Anthropology Department of the National University;

The Director of DAINCO;

A representative of the indigenous organizations;

A representative of the indigenist organizations.

52. Its functions will be:

To study and define the activities to be undertaken by the various State bodies pursuant to the programme: to ensure that the proposed objectives are met and to study the recommendations submitted to it by the Technical Committee for consideration by CONPES;

To examine the budgetary resources to be allocated to the indigenous populations and to seek maximum efficiency in State investment in the sector;

To appraise the progress of the programme twice a year and take appropriate measures in order to rectify any shortcomings encountered in its implementation.

B. PRODEIN's Technical Committee

53. The Technical Committee will be responsible for guiding and implementing the Programme. It will be composed of:

The Chief of the Indigenous Affairs Division, who will chair the Committee's meetings;

The Chief of the INCORA Office of Indigenous Reserves and Reservations;

The Chief of the DNP Socio-Demographic Division, who will act as secretary of the Committee;

The Chief of the INDERERA Forests Division;

The Chief of the Community Participation Division of the Ministry of Health;

The Chief of the SENA Rural Development Division;

The Chief of the ICBF National Territories Division;

The Co-ordinator of Indigenous Affairs of DAINCO;

The Chief of the Training and Curriculum Division of the Ministry of Health;

One delegate from ICAN;

One delegate from the Agrarian Fund;

One delegate from the missions;

One delegate from the indigenous organizations.

54. Its functions will be:

To establish action strategies and submit recommendations on indigenous policy and practice to the National Committee;

To make twice-yearly progress reports on the programme and submit them for consideration to the National Committee;

To promote indigenous participation in PRODEIN programmes and projects;

To provide technical assistance to the National Indigenous Council in the preparation of its meetings.

C. National Indigenous Council (CONI)

55. CONI will be a consultation and co-operation body for the purposes of the execution of PRODEIN. It will be an exclusively indigenous body and will in principle meet twice a year. It will be composed of two delegates from the National Indigenous Organization (ONIC) and one delegate from each of the regional indigenous organizations, taking as a guideline the number of subregions established by the DNP.

56. Its functions will be:

To note regional concerns and problems and submit them for consideration to the Technical and National Committees;

To recommend to the bodies which formulate indigenous policy and to entities active in the sector measures and projects which may be of benefit to the indigenous population at the national, regional and local levels;

To promote indigenous organization and participation in the development projects initiated by the Government in the indigenous territories.

IX. CO-ORDINATION OF PRODEIN

57. The co-ordination of PRODEIN will be the responsibility of a General Co-ordination Board composed of the following members:

The Director of ICAN;

The Chief of the Socio-Demographic Division of the DNP Social Development Unit;

The Director-General of DIGIDEC.

58. The Board will be responsible for putting all PRODEIN bodies into operation.

59. The co-ordination of the entire programme at the implementation level will be the responsibility of DIGIDEC.

X. BODIES IMPLEMENTING THE PROGRAMME

60. The same institutional base as that which currently exists for indigenous affairs will be available for implementing the programme.

61. The following additional measures will be taken to rationalize State management:

Appraisal of the activities of the DIGIDEC Indigenous Affairs Division;

Avoidance of duplication of functions in the areas of health, education and technical assistance;

The Technical Committee will be requested to present a proposal for inter-institutional operations.

62. For each operation, the Technical Committee will study budgetary needs and submit its evaluation to the PRODEIN National Committee. In the medium term, a fund for indigenous development will be set up.

XI. PROGRAMME APPRAISAL

63. The DNP and the Technical Committee will be responsible for appraising the programme. The Co-ordination Board will propose to the Committee a single system for this purpose.

XII. OPERATIONAL DECREES AND DECISIONS

64. The Co-ordination Board will prepare, as soon as possible, the necessary decrees and decisions for the operation of PRODEIN, for appropriate procedural action.

Table 1

REGIONALIZATION

1. Regions

1. GUAJIRA
2. SIERRA NEVADA SANTA MARTA
3. SERRANIA DEL PERIJA
4. SERRANIA DE LOS MOTILONES
5. GEOGRAPHICAL CHOCO
6. ABIBE AND AYAPEL COMPLEX
7. ATLANTIC COAST
8. WESTERN COFFEE-GROWING AREA
9. HUILA AND TOLIMA
10. CAUCA
11. NARIÑO PLATEAU
12. LOS NULPES
13. SIBUNDOY VALLEY
14. UPPER CAQUETA RIVER
15. UPPER PUTUMAYO RIVER
16. LA TAGUA - PUERTO LEGUIZAMO
17. AMAZONAS

18. GEOGRAPHICAL VAUPES
19. GUAVIARE RIVER
20. ORINOCO REGION
21. TUNEBIA
- 22.. BOYACA PLATEAU

II. Regions and subregions

1. GUAJIRA
 - 1.1 Upper Guajira
 - 1.2 Central Guajira
 - 1.3 Lower Guajira
2. SIERRA NEVADA DE SANTA MARTA
 - 2.1 Ijka reservation
 - 2.2 Kogui-Malayo reserve
3. SERRANIA DEL PERIJA
4. SERRANIA DE LOS MOTILONES
5. GEOGRAPHICAL CHOCO
 - 5.1 Urabá and Lower Atrato River
 - 5.1.1 Antioquia Urabá
 - 5.1.2 Chocó Urabá
 - 5.1.3 Dabeiba-Murindó
 - 5.2 Murri River
 - 5.3 Upper Atrato River (Quito, Capá, Tutenendo and other rivers)
 - 5.4 Middle Atrato River (between Sucio and Tutenendo Rivers)
 - 5.4.1 Bojayá River
 - 5.4.2 Atrato River
 - 5.5 Northern Pacific coast
 - 5.5.1 Juradó reservation and Salaquí River
 - 5.5.2 Western part of the Serrania del Baudó
 - 5.6 Baudó River
 - 5.7 San Juan and Docampadó Rivers
 - 5.8 Western part of the Nudo de San Fernando
 - 5.8.1 El Andágueda
 - 5.8.2 El Chamí
 - 5.9 Garrapatas River and western part of the departamento del Valle
 - 5.10 Western part of the Departamentos of Cauca and Nariño

6. ARIBE AND AYAPEL MOUNTAIN COMPLEX
 - 6.1 Verde, Esmeralda and Sinú Rivers
 - 6.2 Ituango (son Matías) and Taracá
7. ATLANTIC COAST
 - 7.1 San Andrés de Sotavento
 - 7.2 Tubará
 - 7.3 Chimila del Magdalena settlements
8. WESTERN COFFEE-GROWING AREA
 - 8.1 South-western part of the departamento of Antioquia
 - 8.2 Western part of Departamentos of Calda and Risaralda
9. DEPARTAMENTOS OF HUILA AND TOLIMA
 - 9.1 Southern Tolima
 - 9.2 Otés reserve
10. DEPARTAMENTO OF CAUCA
 - 10.1 North
 - 10.2 West
 - 10.3 Interior
 - 10.4 Centre
 - 10.5 Colombian Massif
 - 10.6 Bota Caucana and north-eastern part of the Departamento of Nariño (El Tambo)
11. NARIÑO PLATEAU
12. LOS NULPES
13. SIBUNDOY VALLEY
14. UPPER CAQUETA RIVER
 - 14.1 Caquetá River
 - 14.2 Orteguaza River
 - 14.3 Caguán River
15. UPPER PUTUMAYO RIVER (Guamez and San Miguel rivers and Bella Vista district)
16. LA TAGUA-PUERTO LEGUIZAMO
17. AMAZONAS
 - 17.1 Middle and lower Caquetá
 - 17.2 Mirití, Paraná and Apaporis Rivers
 - 17.3 Middle and Lower Putumayo
 - 17.3.1 Putumayo River
 - 17.3.2 Carapará River
 - 17.3.3 Iagara Paraná River
 - 17.4 Amazon Trapeze

18. GEOGRAPHICAL VAUPES

- 18.1 Taraira River
- 18.2 Tequié River
- 18.3 Papurí River
 - 18.3.1 Pacas, Viñas and Yapú Rivers
 - 18.3.2 Papurí River
- 18.4 Vaupés River
 - 18.4.1 Middle Vaupés - Mouth of the Yí
 - 18.4.2 Cuduyarí and Querarí Rivers
 - 18.4.3 Lower Vaupés
- 18.5 Isana River
- 18.6 Guainía River
- 18.7 Inírida River
 - 18.7.1 Inírida River
 - 18.7.2 Caño Bocón

19. GUAVIARE RIVER

- 19.1 Middle Guaviare River
- 19.2 Lower Guaviare River (downstream from Mapiripán)
 - 19.2.1 Guaviare River
 - 19.2.2 Amaneven Branch

20. ORINOCO REGION

- 20.1 Unuma (Tiyabá, Curramayuba and Vichada Rivers as far as the mouths of the Guarrojo)
 - 20.1.1 El Tigre
 - 20.1.2 Mabriel
 - 20.1.3 Camalipé
- 20.2 Cadá, Cavasi and Múco Rivers
 - 20.2.1 Saracure and Cadá reservation
 - 20.2.2 Cavasi reservation
 - 20.2.3 Múco reservation - Guarrojo, Chololó
- 20.3 Quirey
- 20.4 Lower Vichada
- 20.5 Orinoco River (Zama, Mataven, Cañofruta, Berrocal)
- 20.6 Tuparro River
- 20.7 Tomo River
 - 20.7.1 San Luis del Tomo
 - 20.7.2 El Tomo Veberi
 - 20.7.3 La Llanura

- 20.8 Vita River
 - 20.9 Vichada channel (passage to Puerto Carreño)
 - 20.9.1 Corocito, Yopalito and Gualavó
 - 20.9.2 Corozal-Tapaojo
 - 20.9.3 Santa Rosalía
 - 20.10 Planes (Abariba, Ibibi, San Rafael and others)
 - 20.11 Meta River (El Turpial and La Victoria)
 - 20.12 Orocué
 - 20.13 Hato Corozal settlement and Caño Mochuelo reserve
 - 20.14 Lipa and Ele Rivers (Hitne communities)
 - 20.15 Tame
 - 20.16 Tunebo de Barro Negro reserve
21. LA TUNEBIA
22. CUNDI-BOYACA PLATEAU

Annex III

COLOMBIA'S POSITION WITH REGARD TO THE
INDEPENDENCE OF NAMIBIA

1. Perhaps the area in which the work of the United Nations has met with most success is that of the self-determination of peoples. As is well known, at the end of the Second World War there were in four continents vast territories which were subject to colonial rule and which, in the course of more than three decades, have acceded to independence. Today only a few bastions of colonialism remain, the largest being Namibia.

2. In the years immediately following the Second World War, most of the non-autonomous territories of Asia achieved their independence. In almost all those cases, the process of decolonization took place without intervention by the United Nations, which had been established a little earlier. Syria, Iraq, India and Pakistan were among the countries that achieved independence mainly through commitments made previously by the Powers to which they were subject and which had been victorious in the war. United Nations action followed those first steps in decolonization, and was based on Article 1, paragraph 2, of the Charter, which includes as one of the purposes of the United Nations "to develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples". The work of the United Nations in promoting the right of peoples to self-determination culminated initially in resolution 1514 (XV) adopted by the General Assembly on 14 December 1960, which contains the Declaration on the granting of independence to colonial countries and peoples. The Declaration "solemnly proclaims the necessity of bringing to a speedy and unconditional end colonialism in all its forms and manifestations", and declares, inter alia, that:

"1. The subjection of peoples to alien subjugation, domination and exploitation constitutes a denial of fundamental human rights, is contrary to the Charter of the United Nations and is an impediment to the promotion of world peace and co-operation.

"2. All peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

"3. Inadequacy of political, economic, social or educational preparedness should never serve as a pretext for delaying independence.

"4. All armed action or repressive measures of all kinds directed against dependent peoples shall cease in order to enable them to exercise peacefully and freely their right to complete independence, and the integrity of their national territory shall be respected."

3. On the basis of this Declaration, the United Nations stepped up its activities in support of the self-determination of peoples, effectively assisting the decolonization process, within which the case of Namibia remains unresolved, to the outrage of world public opinions.

4. Namibia has not achieved independence because of the unjust decision of the occupying State, which maintains it in a state of subjugation, and because those countries which could ensure that South Africa allowed the Namibian people to exercise their rights have failed to discharge their moral obligation. It is therefore not the fault of the United Nations or, to be more accurate, the overwhelming majority of the States Members of the Organization, that a colonial regime persists in Namibia. Ever since its inception, the United Nations has involved itself with the question of Namibia, the General Assembly and the Security Council having adopted very many resolutions on the question.

5. At its twenty-first regular session in 1966, in resolution 2145 (XXI), the General Assembly terminated the Mandate of South Africa in respect of south west Africa and resolved that the United Nations should assume responsibility for the Territory. Subsequently, in 1967, at its fifth special session, the General Assembly established, by resolution 2248 (S-V) a United Nations Council for South West Africa, comprising the following 11 Member States: Chile, Columbia, Egypt, Guyana, India, Indonesia, Nigeria, Pakistan, Turkey, Yugoslavia and Zambia. The Council was entrusted, inter alia, with the mandate of administering the Territory until independence with the maximum possible participation of the people of the Territory. In the same resolution, the Assembly decided that the Council should entrust such executive and administrative tasks as it deemed necessary to a United Nations Commissioner appointed by the General Assembly on the nomination of the Secretary-General. At the twenty-second regular session, the Assembly decided that the Territory of south west Africa should be known as Namibia, in accordance with the wishes of its people. The Council then took the name "United Nations Council for Namibia". Subsequently, at various sessions, the General Assembly increased the membership of the Council; at present, there are 31 members.

6. Colombia, faithful to the principle of the self-determination of peoples, has consistently supported the process of decolonization. The resolutions of the United Nations General Assembly on the question of Namibia have been adopted with its supporting vote and it has also supported the Security Council resolutions on the question, in particular resolutions 385 (1976) and 435 (1978), which make provision for the independence of Namibia and for free elections throughout the Territory under the supervision and control of the United Nations. Colombia has also taken an active part in the work of the United Nations Council for Namibia, whose decisions have formed the basis of the resolutions adopted by the General Assembly.

7. The position which Colombia has taken with regard to Namibia is based mainly on the following:

(a) The aforementioned Declaration on the granting of independence to colonial countries and peoples, contained in resolution 1514 (XV);

(b) Resolution 2145 (XXI), to which reference has also been made, by which the General Assembly terminated South Africa's Mandate over south west Africa;

(c) Resolution 2248 (S-V) of 1967, already mentioned, by which the General Assembly established the organ currently known as the United Nations Council for Namibia;

(d) The advisory opinion of the International Court of Justice of 21 June 1971, in which, replying, at the request of the Security Council, to the question 'What are the legal consequences for States of the continued presence of South Africa in Namibia, notwithstanding Security Council resolution 276 (1970)?', the Court stated:

"(1) that, the continued presence of South Africa in Namibia being illegal, South Africa is under obligation to withdraw its administration from Namibia immediately and thus put an end to the occupation of the Territory;

"(2) that States Members of the United Nations are under obligation to recognize the illegality of South Africa's presence in Namibia and the invalidity of its acts on behalf of or concerning Namibia, and to refrain from any acts and in particular any dealing with the Government of South Africa implying recognition of the legality of, or lending support or assistance to, such presence and administration;

"(3) that it is incumbent upon States which are not members of the United Nations to give assistance, within the scope of subparagraph (2) above, in the action which has been taken by the United Nations with regard to Namibia."

8. Colombia's position is based on the following main points:

(a) The occupation of the Territory of Namibia by South Africa is illegal and must cease;

(b) The people of Namibia have an inalienable right to self-determination and independence;

(c) The United Nations Council for Namibia is the legal Administering Authority for Namibia until the Territory obtains its independence;

(d) In order to enable the people of Namibia freely to decide their own future, it is imperative, after the armed forces of South Africa have withdrawn, to hold free elections under the supervision and control of the United Nations, in conformity with Security Council resolution 435 (1978).

(e) South Africa must release all Namibian political prisoners, repeal the legislation involving racial discrimination and political repression applied to Namibia, and grant unconditionally to all Namibians who are in exile for political reasons every facility for returning to their country without danger of being arrested, detained, intimidated or imprisoned.

(f) Walvis Bay is an integral part of Namibia and its annexation to South Africa by decision of the South African Government is illegal; the Penguin Islands and the other offshore islands situated to the west of the Namibian coast are also integral parts of Namibia, and any attempt to appropriate these islands by South Africa is similarly illegal.

(g) The natural resources of Namibia are the patrimony of the Namibian people and their exploitation by foreign economic interests is illegal.

9. A brief comment on the last point would appear to be in order. There are two separate economies in Namibia: a colonial economy which is controlled by South Africa and in which exclusively foreign interests participate, and a subsistence economy for the African population, who are confined to the "homelands" situated in the poorest agricultural regions. The most important sector of the colonial economy is the mining industry, which is totally controlled by transnational corporations.

10. After having been intensively exploited for over half a century by foreign companies, the mineral resources of Namibia are showing signs of becoming exhausted. The second important sector in the economy is commercial fishing, which is also controlled by foreign companies. Overfishing has led to declining catches and there is a growing danger of extinction.

11. In 1981, at the invitation of the Government of Colombia, a consultative mission of the United Nations Council for Namibia visited Colombia from 13 to 16 May. In order to analyse and exchange views on the situation in Namibia, the Mission was received by the President of the Republic and the Minister for Foreign Affairs, and had talks with a delegation of officials of the Ministry of Foreign Affairs.

12. Following these talks, the following joint communiqué was issued:

"The Mission and the delegation of the Government of Colombia express their deep concern at the deteriorating situation in Namibia as a result of South Africa's continued illegal occupation of the Territory and its refusal to implement relevant resolutions of the United Nations on Namibia. In consequence, they reiterate the following:

"(a) In accordance with the universally recognized principle of self-determination of peoples, the illegal occupation of the Territory of Namibia by South Africa must cease forthwith and the people of Namibia must obtain their full and genuine independence through totally free and democratic elections held under the supervision and control of the United Nations as stipulated in Security Council resolutions 385 (1976) and 435 (1978).

"(b) The independence of Namibia must take place by ensuring full respect for its territorial integrity and unity. Therefore, the preservation of Walvis Bay and several offshore islands, including the Penguin Islands, as integral parts of the Territory of Namibia must be guaranteed through all appropriate means.

"(c) The persistence of South Africa in not complying with the relevant resolutions of the United Nations, in particular Security Council resolutions 385 (1976), 435 (1978) and 439 (1978), and its rejection of the advisory opinion of the International Court of Justice of 21 June 1971 constitute sufficient reason for the international community to adopt stronger and more effective measures. Consequently, the delegation of the Government of Colombia and the Mission reaffirm that if the situation in Namibia does not find a just and immediate solution in accordance with the relevant resolutions of the United Nations, the Security Council must adopt adequate measures in accordance with Chapter VII of the Charter of the United Nations.

"(d) The Mission and the delegation of the Government of Colombia note with grave concern the present exploitation of the natural resources of Namibia, which must be preserved in such a way as to enable Namibia to exercise its rights over these resources as recognized by article 2 of the Charter of Economic Rights and Duties of States, which appears in General Assembly resolution 3281 (XXIX). In this connection, it is imperative to ensure effective implementation of Decree No. 1 for the Protection of the Natural Resources of Namibia enacted by the Council on 27 September 1974 and endorsed by the General Assembly in its resolution 3295 (XXIX)."

13. "Furthermore, the delegation of the Government of Colombia reiterates its Government's support to the Council as the sole legitimate Administering Authority of Namibia until independence, and expresses its satisfaction for the efforts of the Council in executing the mandate conferred upon it by the General Assembly. The delegation of the Government of Colombia, recognizing the important role of the South West Africa People's Organization (SWAPO), expresses satisfaction at the presence of a distinguished representative of SWAPO as a member of the Council's Mission."

14. In the present situation, in view of the unwillingness of South Africa to comply with the decisions of the United Nations, the Government of Colombia considers it imperative that the Security Council should order the implementation of global and mandatory sanctions, in order to ensure compliance with those decisions, and in particular resolution 435 (1978).
