INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION

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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION

Fourth periodic reports of States Parties due in 1988

Addendum

COLOMBIA*

[25 December 1988]

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* The previous reports submitted by the Government of Colombia and the summary records of the Committee meetings at which the reports were considered appear in the following documents:

Initial report - CERD/C/85/Add.2 (CERD/C/SR.655-SR.656);
Second periodic report - CERD/C/112/Add.1 (CERD/C/SR.731-SR.732);
Third periodic report - CERD/C/143/Add.1**

** The third periodic report of Colombia will be examined by the Committee at its 37th session.

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GOVERNMENT AGENCIES WHICH COLLABORATED IN THE PREPARATION OF THIS REPORT

OFFICE OF THE PRESIDENTIAL ADVISER ON THE DEFENCE, PROTECTION AND PROMOTION OF HUMAN RIGHTS

OFFICE OF THE PRESIDENTIAL ADVISER ON RECONCILIATION, NORMALIZATION AND REHABILITATION

MINISTRY OF JUSTICE

MINISTRY OF THE INTERIOR

MINISTRY OF EDUCATION

NATIONAL PLANNING DEPARTMENT

INTRODUCTION

1. The Government of Colombia takes great pleasure in submitting for the fourth time the report which States Parties to the International Convention on the Elimination of All Forms of Racial Discrimination are required to submit pursuant to article 9, paragraph 1, of the Convention. This report includes the political and legal provisions adopted in the past two years on behalf of the entire population residing in Colombian territory.

2. Before considering in detail the matters covered by individual articles of the Convention, it is necessary to remind members of the Committee that, although our population is made up of a variety of ethnic groups, there is no racial discrimination in Colombia and no acts affecting the racial minorities living in Colombia are practised.

3. Furthermore, the Colombian State has been abiding by the commitments it has made by ratifying the various international convenants and conventions, such as that concerning the submission of reports. During these two years the following have been submitted: third national report on the implementation of the International Covenant on Civil and Political Rights and second national report on the implementation of articles 10, 11 and 12 of the International Covenant on Economic, Social and Cultural Rights.

4. We therefore recommend that these two reports, together with the previous reports submitted to the Committee on the Elimination of Racial Discrimination (CERD/C/85/Add.2, CERD/C/112/Add.1 and CERD/C/143/Add.1), should be consulted to supplement the present report.

Part I

GENERAL

Comprehensive policies pursued during the past year to safeguard the enjoyment of human rights and fundamental freedoms

5. The national Government has carried out its plans and programmes in the fundamental interest of attaining specific goals of peace, well-being and respect for the rights and freedoms of all population groups in Colombia.

6. The national Government's policies are designed to ensure that growth performs a definite social function and at the same time that social development is a fundamental factor in economic growth. In order to achieve this linkage, the State is concentrating on the process of income generation with the aim of creating conditions in which the poor can join intensively and permanently in activities of production and consumption that will afford them an adequate return on all factors of production, and in particular on labour. It will thus be possible to eliminate situations of poverty and to ensure that sustained growth is the permanent support of collective well-being.

7. However, Colombia has undergone a complex, prolonged and violent upheaval which, in spite of the efforts made by different Governments to overcome the problem by pursuing various policies, has impaired coexistence and disturbed the peace.

8. In the course of the present decade Colombia has been affected by new factors in the form of subversion, drug trafficking, the emergence of groups taking the law into their own hands, and ordinary crime. Inter-party strife has been supplanted by other forms of rebellion stirred up by various ideological tendencies. However, the vast majority of the country's population are not involved in these clashes and divisions but participate, either as executants or as beneficiaries, in programmes of economic and social reform, in efforts of modernization and in strategies for extending democracy.

9. In order to tackle the country's fundamental problems - violence and dire poverty - President Virgilio Barco's Government has drawn up a series of programmes designed to raise the economic, political, social and cultural levels of the citizens and directly managed through the three Advisory Offices set up for the purpose, on Social Development; on Reconciliation, Normalization and Rehabilitation; and on the Defence, Protection and Promotion of Human Rights.

10. The present Administration's development plan is based on the social economy. This model has as its final purpose the elimination of absolute poverty through appropriate strategies for attaining, at one and the same time, high and steady rates of growth and a substantial improvement in the quality of life in communities and regions which have traditionally been excluded from the benefits of development.

11. In this general context, in addition to various specific plans, three basic plans have been drawn up, each designed to meet the needs of different regions and social groups, as follows:

12. The National Rehabilitation Plan aims at building a modern society in which the foundations for economic growth are relaid, disadvantaged regions are brought into the development process, Colombians are reconciled with one another and civic life is restored to normal. In order to co-ordinate the pursuit of these aims, an Advisory Office has been established under the direct responsibility of the President of the Republic, while Rehabilitation Councils have been set up and equipped with regulations to act as co-ordinating bodies between the representatives of the State sector and the beneficiaries of the Plan. One of the most important tasks within the purview of this Advisory Office has to do with the democratic dialogue in which the whole community takes part.

13. The Plan for the Elimination of Absolute Poverty aims to come to grips with the social, economic and political factors that cause poverty. Its most important activities are aimed at restoring and developing human settlements, expanding and improving basic education and health services, guaranteeing the supply of essential goods and food security and, in general, increasing the incomes and productivity of the underprivileged.

14. The Comprehensive Rural Development Plan strives to eliminate rural poverty and to improve production and marketing conditions for the benefit of 4 million people who depend for their livelihood on some 600,000 smallholdings and produce about 30 per cent of the basic components of the national diet.

Establishment of the Office of the Presidential Adviser on the Defence, Protection and Promotion of Human Rights

15. In order to develop in Colombia a fresh awareness of the extent to which democratic life and the State based on law depend upon the observance of, respect for and promotion of human rights, the Government established by Decrees 2111 and 2112 of 8 November 1987 the office of Presidential Adviser on the Defence, Protection and Promotion of Human Rights and the Standing Advisory Council on the Policy of Reconciliation, Normalization and Rehabilitation.

16. The tasks of this new Advisory Office are not confined to those assigned to it by the Decree but also include the holding of forums, symposia and seminars at the national and international level and the formulation of joint projects with education centres on the teaching of human rights in Colombia as a means among others of counteracting the culture of violence.

17. The Advisory Office has since its inception examined and responded to many complaints and applications from citizens asking the State to investigate alleged violations of human rights (annex No. 1).

Constitutional reform

18. For eminently pragmatic reasons, the Government has proposed a constitutional reform designed to make the State more efficient, more responsible and better equipped for the effective discharge of its duty of maintaining law and order, helping the weak, creating opportunities for the middle classes and overcoming poverty. The constitutional reform accordingly deals with two key aspects of democracy and of the State: the rights and

freedoms of citizens and the organization and functioning of the State. The Reform Bill recently submitted to the National Congress is briefly summed up in the following sub-paragraphs:

(a) Broad participation by the citizens in the adoption of decisions which affect them. To achieve this, various special mechanisms are established such as the referendum and the popular initiative, which enable the public to approve or reject amendments to the Constitution and to participate in drafting the laws;

(b) The introduction of new chapters on the definition and protection of the civil, political, economic, social and cultural rights of Colombians. New rights are recognized, existing rights are expanded, and special machinery is set up to ensure that they are all observed;

(c) Provisions to the effect that public officials and political parties alike are responsible for and bound by their acts and omissions;

(d) The establishment of machinery to promote constructive collaboration between the Congress, the Executive and the Judiciary and to give each of the three public powers greater scope for action.

19. In order to place the new constitutional reform proposed by the national Government on a firm footing, the Government has been discussing the subject-matter of the Reform Bill very thoroughly with the governing bodies of the political parties so that its provisions may be made as clear and precise as possible (annex No. 2).

International legal instruments concerning human rights to which Colombia is a party

Under the auspices of the United Nations Colombia has signed the following instruments:

I. Instruments ratified by Colombia

1. Title of instrument:	International Covenant on Economic, Social and Cultural Rights
Place and date of opening for signature:	New York, 16 December 1966
Date of signature by Colombia:	21 December 1966
Approved by:	Act 74 of 1968
Deposit of instrument of ratification:	29 October 1969
Date of entry into force for Colombia:	3 January 1976
2. Title of instrument:	International Covenant on Civil and Political Rights
Place and date of opening for signature:	New York, 16 December 1966
Date of signature by Colombia:	21 December 1966
Approved by:	Act 74 of 1968
Deposit of instrument of ratification:	29 October 1969
Date of entry into force for Colombia:	23 January 1976
3. Title of instrument:	Optional Protocol to the International Covenant on Civil and Political Rights
Place and date of opening for signature:	New York, 16 December 1966
Date of signature by Colombia:	21 December 1966
Approved by:	Act 74 of 1968
Deposit of instrument of ratification:	29 October 1969

	Date of entry into force for Colombia:	23 March 1976
4.	Title of instrument:	International Convention on the Elimination of All Forms of Racial Discrimination
	Place and date of opening for signature:	New York, 7 March 1966
	Date of signature by Colombia:	23 March 1967
	Approved by:	Act 22 of 1981
	Deposit of instrument of ratification:	2 September 1981
	Date of entry into force for Colombia:	2 October 1981
5.	Title of instrument:	Convention on the Prevention and Punishment of the Crime of Genocide
	Place and date of opening for signature:	New York, 9 December 1948
	Date of signature by Colombia:	12 August 1949
	Approved by:	Act 28 of 1959
	Deposit of instrument of ratification:	27 October 1959
	Date of entry into force for Colombia:	25 January 1960
6.	Title of instrument:	Convention relating to the Status of Refugees
	Place and date of opening for signature:	Geneva, 28 July 1951
	Date of signature by Colombia:	28 July 1951
	Approved by:	Act 35 of 1961
	Deposit of instrument of ratification:	10 October 1961
	Date of entry into force for Colombia:	11 January 1962

7.	Title of instrument:	Protocol relating to the Status of Refugees
	Place and date of opening for signature:	New York, 31 January 1967
	Date of signature by Colombia:	31 January 1967
	Approved by:	Act 65 of 1979
	Date of accession:	4 March 1980
	Date of entry into force for Colombia:	4 March 1980
8.	Title of instrument:	Convention on the Elimination of All Forms of Discrimination Against Women
	Place and date of opening for signature:	New York, 18 December 1979
	Date of signature by Colombia:	17 July 1980
	Approved by:	Act 51 of 1981
	Deposit of instrument of ratification:	19 January 1982
	Date of entry into force for Colombia:	18 February 1982
9.	Title of instrument:	International Convention on the Suppression and Punishment of the Crime of Apartheid
	Place and date of opening for signature:	New York, 30 November 1973
	Approved by:	Act 26 of 1987
	Deposit of instrument of accession:	23 May 1988
	Date of entry into force for Colombia:	22 June 1988
10.	Title of instrument:	Convention on the Political Rights of Women
	Place and date of opening for signature:	New York, 31 March 1953

	Approved by:	Act 35 of 1986
	Deposit of instrument of accession:	5 August 1986
	Date of entry into force for Colombia:	3 November 1986
11.	Title of instrument:	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
	Place and date of opening for signature:	New York, 10 December 1984
	Date of signature by Colombia:	10 April 1985
	Approved by:	Act 70 of 1986
	Deposit of instrument of ratification:	8 December 1987 Has not entered into force internationally.

II. Instruments not ratified, but acceded to or signed, by Colombia

1.	Title of instrument:	Slavery Convention
	Place and date of opening for signature:	Geneva, 25 September 1926
	Date of accession:	25 September 1926
2.	Title of instrument:	Convention relating to the Status of Stateless Persons
	Place and date of opening for signature:	New York, 28 September 1954
	Date of signature by Colombia:	30 December 1954
3.	Title of instrument:	Convention on the Nationality of Married Women
	Place and date of opening for signature:	New York, 20 February 1957
	Date of signature by Colombia:	20 February 1957
4.	Title of instrument:	International Convention against Apartheid in Sports

Place and date of opening for signature: New York, 10 December 1985

Date of signature by Colombia: 31 July 1986
Has not entered into force internationally.

5. Title of instrument: International Convention against the Taking of Hostages

Place and date of opening for signature: New York, 17 December 1979

Colombia has not signed this instrument.

Under the auspices of the Inter-American System Colombia has signed the following instruments:

1. Title of instrument: American Convention on Human Rights (Pact of San José, Costa Rica)

Place and date of opening for signature: San José, 22 November 1969

Approved by: Act 16 of 1972

Deposit of instrument of ratification: 31 July 1973

Date of entry into force for Colombia: 18 July 1978

2. Title of instrument: Inter-American Convention to Prevent and Punish Torture

Place and date of opening for signature: Cartagena, 9 December 1985

Was submitted to Congress on 20 July 1986

On the subject of humanitarian law:

1. Title of instrument: The Geneva Conventions of 12 August 1949

Place and date of opening for signature: Geneva, 12 August 1949

Date of signature by Colombia: 12 August 1949

Approved by: Act 5 of 1960

Deposit of instrument of ratification: 8 November 1961

Date of entry into force for Colombia: 8 May 1962

International Labour Organization (ILO) Conventions relating to human rights to which Colombia is a party:

1. Title of instrument: Freedom of Association and Protection of the Right to Organize Convention

   Date of opening for signature: 4 July 1950

   Date of ratification by Colombia: 16 November 1976

2. Title of instrument: Maternity Protection Convention

   Date of opening for signature: 13 June 1921

   Date of ratification by Colombia: 20 June 1933

3. Title of instrument: Right of Association (Agriculture) Convention, 1921

   Date of opening for signature: 11 May 1923

   Date of ratification by Colombia: 20 June 1933

4. Title of instrument: Abolition of Forced Labour Convention, 1957

   Date of opening for signature: 17 January 1959

   Date of ratification by Colombia: 7 June 1963

5. Title of instrument: Indigenous and Tribal Populations Convention, 1957

   Date of opening for signature: 2 June 1959

   Approved by: Act 31 of 1967

   Date of ratification by Colombia: 7 June 1963

Part II

Article 1: Municipal reform and popular election of mayors

20. The Constitution of Colombia was amended by Legislative Act No. 1 of 1986, which provided for the election of mayors by popular vote for the first time in the country's history (annex No. 3).

21. The inclusion of the election of mayors in the Constitution was the result of hard work which took into account the positions of the parties, academic studies, the experience of other countries, parliamentary proposals and a wide range of contributions to the analysis and consideration of a matter which involves defining conceptions of the State, of society, of the individual's role in society, of public administration, of participation and of democracy.

22. The amendments made to the National Constitution on the subject read as follows:

> "All citizens shall directly elect the President of the Republic, Senators, Representatives, Deputies, Intendancy and Commissariat Councillors, Mayors, Municipal Councilmen and Councilmen of the Special District" (National Constitution, Art. 171).
>
> "Every municipality shall have a mayor, who shall be the head of the municipal administration" (National Constitution, Art. 200).
>
> "Mayors shall be elected by the citizens' vote for terms of two (2) years on a date to be fixed by law, and no mayor may be re-elected for the next term ..." (National Constitution, Art. 201)

23. This municipal reform has several features. The first is the popular election of mayors and the civic consultation provided for in the aforementioned Legislative Act No. 1 of 1986. A second feature consists of the decentralizing measures which assign new functions to the municipalities and redefine in whole or in part the organization of some decentralized institutions. Thirdly, the municipalities have been strengthened fiscally.

24. Lastly, mechanisms of citizens' participation have been established: Local Administrative Boards; participation by users' leagues in the boards of directors of public service enterprises; agreements between community action boards and local government on the execution of public works.

25. One of the most interesting items of municipal reform is the establishment of the Local Administrative Boards, which will harness some of the initiative of the citizenry - and in particular of sectors traditionally left out of the channels of political decision-making - in matters of local government.

26. The municipal reform has affected vital aspects of local politics, especially those relating to municipal powers and the citizen's relations with the Government. The decisions to decentralize the activity of the State by conferring new functions and new resources on the municipalities and to bring

the citizen into closer touch with government authorities by establishing some institutional channels of participation mark the beginning of a transformation at the local level.

27. On 13 March 1988 Colombians had the opportunity to exercise the right to elect mayors, deputies, intendancy and commissariat councillors and municipal councilmen directly, as guaranteed by article 171 of the National Constitution.

28. One thousand and nine mayors were elected from among 3,526 candidates; 1,504 candidates were members of the Liberal Party, 1,374 were Conservatives, 58 belonged to the Patriotic Union, 46 to the New Liberalism Party and 544 to other sectors.

29. In addition to the mayors, 421 deputies, 44 intendancy councillors, 45 commissariat councillors and 10,543 councilmen were elected. They are of varied ethnic origins.

30. This event will be remembered as a vital date in the political history of Colombia because of the significance it holds for the future of our democracy in giving even greater legitimacy to the municipality as a public power and in opening up a new channel for popular participation.

31. The mayors elected on 13 March 1988 took office on 1 June for a term of two years. The present holders of municipal office will confine themselves strictly to the rules laid down by law with regard to the way they are to manage budgetary, fiscal and labour matters and the contracts for and execution of public works. Governors, intendants, commissioners and the Mayor of Bogota are under a duty to ensure strict compliance with those rules.

32. It is pointed out that the entire Colombian people participate in this process. As a result it has been possible to elect, by a purely democratic process, mayors from every racial, social and cultural background.

Article 2: The indigenous population in Colombia

33. The indigenous population, which is estimated by the National Planning Department at 448,710, is divided into some 300 groupings belonging to 80 or so culturally different ethnic groups, the majority of which speak their ancestral languages and preserve their accumulated traditions, their forms of social and economic organization, their attachment to their place of origin and their cultural identity. It is therefore important to address this study to the make-up by population of the most significant ethnic minority in the country, namely the indigenous people, and to analyse the government policies being pursued in relation to them in order to improve the economic, social and cultural aspects of their living conditions, which are the nation's heritage.

34. The policy which has been developed for the benefit of the indigenous population by the various Governments of Colombia is based on the principle of strengthening the cultural identity and the distinctive economic, social and political values of the various communities inhabiting the country.

35. Since President Barco's Administration took office, programmes have been formulated which are designed to guarantee the self-determination of these communities; the right to their identity and the right to use, disseminate, transmit and develop their cultural heritage; the establishment of legitimacy for purposes of judicial and extrajudicial representation; and legal recognition of their distinctive forms of political and social organization.

36. The Constitutional Reform Bill to which we have referred on previous pages and which is under study recognizes in its article 9, concerning the rights of individuals, the right, among others, to freedom of conscience, religion and worship and to the prohibition of advocacy of national, racial or religious hatred involving incitement to violence or any other illegal action against any person or group of persons on any grounds whatsoever, including those of race, colour, religion, language or national or regional origin, thus protecting the interests of those communities.

Ethnographical guide to Colombia

Indigenous communities of Colombia by department, intendancy and commissariat, 1988

Political and administrative division	Main groups	Families	Inhabitants
Amazonas	witoto, tikuna, miraña, yucuna, others.	2,547	13,109
Antioquia	emberá, chamí, cuna, zenú.	1,643	9,387
Arauca	sikuani, macaguane, betoye		
	tunebo, cuiba, others.	350	1,880
Boyacá	tunebo.	446	2,630
Caldas	S. Lorenzo, Indian peasants,		
	emberá, chamí.	1,408	8,178
Caquetá	coreguaje, witoto, inga,		
	carijona, others.	482	2,698
Casanare	sikuani, saliba, masiguare,		
	cuiba, others.	657	3,809
Cauca	paez, yanacona, guambiano,		
	coconuco, others.	22,072	129,108
Cesar	arhuaco, kogui, yuco.	2,038	10,205
Córdoba	zenú, emberá.	3,147	17,385
Cundinamarca	muisca (Indian peasants).	308	1,859
Chocó	emberá, waunana, cuna.	4,946	25,510
Guainía	curripaco, puinabe, piapoko,		
	guahibo, desano, others.	2,574	13,169
Guajira	wayuú, kogui, arzario, arhuaco.	16,925	85,649
Guaviare	tukano, guayabero, sukuani,		
	piaroa.	588	4,340
Huila	dujos (Indian peasants) del		
Magdalena	Caguán	16	96
Meta	kogui, chimila, arhuaco.	770	4,045
	sukuani, piapoko, achagua,		
	saliba, others.	963	5,793
Nariño	pasto, cuaiker, emberá, inga.	8,370	42,212
Putumayo	inga, kamsá, witoto, paez,		
	kofán, others.	2,146	15,311
Risaralda	chamí.	581	3,867
Norte de Santander	bari (barira), tunebo.	493	1,892
Sucre	zenú.	183	1,008
Tolima	coyaima, natagaima, paez.	1,479	8,788
Valle del Cauca	paez, chamí, emberá, waunana	1,063	5,467
Vaupés	cubeo, tukano, desano, barasano,		
	guanano, others.	2,669	16,569
Vichada	sikuani, piapoko, piaroa, puinabe,		
	curripaco, others.	2,784	14,746
Total		81,648	448,710

Source: National Planning Department, 1988.

Land tenure

37. In this connection the Colombian Land Reform Institute (INCORA) has continued to play its essential role of legally constituting protected areas for the indigenous populations.

38. The latest revision of the agrarian legislation, Act 30 of 18 March 1988, provides in its articles 10 and 32 for the award of land to the indigenous inhabitants in the following terms:

Common lands

"Article 10:

Article 29 of Act 135 of 1961...

... Similarly no awards of common lands which are occupied by indigenous communities or constitute their habitat may be made save for the sole purpose of constituting protected indigenous areas".

Award of land and credit to the indigenous inhabitants

"Article 32:

An article 94 reading as follows shall be added to Act 135 of 1961:

Paragraph 1: Any lands or improvements acquired for the purpose of executing programmes to constitute or restructure protected indigenous areas and of granting land to indigenous civil communities shall be handed over free of charge to the local council (cabildo) of each of the divisions concerned so that the local councils may distribute them among the members of the said communities in accordance with the rules that govern them.

Paragraph 2: The 'Credit Guarantee Fund for Indigenous Communities' is hereby established and shall function as a separate account within the budget of the Ministry of the Interior, to serve as a guarantee for agricultural development credits contracted by indigenous communities with banks and financial middlemen. The national Government shall lay down regulations on the management and operation of the fund established by this paragraph.

Forms of land tenure in 1988

	Number of settlements	Population	%
Protected areas of colonial or ancient origin	67	156,680	34.92
New protected areas established by INCORA	177	157,813	35.17
Reservations established by INCORA	27	14,037	3.13
Civil communities	40	39,643	8.84
Protected areas under negotiation	42	8,845	1.97
Occupants of common lands without administratively demarcated territory	85	51,977	11.58
Individual possessors with or without title or ordinary holders	-	19,715	4.39
TOTAL	438	448,710	100

Source: National Planning Department, 1988

Legislation

39. Colombia has a body of legislation designed to protect the indigenous communities; it is very extensive and a model for the rest of Latin America. It starts out by focusing on the protection of territories traditionally occupied by such groups and on measures to safeguard their right to physical and cultural existence.

40. The problem lies in the ignorance that prevails among the rest of the Colombian population concerning this legislation and concerning the distinctive rights of the indigenous communities. In some remote regions of the country, although the communities themselves know this legislation exists, even they do not know what it contains. Consequently, one of the main aims pursued by the present Government is to strengthen that legislation in practice by holding short courses and meetings. Manuals are being prepared for distribution to the indigenous communities and to the country's authorities in order to foster the respect those communities deserve among the various national sectors.

Land reform

41. The purpose of Act 30 of 1988 concerning amendments and additions to the agrarian legislation, which has been submitted to Congress by the present Government, is to remove the legal obstacles which have been making the land reform difficult to carry out (annex No. 4).

42. As originally framed, the land reform took all the workability and drive out of the procedures for improving the distribution of rural income and the living conditions of the peasant sectors.

43. The land reform as such - that is to say, the handing over of land to the National Land Fund - has provided a solution for 35,000 peasant families in its 25 years of operation: in other words, for some 1,400 families a year. This number of beneficiaries represents barely 4 per cent of the target population, who stand to gain a spectacular rise in level of living by obtaining land, credit and technical assistance.

44. The magnitude and seriousness of the peasant problem thus calls for rethinking the design of the social land reform and the agrarian legislation in force, with the aim of equipping the State with workable and adequate tools with which to eradicate extreme poverty, improve the distribution of rural income and promote social change.

45. Efforts, resources and the workability of the available tools need to be increased substantially in order to eliminate absolute poverty, indigence and destitution in rural areas. This entails raising the income level of rural families by providing a productive base conducive to stability in the employment of the personal and family labour force and to a gradual improvement in the capitalization of the home and in opportunities for consumption. The land reform, as a policy of social change, fully serves these ends.

46. The concept of the "social economy" which has already been described as a guideline for the present Government's development policy, serves as a criterion in shaping the role assigned to land reform as a means of prompting improvements in the living conditions of the poorest Colombians and at the same time encouraging economic growth on redistributive lines.

47. The society to which we aspire must reconcile the values of a market economy with those of an official policy determined to reduce inequalities and poverty. Act 30 of 1988 on Social Land Reform is consistent with this line of thought and interpretation, firstly because improvement of the living conditions of the peasant and rural sectors will bring into the market economy a broad segment of society that has traditionally been left out. The second reason is that the uncultivated land in question will be brought into the food-producing sector.

48. Another favourable effect of the land reform is that, as a new economic area comes into being in which the underprivileged sectors of society can join in productive work, the factors that give rise to migration from countryside to town are reduced pari passu.

49. The social land reform should be regarded as a complement to other measures for diversifying and decentralizing the country's development.

50. If the land reform has the expected vivifying effect on local economic life of bringing into steady productive activity those who at present form an economically absent majority of the rural community, it will help to achieve this purpose.

51. It should be emphasized that progressive application of the land reform is a key component of the approach of a development scheme based on the concept of the social economy, in that it makes for the elimination of the harshest manifestations of absolute poverty and the reduction of social disparities precisely where they are most glaring, and at the same time stimulates the growth of food production and job creation.

52. The Land Reform Act aims to turn the sharecroppers benefiting from the scheme into fully-fledged landowners. In other words, the aim is to abolish this outdated and inefficient form of precarious tenure in which, apart from the restrictions on transfer and the impossibility of obtaining ownership rights, a form of discrimination arises in practice. In the event of the death of the sharecropper who was awarded the land, his wife and his children other than the beneficiary of the new award, who as a rule is the eldest son, may be excluded from that new award; the effect is to reproduce the feudal institution of primogeniture in the peasant economy.

53. The institution of usufruct of land is accordingly established, under which the sharecropper will be able to acquire full ownership of the property after 10 years, at the same time undertaking, if he should sell it, to deposit part of the selling price as a form of forced saving which will be used to finance the purchase of lands for landless peasants.

54. The Act redefines the concept of the "family farming unit", giving it a size and characteristics such that the peasants awarded land will be able to turn a profit that will lift them above the poverty line and out of the subsistence economy into the economic system of the small agribusiness.

55. It is plain that the process of democratizing rural ownership has been developing spontaneously in areas of production which today could serve as models of efficient farming. This applies to many coffee-growing areas and to the areas of commercial agriculture and intensive stock-raising, which are virtually free from social conflicts sparked by pressure to own land, and from their direct consequences of insecurity and violence. The distribution of land ownership is a factor for social and political stability and a guarantee of prosperity in vast areas of the country. The aim of the new land reform is to induce democratization and modernization of the land tenure pattern wherever the development of the economy has not set them in motion spontaneously. To bring this goal within reach and to redress unfair structures which have been causing social malaise, instability, insecurity and underdevelopment are the aims of the land reform process.

56. By providing disadvantaged groups with channels for integration in the economic and social life of the local community, the land reform will help to encourage more active and responsible involvement of the peasantry in political decision-making.

57. The social land reform is regarded as a strategy for stimulating social participation as a complement to the strengthening of local democracy which has already begun with the promulgation of the statutes on municipal decentralization, and which will continue by putting into practice the popular election of mayors.

58. Since the beginning of the present four-year period, the national Government has taken a series of measures to protect national production, revitalize agriculture and provide rural and peasant entrepreneurs with stability and security. It regards the Social Land Reform Act as a vital part of the process of developing a harmonious set of sectoral policies aimed at the social, economic and political recovery of agriculture and of the rural community.

Article 3

59. Our country does not render any political or military assistance to the racist regime of South Africa. On the contrary we are attentive to the moves that are made against apartheid, and in international forums Colombia has supported resolutions which defend the cause of the struggle against the racial discrimination and violations of human rights perpetrated under regimes like that of South Africa.

60. Colombia has shared in the humanitarian and liberating spirit that imbues the struggle of the oppressed majorities in South Africa. This was evidenced by the Government's action last August in conferring the Order of Merit upon Nelson Mandela, a leader who represents justice and the social redemption of a people subjected to the racist practices of the Pretoria regime.

61. Similarly, Colombia has supported the decisions taken in the General Assembly recognizing SWAPO as the authentic representative of the Namibian people.

Article 4: Policies of protection for indigenous minorities pursued by the Government in recent years

62. The national Government has based its policy for indigenous affairs on the following fundamental principles:

> Indigenous communities are entitled to a territory for their exclusive use as a place of settlement in which they can carry on their productive activities. They are entitled to establish their own forms of organization, to lay down their own regulations and to elect their authorities. They are assisted by a characteristic degree of autonomy in the management of their domestic affairs. They enjoy the right to study their own living conditions and to adopt development models in keeping with those conditions. They deserve ipso jure respect and recognition of the integrity of their territory, organization, customs and traditions, so as to enable them to enjoy a harmonious and peaceable life. Land ownership is based on the constitution of the areas they occupy as areas legally protected by the Government.

63. This policy, however, cannot be confined solely to the body of rules laid down to govern the State's relations with the indigenous inhabitants. This Government regards it as essential and as a matter of especial priority to learn, analyse and evaluate, objectively and comprehensively, the wealth of

customs, usages and systems of social control at the disposal of these numerous groups and to take their religious and cultural values into consideration, because there is no hiding the harmful results that would ensue if those values and those distinctive institutions should come to harm. The underlying aim is to enable the indigenous population to enjoy, on a footing of equality, the rights and opportunities which the law confers on the rest of society; to promote a rise in their level of living; and to create possibilities of national integration, to the exclusion of any measure making for artificial assimilation of the various indigenous ethnic groups.

64. The 81 indigenous groups that inhabit the length and breadth of the national territory together make up a sizeable population of some 450,000 people, representing an inestimable social and cultural value to the country.

65. This Government has been emphatic in pointing out that the indigenous inhabitants must be guaranteed the enjoyment of their rights on terms of equality with all other nationals, without prejudice to the special measures of protection extended to them by Colombian legislation. In addition, the multiethnic character of the nation must be recognized and the indigenous communities supported in the full exercise of their rights as a pre-requisite for strengthening democracy.

66. Furthermore, the national Government has made it one of the main objectives of its Social Economy Plan to improve the quality of life of Colombians, putting into operation a social development strategy that aims to give the population sufficient access to social and economic assets to enable them to make use of the health and education services, to obtain essential goods and to enjoy food security. The indigenous communities must in no way be left out of these great purposes and of the main high-priority plans made by the Government, such as the National Rehabilitation Plan and the Integrated Rural Development Plan.

67. On this basis the Government has sought to aim its policy concerning the indigenous inhabitants at the preservation of the areas traditionally inhabited by their communities, the provision of essential social services and the protection of their fundamental rights, especially their social and cultural integrity, and to offer these populations means and mechanisms of participation that will enable them to decide upon the policies, programmes and actions of the State which affect them.

68. This policy is closely linked to environmental policy, whose purpose is the organization, protection, recovery and sustained utilization of natural resources, especially in the fragile ecosystems of the wild.

69. The Government considers it a compact with the Colombians of today, indigenous and non-indigenous alike, and with future generations to protect the natural resources of the tropical forest, whose characteristics are such that it has always required special systems for coping with its fragility and low fertility. There is no better way to attain this objective than by entrusting the care of the forest to the experienced indigenous inhabitants who have peopled it for thousands of years.

70. Within this general framework of social policy and on the basis of the existing rules of law, this Government is putting into effect a set of programmes aimed at guaranteeing for the indigenous inhabitants access to land and its natural resources, a rise in levels of training and organization, and development of the productive base of the traditional indigenous economy with a view to its attaining self-sufficiency.

71. In these ways it is hoped to do away with the limiting factors that are interfering with the development and well-being of those communities.

72. So far as land is concerned, efforts are being made to facilitate the handing over, in the form of protected areas, of the lands they have traditionally occupied. These efforts are based on Act 135 of 1961, Act 31 of 1967 approving the ILO Convention concluded at Geneva in 1957, and the new Land Reform Act promulgated during the life of this Government, which empowers the Colombian Land Reform Institute (INCORA) directly to constitute protected indigenous areas. In order that these lands may be put to proper use, the Government is promoting programmes of credit and technical assistance through INCORA. In keeping with this policy of creating protected areas, the Government will not promote settlement in zones traditionally inhabited by the communities in question.

73. With regard to the indigenous inhabitants' rights in the economic exploitation of the subsoil, it is the national Government's unalterable decision that these communities shall never have lesser rights than the established rights of other Colombians in the same matter.

74. Furthermore the Government guarantees to the indigenous communities their right to the usufruct of the renewable natural resources their territories contain and guarantees that, in agreement with each community, arrangements will be made for the surveillance, replacement and sustained use of those resources.

75. Similarly, it is recognized that the indigenous inhabitants have the right to organize themselves in accordance with their usages and customs pursuant to Act 89 of 1890, and the conditions required to enable them to perform the functions assigned to them by the community and those conferred on them by national legislation are guaranteed.

76. In order to strengthen participation by the indigenous inhabitants in decision-making on policies and programmes that affect them, a series of mechanisms involving such participation have been established, such as Municipal Rehabilitation Councils, Indigenous Affairs Policy Committees and the Sub-committee of the Commission on Mining Legislation Studies and Reform.

77. In addition to these mechanisms of participation, the Government will keep a strict watch to ensure compliance with the rules that protect the indigenous communities in the exercise of their cultural, social, political and economic self-determination.

78. In the field of education the Government endeavours to implement programmes consistent with the customs, needs and wishes of the various communities. The purpose of these programmes is to strengthen the indigenous

inhabitants' capacity to take social decisions about their own destiny; this cause is advanced by the firm policy pursued by the Ministry of Education in giving effect to its regulatory decrees and other provisions aimed at attaining these objectives with the participation of the indigenous inhabitants themselves.

79. To facilitate access to secondary and higher education for the indigenous inhabitants, a scholarship fund will be established this year at the Colombian Institute for Educational Credit and Technical Studies Abroad (ICETEX). This will be known as the Alvaro Ulcue Fund in honour of the priest martyred in the struggle to claim the rights of the indigenous inhabitants.

80. The Government, through the Ministry of Health, will devise and carry out programmes of primary health care in keeping with the customs and needs of the indigenous communities. To this end, the Ministry will establish a specialized group for the care of those communities and will take the necessary steps to give effect to Ministry Resolution 10,013 of 1981, which provides that health services shall be rendered taking into account the cultural characteristics of each community.

81. In support of the programmes described above, progress will be made in equipping the indigenous inhabitants with a basic community infrastructure comprising public health dispensaries, schools, access roads, storage and marketing centres, aqueducts and sewer systems, council offices and recreational facilities consistent with the needs and characteristics of each population.

82. In order to secure the financial resources which these activities require, the National Planning Department will submit to the Economic and Social Policy Council a proposal on these lines regarding social and financial policy for the indigenous sector.

83. This Administration, with the Indigenous Affairs Division of the Ministry of the Interior as co-ordinator, is pursuing programmes to ensure that the authorities of the Republic and Colombian society in general learn and respect the cultural values of the indigenous communities and that public officials, irrespective of their position or duties, comply with the rules of law that protect those communities' rights.

84. Similarly the Government requires that these communities shall be fairly treated and warns that it will make an example of anyone who perpetrates acts of discrimination against the indigenous inhabitants. Moreover the prevention of discrimination will include an education campaign designed to remove cultural and social prejudices that foster such attitudes.

85. In keeping with the guiding principles of the Social Economy Plan, the necessary steps are being taken to make the Indigenous Affairs Division of the Ministry of the Interior an eminently technical body equipped with sufficient administrative and financial capacity to take on the general co-ordination of the Government's activity in relation to the indigenous inhabitants.

86. We consider it vital to support scientific research, in collaboration with the indigenous communities, in the areas of anthropology, ecology and

related sciences and to strengthen the governmental and non-governmental organizations engaged in those activities, so that the Government's action upon culturally differentiated communities and fragile ecosystems may be based on precise knowledge.

Note: The foregoing ideas are set forth in the statement made by the Head of the State, on 23 April last, on handing over an estate to the indigenous communities of Amazonas; they are sufficiently cogent to define the Government's policy in this field.

Articles 5 and 6: Strengthening the judicial system

87. The reform of the judicial system pursued by the Government of Colombia is a fundamental factor in ensuring peace and safeguarding the operation of democracy and of the State based on law. The purpose of these reforms is among other things to guarantee due process, to modernize methods of work, to decongest the courts and to uphold the dignity and ensure the protection of the judiciary.

88. To this end the Government has issued some important normative instruments including the new Code of Criminal Procedure, the Customs Penal Statute, the statutes of the Judicial Service, Public Defence Service and Judicial Police Technical Corps, and the Statute of Organization of the Directorate of Forensic Medicine of the Ministry of Justice.

89. The new Code of Criminal Procedure (annex No. 5) is a veritable instrument for the transformation of Colombian criminal practice, containing as it does provisions that make for quicker and more efficient investigation and trial. Specifically a summary procedure has been established for especially rapid investigation and trial of offences whose perpetrators are not in doubt, either because they were taken in flagrante delicto or because they have confessed. The reforms instituted aim not only to make the proceedings quicker and less cumbersome but also to ensure that they are conducted impartially and with full observance of the safeguards of due process.

90. Furthermore the Government has established a Public Defence Service in order to guarantee that needy defendants are assisted by counsel. The Ministry of Justice will establish an office responsible for this service in the capital of every department, intendancy and commissariat.

Characteristics of the new criminal procedure

91. The new Code of Criminal Procedure provides for three types of proceedings: (1) ordinary proceedings, before the circuit courts and higher courts; (2) special proceedings, before the Supreme Court of Justice, higher courts and municipal courts; and (3) summary proceedings.

92. The first type of proceedings is characterized by clear separation of the functions of prosecution from those of judgement. The stage of examination or investigation is in the hands of the examining magistrates. It is the function of the higher and circuit judges to conduct the trial stage.

93. This arrangement ensures that the activity of the judicial officer is carried on with due impartiality; it is supplemented by such measures as making it impossible for the same judge to hear a further application in the case at second instance if he has already dealt with another at the pre-trial stage.

94. The distinctive feature of the second type of proceedings is that the investigation, prosecution and judgement will be conducted by the same official. This is based on the constitutional principle that certain officials must be tried for their conduct by the Supreme Court; this makes it impossible to entrust the pre-trial stage and the prosecuting function to the examining magistrates because they would not have the power to call the suspect to account or to make an order of nolle prosequi.

95. Lastly, the summary procedure has been instituted for cases in which the suspect is taken in flagrante delicto or confesses to the commission of the punishable offence and purely and simply accepts liability. This procedure is a means of speeding matters up, and will thus make it possible to achieve the necessary decongestion of the courts. This summary procedure will not be applied to offences within the competence of the higher courts which are tried with a jury (homicide, rebellion and sedition), and will not be used to try persons exempt from penal responsibility because this situation calls for proceedings in which the offender's personal characteristics and the security measure required can be discussed at greater length. Similarly, in relation to offences of homicide, rebellion and sedition it was considered important to make thorough inquiries into the objective and subjective causes of the offence.

96. Under the provisions of the new Code, no formal proceedings will be instituted until the offender's identity has been established with certainty.

97. The primary purpose of the preliminary inquiry is to identify the presumed perpetrator of the offence; once proof of identity has been obtained, an order initiating criminal proceedings will be issued.

98. The investigation will be continuous, for the Code establishes the category of Permanent Examining Magistrates who will work around the clock taking the initial steps in the inquiry and who will have the Judicial Police Technical Corps under their orders.

99. The pre-trial proceedings retain the structure laid down in the 1971 Code, but mechanisms are established for streamlining the procedure, such as the issue of only one summons to a person who is declared absent, and prohibition of transcribing the full text of trial documents in judicial decisions, thus ensuring that these are short and technically cogent and that they deal with the legal points to be resolved. In proceedings against offences of personal injury and offences relating to net worth (other than aggravated theft or extortion), abandonment of the action is allowed as grounds for its extinction, provided that the perpetrator makes good the damage caused to the victim. Ex oficio review will be in order only in cases where the defendant or his counsel has not been personally notified of the decision or there is no recognized civil party.

100. With regard to jurisdiction and competence there are some innovations inasmuch as cases of personal injury will be heard at second instance by the higher courts, so that these courts may rule on all offences against life and integrity of the person which, owing to their social implications, call for unified treatment.

101. A system of simultaneous investigation by more than one examining magistrate is introduced, but the suspect must be represented in all the investigations in order that his defence may be fully guaranteed.

102. On the subject of evidence, the Code provides for the traditional elements: inspection, the employment of experts, documents, testimony, confession and circumstantial evidence. For doctrinal reasons the reference to presumption has been deleted. The principle of rational appreciation of evidence is established and the tariff system abandoned altogether. The principles of legality, equality and freedom of evidence are also laid down.

103. On such matters as arrest, security measures and release pending trial, the compilers of the new Code have taken into account the fact that Colombia has signed inter alia the International Covenant on Civil and Political Rights and the American Convention on Human Rights, which are linked to the national system through Act 74 of 1968 and Act 16 of 1972 respectively. Both statutes spell out such universally accepted principles as that of the presumption of innocence and the principle that deprivation of liberty during the proceedings should be the exception. These principles are observed in the Colombian legal order.

104. All the measures adopted serve to guarantee proper administration of justice which affords due protection to citizens' rights. The changes made in the judicial system reflect the Government's intention steadily to make good the shortcomings which have existed in the past.

Article 7: Education

105. Drawing upon the resources of culture, the General Directorate of Teacher Training and Advanced Training, Curricula and Educational Media of the Ministry of Education has carried out intercultural bilingual programmes, with highly significant success, under the National Ethnic Education Plan, the purpose of which is to train the individual to increase his capacity for social decision-making (annex No. 6).

106. This experiment was designed on the basis of requirements common to certain groups: firstly, the vernacular language should be recognized as a source of ethnic identity and thus as a powerful aid in ensuring that the teaching-learning process imparts a sure grasp of the learner's own culture and then that a knowledge of the national language is gradually acquired. Secondly, the education process should begin with the community and be integrated in its productive and social functioning. Thirdly, the traditional vertical relationship of teacher-pupil-community should be replaced by a horizontal one in which the opinions, interests and needs of the pupils and of the social group make themselves felt.

107. With these ideas in view, those carrying out the National Ethnic Education Plan have been holding a series of seminars in various areas where the native peoples of Colombia are located. These seminars have been the means of giving support and advice at the national and regional level and have enabled the communities themselves to design, carry out and evaluate their education programmes.

108. Moreover the activities of the Office of the Presidential Adviser on the Defence, Protection and Promotion of Human Rights are largely directed towards the training of civil society in order to develop in that society a spirit of collaboration and support for the competent authorities and to create awareness of the importance attaching to the defence of the rights of the citizenry. Furthermore, the presence of the teaching community in the field of human rights has been established through the Secretariats of Education throughout the national territory.

109. A manual has been prepared as a teaching aid and has proved to be very important as an activating instrument. It lays down guidelines for teaching the contents of the International Bill of Human Rights and at the same time suggests the need to stimulate new forms of analysis and criticism. The manual also promotes forms of collective work that involve the entire community in the critical analysis of human rights problems (annex No. 7).

110. All these activities form part of the methodology of research, participation and action and play an essential part in the process of training the community for the exercise of true democracy in our country.