



**International Convention on
the Elimination of All Forms
of Racial Discrimination**

Distr.: General
7 April 2014
English
Original: Spanish

Committee on the Elimination of Racial Discrimination

**Consideration of reports submitted by States
parties under article 9 of the Convention**

**Combined fifteenth and sixteenth periodic reports
due in 2012**

Colombia,****

[19 December 2013]

* Reissued for technical reasons on 12 September 2014.

** The present document is being issued without formal editing.

*** The annexes may be consulted in the files of the Committee secretariat.

GE.14-16087 (E) 120914



* 1 4 1 6 0 8 7 *

Please recycle 



Contents

	<i>Paragraphs</i>	<i>Page</i>
I. General content of the report.....	1–20	3
A. General.....	1–9	3
B. Fundamental aspects of the Colombian State	10–20	4
II. Substantive provisions of the Convention.....	21–151	6
Article 1. Definition of racial discrimination	21–24	6
Article 2. Legal and political framework for the elimination of racial discrimination	25–44	7
Article 3. Measures to prevent racial segregation	45–47	13
Article 4. Measures to eradicate racial discrimination	48–51	14
Article 5. Enjoyment of rights.....	52–137	14
Article 6. Protection and effective remedies	138–141	29
Article 7. Teaching, education, culture and information.....	142–151	29
III. Conclusions.....	152–157	31

I. General content of the report

A. General

1. The International Convention on the Elimination of All Forms of Racial Discrimination was adopted and opened for signature and ratification under General Assembly resolution 2106A (XX) of 21 December 1965, and entered into force on 4 January 1969, in accordance with article 19. The Convention was ratified by the State of Colombia by Act No. 22 of 1981. Consequently, the Convention is binding under domestic law on both nationals and foreigners,¹ and on public authorities in particular.²

2. The Convention, like other international human rights instruments, has constitutional rank and therefore takes precedence in the domestic legal order as provided by articles 53,³ 93,⁴ 94,⁵ 102, paragraph 2,⁶ and 214, paragraph 2,⁷ of the Constitution.

3. Based on these rules, the Constitutional Court has developed the concept of “the body of Constitutional law”, referring to rules and principles which, although not appearing formally in the text of the Constitution, are understood to form part of the Constitution under the provisions of the Constitution itself. Thus international human rights instruments have binding force and indeed constitutional rank, such that no domestic law or provision may contradict them.

4. The Government of Colombia submitted its combined tenth to fourteenth periodic reports (CERD/C/COL/14) in a single document on 29 February 2008.

5. The Committee considered those periodic reports at its 1948th and 1949th meetings (CERD/C/SR.1948 and 1949), held on 12 and 13 August 2009. At its 1968th meeting, held on 29 August 2009, it adopted its concluding observations (CERD/C/COL/CO/14).

6. The fifteenth and sixteenth periodic reports, which the State of Colombia submits for the consideration of the Committee in a single document, reflect the progress made and the obstacles and challenges faced by the various State bodies in the period 2008–2013 in implementing the Convention through a concerted effort involving the three branches of Government, each in its own area of competence, and the Public Legal Service, within the framework of a social State under the rule of law.

¹ Constitution, art. 4: “The Constitution is the supreme law. In all cases of incompatibility between the Constitution and the law or any other legislation or regulation, the provisions of the Constitution shall apply. It is the duty of nationals and foreigners in Colombia to abide by the Constitution and the laws and to respect and obey the authorities.”

² Constitution, art. 6: “Each person shall be individually responsible before the authorities for violations of the Constitution and laws. Civil servants shall also be responsible for such violations, and likewise for omissions or abuse of authority in exercising their functions.”

³ Art. 53: “Duly ratified international labour agreements shall be part of domestic law.”

⁴ Art. 93: “International treaties and agreements ratified by Congress that recognize human rights and prohibit their limitation in states of emergency shall take precedence in the legal order. The rights and duties enshrined in this Constitution shall be interpreted in accordance with the international human rights treaties ratified by Colombia.”

⁵ Art. 94: “The enunciation of the rights and guarantees contained in the Constitution and in international agreements in force shall not be construed as negating other rights inherent to the human person which are not expressly mentioned in them.”

⁶ Art. 102, para. 2: “The boundaries set in the manner prescribed by the Constitution may be modified only pursuant to treaties approved by Congress, duly ratified by the President.”

⁷ Art. 214 (states of emergency), para. 2: “Neither human rights nor fundamental freedoms may be suspended. In all cases, the rules of international humanitarian law shall be observed.”

7. This report has been prepared in keeping with the reporting guidelines set forth in document HRI/GEN/2/Rev.6, on the form and content of reports to be submitted by States parties to the international human rights treaties.

8. This report consists of three parts: a general section dealing with fundamental aspects of the Colombian State; a section on implementation of specific provisions of the Convention, presenting legislative, judicial and administrative advances; and lastly, the Colombian State offers some conclusions arising from the report for the Committee's consideration.

9. In submitting this report, Colombia reaffirms its commitment to respect, guarantee and promote fundamental rights, to fully observe the international instruments ratified by Colombia and to fulfil its commitments under those instruments, in particular this Convention.

B. Fundamental aspects of the Colombian State

10. Colombia is a social State under the rule of law, organized in as a unitary, democratic, participatory and pluralist republic, decentralized with autonomous territorial units. It is founded on respect for human dignity, on the labour and solidarity of the persons constituting it and on the primacy of the general interest.

11. Colombia is a multi-ethnic, multicultural country that brings together mestizo, indigenous, Afro-Colombian, white, Roma and Gypsy populations, making it one of the most diverse in Latin America. The census conducted in 2005 by the National Department of Statistics⁸ established that 1,392,623 people in the country identify themselves as indigenous, accounting for 3.4 per cent of the total population of Colombia. Full recognition was given to 87 indigenous peoples in 4,141 communities, who have been granted ownership of 34 million hectares, equivalent to 30 per cent of the national territory.

12. According to the 2005 census, 4,281,182 people in Colombia self-identify as belonging to the Afro-Colombian, Black, Palenquero and Raizal population, representing 10.5 per cent of the national total. As to persons who self-identify as Roma or Gypsies, the census shows a population of 4,858 people.

13. In this context, the cultural diversity that exists in Colombia presents a challenge in the formulation of public policies to promote equal opportunities for these groups in terms of access to the benefits of development, as well as in preserving their cultures under the principle of recognition of the right to be different. The Colombian State has therefore been firmly committed, within the constitutional and legal framework, to drawing up public policies such as the National Development Plan, that are geared towards the elimination of discrimination and the resulting guarantee of genuine equality.

14. It should be noted, in that regard, that the Constitution adopts a multidimensional approach to equality (art. 9); it recognizes, protects and guarantees ethnic and cultural diversity (art. 7); and it promotes the adoption of measures in favour of groups subject to marginalization or discrimination (art. 13). Similarly, the legal system, through the incorporation of International Labour Organization (ILO) Convention No. 169 of 1989, concerning Indigenous and Tribal Peoples in Independent Countries, recognizes the prior,

⁸ The body responsible for planning, collecting, processing, analysing and disseminating official statistics in Colombia. It is part of the executive branch of the Colombian State and has around 60 years of experience. It meets the highest quality standards and has provided the country and the world with over 70 survey types on all sectors of the economy, industry, the population, the agricultural sector and quality of life, among others.

free and informed consultation of ethnic communities as a fundamental right. In this respect, the Government has developed the legal framework extensively to ensure that representatives of these groups have an enabling environment where they participate in decisions regarding the exploitation of their natural resources, and in all cases in which projects, construction work or activities have a direct impact on the cultural, social and economic interests of ethnic communities.

15. Within this overarching legal framework, significant legislative, judicial and administrative progress has been made in strengthening the relevant institutional structure, through the creation and promotion of policies, plans, programmes and authorities that foster positive action in favour of minorities.

16. Attention is drawn to the existence of special electoral constituencies for indigenous and Afro-Colombian groups, ensuring that these minorities are represented in Congress; the establishment under the Constitution of a special legal regime to protect the cultural identity of the Raizal population (Constitution, art. 310), and of an indigenous jurisdiction in which the indigenous peoples have their own courts, with the power to create their own standards and procedures. This jurisdiction is subject to the Constitution and the law, as well as to the legislature, which is responsible for determining how it is to coordinate with the national justice system.

17. Regarding the promotion, protection and defence of the human rights of these population groups, there is a wide range of institutional services available in Colombia. In this connection, it is important to mention the work of the Ministry of the Interior, and particularly the Directorate for Indigenous, Roma and Minority Affairs, the Directorate for Black, Afro-Colombian, Palenquero and Raizal Community Affairs and the Directorate for Prior Consultation, which work together to implement public policy on human rights and international humanitarian law.

18. Moreover, Decree No. 4679 of 2010 established the Presidential Programme for Afro-Colombians, which aims to achieve progress towards inclusion and equal opportunities for Afro-Colombian communities in the economic, social, political and cultural spheres. With regard to indigenous communities, meanwhile, Decree No. 4679 of 2010 created the Presidential Programme to formulate strategies and actions for the Comprehensive Development of the Indigenous Peoples of Colombia, the overall aim of which is to promote inter-institutional coordination to ensure observance of the fundamental, collective and comprehensive rights of the indigenous peoples of Colombia, in accordance with the Constitution and national and international standards.

19. Attention is drawn to the role of the Specialized Ombudsman for Ethnic Minorities within the Ombudsman's Office, and of the Specialized Counsel for Human Rights and Ethnic Groups, which work to combat discrimination in their capacity as independent monitoring bodies.

20. It is also important to note that the National Development Plan 2010–2014 included specific components designed to improve the living conditions of ethnic groups and to recognize and strengthen their cultural identity.

II. Substantive provisions of the Convention

Article 1

Definition of racial discrimination

21. As indicated in the preceding chapter, the Constitution adopts a multidimensional approach to equality, in that it stresses the importance of formal equality but also requires

that this be translated into what can be called material equality, which embraces equality of opportunities, the principle of equity and the notion of difference and calls for affirmative action in favour of groups that are discriminated against or marginalized and for special protection for persons in circumstances of manifest weakness.

22. The Colombian State remains firmly committed to eliminating and punishing any form of discrimination on grounds of race, sex, religion, nationality, gender, language, sexual orientation, economic or social status or other causes or conditions in general. To that end, Act No. 1482 of 2011⁹ was promulgated, amending the Colombian Criminal Code and designed to safeguard the rights of individuals, groups of individuals, communities or peoples that might be violated by acts of racism¹⁰ or discrimination,¹¹ thereby bringing those rights into the Colombian legal order (general comment No. 13 of the Committee on the Elimination of Racial Discrimination).¹² Act No. 1482 establishes the following:

“Article 3. Acts of racism or discrimination. Anyone who arbitrarily impedes, obstructs or restricts the full exercise of people’s rights on account of their race, nationality, sex or sexual orientation shall be liable to a term of imprisonment of between 12 and 36 months and a fine of between 10 and 15 times the statutory minimum monthly wage.”

23. Act No. 1482 of 2011 also criminalizes the advocating of genocide, stipulating that whoever, by any means, disseminates ideas or doctrines that encourage, promote or in any way justify genocide or anti-Semitism, or seeks the rehabilitation of regimes or institutions that foster practices conducive thereto, shall be liable to a term of imprisonment of between 96 and 180 months, a fine of between 666.66 and 1,500 times the statutory minimum monthly wage, and disqualification from the exercise of public rights and duties for between 80 and 180 months.

24. Lastly, pursuant to the relevant constitutional provision, the issue of differential treatment of foreigners has been regulated in Colombia as follows (Constitution, art. 100):

“Foreigners in Colombia shall enjoy the same civil rights as Colombian citizens. Nevertheless, for reasons of public order, the law may impose special conditions on or nullify the exercise of specific civil rights by foreigners. Similarly, foreigners shall enjoy, in the territory of the Republic, guarantees granted to citizens, subject to the limitations established by the Constitution or by law. Political rights are reserved for citizens, but the law may grant foreigners resident in Colombia the right to vote in municipal or district elections and referendums.”

⁹ This Act was declared enforceable by the Constitutional Court through judgement No. C-194 of 2013, reaffirming that the aim of the Act is to protect all victims of discrimination, not only on grounds of race but also on grounds of religion, ideology, politics, national origin, ethnicity, culture, sex or sexual orientation.

¹⁰ Racism is understood to be any act of physical and/or verbal aggression, intolerance, harassment, contempt or any violent attitude to which individuals, groups of individuals, communities or peoples are subjected on account of race or ethnicity.

¹¹ Racial discrimination is understood to be any act of arbitrary distinction, exclusion or restriction that has the purpose or effect — conscious or unconscious — of impairing or nullifying the recognition, enjoyment or exercise of the human rights and fundamental freedoms of an individual or group of individuals on account of their race or ethnicity.

¹² The Committee recommends that the State party enact legislation in order to give full effect to the provisions in the Constitution on non-discrimination expressly forbidding discrimination on grounds of race, and to ensure that effective remedies are available to enforce such legislation. Furthermore, the Committee reiterates its recommendation that the State party should enact specific penal legislation in accordance with article 4 of the Convention.

Article 2

Legal and political framework for the elimination of racial discrimination

25. The recognition of Colombia as a social, participatory and pluralist State under the rule of law serves as a first point of reference in protecting and guaranteeing the nation's ethnic and cultural diversity,¹³ taking account of values such as tolerance and respect for difference. The principle of protecting cultural diversity is developed throughout the Constitution by the recognition of the following rights:

<i>Constitution</i>	<i>Right protected</i>
Article 7	The State recognizes and protects the ethnic and cultural diversity of the Colombian nation
Article 8	It is the duty of the State and of persons to protect the cultural and natural wealth of the nation
Article 10	Official local status for the dialects and languages of ethnic minorities (bilingual education in the territories)
Article 13	Right to equality without discrimination on the basis of sex, race, national or family origin, language, religion, political opinion or philosophy
Article 17	Prohibition of slavery
Article 18	Freedom of conscience
Article 19	Freedom of religion
Article 43	Women and men have equal rights and opportunities. Women may not be subjected to any type of discrimination. During pregnancy and following delivery, women shall be granted the special assistance and protection of the State and shall receive from the State a basic allowance if they should thereafter find themselves unemployed or destitute. The State shall especially support women heads of household
Article 63	Inalienable, imprescriptible and unseizable properties, including the communal lands of ethnic groups and <i>resguardo</i> lands
Article 68	Receiving an education that respects and guarantees cultural identity
Article 70	Equality between cultures
Article 72	The cultural heritage of the nation is under State protection
Article 96	Right to Colombian nationality for members of indigenous peoples who live in border areas
Articles 171–172	Special participation in the Senate and House of Representatives

¹³ Constitution, art. 7.

<i>Constitution</i>	<i>Right protected</i>
Article 176	The House of Representatives shall be elected by territorial constituencies, special constituencies and one international constituency
Article 246	Special indigenous jurisdiction: Indigenous authorities may exercise their jurisdiction within their territorial limits and in accordance with their own rules and procedures, provided these do not contradict the Constitution or the law
Articles 286–287	There shall be territorial entities with administrative and budgetary independence
Article 310	Establishment of a special legal regime for the Department of the Archipelago of San Andrés, Providencia and Santa Catalina, with the aim of protecting the cultural identity of the Raizal ethnic minority population living in the territory
Article 330	Indigenous territories shall be governed by councils formed and regulated according to the customs of their communities

1. Legislative developments

26. In order to guarantee the promotion and protection of the rights of ethnic groups in Colombia, the following legislation was promulgated by the Colombian State in the period 2008–2013:¹⁴

<i>Legislation</i>	<i>Content</i>
Act No. 1257 of 2008	On awareness-raising, prevention and punishment in respect of acts of violence and discrimination against women. This Act also amends the Criminal Code, the Code of Criminal Procedure and Act No. 294 of 1996 and introduces new provisions
Act No. 1381 of 2010	On the recognition, protection and development of the linguistic, individual and collective rights of ethnic groups with their own linguistic tradition
Decree No. 2957 of 2010	Aims to establish a legislative framework for the comprehensive protection of the rights of the Roma or Gypsy ethnic group
Decree No. 4679 of 2010	Establishing the Presidential Programmes for Afro-Colombians and for the Indigenous Peoples
Act No. 1450 of 2011	Establishing the National Development Plan 2010–2014, which includes specific components for ethnic groups

¹⁴ The legislation enacted between 1991 and 2008 was included in the tenth to fourteenth periodic reports submitted to the Committee as a single document (CERD/C/COL/14) and considered at its 1948th and 1949th meetings (CERD/C/SR.1948 and 1949).

<i>Legislation</i>	<i>Content</i>
Act No. 1482 of 2011	Amending the Criminal Code to criminalize racism and racial discrimination against individuals, groups of individuals, communities or peoples
Act No. 1448 of 2011	Setting forth measures for the provision of support, assistance and comprehensive redress to victims of the internal armed conflict. Article 13 incorporates the principle of differentiation, which recognizes the existence of populations with special characteristics by virtue of their age, gender, sexual orientation or disability. For that reason, the measures to provide humanitarian aid, support, assistance and comprehensive redress established in the Act apply that principle
Decree Law No. 4633 of 2011	This legislative decree specifies the differentiated measures to provide support, assistance and comprehensive redress to indigenous peoples and communities who were victims of the armed conflict
Decree Law No. 4634 of 2011	This legislative decree specifies the differentiated measures to provide support, assistance and comprehensive redress to the Roma or Gypsy peoples who were victims of the armed conflict
Decree Law No. 4635 of 2011	This legislative decree specifies the differentiated measures to provide support, assistance and comprehensive redress to the Black, Afro-Colombian, Raizal and Palenquero communities who were victims of the armed conflict
2013 Decree Law	Establishing the Inter-Institutional Coordination Protocol for Prior Consultation as a coordinating mechanism for public bodies, to facilitate liaison between the various responsible departments and disseminate guidance and up-to-date information for use in issuing certificates of presence of indigenous to indigenous communities and organizing prior consultations

2. Prior consultation

27. As part of the special and specific measures taken in the social, economic and cultural fields, Act No. 21 of 1991 incorporated into domestic legislation ILO Convention No. 169, which establishes prior consultation as a fundamental right of indigenous and tribal peoples around the world in order to safeguard the persons, institutions, property, labour, cultures and environment of these peoples, and recognize and protect their social, cultural, religious, spiritual and institutional values and practices.

28. With that in mind, the Constitutional Court¹⁵ has stated that prior, free and informed consultation is a process of dialogue and intercultural coordination between two perceptions of development, and constitutes a fundamental right of members of Afro-Colombian communities, indigenous peoples and the Roma or Gypsy people, to permit discussion and

¹⁵ Judgement No. SU 039/97.

decision-making in respect of action to be taken on a project, development or activity that is planned within their territory and that affects their ethnic and cultural integrity.

29. In Colombia, Presidential Directive No. 1 of 2010 established binding responsibilities and procedures for national bodies and agencies in the central and decentralized sectors with a view to guaranteeing the right of ethnic groups to prior consultation. Moreover, Act No. 1437 of 2011, enacting the Code of Administrative Litigation Procedure, provides in article 46 for obligatory consultation, stipulating that when, under the Constitution or the law, a consultation is required prior to the adoption of an administrative decision, that consultation must take place within the time frames set out in the relevant regulations, failing which any decision adopted is null and void.

30. Decree No. 2893 of 2011 created the Directorate for Prior Consultation within the Ministry of the Interior, to coordinate the prior consultation procedures required by law with the appropriate bodies and units. Thus at the start of 2013, the following processes had been recorded:

- Prior consultation on annex IV.C.1–1 of the National Development Plan, which yielded 96 commitments in all sectors of national and territorial government. At the end of 2011, in order to ensure full implementation of these agreements, a monitoring committee was established comprising the National Planning Department, the Presidential Programme for Afro-Colombians, and the Directorates for Indigenous and Afro-Colombian Affairs within the Ministry of the Interior;
- The joint drafting, in a prior consultation process, of Decree No. 4633 of December 2011, which addresses the violation of the rights of the indigenous peoples during the internal armed conflict, taking a holistic, collective approach, with the aim of promoting differentiated, rights-based support measures;
- The joint drafting, in a broad prior consultation process, of the National Programme to Guarantee the Rights of Indigenous Peoples in Colombia (Order 1 of Constitutional Court Decision No. 004). This process lasted two years, brought together around 4,000 indigenous persons from all regions of the country and culminated in the notarization of the agreements in December 2011. They include lines of action in the areas of: (i) land; (ii) autonomy, self-government and political and administrative development; (iii) institutional adaptation, indigenous participation and State policies; (iv) prior consultation; (v) strengthening of cultural identity; (vi) comprehensive health-care system for the indigenous peoples; and (vii) human rights;
- The joint drafting, in a broad coordination process, of the Ethnic Protection Plan for the Awa People (Order 2 of Decision No. 004/09) and the Urgent Interim Contingency Response Plan (Decision No. 174/11). Between 2009 and 2011, progress was made in the drafting of the Awa protection plan, protection plans for other indigenous peoples in Colombia, as outlined by the Constitutional Court in Decision No. 004, and the Urgent Interim Contingency Response Plan ordered by the Constitutional Court in Decision No. 174 of 2011;
- There are also plans to hold prior consultations on important legislative and administrative measures that have an impact on indigenous peoples and communities.

31. In order to consolidate consultation as a fundamental right of ethnic minorities, a statutory law is currently being drafted to regulate the entire process, taking account of each and every one of the possible cases and specificities that may arise during its implementation. An effort is thereby being made to fill the legal gaps that make it difficult to implement prior consultations in practice.

3. Administrative developments

32. In respect of differentiated public policies, it is important to highlight that, in chapter IV of the National Development Plan 2010–2014, entitled “Equality of Opportunity for Social Prosperity”, it is acknowledged that, to achieve a society with equality of opportunity and social mobility, the State must guarantee both sustainable economic growth and comprehensive social development. In terms of this second objective, one of the main challenges has been to ensure the social inclusion of the various ethnic groups, which is why, in public policy guidelines, particular emphasis has been placed on the development of plans, programmes and projects targeting specific segments of the Afro-Colombian population, the indigenous peoples and the Roma and Gypsy people.

33. The Government thus incorporated the differentiated approach as a strategic guideline in public policy measures designed to generate the conditions for equality of opportunity and comprehensive social development, bearing in mind the population and regional differences and the specific characteristics of the various ethnic groups in order to guarantee their survival as cultures and ensure that they receive appropriate, efficient and relevant support. It also promotes the implementation of affirmative action measures, given the conditions of marginalization and the social practice of discrimination that have historically affected these populations.

34. An example of the above is the internal restructuring of the Colombian Family Welfare Institute, a State body that works to provide comprehensive prevention and protection measures for infants, children and adolescents, and for the well-being of families in Colombia, and which has adopted a clear population-based, differentiated approach linking all its mission-related activities and social intervention programmes. From being an organization focused on prevention and protection, it thus switched to a structure centred on population groups that its preventive and protective action then targets.

35. This transition has entailed the adoption of a differentiated approach focusing on ethnicity, gender, disability and life cycle or age group, which serve as criteria for the structuring of government policies on infants, children, adolescents and their families. A further category, of that of victim of the armed conflict, was also felt to warrant special differentiated treatment, given the particular kinds of disorder it causes in men, women, children, indigenous people, Gypsies and people of African descent, requiring specific support measures.

36. Meanwhile, to ensure the political participation of ethnic groups, the Government, working through various ministries and bodies, finalized the prior consultation on the National Development Plan 2010–2014: Prosperity for All, conducted with these population groups, reaching formal agreements on institutional action to realize their individual and collective rights. The outcome was the addition of annex IV, “Agreements with indigenous peoples”, to the National Development Plan, and the creation of the “National Development Plan for Black, Afro-Colombian, Raizal and Palenquero communities 2010–2014: towards a multi-ethnic, multicultural and democratically prosperous Colombia”.

37. It was on the basis of these guidelines that the Government created the Presidential Programme for Afro-Colombians (Decree No. 4679 of 2010). Its objective is to achieve progress towards inclusion and equal opportunities in the economic, social, political and cultural spheres for Afro-Colombian communities.

38. To that end, the Programme helps increase the visibility of action to combat racism and racial discrimination by raising awareness of the content of Act No. 1482. It also runs forums, seminars, conferences and other events that promote social sensitivity and awareness of the memories of Africans and their descendants. Achievements of the Programme include: organizing the World Summit of Mayors and Leaders of African

Descent; leadership of the monitoring group on Afro-Colombian children; helping raise awareness of public policies for people of African descent, and thereby improve the performance of mayors and governors. Moreover, knowledge of institutional services is increased through dialogues in which the Government reports its results in respect of ethnic and racial rights. Lastly, the Programme participates in employment and entrepreneurship initiatives in partnership with institutions such as the National Training Service.

39. In this context, 2010 saw the adoption of CONPES¹⁶ 3660, policy to promote equal opportunities for Afro-Colombian groups, in which national ministries and bodies identified programmes and projects that, when implemented, can lead to positive changes for this population group, working on the principle of a differentiated, “do-no-harm” approach. The policy is thus geared towards the development of affirmative action with the aim of offering comprehensive support, protection, a guarantee of rights and a high-quality institutional response, both public and private, in order to guarantee the right to equality of opportunity at the collective and individual levels.

40. As to the indigenous communities, Decree No. 4679 of 2010 created the Presidential Programme to formulate strategies and actions for the Comprehensive Development of the Indigenous Peoples of Colombia, the overall aim of which is to promote inter-institutional coordination to ensure observance of the fundamental, collective and comprehensive rights of the indigenous peoples of Colombia, in accordance with the Constitution and national and international standards.

41. Meanwhile, the Ministry of the Interior, by Resolution No. 1154 of 2012, established the Observatory on Discrimination and Racism to monitor and act on discrimination and racism, for the purpose of generating input into public policies to combat racial discrimination, by studying, discussing and reflecting on the daily lives of the Afro-Colombian population. The Observatory also seeks to respond to the recommendations in the United Nations report on Afro-Colombians and the Millennium Development Goals, by supplying input for public policies to reduce hunger and poverty in the Afro-Colombian community.

42. Lastly, although the Convention does not consider the LGBTI community as a vulnerable group, domestic legislation, including Act No. 1482 of 2011, provides for the protection of fundamental rights and guarantees to prevent and punish sex discrimination.

4. Institutional structure related to the Paris Principles

43. Pursuant to the Paris Principles, the Ombudsman’s Office was established in Colombia as the body responsible for ensuring the effective realization of human rights as a fundamental element of a social State under the rule of law. The main functions of this body are to promote and publicize human rights; protect and defend human rights and prevent violations; and foster respect for international humanitarian law. The Office forms part of the Public Legal Service and acts under the authority of the Counsel-General. It has administrative and budgetary autonomy.

44. In order to achieve its institutional objective, the Office has 10 specialized ombudsmen, including the Specialized Ombudsman for Indigenous Peoples and Ethnic Minorities, which guarantees the recognition and realization of the collective and

¹⁶ The National Economic and Social Policy Council (CONPES) was established by Act No. 19 of 1958. It is the highest national planning authority. It acts as an advisory body to the Government on all matters connected with the economic and social development of the country. To that end, it coordinates and guides the government bodies responsible for economic and social management by studying and approving documents on the development of general policies submitted to it at its meetings.

comprehensive human rights of ethnic groups in Colombia, in accordance with articles 7, 282, 283 and 284 of the Constitution, Act No. 24 of 1992 and Resolution No. 1602 of 7 July 1995. In November 2011, the Specialized Ombudsman published the Protocol on Specialized Support for Ethnic Groups to promote the strengthening of special, differentiated support for members of ethnic groups and also to help safeguard the collective, fundamental and comprehensive rights of these peoples by means of prompt, effective and efficient procedures designed to overcome the factors that put them at risk or harm them.¹⁷

Article 3

Measures to prevent racial segregation

45. Colombia has never had a national policy of segregation or apartheid that has been reflected in laws, binding regulations or policies for action in the form of deliberate differentiation to the disadvantage of certain communities. On the contrary, the Colombian State has sought to guarantee the rights of the ancestral peoples, and their culture and lands. Colombia therefore has the institutional capacity to fully enforce the human rights of the indigenous peoples and Afro-Colombian, Black, Palenquero and Raizal communities through work led by the Ministry of the Interior, the body responsible for promoting national unity.

46. However, while the previous chapter dealt with matters relating to the rights of the indigenous peoples and the Afro-Colombian communities, it should be noted that, under Decree No. 2893 of 2011 and Decree No. 2957 of 2010, one of the functions of the Ministry of the Interior is to ensure the ethnic and cultural integration of the Roma, or Gypsies, thus fulfilling the duty incumbent on the Colombian State under article 7 of the Colombian Constitution, to protect the ethnic and cultural diversity of the nation. Joint efforts have therefore been made with the different State agencies to formulate and promote affirmative action providing comprehensive protection for the Roma, or Gypsies, thus guaranteeing their cultural, political and social survival and taking into consideration their specific identifying features and culture, which merit special differentiated treatment, as well as the observance and guarantee of ethnic groups' fundamental right to prior consultation.

National Commission for Dialogue for the Roma People

47. The Roma, also known as Gypsies, are a tribal people who are nomadic by nature. Their presence in Colombia dates from the era of Spanish rule in Latin America. Despite the cultural changes that threaten their culture with extinction, they retain aspects of the ethnic identity that distinguishes them not only from other peoples, but also from mainstream society in the places where they are found.

Article 4

Measures to eradicate racial discrimination

48. As mentioned in paragraphs 22 and 23, the Colombian State has adopted Act No. 1482, the Discrimination Act, which aims to guarantee the protection of the rights of a person, group of persons, community or people where these have been violated by acts of racism or discrimination.

¹⁷ For example: the impact of the armed conflict, illicit crops, economic megaprojects, single-crop production, mining, tourism and port services, among others.

49. Act No. 1482 of 2011 sets out the penalties to be applied in cases of harassment of a person, group of persons, community or people:

Article 4. Harassment on grounds of race, religion, ideology, political opinion or national, ethnic or cultural origin. Anyone who promotes or incites acts, conduct or behaviour constituting harassment with the aim of causing physical or moral damage to a person, group of persons, community or people on grounds of race, ethnicity, religion, nationality, political ideology or philosophy, sex or sexual orientation, shall be liable to 12 to 36 months' imprisonment and a fine of 10 to 15 times the statutory minimum wage, with the exception of acts constituting an offence punishable by a heavier sentence.

50. The Act also establishes aggravating circumstances, which will increase the penalty by between one third and one half where the act is committed:

- (a) In a public place, a public establishment or a place open to the public;
- (b) Using the mass media;
- (c) By a government employee;
- (d) By reason of or when providing a public service;
- (e) Against a child, adolescent or older person;
- (f) In order to deny or restrict employment rights.

51. It also establishes mitigating circumstances, which will reduce the penalty by one third: (1) where the accused or charged person publicly retracts the act for which they are under investigation, verbally and in writing; and (2) where the service that was being denied is provided.

Article 5

Enjoyment of rights

1. The right to equal treatment before the tribunals and all other organs administering justice

52. Article 13 of the Constitution establishes the right to equality: "All persons are born free and equal before the law, shall be given equal protection and treatment by the authorities, and shall enjoy the same rights, freedoms and opportunities without any discrimination on grounds of sex, race, national or family origin, language, religion, political opinion or philosophy." Therefore, the Constitutional Court has ruled that the right to equality is a directly applicable principle that prohibits the authorities from affording different or discriminatory protection or treatment.

53. Nevertheless, domestic legislation recognizes legal pluralism, given the coexistence of State law with special jurisdictions such as the indigenous jurisdiction, where the relevant authorities are competent to resolve internal conflicts in accordance with their traditions, customs and social practices. Thus all police, civil, criminal or family matters involving parties from one or more indigenous peoples can and should be resolved by their own authorities, in accordance with their rules and procedures, provided that they are not contrary to the Constitution and the law (minimum legal requirements: the right to life, bodily safety, due process and freedom from slavery).

54. Furthermore, in order to guarantee access to justice, alternative conflict-resolution mechanisms have been developed in Colombia, among them the National Houses of Justice Programme, which is an inter-agency initiative and allows citizens to obtain a timely,

effective, comprehensive response, free of charge, to family conflicts, problems between neighbours, criminal, civil and labour matters and human rights violations, among others.

55. The National Houses of Justice Programme has adopted an inter-agency approach in order to achieve legal pluralism and help to ensure that judicial services duly reach all the indigenous peoples,¹⁸ the Afro-Colombian communities and the Roma, and in timely fashion,¹⁹ and this is why the prevention processes seek to strengthen the ethnic and cultural diversity reflected in the different forms of social organization. In this regard, the Houses of Justice have addressed matters relating to land and the legal and official role of the indigenous authorities in applying rules and procedures. It has also endeavoured to determine which situations cannot be attributed to culture and represent infringements and violations of indigenous law. The Houses of Justice therefore seek to strengthen communities' own capacity to resolve conflicts based on indigenous jurisdiction, the law of communities of African descent, Raizal customary law and Roma law.

56. The Directorate for Alternative Dispute Resolution of the Ministry of Justice and Law is working to design protocols and care pathways for the Houses of Justice that have an ethnic component, as well as to implement a methodology designed to strengthen the capacities of government employees. This will allow institutional conditions to be improved so that the Houses of Justice programme may function in a way appropriate to the local context.

2. The right to security of person and protection by the State

57. Firstly, it should be stated that ethnic groups are entitled to be treated differently by government employees in terms of respect for, and promotion of, their culture. This different treatment takes the form of actions that strengthen, benefit and empower ethnic peoples and communities, not actions that do them harm.

58. Regarding personal safety and State protection, in Colombia the Ombudsman's Office, part of the Public Legal Service, is the body responsible for guaranteeing effective observance of human rights and encouraging respect for international humanitarian law. The Office of the Specialized Ombudsman for Indigenous People and Ethnic Minorities was created in order to provide a comprehensive service addressing citizens' needs.

59. The Counsel-General's Office and the municipal ombudsmen's offices are required to defend the country's ethnic and cultural diversity. Then there is the Office of the President of the Republic, which has presidential programmes for formulating strategies and actions for the comprehensive development of the Afro-Colombian communities and for the indigenous peoples of Colombia.

60. For Colombia, strengthening protection for population groups who need more support is vital, and it therefore implements policies that promote affirmative action. In this connection, the strategic policy lines of the National Development Plan 2010–2014 include three specific components for ethnic groups, namely promotion of equal opportunities for ethnic groups in terms of access to the benefits of development via a differentiated approach; protection of the fundamental rights of the ethnic population; and strengthening their own organizations and forms of government. This displays both commitment and progress in making Colombia an inclusive country.

61. Progress in the area of protection has been made through the finalization in November 2011 of the Programme to Guarantee the Rights of Indigenous Peoples, which

¹⁸ The House of Justice will ensure that it does not accept cases that are the responsibility and competence of the ethnic authorities within its jurisdiction.

¹⁹ See the annex on Houses of Justice with an ethnic component.

sets out the broad lines of public policy in respect of these communities and makes available tools to provide comprehensive assistance, protections and safeguards for the rights of those peoples at risk of disappearing either physically or culturally. In the same way, information from the system for georeferencing indigenous reservations is being checked through the Colombian Indigenous Information System in order to strengthen the system for the protection of these territories. In this connection, 246,702 reservations have already been georeferenced. The boundaries of 900,702 reservations are now being identified for incorporation into the system.

62. Significant headway has also been made at the national level through the promulgation and implementation of Act No. 1448 of 2011, the Victims and Land Restitution Act, which lays down measures for the provision of support, assistance and comprehensive redress to the victims of the internal armed conflict, as well as other provisions. This Act emerged from intense democratic debate in Congress, and is the product of a consensus between the national Government, various political sectors and civil society.

63. The Act regulates aspects of humanitarian aid, support, assistance and redress for victims and offers tools to help them reclaim their dignity and assume full citizenship. The measures providing support, assistance and redress for the indigenous peoples and the Afro-Colombian communities form part of specific regulations for each of these ethnic groups, following prior consultation in order to respect their traditions, customs and collective rights.

64. In this way, and through Decrees Nos. 4633, 4634 and 4635 of 2011, the Government set out measures for support, assistance, comprehensive redress and restitution of land for victims from the Afro-Colombian, indigenous and Roma communities. The regulations are based on respect for those peoples' own law and on the principle of a differentiated approach based on ethnicity, in order to guarantee the physical and cultural survival of these communities. They also comprise individual and collective reparation for harm. In particular, Decree No. 4635 establishes measures providing assistance, support, comprehensive redress and restitution of land for victims from the Afro-Colombian, Black, Palenquero and Raizal communities.

65. It is important to note that the Constitutional Court has adopted a series of decisions relating to the situation of the indigenous peoples and the Afro-Colombian communities and the violation of their fundamental rights. In that regard, it is important to note the adoption of Decisions Nos. 004 and 005 of 2009, which issue comprehensive instructions to the Government to boost its support for the indigenous and Afro-Colombian populations, instructions that the Government takes extremely seriously.

66. As part of measures to comply with Constitutional Court decision T-025 of 2004, which declares the situation of displaced persons to be unconstitutional, the Court adopted Decision No. 004 of 2009 on the protection of the fundamental rights of indigenous persons and peoples displaced by the armed conflict or at risk of forced displacement and, with a view to protecting their fundamental rights, a series of measures to be adopted by the Government was established:

- The design and implementation of a programme guaranteeing the rights of indigenous peoples affected by, or at risk of, displacement, applying constitutional standards on the involvement of indigenous rights organizations and of leaders of the indigenous peoples most affected by displacement;
- The design and implementation — with the effective participation of the legitimate indigenous authorities — of ethnic protection plans for 34 indigenous peoples, to shield them from the armed conflict and forced displacement.

67. Decision No. 005 of 2009 orders the following:
- The design of 62 specific plans for the protection and support of the displaced Afro-Colombian population;
 - The design of a comprehensive prevention plan for the protection and support of the Afro-Colombian population;
 - The design of a plan to identify the collective and ancestral lands mainly inhabited by the Afro-Colombian population;
 - The implementation of the proposed ethnic pathway through social action as part of the project to protect lands and heritage;
 - The Ministry of the Interior, Ministry of Justice and the Ministry of Defence to present to the Ombudsman's Office bimonthly reports on the action taken to comply with the provisional measures ordered by the Inter-American Court of Human Rights relating to the Jiguamiandó and Curbaradó communities.
68. In order to comply with the orders of the Constitutional Court, every Tuesday the Directorate for Black, Afro-Colombian, Raizal and Palenquero Community Affairs and the Subdirector for the Displaced Population meet with bodies with competence to help implement Decision No. 005 of 2009.
69. The action taken by the Colombian State to guarantee the personal safety of individuals belonging to ethnic groups is described below.

(a) Comprehensive human rights policy of the Ministry of Defence

70. In implementation of the Comprehensive Policy on Human Rights and International Humanitarian Law, the Ministry of Defence, the Armed Forces and the National Police have developed various extracurricular training activities such as workshops, seminars and courses, on subjects such as human rights and the principles of international humanitarian law; forced displacement due to violence; forced disappearance; protection of indigenous and Afro-Colombian communities; the inter-American human rights system; first response; preventing gender-based violence; operational law and rules of engagement, among others.

71. Ministerial Directive No. 16 of 2006 on indigenous communities and Ministerial Directive No. 7 of 2007 on Afro-Colombian, Black, Palenquero and Raizal communities provide specific instructions on the interaction of the police, Armed Forces and liaison officers with these communities. Their objective is to strengthen the relationship between the police and Armed Forces and indigenous and Afro-Colombian communities as a mechanism for respect and protection of human rights. The police and Armed Forces currently have 170 liaison officers throughout the country.

72. In this context, by Decision No. 1598 of 2011 a group was set up in the Directorate of Human Rights and International Humanitarian Law of the Ministry of Defence to develop public policies for vulnerable populations with the aim of strengthening two lines of action: support for special groups and liaison officers.

- Support for special groups: The Ministry of Defence, coordinating with the General Command of the Armed Forces and the National Police and with the agreement of the communities, began work on a policy for indigenous peoples, with the aim of continuing to strengthen the protection of these communities' individual and collective rights and improving existing relations between the police and Armed Forces and the indigenous communities. This has a direct effect on the training and, in particular, the conduct of members of the Armed Forces and the National Police, as the provisions of international instruments must be applied in carrying out operations;

- Liaison officers: This function has been established in an attempt to strengthen the relationship between the police and Armed Forces and the indigenous and Afro-Colombian communities through the respect and protection of human rights. For that purpose, in 2009 the Armed Forces Joint Action Headquarters ordered indigenous affairs offices to be set up in each service and since June 2009 indigenous liaison offices have been established by the Army, Navy and Air Force, the Caribbean Joint Command, the Pacific Joint Command and the Omega Joint Task Force.

(b) Protection Mechanisms

73. By Decree No. 4065 of 2011, the Government created the National Protection Unit, a national security body in the Ministry of the Interior responsible for designing, coordinating and implementing measures to protect and promote the rights to life, integrity, freedom and safety of persons who, by virtue of their post or in the course of their duties, may be at particular or extreme risk of abuses of these rights.

74. Among those protected by the Unit are 246 ethnic group representatives and members, 60 of them women and 180 men, who now have individual protection measures.

75. It should be noted that the technical risk assessment, which is part of the protection pathway governing the Unit's work, strictly follows the principles set out by the Constitutional Court, which establish the parameters for application of the differentiated approach. In this regard the Unit bases itself on judgements T-719/03, T-1026/02 and T-025/2004, which refer to the right to personal safety, and follow-up Decisions Nos. 200 of 2007 on leaders of displaced populations, 004 of 2009 on displaced indigenous persons, 005 of 2009 on Afro-Colombian, Black, Palenquero and Raizal communities and 045 of 2012 on the general community councils of the Curbaradó and Jiguamiandó river basins.

76. Additionally, Decrees Nos. 4633, 4634 and 4635 of 2011 aim to establish the regulatory and institutional framework of support, assistance and comprehensive redress for victims belonging to the Afro-Colombian population groups, the Roma people and the indigenous peoples, respectively.

77. In order to apply the differentiated approach, there is a special Committee for Risk Assessment and Recommended Measures for indigenous persons, on which that population group is represented, and collective protection measures have been approved for Afro-Colombian communities, such as those of Jiguamiandó and Curbaradó in the Lower Atrato in Choco and the Community for Self-Determination, Life, and Dignity in the Cacarica river basin, taking into account the particular features of each group.

78. In the same connection, consultations have taken place with the indigenous Nasa, Awa, Waunana, and Wiwa peoples and the communities of Totoro and Cerro Tijeras with the aim of implementing suitable and effective measures to safeguard the right to life, security, freedom and integrity of the members of those communities, and that ensure respect for their traditions and customs.

79. An agreement was also reached with the Cauca Regional Indigenous Council regarding the protection of Council leaders, leading to the recruitment of members of the indigenous guard of the Nasa Yuwe people to protect the community.

80. It should be noted that, in order to improve the identification of suitable protection measures for groups, as in the cases mentioned above, the National Protection Unit, with the support of the Office of the United Nations High Commissioner for Refugees (UNHCR), is working to create a collective risk evaluation matrix.

81. This matrix was tested on the Association of Displaced Afro-Colombians and some reservations of the indigenous Awa people, and the results are being collated in order to

create a tool providing a comprehensive analysis of the sources of risk and factors of vulnerability affecting the Afro-Colombian communities, according to their situation.

(c) Early Warning System

82. With regard to the Early Warning System, and in particular early warnings to protect indigenous and Afro-Colombian leaders and community defenders, the Ombudsman's Office has succeeded in ensuring that the national annual budget allocates resources for social investment projects and programmes. This has made it possible to hire analysts for the Early Warning System, community defenders and analysts for border areas and areas receiving displaced persons, for action by defenders on forced displacement.

83. With regard to support for ethnic groups who have been victims of human rights violations and infractions of international humanitarian law, the Office of the Specialized Ombudsman for Indigenous Persons and Ethnic Minorities, under Resolution No. 396 of 2003, has undertaken the following activities: (a) mediating in disputes; (b) following up agreements between ethnic groups and the State; (c) maintaining a presence in regions with critical human rights situations;²⁰ (d) participating in inter-agency and institutional meetings; and (e) providing advisory services on request to different ethnic groups, their organizations, State bodies and other institutions, where the Office is competent to do so.

(d) Children and adolescents

84. In 2011, the Colombian Family Welfare Institute began reviewing its procedures for preventing serious human rights violations and infractions of international humanitarian law in light of the risk reports and follow-up notes issued by the Early Warning System of the Ombudsman's Office and the early warnings issued by the Inter-Agency Early Warning Committee. The objective is to prevent violations of the rights of children and adolescents and their families in the context of the armed conflict. There is also a gender-differentiated approach as provided for by the follow-up decisions of the Constitutional Court to the instructions in Decision No. T-025 of 2004.

85. In that connection, the Colombian Family Welfare Institute is a proactive member of the Intersectoral Commission for the Prevention of Forced Recruitment, Sexual Abuse and Violence against Children and Adolescents by Illegal Armed Groups and Criminal Organizations and is part of the National System of Comprehensive Victim Support and Reparation, which forms the framework for prevention and protection measures with participatory approaches that are differentiated in terms of ethnicity, gender and disability and intended to prevent the creation of further victims among vulnerable groups who receive special protection in the context of the armed conflict.

(e) Persons deprived of their liberty

86. The National Prisons Institute, in cooperation with the Ministry of Justice and Law, is developing short-, medium- and long-term strategies to improve the detention conditions of those deprived of their liberty and to strengthen policy regarding the respect, promotion, protection and defence of human rights (Committee's general comment No. 21).

87. In this connection, the National Prisons Institute implements Procedure PT 51-012-08 V04: Social Integration of Groups in Exceptional Circumstances, which seeks to provide comprehensive support for the inmate population through social inclusion policies, by adopting measures suited to the various groups in exceptional circumstances: older persons,

²⁰ Critical regions are areas where ethnic groups are highly vulnerable to human rights violations and are directly affected by a serious humanitarian crisis as a consequence of the internal armed conflict, natural disasters, food security crises, etc.

persons with disabilities, Afro-Colombians, indigenous persons, foreigners, pregnant women and breastfeeding mothers. Social integration activities are of three kinds and are aimed at all groups whose circumstances are recognized as being exceptional, as follows:

- Social support: Action to help inmates with initial adjustment to prison conditions and to encourage them to adopt strategies permitting their social integration in the prison community, in accordance with their particular characteristics and needs and promoting well-being and a good quality of life during imprisonment;
- Multicultural encounters: Opportunities for dialogue and the sharing of knowledge (the construction of knowledge by discussing different experiences and points of view; the sum of different ways of interpreting reality, which comprises four steps: conceptualization, analysis, reflection and self-evaluation) through cultural intervention groups and intercultural exhibitions;
- Life school: Alternative teaching approach that breaks with the traditional educational paradigm and is based on perceiving education as “the joint construction of knowledge”. In an ecological perspective, this “dynamic educational development” highlights individual-collective learning potential and unlocks human capabilities through self-reliance and personal and group empowerment.

88. Based on this, a social integration programme for indigenous persons has been established under the Procedure, with the aim of promoting indigenous inmates’ social inclusion in prisons by creating individual and group spaces where participation and respect for difference are tools in promoting greater autonomy and self-management. The activities of the National Prisons Institute in that regard are organized as follows:

- Contacting the competent indigenous authority to confirm inmates’ membership of a given indigenous community. This confirmation should also state whether the inmate appears on the census lists for their community;
- Ensuring that inmate inductions (to both the prison and the prison programme) are carried out in a language that they understand, using officials or inmates with knowledge of those languages, the corresponding indigenous authority or legally recognized indigenous organizations acting as ad hoc interpreters;
- Facilitating indigenous inmates’ contact with the authorities representing their communities, and with their families, finding an appropriate balance between observance of prison regulations and preventing loss of contact with their culture.

89. A census of the prison population belonging to groups in exceptional circumstances has been carried out, and the information obtained has allowed the activities described, which are applied in every prison in the country, to be monitored in terms of both procedure and support guidelines.

90. Lastly, with regard to individuals who define themselves as belonging to Afro-Colombian, Black, Palenquero or Raizal communities, the following specific actions are currently being implemented:

- Facilitating inmates’ contact with the authorities representing their communities, and with their families, finding an appropriate balance between observance of prison regulations and preventing loss of contact with their culture;
- Arranging for cooperation between legally constituted Black and Afro-Colombian community organizations that promote the well-being of this prison population in the development of support and assistance activities for them;
- Establishing inter-agency cooperation agreements between the National Prisons Institute and other public and private bodies at the national, departmental and local

levels, allowing the required support to be provided to the population belonging to this group.

3. Political rights

91. Article 176 of the Constitution establishes that members of the House of Representatives shall be elected by regional constituencies, special constituencies and an international constituency. The special constituency is intended to ensure the participation of ethnic groups and political minorities, and Act No. 649 of 2001 granted two seats in this constituency for Black communities and one for indigenous communities.

92. By law, those seeking election to the House of Representatives by indigenous communities must have held traditional authority roles in their respective communities. In the case of the Afro-Colombian, Black, Palenquero and Raizal population, candidates must be members of the community concerned and have the prior endorsement of an organization registered with the Directorate for Black, Afro-Colombian, Palenquero and Raizal Community Affairs of the Ministry of the Interior.

93. The following forums for dialogue with the indigenous peoples of Colombia should be mentioned:

- Amazon Regional Committee: Created in 2005 to protect the ethnic and cultural diversity of the region, which is home to 52 indigenous communities. The Committee makes recommendations on the formulation, promulgation and execution of public social policies for the indigenous peoples of the region, which comprises the departments of Amazonas, Caqueta, Guaviare, Guainia, Putumayo and Vaupés;
- Standing Committee for Consultation with Indigenous Peoples and Organizations: Set up to consult with the State on all administrative and legislative decisions likely to affect indigenous peoples, to evaluate the State's execution of indigenous policy, without prejudice to the proper functions of the State, and to monitor compliance with the agreements concluded (Decree No. 1397 of 8 August 1996);
- National Human Rights Commission for Indigenous Peoples: According to Decree No. 1396 of 1996, the main activities of the Commission are to ensure the protection and promotion of human rights; to define measures to prevent serious violations of human rights and promote their application; to design and promote the application of measures intended to reduce and eliminate serious human rights violations and infractions of international humanitarian law; to monitor and instigate criminal and disciplinary investigations; and to design a national support programme specifically for indigenous victims of violence and their immediate families, widows and orphans and define the mechanisms for its functioning and execution;
- Committee for Consultation with the Awa people: Created by Decree No. 1137 of 2010, its aim is to recommend actions allowing displacement to be addressed with a differentiated approach and to suggest and support measures to prevent violations of the human rights of this indigenous people, who are particularly victimized by the narcoterrorist group of the Revolutionary Armed Forces of Colombia (FARC).

4. Other civil rights

94. In Colombia, the following are fundamental rights, enshrined in the Constitution: freedom of conscience (art. 18), freedom of religion, the right to freely profess one's religion and to disseminate it individually or collectively (art. 19) and freedom to express and propagate one's thoughts and opinions, to transmit and receive truthful and impartial information and to establish mass communication media (art. 20).

95. The right of any group of individuals to gather and demonstrate publicly and peacefully (art. 37), and the right to free association in pursuit of the various activities that individuals may take part in (art. 38) are also guaranteed.

96. The Constitution recognizes nationality as a fundamental right of children, and stipulates that the following shall be Colombian nationals:

Article 96

By birth:

(a) Anyone born in Colombia, on one of two conditions: one parent must have been born in Colombia or be a Colombian national or, if both parents are foreign nationals, one parent must have been resident in Colombia when the child in question was born;

(b) Any child of a Colombian mother or father who was born abroad and subsequently became resident in Colombia.

By naturalization:

(a) Any foreign national who applies for and obtains a naturalization card in accordance with the law; the law shall stipulate under what circumstances Colombian nationality acquired by naturalization can be lost;

(b) Any national by birth of a Latin American or Caribbean State who is resident in Colombia and, with Government authorization and in accordance with the law and the principle of reciprocity, applies to be registered as a Colombian citizen with their local municipal authority; and

(c) Any member of an indigenous community sharing a border zone with Colombia, in implementation of the principle of reciprocity in accordance with public treaties.

No one who is Colombian by birth may be deprived of their nationality.

97. Article 24 of the Constitution stipulates that, within the limits established by law, all Colombian citizens are entitled to “move about freely within the national territory, to enter and leave the country and to remain and reside in Colombia”.

98. In relation to social, economic and cultural rights, article 42 of the Constitution, on the right to a family, states that marriage is an agreement which is freely entered into by a man and a woman: “The forms of marriage, the minimum age for marriage and the capacity to contract it, the rights and duties of the spouses, their separation and the dissolution of the marriage bond shall be governed by the civil law. Religious marriages shall have civil effects within the limits established by the law. The civil effects of all marriages shall end through divorce in accordance with the civil law.”

99. The right to private property and other acquired rights are also governed by civil law and guaranteed by the Constitution. However, property ownership in Colombia has a social and ecological function: “When the implementation of a law passed for the public benefit or in the social interest brings the rights of private individuals into conflict with the need recognized by that law, the private interest must yield to the public or social interest.”

100. Title II of the Civil Code sets forth the rules governing intestate succession, stating that “the law shall govern the inheritance of property not disposed of by the deceased, or disposed of but in a manner that does not comply with the law, or where the deceased’s dispositions have been without effect.”

5. Economic, social and cultural rights

(a) Right to work

101. Work is a fundamental right and a social obligation (art. 25) and enjoys the special protection of the State. Every person is therefore entitled to a job under dignified and fair conditions. The law establishes the following minimum basic principles: Equality of opportunity for workers; minimum remuneration that is basic for subsistence, flexible and in proportion with the amount and quality of work; stability of employment; irrevocability of minimum benefits established in labour regulations; the possibility of compromise or conciliation where rights are in doubt or debatable; interpretation in favour of the worker in case of doubt regarding the application and interpretation of the formal sources of law; primacy of facts over established formalities for the subjects of labour relations; guarantees of social security, training, instruction and adequate rest time; special protection for women, mothers and underage workers. Duly ratified international labour conventions also form part of domestic legislation.

102. The Ministry of Labour conducted an employment and quality of life survey in Santiago de Cali.²¹ The survey provided information at commune level for each of the various ethnic groups in the city, which is home to the largest Afro-Colombian population in the country in absolute terms. The Cali survey is yielding information that will be used to design differentiated labour policies.

103. In a cooperative venture between the Ministry of Labour and the Afro-descendant and Indigenous Peoples Programme of the United States Agency for International Development (USAID) a labour market and quality of life study with a racial and ethnic focus is to be conducted on the basis of the survey results, and a range of employment indicators will be devised, as well as a social and labour market inclusion programme for the Afro-Colombian and indigenous population.

104. As part of the Ministry of Labour's Social and Labour Market Inclusion Programme, field studies should be undertaken which focus on income generation rather than employability and which take into consideration the main economic activities in the regions where the respective communities are located.

105. The Directorate of Black Community Affairs of the Ministry of the Interior also provides technical assistance for the identification, formulation, management and monitoring of community council projects to ensure that they use the appropriate methodology and have access to the resources of the General Royalties System.

106. Lastly, it is important to note the adoption of Act No. 1010 of 2006, which contains measures to prevent, correct and punish workplace harassment and other forms of intimidation in labour relations. Article 2, subparagraph 3, of the Act, as amended by article 74 of Act No. 1622 of 2013, stipulates that workplace harassment can take the form of discrimination in employment, which consists of "differential treatment on grounds of race, gender, age, family or national origin, religious belief, political leanings or social standing or any other grounds which are without relevance from the employment standpoint".

(b) Right to form and join trade unions

107. In relation to freedom of association, article 39 of the Constitution provides that workers and employers have the right to form trade unions or associations without

²¹ The country's second largest city with the greatest number of persons who self-identify as persons of African descent.

interference by the State. Members of the police and Armed Forces however do not have the right to form and join trade unions.

108. The right of collective bargaining to regulate labour relations is also guaranteed except where provided by law. It is the duty of the State to promote negotiation and other measures for the peaceful settlement of collective labour disputes.

109. The right to strike is guaranteed in Colombia, except for essential public services as defined in the law.

(c) Right to housing

110. In relation to economic, social and cultural rights, every Colombian citizen has the right to decent housing. The State shall lay down the conditions necessary to give effect to this right and shall promote social housing schemes, appropriate long-term financing systems and associative forms of implementation of such housing programmes (art. 51 of the Constitution).

111. The Colombian State adopted Act No. 1537 of 2012 in an effort to safeguard the right to decent housing. The Act sets forth the guidelines for implementing national housing policy, for example by prioritizing apartments and setting housing quotas. In that regard, the Ministry of Agriculture has implemented strategic programmes aimed at facilitating access to social housing in rural areas and providing formal land title. The programmes apply a differentiated approach, targeting vulnerable groups such as displaced persons or beneficiaries of land restitution policy, who require comprehensive support, and rural households in categories I and II of the Social Programme Beneficiary Selection System (SISBEN) for the acquisition or improvement of housing.

112. The Colombian Agrarian Development Institute also seeks to guarantee access to land by establishing procedures for obtaining formal title to rural land. The programme aims to encourage rural development and improve the quality of life of farmers by converting the land on which they live and work into an asset. The target population of the formal land title process are mainly women, displaced persons, ethnic groups and low-income farmers.

113. Ministry of Agriculture and Rural Development Decree No. 1160 of 2010, as amended by Decree No. 900 of 2012, regulates the Family Social Housing Subsidy and defines as target groups SISBEN category I and II households, homes in indigenous reserves and Afro-Colombian communities.

114. In implementation of the Decree, for 2013 the Ministry and the Banco Agrario issued an invitation for application in an amount of US\$ 21,000 for the award of social housing subsidies to the target population.

(d) Right to public health

115. Health care is a public service for which the State is responsible. The State organizes, directs and regulates the promotion of health, the prevention of disease and the delivery of health and rehabilitation services for the population in accordance with the principles of efficiency, universality and solidarity, and also establishes policies for the provision of health services by private entities.

116. Everyone in the country has the right to access health promotion, protection, delivery and rehabilitation services. Persons who lack the capacity to pay and are not members of the General Health and Social Security System have the right to receive free treatment.

117. Consultations between the Government and traditional and legitimate authorities of ethnic groups and their representative organizations have led to advances in the design of public health policy for these groups.

118. In that context, the Ministry of Health and Social Security actively participates in two national forums for dialogue with the indigenous peoples: the Standing Committee for Consultation with Indigenous Peoples and Organizations and the Standing Committee's Subcommittee on Health, which has 15 indigenous members elected from 5 national indigenous organizations that represent the interests of the indigenous peoples throughout Colombia.

119. The Ministry of Health and Social Security and the local health authorities also actively participate in forums for dialogue with regional, departmental and local indigenous representatives, including the Amazon Regional Committee. Other forms of dialogue include direct consultation with the traditional authorities of indigenous peoples, with whom policy is devised jointly.

120. These consultations with indigenous peoples have resulted in a series of actions to bolster indigenous medicine and promote intercultural adjustments for the provision of differentiated health care including:

- (a) Inclusion of a special section on indigenous health in the 10-year public health plan;²²
- (b) Implementation of the healthy environment strategy in indigenous communities using a differentiated approach;²³
- (c) Design of specific and intercultural health models for the indigenous peoples;²⁴

²² The Ministry of Health and Social Security developed the methodology for joint drafting of this section, and it was presented and endorsed by the Subcommittee on Health of the Standing Committee for Consultation with Indigenous Peoples and Organizations. At the end of 2012, the methodology for collecting data for the section on indigenous peoples in the 10-year public health plan 2012–2021 was tested with the help of the Cauca indigenous peoples, by agreement with the Cauca Regional Indigenous Council. In 2013, the Standing Committee's Subcommittee on Health approved the methodology and the time frame for collecting data for the section on indigenous peoples in the 10-year public health plan and appointed the National Indigenous Organization of Colombia to carry out this task.

²³ The Ministry of Health and Social Security, in cooperation with the local health authorities, introduced this strategy in 2011 to help communities take control of social, health, environmental and cultural determinants that affect their well-being, and thereby help them prevent and reduce disease, improve their quality of life and exercise their fundamental rights. To date, pilot projects relating to basic sanitation, self-built housing on the basis of sociocultural and technical criteria, adequate housing and training of community mediators to monitor and manage environmental risk factors have been launched in the indigenous reserves of Chenche Agua Fría, Coyaima municipality, Tolima, for the Pijao people; El Refugio, San José del Guaviare municipality, Guaviare, for the Eastern Tukano people; Santa Rosita, Tumaco municipality, Nariño, for the Awá people; and Dozá, Tierralta municipality, Córdoba, for the Embera Katío people.

²⁴ The Ministry of Health and Social Security has provided technical and economic assistance for the development of specific and intercultural health models with a view to strengthening traditional medicine, adapting institutional health services to the environmental, cultural and organizational characteristics of each indigenous people and establishing mechanisms for dialogue and interaction between the two forms of medicine. The design of specific and intercultural health models is done in phases: the first phase involves determining the health situation of the indigenous peoples in terms of Western and traditional medicine, in order to identify and prioritize the health-related activities to be undertaken and their determinants, and to tailor the programmes accordingly. In the following phases, according to their specific needs and requirements, the indigenous peoples adapt the services of the

(d) Indigenous and Intercultural Health System.

121. In addition, in 2011 the Ministry of Health and Social Security also set up and now actively participates in the National Social Security Committee for the Afro-Colombian Communities and the Roma Health Committee, two forums for joint drafting of public health policies, established in compliance with the undertakings made with these groups under annex IV, chapter 1.1, of Act No. 1450 of 2011, on (finalization of the prior consultation with ethnic groups on the National Development Plan 2010–2014).

122. These forums have also worked on a special section on health for the Afro-Colombian Communities in the 10-year public health plan, and another on health for the Roma or Gypsy communities.

(e) **Right to education and training**

123. Education is an individual right and a public service with a social function, providing access to knowledge, science, technology, and other cultural goods and values. The Government, society and the family are responsible for education, which is compulsory between the ages of 5 and 15 and includes, at a minimum, a year of preschool and nine years of basic education. Education is free in State institutions. Members of ethnic groups have the right to an education that respects and develops their cultural identity.

124. Under Decree No. 4807 of 2011, free education was instituted for all students in State institutions from kindergarten (*transición*) to the eleventh grade. Efforts are also under way to increase coverage at the various levels of education. In 2011, Colombia achieved universal coverage at the basic, primary and secondary levels and narrowed the gap between urban and rural coverage.

125. In addition, more resources per student were allocated to the regions that are the furthest behind academically, and the most rural, and whose schools cater for the largest vulnerable and diverse populations, including rural populations, SISBEN category I and II households, displaced persons and indigenous groups. This increased allocation of resources acknowledges the fact that such persons require additional support to access education and stay in school. Likewise, more resources per student were allocated for

General Health and Social Security System so that they offer differentiated care to the indigenous populations, on the one hand, and, on the other, take steps of various kinds to strengthen traditional medicine.

Since 2008, the Ministry has supported the development of specific and intercultural health models for the indigenous peoples of the Cauca (Nasa, Yanacona and Guambiano) and the Sierra Nevada de Santa Marta (Kogui, Wiwa, Kankuamos and Arhuacos) as well as the following indigenous groups: Embera Chamí, in Riosucio municipality (Caldas); Awá in Nariño; Pijao in Tolima; Wayúu in Maicao municipality, department of La Guajira; Uitoto, Ticuna, Cocoma, Yagua Bora, Ocaina and Muinane of the corregimiento of La Chorrera, department of Amazonas; Misak (Guambiano) in the Guambía reserve, department of Cauca; Pastos in the department of Nariño and the indigenous reserves of Caño Mochuelo, Chaparral Barro Negro and Hato Corozal of Casanare (Sáliba, Cuiba-Wamonae, Sikuaní, Maibén-Masiware, Amorúa, Yamalero-Yaruro, Tsiripu and Wipiwi and U'wa peoples). These measures have been taken in accordance with agreements signed directly with the bodies appointed by the indigenous authorities of these peoples.

Also, in accordance with the agreements made with certain indigenous groups as part of the ethnic protection plans for the health sector, since 2011, support has been provided for the development of specific and intercultural health models for the Kofan in Nariño and Putumayo (Decision No. 004 of 2009), the Awá, with the Camawari organization in Nariño and the Indigenous Councils Association of the Awá people, in Putumayo (Decision No. 174 of 2011), the Nukak in Guaviare and the Jiw (Guayabero) in Meta and Guaviare (Decision No. 173 of 2012), in the form of resources transferred to the local authorities by the Ministry of Health and Social Security to enable them to sign agreements with these peoples.

kindergarten and upper secondary education, where efforts are still needed to increase the coverage in the country as a whole and the regions.

126. In this context, Colombia is implementing a public policy on ethno-education, which is an “ongoing social process of collective reflection and construction through which ethnic groups strengthen their autonomy in an intercultural framework, allowing them to embrace and produce values and knowledge and to develop abilities and skills that are consistent with their cultural reality, as manifested in their life plan”.²⁵

127. The ethno-education system thus responds to the cultural, social and political needs of the members of the Afro-Colombian and indigenous communities, so that they are able to perform well in their environment and to show other communities who they are.

128. The main objective of the Afro-Colombian community ethno-education public policy is to help produce autonomous persons and communities who can come up with a life plan that is consistent with their cultural reality in an intercultural setting. In that regard, the Ministry of Education and the Afro-Colombian communities have made progress in educational strategies that will ensure a national education system that is intercultural in approach and practice. These strategies include:

- (a) Acknowledging Afro-Colombian identity and encouraging interculturalism at all levels of the Colombian education system;
- (b) Strengthening all procedures related to tailored education;
- (c) Focusing on early childhood, childhood and youth;
- (d) Including Afro-Colombian communities with special educational needs;
- (e) Encouraging the creation of ethno-education networks in the Afro-Colombian community;
- (f) Working with the Government on the public policy on Afro-Colombian ethno-education;
- (g) Managing and funding the ethno-education policy in these communities, as well as evaluating and monitoring this policy.

129. It should be noted that the Colombian Institute for Student Loans and Study Abroad (ICETEX) has a special fund that offers forgivable student loans to Black communities, as a means of helping students from these communities to access and stay in higher education. This fund covers undergraduate, specialized, masters, doctoral and postdoctoral courses, as well as living expenses.

130. ICETEX also has a fund for indigenous students called the Álvaro Ulcupe Chocué Fund, which promotes the ethno-development and comprehensive growth of indigenous communities.

(f) Right to equal participation in cultural activities

131. The State has a duty to promote and encourage equal access to culture for all Colombians through continuing education and scientific, technical, artistic and vocational training at every stage of the process of creating a national identity.

132. It is accepted that culture, in its diverse forms, is the basis of nationality and the State therefore recognizes the equality and dignity of all who live together in Colombia. The State shall promote research, science, development and the dissemination of the cultural values of the nation (Constitution, art. 70).

²⁵ Ministry of Education, 1996.

133. In 2008, in the context of cultural diversity and the recognition and inclusion of the ethnic and other groups that make up this country, and the need to raise their profile, the State created the Directorate of Population Groups in the Ministry of Culture to guide and implement policies, programmes and projects that will help promote the idea that culture is an integral part of the country's development.

134. In this connection, with a view to encouraging representation, inclusion and visibility, the Directorate has developed three major initiatives, one on the social inclusion of persons at risk living with disabilities or another to increase the opportunities for representation, and a third to raise the profile of ethnic groups and groups at risk or living with disabilities. This is to be achieved through three cross-cutting lines of action, namely the transmitting of cultural knowledge, the strengthening of institutions, and the promotion of self-government and commemorations.

135. In this regard there are various projects under way, for example to protect and give greater visibility to Colombia's linguistic heritage, rewrite the history of ethnic groups, set up artistic associations, start a library of Afro-Colombian literature and produce a map of diversity.

(g) Right to access places and services

136. Under article 24 of the Constitution, every Colombian has the right to move freely on national territory; therefore, there are no constraints on the freedom of any Colombian, regardless of ethnicity or race, to move, travel, visit or take up residence in exercise of this right.

137. This right is granted to foreigners under article 100 of the Constitution, which states that foreigners in Colombia shall enjoy the same civil rights afforded to citizens.

**Article 6
Protection and effective remedies**

138. In 2011–2012, the Ombudsman's Office, in the course of its legal duty to ensure the effective realization of human rights as a fundamental element of a social state under the rule of law, became aware of two situations related to acts of racial discrimination and took specific action to restore rights.

139. As an investigative body, the Attorney General's Office tracks and monitors investigations into acts of racism or discrimination through the National Directorate of Prosecution Services. In May 2013, there were eight cases of discrimination on grounds of race, sexual orientation or religion before the District Directorates of Bogotá, Bucaramanga and Cali. The preliminary inquiry into these cases is under way: a prosecutor has been appointed and the criminal investigation police instructed to determine whether the acts took place and who was responsible.

140. The National Directorate of Prosecution Services is involved in the Inter-Agency Working Group to Monitor the Implementation of Act No. 1482 of 2011. This Working Group is chaired by the Presidential Programme for Afro-Colombians and the Observatory on Racism and Racial Discrimination in the Ministry of the Interior and includes, inter alia, the Counsel-General's Office, the Ombudsman's Office, the Ministry of Education, the Ministry of Telecommunications, the Ministry of Defence, the University of the Andes and the National University. It has designed several strategies, to be implemented this year, for publicizing the law prohibiting discrimination and raising awareness among public officials. With respect to the Attorney General's Office, a workshop is to be organized to give

prosecutors effective tools, and will cover acts that may constitute racism or discrimination, international instruments, domestic legislation and case studies.

141. In one case of racial discrimination, the Constitutional Court has stated in its ruling that “the discriminatory act is a direct attack on the right to equality. *Amparo* [...] is the most appropriate means of judicial defence for the protection of a directly applicable fundamental right that has been violated”.²⁶ Thus in terms of enforceability of rights, *amparo* is one of the most effective means under the Constitution of guaranteeing the immediate protection of rights whenever they are violated or threatened by an act or omission of any public authority, by individuals providing a public service, by individuals with whom the complainant has a relationship of subordination or defencelessness, or by individuals whose conduct seriously and directly threatens the collective interest.

Article 7

Teaching, education, culture and information

1. Teaching and education

142. The Ministry of Education, and specifically the Ethnic Group Education Team, is responsible for developing ethno-educational and intercultural projects and models in collaboration with the Afro-Colombian communities and in coordination with boards of education. To that end, it has drawn up guidelines for the construction, design, formulation and implementation of group-specific community and intercultural ethno-educational projects.

143. This allows the educational community to bring their expertise to the projects. It promotes cultural stability, respect for the land, and autonomy; identifies local knowledge, tradition, culture and education with a view to ensuring the physical and cultural survival of the ethnic group; and is in line with the relevant official guidelines and content.

144. Ethno-educational projects and models, whether community, group-specific or intercultural, depending how the group defines it, in consultation with the departmental boards of education comprise three stages: (1) formulation of the project, (2) design of the teaching model and (3) formulation of implementation and dissemination of the model. The last stage includes teaching support, ethno-educator training, feedback, and adjustments to existing models. Since 2011, there has been a focus on changing the curriculum in order to strengthen identity and acknowledge the group culture.

145. In order to implement a public policy on interculturalism, Afro-Colombian Studies was established as a compulsory school subject in 1993, under Act No. 70, as a means of disseminating information on the cultural practices of the Afro-Colombian communities, and their contribution to Colombian history and culture, in schools. The Ministry of Education is responsible for drafting procedures and instruments to gather, organize, register and disseminate studies and research and material in general on the customs and cultural practices of these communities, as an aid to the public education service.

146. Under the heading of Afro-Colombian Studies, backup workshops and forums have been organized in order to strengthen Afro-Colombian ethno-education, raise awareness of the subject and exchange significant experiences. In 2010 and 2011, workshops were held on demand in the departments of Putumayo, Nariño, Bolívar, Atlántico and Córdoba.

147. In 2012, workshops were held in coordination with the National Black Communities Education Committee in six departments: Valle del Cauca, Chocó, Cauca, Guajira, Córdoba and Atlántico. The aim was to raise awareness of Afro-Colombian studies among teachers,

²⁶ Sentence T-089 of 1994.

boards of education, grass-roots organizations and community councils and to create forums for sharing successful experiences in introducing the subject.

2. Culture

148. With respect to educational initiatives to eliminate all forms of racial discrimination, a national workshop was held on 21 March 2013 and attended by some 300 representatives from the national, regional and local public sector, the private sector, universities and civil society. The aim was to analyse, reflect on and discuss the roots of racism and racial discrimination and its modern forms, manifestations and social costs.

149. Under Ministry of Culture Resolution No. 0740 of 2011, May was declared African Heritage Month in Colombia. In 2013, African Heritage Month was celebrated with a contribution from prominent Africanists who are helping to break the silence over the role of Afro-descendants in building Latin American societies. The Government is hoping that greater knowledge of the historiography of Africans and their descendants will help reduce racism and racial discrimination.

150. Finally, it should be noted that Colombia hosted the Third World Summit of Mayors and Leaders of African Descent, organized by the Office of the Vice-President of the Republic and the Presidential Programme for Afro-Colombians and held in Cali and Cartagena from 13 to 18 September 2013, the aim being to promote a sense of community between cities and to strengthen political discussion and international cooperation in the development of the African diaspora.

151. The Fifth Latin American Meeting of Local Governments in Indigenous Territories, which was coordinated by the Ministry of the Interior, the Presidential Programme for Indigenous Peoples and the Organization of Indigenous Peoples of the Colombian Amazon Region (OPIAC), was also held in Colombia. The meeting was held in Cartagena from 2 to 4 October 2013 and discussed the ways in which public policies with a differentiated approach are being drafted and implemented in Latin America.

III. Conclusions

152. Colombia is a country that is making progress in the area of human rights, as indeed has been noted by the international community, and it has increasingly strong institutions that work to protect and guarantee the rights of all inhabitants, without distinction, based on the principle of equality. This report testifies to this work, to the commitment and the great efforts being made, and to the achievements and challenges in making this country more inclusive for the indigenous peoples, the Afro-Colombian communities and the Roma, especially in terms of the right to equality, social inclusion, and the fight against discrimination. Moreover, over the past four years, public policy measures have incorporated a differentiated approach in order to ensure the survival of the culture of the various ethnic groups.

153. Colombia has legal mechanisms to protect the rights of the traditional communities. Furthermore, it has strengthened its institutions to ensure the effective enjoyment of all rights. An example of this is the work done by the Ministry of the Interior and its Observatory on Discrimination and Racism, the Presidential Programme for Afro-Colombians, and the Presidential Programme for Indigenous Peoples.

154. A significant achievement in the fight against racial discrimination has been the adoption of Act No. 1482 of 2011, the Discrimination Act, which seeks to ensure the protection of the rights of a person, group of persons, community or people where these have been violated by acts of racism or discrimination.

155. At the same time, in light of the internal armed conflict, the State is committed to guaranteeing the rights to truth, justice and redress for all the victims of the conflict. Act No. 1448 of 2011, the Victims and Land Restitution Act, and three decree-laws establish measures providing support, assistance, full redress and restitution of land rights for the indigenous communities, the Afro-Colombian, Black, Palenquero and Raizal communities, and the Roma. The purpose of this Act is to acknowledge the status of victims and respect their dignity through the realization of their constitutional rights.

156. Colombia, as a pluri-ethnic and multicultural country, recognizes that while significant achievements have been made recently, there are also challenges in guaranteeing the effective enjoyment of traditional communities' rights. Drafting an inclusive public policy is one of the main challenges, for it must take a differentiated, human rights-based approach.

157. It is the desire of the State to guarantee the full enjoyment and exercise of the fundamental rights granted in the Colombian legal order and to continue striving to comply with international agreements on equality and discrimination.
