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**IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON  
ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

**Fifth periodic reports submitted by States parties  
under articles 16 and 17 of the Covenant**

**Addendum**

**COLOMBIA \* \*\***

[Original: Spanish]  
[22 January 2008]

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\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

\*\* Annexes may be consulted in the files of the Secretariat.

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## INTRODUCTION

1. Colombia hereby submits its fifth periodic report to the Committee on Economic, Social and Cultural Rights, under articles 16 and 17 of the Covenant.
2. Colombia has submitted four reports to the Committee. The latest one, dated 31 August 2000 and issued as document E/C.12/4/Add.6, was considered by the Committee at its sixty-first and sixty-second meetings on 14 November 2001 (E/C.12/2001/SR.61 and 62), and the Committee's concluding observations were adopted at its eighty-fifth and eighty-sixth meetings on 29 November 2001 (E/C.12/2001/SR.85 and 86).
3. The present report is the outcome of the joint efforts made by Colombia's various State bodies to compile an account of the progress and difficulties, with regard to regulatory, judicial and administrative matters, which had come to light in the course of the application of the Covenant in Colombia.
4. The drafting of the report coincided with the conduct of the 2005 General Census, which helped to provide a more up-to-date picture of the situation in Colombia. However, it is important to point out that, for methodological reasons, the initial data of the 2005 General Census are undergoing evaluation and adjustment by two indirect methods: (1) adjustment for the population not counted for reasons of geographical coverage and contingencies in the transfer of the census information; and (2) demographic reconciliation at the national and departmental levels and adjustment for chief towns through the use of symptomatic variables.
5. As stipulated in the 1991 Constitution, it is a priority for Colombia to respect, promote and guarantee the human rights of each and every one of its inhabitants; accordingly, human rights constitute a fundamental pillar of governmental policy.
6. In spite of the difficulties confronting the country, in particular poverty, inequality and violence, comprehensive policies have been formulated and carried out to give effect to the economic, social and cultural rights addressed in Chapter 3 of the Constitution under the heading "Rights, guarantees and duties".
7. The social indicators deteriorated as a result of the economic crisis at the end of the 1990s and the complex phenomenon of violence in Colombia, and the progress achieved in the 1970s and 1980s in combating inequality went into reverse.
8. Nevertheless, the efforts made over the past five years, under the "Seven Tools of Equity" programme, which is the basis of the Government's social policies, have led to an improvement in the indicators of poverty and the people's living conditions, especially with respect to education and health, the areas in which a greater supply and coverage have been achieved.
9. In a context of respect for the social State based on the rule of law and the democratic system, it is important to emphasize the work done by the State as a whole, through the three branches of Government and the Public Ministry, to secure the guarantee and effective enjoyment of economic, social and cultural rights.

10. Colombia confirms its respect for and compliance with its international commitments, in particular the ones assumed with regard to human rights, and its willingness to cooperate; Colombia is therefore open to international scrutiny.

11. Against this background the Government extended for a second time, until 30 October 2010, the agreement signed on 29 November 1996 on the presence in Colombia of the Office of the United Nations High Commissioner for Human Rights.

## **I. FUNDAMENTAL ASPECTS OF THE COLOMBIAN STATE**

12. Colombia is a social State subject to the rule of law and organized in the form of a unitary decentralized republic in which its territorial entities enjoy democratic, participatory and pluralist autonomy founded on respect for the human dignity, labour and solidarity of the persons comprising the republic and on the primacy of the general good.

### **A. Political organization**

13. The Constitution<sup>1</sup> establishes three branches of Government: the Executive, the Legislature and the Judiciary. The President of the Republic, who is the Head of State and Government, is elected by popular vote for a term of four years. Under Legislative Act 02 of 2004, amending the Constitution, the President may be re-elected for the subsequent term. Following four years in office (2002-2006) Doctor Álvaro Uribe Vélez was re-elected President of Colombia in May 2006 for a new term ending in 2010.

14. The ministers and the heads of administrative departments manage and regulate the public administration; their number and designation are determined by the law. The governors of departments and the mayors of municipalities are elected by the people. The public bodies, the oversight bodies and the industrial and commercial enterprises of the State and the mixed - economy enterprises also form part of the executive branch.

15. The Legislature consists, at the national level, of the bicameral Congress of the Republic, which amends the Constitution, enacts laws and exercises political oversight of the Government and the administration. The Upper House, or Senate, is made up of 100 senators elected by national constituencies and two additional senators elected by special constituencies for the indigenous peoples. The Lower House, or House of Representatives, consists of 241 members elected by local constituencies and special constituencies. The members of the Legislature are elected for a term of four years.

16. In the administration of justice the Judiciary hands down independent and autonomous decisions. It comprises: the Constitutional Court, which is responsible for safeguarding the integrity and primacy of the Constitution; the Supreme Court of Justice, the highest court of ordinary jurisdiction (criminal, civil and labour divisions); the Council of State (the highest administrative court and advisory and civil service division); the Higher Council of the Judicature (the supreme administrative and disciplinary authority of the judicial branch); the

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<sup>1</sup> Constitution of Colombia of 1991. Title V (“On the organization of the State”), articles 113 ff.

Office of the Public Prosecutor of the Nation (the Public Prosecutor and his subordinate prosecutors) as the investigation agency; the higher district courts (usually located in the departmental capitals); the circuit courts and municipal courts; and the military criminal courts, which try offences committed by members of the civil or military forces of law and order on active service and offences relating to such service.

17. The public oversight bodies consist of the Office of the Controller-General of the Republic and the Public Ministry. The Public Ministry is a responsibility of the Attorney-General of the Nation, who is elected by the Senate and performs the functions of ensuring compliance with the Constitution and laws, judicial decisions and administrative acts, protecting human rights, defending the collective interests of society and the environment, supervising the official conduct of public office holders, including persons elected by popular vote, exercising overriding disciplinary powers, and carrying out the necessary investigations and imposing the corresponding penalties.

18. The People's Advocate (Ombudsman), under the supervision of the Public Ministry, ensures the promotion, exercise, dissemination and defence of human rights; he or she is elected by the House of Representatives.

### **B. The territory**

19. Colombia is a diverse country with various geographical, ethnic and cultural characteristics. It has an area of 1,141,748 square kilometres<sup>2</sup> and the following administrative subdivisions: departments, districts, municipalities and indigenous territories. The municipality is the basic entity of the administrative political subdivision of the State. There are currently 32 departments, four districts and 1,094 municipalities.

### **C. Culture and religion**

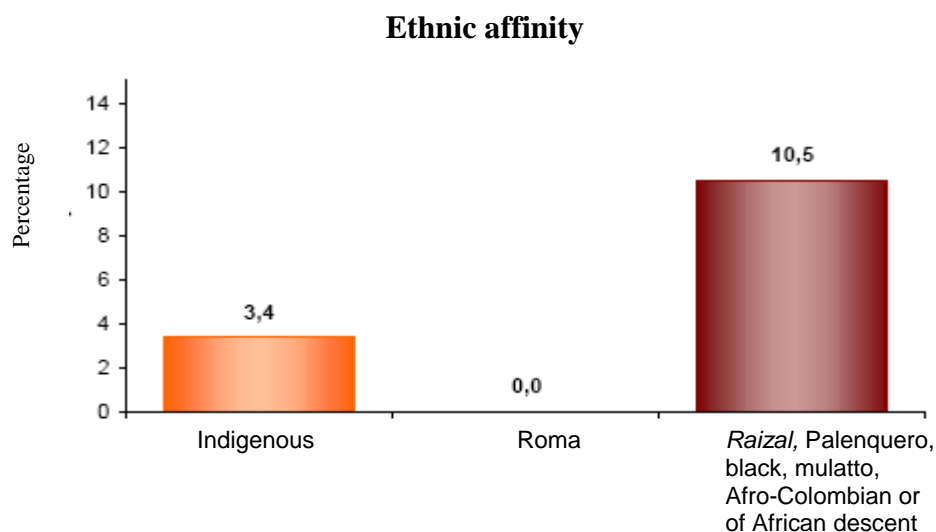
20. The population of Colombia is predominantly of mixed race. There are three big ethnic and social groups which may be distinguished geographically and culturally from the bulk of the population: the Afro-Colombian communities and the *raizal* communities of San Andrés and Providencia, which account for 10.5 per cent of the total population, the indigenous communities, which make up 3.4 per cent, and the Roma.<sup>2</sup>

21. Spanish is recognized as the national language, although it has marked differences of dialect and regional usage. The country also has a great linguistic wealth in its indigenous communities: 64 languages belonging to 22 indigenous linguistic families have been identified. The *raizal* communities of San Andrés and Providencia belong to the Afro-Anglo-Antillean culture and use English as their standard language and San Andrés Creole at home. In the mainland Caribbean region of Colombia the people of San Basilio de Palenque speak the other Afro-Colombian language – Palenquero. The Roma or gypsy groups, which come from eastern Europe, speak their own language – Romany.

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<sup>2</sup> National Administrative Department of Statistics (DANE). Results of 2005 census.

22. In the most recent national census, conducted in 2005, 10.5 per cent of the members of Colombia's resident population described themselves as *raizal*, Palenquero, black, mulatto, Afro-Colombian or of African descent and 3.4 per cent as indigenous.



Source: DANE. Results of 2005 census.

23. The 1991 Constitution establishes the freedom of religion, which accords to everyone the right freely to profess their religion and to disseminate it individually or collectively. According to the Public Registry of Religious Bodies, Colombia currently has about a thousand organizations of this kind; however, the predominant religion is Christianity, and most of the people are Catholics.

## D. The socio-demographic situation

### 1. Population

24. According to the most recent General Census, taken in 2005, the country has 42,090,502 inhabitants,<sup>3</sup> a figure which makes it the third most densely populated country of Latin America, after Brazil and Mexico, and twenty-eighth in the world. Of the total population, 51.2 per cent are female and 48.8 per cent male; 75 per cent live in urban areas and only 25 per cent in the countryside.

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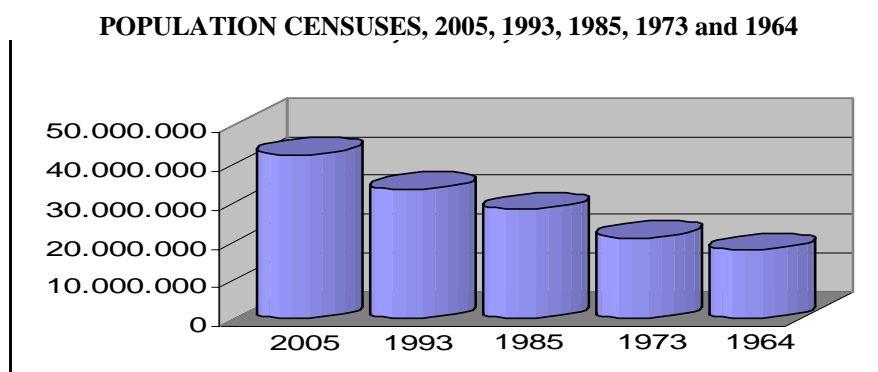
<sup>3</sup> *Populación Compensada Geográfica*, 22 November 2006. DANE. Results of 2005 census. (In Spanish only)

<b>RESULTS OF THE 2005 GENERAL CENSUS</b> <b>Population numbers after adjustment for omissions of</b> <b>geographical coverage and transfer contingencies</b> <b>COLOMBIA</b>	
<b>Population</b>	42.090.502
Chief town	31.566.276
Remainder	10.524.226
Male	20.668.157
Female	21.422.345
<b>Households</b>	<b>10.731.044</b>
<b>Housing units</b>	<b>10.537.735</b>
<b>Economic units</b>	<b>1.591.043</b>
<b>Farming units<sup>1</sup></b>	<b>1.742.429</b>

<sup>1</sup> Units linked to rural dwellings

Source: DANE. Results of 2005 General Census.

25. The evolution of the population may be seen by comparing the 2005 census data with the data produced by the earlier censuses conducted in 1964, 1973, 1985 and 1993:



Source: DANE. Results of 2005 General Census.

## 2. Fertility rate

26. The demographics of Colombia's population show a fall in the fertility rate and a sustained decline in the mortality rate. The fertility rate has shown a decline of 4.2 children per woman<sup>4</sup> over the past 50 years. This development is a consequence of Colombia's participation in a rising trend in people's capacity to exercise sexual and reproductive rights. In fact, Colombia is a

<sup>4</sup> Number of children born to each woman in the 15-49 age group.



member of the group of Latin American countries with the lowest unsatisfied demand for family planning (about six per cent).<sup>5</sup>

### 3. Life expectancy

27. Life expectancy at birth has increased as a result of the improvement in the people's health, which has led to a decline in the overall and infant mortality rates: the overall rate has fallen by 68 per cent over the past 50 years and the infant rate by 80 per cent. The reduction in the infant mortality rate is due to the decline in the number of deaths caused by infections, parasites and problems of the respiratory system, which in turn led to an increase in life expectancy at birth: this indicator rose from 50.6 to 72.2 years between 1950 and 2005 and contributed to the process of demographic transition.<sup>6</sup>

FERTILITY RATE, LIFE EXPECTANCY AT BIRTH, AND MORTALITY RATES				
Year	Total fertility	Life expectancy	Overall mortality	Infant mortality
1950-1955	6,8	50,6	16,7	123,2
1955-1960	6,8	55,1	13,3	105,3
1960-1965	6,8	57,9	11,5	92,1
1965-1970	6,2	60	10,1	82,2
1970-1975	5	61,7	8,7	73
1975-1980	4,3	64	7,6	56,7
1980-1985	3,7	66,8	6,8	48,4
1985-1990	3,2	67,9	6,1	41,4
1990-1995	3	68,6	5,9	35,2
1995-2000	2,8	70,7	5,7	30
2000-2005	2,4*	72,2	5,5	25,6

Source: CELADE. *Demographic Bulletin*.

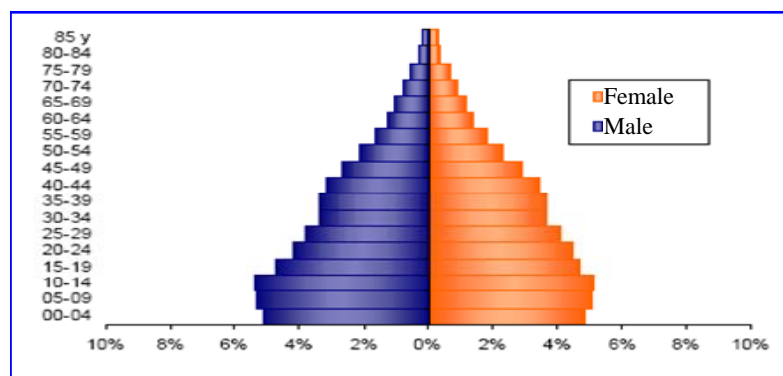
\* National Demographic and Health Survey, 2005.

28. The demographic trend of aging of the population has become clear. According to the results of the 2005 general census, the number of middle-aged people has increased. In fact, the population forecasts of the National Administrative Department of Statistics (DANE) show that for the year 2005 the age pyramid becomes a rectangle, and the middle-aged and elderly population is equal in numbers to the child population, owing to the improvement in people's health, which is reducing the mortality rate, and the decline in the fertility rate.

<sup>5</sup> *Salud Sexual y Reproductiva en Colombia* (Sexual and Reproductive Health in Colombia). National Demographic and Health Survey, 2005.

(<sup>6</sup>) *Ibid.*

### Population structure, by sex and by age group



Source: DANE. Results of 2005 General Census.

#### 4. Quality of life

29. In the context of its social policies<sup>7</sup> the National Government has concentrated on reducing the vulnerability of the population groups historically affected by unequal circumstances. These policies, together with the economic growth between 2002 and 2005, achieved major progress with regard to poverty and extreme poverty, recording the lowest levels since comparable figures have been available.

#### 5. Poverty<sup>8</sup>

30. The poverty rate fell by 7.8 percentage points to 49.2 per cent in the period 2002-2005, which means 2.3 million fewer poor people, as a result of the rise in per capita income and improved income distribution.

31. At the same time the extreme poverty rate fell from 20.7 to 14.7 per cent, which means that 2.2 million Colombians emerged from extreme poverty. The number of extremely poor people declined from 8.8 to 6.6 million between 2002 and 2005.

32. The indicators for 2006 continued the upward trend. The Task Force on the Elimination of Poverty and Inequality (MERPD), to which reference is made below, reported that the reduction of poverty in the total population was clear in both urban and rural areas. In urban areas the decline was marked by a fall in the poverty rate from 50.4 per cent in 2002 to 39.1 per cent in June 2006, while in rural areas the rate fell from 70.1 to 62.1 per cent.

<sup>7</sup> National Development Plan 2002-2006: Seven Tools of Equity. National Planning Department.

<sup>8</sup> Performance reports series, No. 29. National Development Plan: Towards a Community State. Performance balance August 2002 – August 2006. National Planning Department. (In Spanish only)

33. The estimates of extreme poverty indicate that the consolidated national figure fell by 10 points from 22 per cent in 2002 to 12 per cent in the second quarter of 2006. In rural areas it fell by 13 points from 34.7 to 21.5 per cent, while in urban areas it declined by eight points from 16.7 to 8.7 per cent.

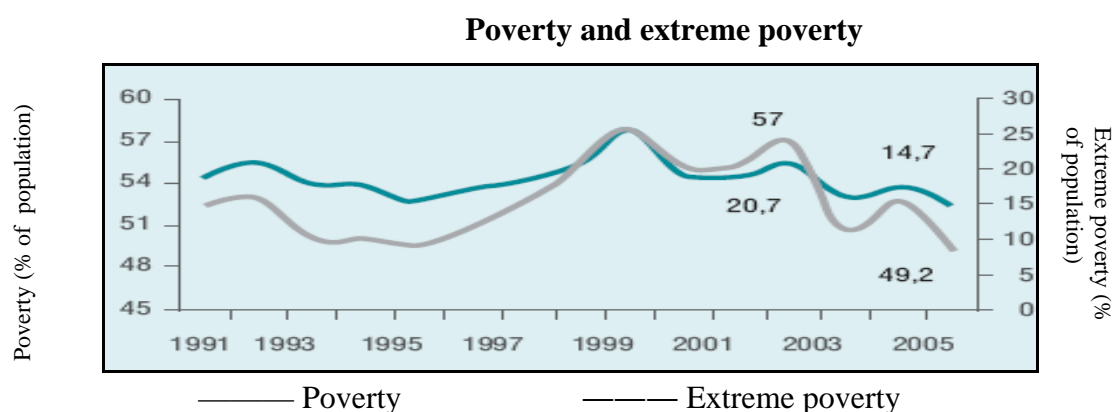
34. Despite this positive trend, a review of the indicators of poverty and extreme poverty over the long term indicates that little progress has been made in the past 10 years, for the reversal recorded at the end of the 1990s, when Colombia's gross domestic product (GDP) contracted for the first time since the 1930s, had a big impact on the results.

35. The poverty and extreme poverty figures disaggregated by sex show no significant changes at the national and urban levels. However, a constant gap has been maintained in the case of rural poverty and extreme poverty, and a higher percentage of women has been recorded as suffering from these phenomena. The gap has been maintained at between three and four percentage points.

POBREZA E INDIGENCIA												
YEAR	NATIONAL TOTAL				URBAN				RURAL			
	EXTREME POVERTY		POVERTY		EXTREME POVERTY		POVERTY		EXTREME POVERTY		POVERTY	
	M	F	M	F	M	F	M	F	M	F	M	F
2002	21.2	20.2	57.3	56.9	16.0	15.0	50.8	50.1	33.6	35.6	73.0	77.2
2003	15.6	16.2	50.5	51.0	12.2	12.9	46.2	46.3	24.0	25.7	61.0	64.9
2004	17.1	17.7	52.3	53.2	13.3	14.0	46.9	47.7	26.6	28.6	65.9	69.3
2005	14.3	14.8	49.0	49.0	9.7	10.3	41.8	42.0	25.8	28.7	65.7	70.3

Source: National Planning Department.

36. The following table shows the evolution of the poverty and extreme poverty indicators between 1991 and 2005.



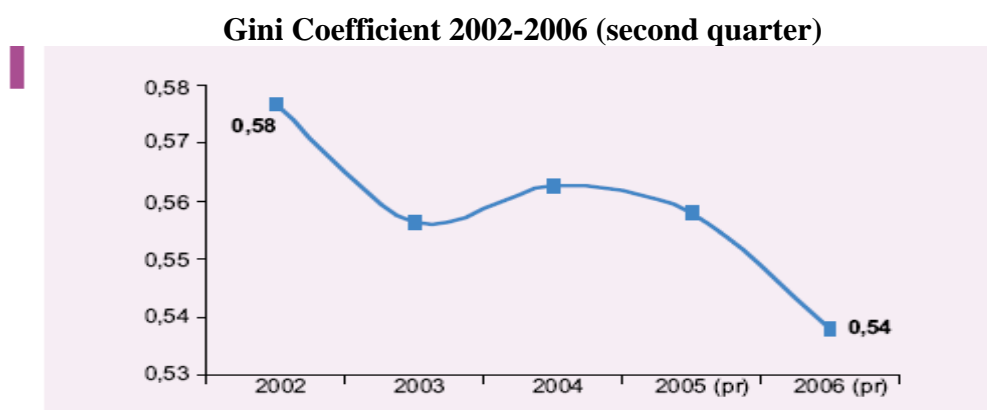
Source: MERPD-National Household Survey and LCH estimates.

37. This trend continued in 2006. The results obtained for the period 2002-2006 show a Colombia which grew by 6.8 per cent in 2006, with an average growth rate of 5 per cent for the period 2003-2006, far higher than in 1996-2001 or in the 1990s. Furthermore, this growth was accompanied by a decline in inflation to levels below 5 per cent and a reduction of poverty by

more than 10 percentage points from 56 to 45 per cent, while extreme poverty fell by nine points from 21 to 12 per cent. This meant that more than three million Colombians ceased to be poor and that a further three million broke free from extreme poverty. In addition, the inequality in incomes fell by four points during the same period.<sup>9</sup>

## 6. Income redistribution

38. In the period 2002-2006, inequality as measured by the Gini Coefficient declined from 0.58 to 0.54. This development meant that the income of the poorest 50 per cent rose by 36 per cent, while the income of the richest 20 per cent fell by eight per cent. Middle-income households increased their share by eight per cent of total income.<sup>10</sup>



*Source:* MERPD-National Household Survey and LCH estimates.

39. Furthermore, the income inequality indicator, a matter of concern to the National Government, fell by four points in the period 2002-2006.

40. Owing to the deterioration in the social indicators and the scant progress made on the inequality and poverty fronts as a result of the economic crises, particularly in the 1970s and 1980s, the National Government was impelled to launch an anti-poverty campaign, for which it designed a Poverty and Inequality Reduction Strategy for Colombia (2004-2015). This Strategy, which had been drafted jointly by the Inter-American Development Bank (IDB), the National Planning Department (DNP) and the Ministry of Social Protection (MPS), was presented in 2004. The proposal had been produced in consultation with experts and representatives of civil society, officials of the National Planning Department, the Ministry of Social Protection and the Ministry of Finance and Public Credit, former ministers of State, academics, non-governmental organizations (NGOs) and international consultants.

<sup>9</sup> Performance reports series, No. 31. National Development Plan 2006-2010: Towards a State for the Community: Development for All. General Balance. National Planning Department. (In Spanish only)

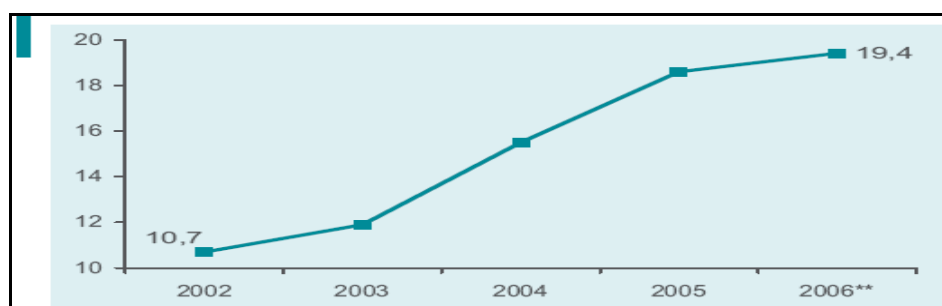
<sup>10</sup> *Ibid.*

41. The general objective of the campaign is to produce studies to improve the understanding of the mechanisms of poverty and inequality in Colombia as well as of the role of the public and private sectors under the existing institutional arrangements, with a view to devising a proposal to facilitate progress in the design of long-term poverty reduction policies.

## 7. Health

42. For the same purpose of combating inequality and in order to expand the provision of health services for the neediest people, the part of the FOSYGA<sup>11</sup> budget allocated to the subsidized health plan was increased by 214 per cent between 2002 and 2007 ( a total allocation of 6,688 billion pesos); in 2007 the allocation was \$1,840 million pesos. As a result, the number of persons enrolled in the subsidized plan increased from 11.4 million in 2002 to 20.2 million in December 2006. In that month the subsidized plan had a coverage of 81 per cent of the SISBEN 1 and 2 population<sup>12</sup> throughout the country, i.e. of the lowest-income groups.

**Members of the subsidized health plan \***



\* Includes full and partial subsidies.

\*\* Data as of 31 July.

Source: DNP and MPS.

## 8. Employment

43. The improvement in the poverty and inequality indicators since 2002 was achieved by means of a major recovery in jobs and incomes. Unemployment fell to around 12 per cent, and

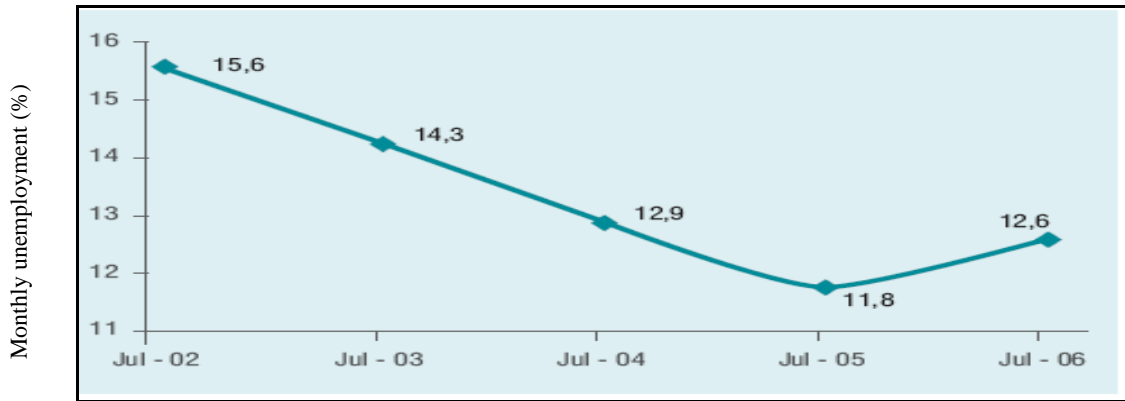
<sup>11</sup> Solidarity and Guarantee Fund of the Ministry of Social Protection.

<sup>12</sup> The Beneficiary Identification System ( SISBEN) includes a set of rules, standards and procedures for obtaining reliable and updated social and economic information from specific groups in the country's districts and municipalities. It is a basic tool for the accurate socio-economic classification of specific population groups and is applied to non-collective households; it is of great usefulness in the formulation of the municipal social development plans and in the technical, objective, standardized and equitable selection of the beneficiaries of social programmes on the basis of their particular socio-economic situation as determined by a summary quality of life indicator – the SISBEN index.

earned incomes grew by about 10 per cent during this period, with an even more positive performance in the case of the poorest workers.<sup>13</sup>

44. Conditions in the labour market improved substantially over the past four years as a result of the economic upturn. The monthly unemployment rate fell by three percentage points from 15.6 per cent in July 2002 to 12.6 per cent in July 2006. In addition, the number of employed persons rose by 1.5 million from 16.6 to 18.1 million in the same period. It is nevertheless clear that greater efforts must be made in this area in coming years, for this indicator has not improved to the extent expected in a context of the country's economic recovery in recent years.

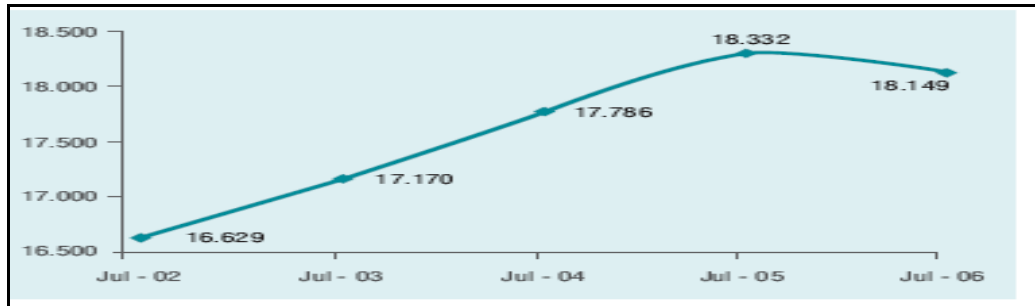
**Unemployment rate (monthly average – July\*)**



\* Monthly figures for July.

Source: DANE.

**Employed persons\***



\* Monthly figures for July.

Source: DANE.

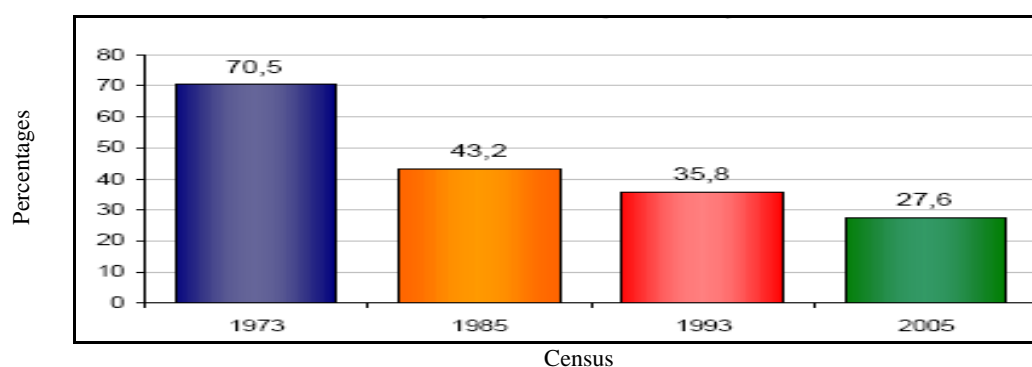
\* Monthly figures for July

<sup>13</sup> National Development Plan: Towards a State for the Community. 2006 Balance. National Planning Department. (In Spanish only)

## 9. Unsatisfied basic needs

45. The 2005 General Census found that there had been an improvement in the indicators of unsatisfied basic needs. A total of 27.6 per cent of the population had unsatisfied basic needs, marking a decline of 8.2 points since the 1993 census (35.8%).<sup>14</sup>

**Numbers of persons with unsatisfied basic needs  
National total  
1973, 1985, 1993 and 2005 censuses**



Source: DANE. 2005 General Census. Unsatisfied Basic Needs.

**PERCENTAGES OF POPULATION WITH UNSATISFIED  
BASIC NEEDS (UBN)**

Persons with UBN	Census year			
	1973	1973	1973	1973
Persons with UBN	70,5	43,2	35,8	25,8
Two or more UBN	44,9	21,4	14,9	9,0
Inadequate housing	31,2	12,9	11,6	10,4
Inadequate public services	30,3	20,9	10,5	7,0
Critical overcrowding	34,3	19,0	15,4	11,0
Non-attendance at school	31,0	11,2	8,0	2,4

Source: DANE.

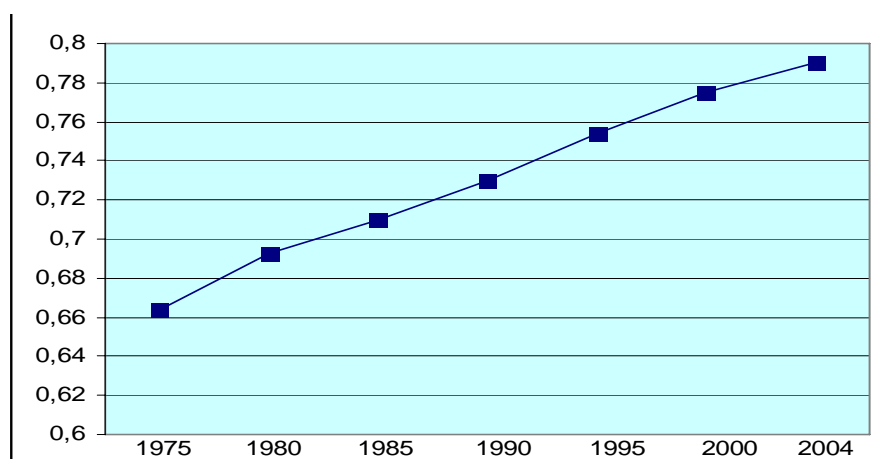
## 10. Human Development Index

46. Colombia's Human Development Index has been improving steadily. From a level of 0.730 in 1990 it rose to 0.790 in 2004, placing Colombia in 70<sup>th</sup> position among 177 countries, after Brazil, in the world human development ranking. For 2005 the Index was higher at 0.791. In view of the upturn in economic growth in recent years, it is hoped that this trend will continue.<sup>15</sup>

<sup>14</sup> DANE. 2005 General Census Bulletin. *Necesidades Básicas Insatisfechas (Unsatisfied Basic Needs)*.

<sup>15</sup> UNDP. Human Development Indicators 2006 and 2007.

### Evolution of the Human Development Index



Source: United Nations Development Programme (UNDP).

### E. The economic situation

47. In the period 1996-2001 Colombia's economy grew at an average rate of barely 1 per cent a year, and in 1999 it experienced its first contraction, by 4.3 per cent, in almost a century. The people's confidence and investment and private consumption fell steadily in that period to reach historically low levels in 2000. The social impact of the crisis was enormous: an urban unemployment rate of over 20 per cent and a drop in family incomes, especially the incomes of the poorest.

48. Since 2002 the increased confidence generated by the security achievements, together with a policy of promoting economic development and a favourable international market environment facilitated the consolidation of the economic growth. The sustained increase in GDP from 2002 led to the achievement of an annual growth rate of over 5 per cent in 2005, the highest in the past 10 years. This trend was maintained in 2006, thanks chiefly to the 5.96 per cent rise recorded in the second quarter of the year over the same quarter of 2005.

49. This improved outlook was reflected in the spreads, the indices of foreign investors' perception of the Colombian market. Following a peak of 1,096 base points in September 2002, subsequent years saw a substantial decline to 197 points on 7 August 2006. This fall has generated greater confidence on the part of investors in comparison with the other countries of Latin America.

50. The increases in confidence and growth and the improved market perception, together with greater liquidity and low interest rates, acted as a driving force of increased investment. Private investment rose by 8.5 GDP percentage points from 8.6 to 17.1 per cent. Public investment increased by 1.3 percentage points.

51. Total exports recorded an average annual growth rate of 15.2 per cent between 2002 and 2005, reaching a historical peak of US\$ 21,185 million in 2005, a total increase of 76.9 per cent over the US\$ 11,975 million recorded in 2002. Between January and July 2006 total exports amounted to US\$ 13,650 million, an increase of 15.2 per cent over the same period of 2005.



Although most of this growth was driven by traditional exports, which increased by 95.2 per cent in 2002, it is important to draw attention to the increase in non-traditional exports, which rose by 62.3 per cent from US\$ 6,666 million in 2002 to US\$ 10,819 in 2005.<sup>16</sup>

### Evolution of the Human Development Index



GDP including illicit crops.

Source: United Nations Development Programme (UNDP).

### F. Armed violence

52. The armed groups operating outside the law constitute a threat to the stability of Colombian society, for their members generate violence by building a war economy based on kidnapping, extortion and drug production and trafficking. This situation has caused the Nation heavy social, economic and political costs.

53. The persistence of unlawful activities in 2006 bears witness to practices incompatible or at odds with recognizing and respecting the principles and values underlying the guarantee and exercise of human rights, as well as to the lack of any concrete commitment to the application of international humanitarian law, in particular on the part of the *Fuerzas Armadas Revolucionarias de Colombia – Ejército del Pueblo* (FARC-EP) (Revolutionary Armed Forces of Colombia – People’s Army) and the *Ejército de Liberación Nacional* (ELN) (National Liberation Army).

54. According to data of the Criminal Investigation Department of the National Police (DIJIN-PONAL), in 2006 FARC-EP was responsible for 16.2 per cent of the cases of massacre,<sup>17</sup> 62.9 per cent of the accidental events (casualties) caused by anti-personnel mines,<sup>18</sup> 27 per cent of the

<sup>16</sup> National Development Plan: Towards a State for the Community. 2002-2006 Balance. National Planning Department. (In Spanish only)

<sup>17</sup> It should be pointed out that in 78.4 per cent of the cases of massacre the perpetrators were not identified. The cases of massacre totalled 37, with 193 victims.

<sup>18</sup> A total of 320 accidental events.

cases of kidnapping for ransom,<sup>19</sup> and 72.4 per cent of the terrorist attacks.<sup>20</sup> In addition, the 16 attacks on the civilian in that year were attributed to this insurgent organization.

55. Where the United Self-Defence Forces of Colombia (AUC) are concerned, 2006 saw the culmination of the process of collective demobilization, which meant the surrender of their weapons by 31,671 combatants. This process involved the detention of their leaders, the prosecution of their collaborators and the enforcement of the Justice and Peace Act (Act 975 of 2005) as a framework for ensuring progress towards truth, justice and redress.

56. For its part, ELN has entered a phase of diminishing military capacity, which has reduced its capacity to carry out violent acts against the civilian population. However, it continues to violate international humanitarian law, with the result that in 2006, according to National Fund for the Defence of Individual Freedom (FONDELIBERTAD) and the Anti-Personnel Mines Watch, it was responsible for 15.6 per cent of the kidnappings for ransom and 3.9 per cent of the casualties caused by anti-personnel mines.

57. In addition, these groups continued their campaign of forcible displacement, generating in the period 2002-2006, according to RUPD,<sup>21</sup> a total of 1,245,378 forcibly displaced persons, an average of 682 a day.

58. The civilian population, especially its ethnic groups, has been affected by restrictions on the transport of food, medicines and persons, acts of sexual violence against women and girls, and the recruitment of children. Disrespect for the principles of medical care has become a standard practice for ensuring control over strategic corridors and zones of influence.

59. This situation is a clear challenge for the Colombian State and calls for the deployment of both human and economic resources to tackle the insurgency effectively and secure peace and the full exercise of their rights by all citizens. As evidence of the Government's commitment to human rights and as part of State policy, 55 per cent of the resources appropriated between 2002 and 2006 were allocated to the creation of conditions of peace and development in depressed areas and to assistance for victims of the violence, as well as to the protection and promotion of human rights and international humanitarian law, the strengthening of the justice services, the enhancement of social cohesion and values, and the reinforcement of the bodies seeking to attain these objectives.

60. It should also be noted that new criminal organizations and groups have been emerging in demobilized areas, which operate under the orders of gangs motivated by exclusively criminal purposes; some of them have established links with a number of ringleaders, middle-ranking

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<sup>19</sup> A total of 76 cases.

<sup>20</sup> A total of 401 attacks. This figure excludes the use of potato bombs, pamphlet bombs and anti-personnel mines.

<sup>21</sup> National Registry of Displaced Persons, February 2007 data.

officers and demobilized combatants in order to strengthen this new criminal apparatus, which seeks to finance itself and feather its nest exclusively by means of criminal activities.

61. These emergent groups composed of a small proportion of the demobilized combatants of the self-defence organizations have become a driving force of organized crime by creating organized groups dedicated chiefly to drug trafficking, at the stages of production, marketing and distribution, concentrated geographically in cultivation and frontier areas in order to facilitate to export of narcotic drugs to other countries.

62. In 2006 the civil and military forces of law and order arrested more than 900 demobilized persons who had reverted to criminal activities.

### **G. The legal context of the protection of human rights**

63. The Constitution of Colombia contains an extensive catalogue of economic, social and cultural rights, which have been developed specifically in the Acts of the Republic and other legislation and interpreted in a serious and important body of case law by the Constitutional Court:

- (Art. 42) Family rights
- (Art. 43) Gender equality
- (Art. 44) Economic and social rights of children
- (Art. 45) Rights of adolescents
- (Art. 46) Protection of the elderly
- (Art. 48) Right to social security
- (Art. 49) Right to health and a clean environment
- (Art. 50) Right of children aged under 12 months to free health care
- (Art. 51) Right to decent housing
- (Art. 52) Rights to leisure and recreation
- (Art. 53) Right to work in decent conditions
- (Art. 54) Right to occupational training
- (Art. 55) Right of collective bargaining
- (Art. 56) Right to strike
- (Art. 57) Workers' participation in the management of enterprises
- (Art. 58) Right to private property
- (Art. 61) Intellectual property
- (Art. 67) Right to education
- (Art. 69) Right of university independence
- (Art. 70) Right of access to culture
- (Art. 76) Right of access to the electromagnetic spectrum

64. The realization of these rights depends in the first place on the legal arrangements approved by the Legislature for implementation by the Executive under national, regional and local plans and programmes.

65. With regard to the capacity to exercise these rights, arrangements of various kinds have been introduced to enable citizens to turn to the judicial and administrative authorities in order to assert their rights.

66. **Remedy of *tutela* (protection or *amparo*).** In principle it is not for a judge (hearing an application for *tutela*)<sup>22</sup> to intervene with respect to economic, social or cultural rights, since these types of right are not fundamental in terms of their status under article 86 of the Constitution and also because they imply the taking of decisions which depend on the availability of economic resources.

67. Nevertheless, the Constitutional Court<sup>23</sup> has posited in its jurisprudence certain exceptional cases in which an application for *tutela* is admissible: (i) in the case of (economic, social and cultural) rights which acquire the status of fundamental rights by “linkage” (*conexidad*), by virtue of the fact that they must be protected in order to safeguard a fundamental right with which they are connected, the right to an adequate standard of living, for example; and (ii) when there is a need to protect economic, social and cultural rights which are fundamental in themselves, the rights possessed by children under article 44 of the Constitution, for example.<sup>24</sup>

68. **Remedy of *cumplimiento* (enforcement).** The Constitution establishes the remedy of *cumplimiento* in article 87. This remedy empowers any person to apply to the judicial authorities to secure the effective application of a law or an administrative act, if the application succeeds, by means of a court decision ordering the delinquent authority to make good its omission.

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<sup>22</sup> Article 86 of the Constitution: “All persons have recourse to the remedy of *tutela* to claim by application to a judge, at any time and in any place, by means of a preferential and summary procedure, in person or through someone acting on their behalf, the immediate protection of their fundamental constitutional rights, whenever these rights have been violated or threatened by an act or omission of any public authority.

Such protection shall consist of an order for the authority against which the action for *tutela* has been brought to act or refrain from acting. This order, which shall be immediately enforceable, may be contested before a competent judge and shall, in any event, be submitted to the Constitutional Court for possible revision.

This remedy shall be admissible only when the person affected has no other means of judicial protection, except when it is used as an interim measure to prevent irreparable harm.

In no case may more than 10 days elapse between the filing of the application for *tutela* and its disposition.

The cases in which an action for *tutela* is admissible against individuals who are responsible for providing a public service or whose conduct has a serious and direct effect on the public good or in respect of whom the applicant is in a subordinate or vulnerable position shall be determined by the law.

<sup>23</sup> Constitutional Court. Decision SU-111 of 1997. Reporting judge: Eduardo Cifuentes Muñoz.

<sup>24</sup> It is worth pointing out that this jurisprudence of the Constitutional Court is innovatory for Latin America with regard to protection of the right to health, in particular in the case of high-cost treatments for diseases such as cancer and AIDS.

69. However, attention must be drawn to the provisions of Act No. 393 of 1997, which regulates the remedy of *cumplimiento*, to the effect that this remedy is inadmissible: (i) when protection is sought for rights which may be safeguarded by an application for *tutela* (in such cases the judge will treat the application as an application for *tutela*); and (ii) when the applicant is seeking the enforcement of regulations creating costs.

70. **Class-action suits.** This remedy is established in article 88 of the Constitution, which allows citizens to seek the protection of collective rights and interests related to the public estate, spaces, security and hygiene, administrative ethics, the environment, free economic competition and the other similar rights and interests specified in the Act (No. 472 of 1998).

71. **Right of petition.** The right of petition (art. 23) is a further constitutional remedy which citizens may use in order to submit applications to the authorities for reasons of the general good or an individual interest and to obtain prompt rulings on such applications.

72. **Actions of unconstitutionality<sup>25</sup> and actions for annulment.<sup>26</sup>** These actions may be brought before the competent judicial authority<sup>27</sup> by any citizen seeking a ruling on the constitutionality of a legislative act with respect either to its material content or to procedural defects, or on the constitutionality of a decree or other administrative act.

## II. POLITICAL FOUNDATIONS. GUARANTEE OF RIGHTS

### A. Towards a State for the community

73. In the period 2002-2006 the Government's policies were framed in the National Development Plan: Towards a State for the Community enacted by the Congress of the Republic in June 2003.<sup>28</sup> The principle objective was to restore democratic security, in other words to provide protection for all Colombians, without exception, by endeavouring to ensure the viability of democracy, the enhancement of the legitimacy of the State, the reinforcement of the rule of law, and thus the free and comprehensive exercise of rights.

74. Colombia is today a safer place for its citizens as a result of the implementation of the policy of defence and democratic security policy. As can be seen in the following chart, the murder rate per 100,000 inhabitants is the lowest in the past 10 years.

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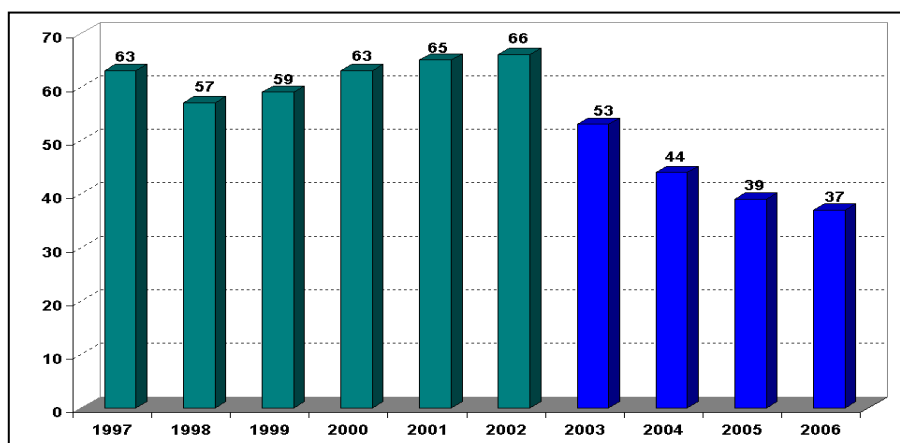
<sup>25</sup> Article 241 of the Constitution.

<sup>26</sup> Article 237 of the Constitution.

<sup>27</sup> The Constitutional Court in the first case and the Council of State in the second.

<sup>28</sup> Act No. 812 of 2003.

### Murder rate per 100,000 inhabitants (1997-2006)



Source: CIC-DIJIN, 1993 census data.

75. In the period 2002-2006 the number of kidnappings for ransom declined by 83.5 per cent, cases of extortion by 20.6 per cent, cases of massacre by 67.8 per cent and attacks on towns by 83.7 per cent.

### Principal indicators of human rights progress (2002-2006)

Variable	2002	2003	2004	2005	2006	Average	Percentage variation (2002 - 2006)
Massacres	115	94	46	48	37	68	-67,80%
Kidnappings	1.708	1.257	759	377	282	876,6	-83,50%
Extorsiones	2.080	2.266	2.347	1.821	1.652	2033,2	-20,60%
Attacks on civilians	98	48	21	17	16	40	-83,70%
Registered displaced persons	414.814	211.203	199.965	217.773	201.623	249.075,60	-51,40%
Terrorism acts	1.573	1.217	610	520	554	894,8	-64,80%

Source: CIC-DIJIN, FONDELIBERTAD, RUPD-Social Action.

76. At the same time, work was proceeding in the political context on the dismantling of the armed groups operating outside the law, in particular the FARC-EP and ELN guerrilla groups

and the AUC self-defence groups, by means of two strategies: frontal attack and individual and collective demobilization.<sup>29</sup>

77. The National Government offered all the armed groups operating outside the law the possibility of entering into a dialogue or negotiations with a view to the reintegration of their members in civilian life, provided that they declared a cessation of the hostilities (murders, kidnappings, massacres and other acts of violence), but without demanding that they lay down their arms or surrender immediately and proposing both national and international verification to ensure the transparency of the process. The Government had accordingly requested the assistance of the United Nations, the Organization of American States (OAS), the Catholic Church, public figures, friendly countries and civil society committees in order to establish a sincere and productive dialogue.

78. The peace negotiations with the illegal self-defence organizations were continued under this policy, creating the conditions for demobilizing the largest groups with the specific aim of reducing violence in Colombia and most particularly the attacks and on and other acts of harassment of the civilian population. This process proceeded under the direct supervision of OAS and monitoring by the Catholic Church.

79. As far as the guerrilla organizations are concerned, it should be pointed out that a dialogue was conducted with the ELN in Cuba. In contrast, the attempts at rapprochement and dialogue with the FARC-EP have failed. The approaches to secure the release of the kidnapped persons in their hands have not made any great progress despite the various efforts made.

#### **B. The seven tools of equity. Social reactivation. Outline**

80. The National Development Plan 2002-2006: Towards a State for the Community was also designed to create the necessary conditions for reducing poverty levels and tackling Colombia's inequalities. With this in mind the Government set the goal of "social reactivation". This policy objective was to be achieved by means of "seven tools of equity" designed as responses to the challenges of high poverty rates, the deterioration of the main social indicators, and the precarious state of the country's social protection systems.

81. These tools are: (i) an education revolution; (ii) social protection and social security; (iii) economic development for the benefit of all; (iv) social management of the countryside; (v) social management of public services; (vi) a country of owners; and (vii) quality of urban life. These matters are discussed later in this report.

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<sup>29</sup> Under the first strategy, 24,246 members of subversive groups were captured and 8,631 were killed between August 2002 and December 2006. In the case of the self-defence groups, 12,842 members were captured and a total of 1,513 were killed during the same period.

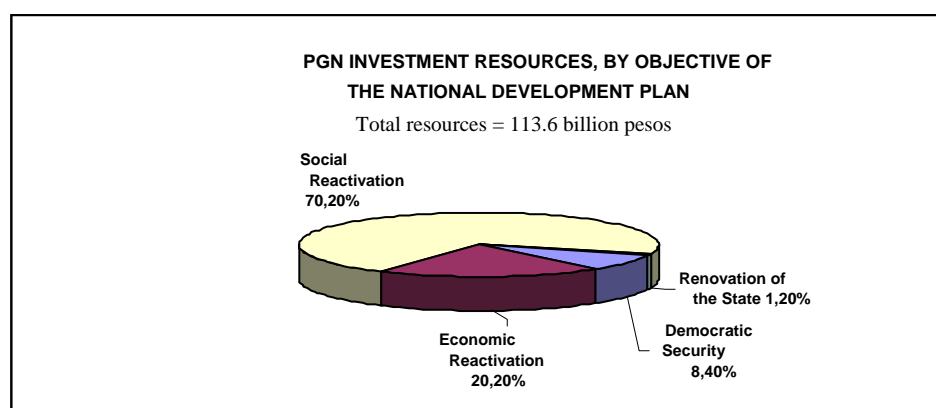
In addition, the individual demobilization was achieved during that same period of 11,264 members of unlawful guerrilla groups, in particular FARC-EP and ELN, the AUC self-defence groups and other dissident groups, and 31,687 of their members underwent collective demobilization. (Ministry of Defence. Operational results August 2002 – December 2006).

82. The importance which the Government attaches to the policy of social reactivation was translated into reality in the form of investment. Taking all the appropriations together, including those associated with the General System of Contributions (SGP)<sup>30</sup> and with the national industrial and commercial enterprises of the State, social reactivation received about 60 per cent of investment resources in the fiscal years 2003-2005.

83. For example, 55.7 billion pesos were allocated for the attainment of the goals of this policy objective, including 35.7 billion (64%) for allocation of public funds through the SGP, 17.9 billion (32%) for investment under the General Budget of the Nation (PGN) and 2.1 billion (4%) for the industrial and commercial enterprises of the State. The appropriations linked to the seven tools of equity, measured by the funds committed, achieved a disbursement level of 93 per cent of the cumulative resources of the fiscal years 2003, 2004 and 2005, representing an average level of disbursement of 98.5 per cent for 2003 and 2004 and a cumulative level of disbursement of 82.2 per cent up to 30 September 2005.<sup>31</sup>

84. Spending on the principal social programmes increased by 0.6 per cent in the period 2002-2006 to total 7.8 per cent of GDP in 2006.

85. There was a marked social bias in the allocation of resources in the period 2002-2006. This may be seen from the allocation of 79.8 billion pesos to the programmes carried out under the National Development Plan 2002-2006: Seven Tools of Equity, the central axis of the Government's social policy; this was equivalent to 70.2 per cent of the investment items in this period.



*Source:* National Planning Department.

<sup>30</sup> Pursuant to article 356 of the Constitution, the General System of Contributions of the Departments, Districts and Municipalities was created for the purposes of providing the services for which the State, the departments, districts and municipalities are responsible and furnishing resources for the adequate financing of the delivery of these services.

<sup>31</sup> Office of the President of the Republic, Supreme Council of the Presidency, DNP. Social Reactivation. Seven Tools of Equity. 2005 Performance, Bogotá D.C., October 2005. (In Spanish only).



### III. GENERAL ASPECTS OF THE COVENANT

#### A. Incorporation of the Covenant in domestic law

86. The International Covenant on Economic, Social and Cultural Rights was signed by Colombia on 21 December 1966 and ratified on 29 October 1969; it entered into force on 3 January 1976. It was incorporated in Colombia's domestic law by Act 74 of 1968, approving the "International Covenants on Economic, Social and Cultural Rights and on Civil and Political Rights and the Optional Protocol to the latter instrument, adopted unanimously by the General Assembly of the United Nations in New York on 16 December 1966".

87. By virtue of the so-called "Constitutionality Corpus"<sup>32</sup> (art. 93 and art. 214, para. 2, of the Constitution), "the international treaties and agreements ratified by the Congress, which recognize human rights and prohibit their limitation in states of emergency, shall have priority domestically. The rights and duties embodied in this Constitution shall be interpreted in accordance with international human rights treaties ratified by Colombia (...)" ; the courts have recognized in their decisions the regulatory force of international instruments such as the International Covenant on Economic, Social and Cultural Rights and the need for them to be applied domestically with regard both to nationals of Colombia and to foreigners<sup>33</sup> and in particular to the public authorities."<sup>34</sup>

#### B. Dissemination and monitoring of the Covenant

88. The content of the Covenant has been disseminated consistently, not only by entities of the State but also by civil society bodies, especially the human rights NGOs working in Colombia, and by means of publications, cultural events and the Internet.

89. The National Government publishes on its web page ([www.derechoshumanos.gov.co](http://www.derechoshumanos.gov.co)) both national and international human rights legislation, including the Covenant.

90. The Ministry of the Interior and Justice acts as the lead agency in this matter, and contributions are made by all the sectors of the national public administration and by the project on rationalization and simplification of the judicial system ordered by Presidential Directive No. 01 of 2005. Under this project a review and analysis was made of the relevant legislation (acts

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<sup>32</sup> This term refers to those rules and principles which, without appearing formally in the text of the Constitution, are used as parameters for verifying the constitutionality of legislation inasmuch as they have been incorporated as constitutional rules by various means and on the authority of the Constitution itself.

<sup>33</sup> Article 4 of the Constitution: "The Constitution is the supreme law. In any case of incompatibility between the Constitution and a law or other legal regulation, the provisions of the Constitution shall be applied."

<sup>34</sup> Article 6 of the Constitution: "Every person shall be individually accountable to the authorities for violations of the Constitution and the laws. Public servants shall be responsible for such acts, for omissions and for exceeding their powers in the exercise of their functions."

and decrees) issued since 1886 and of the jurisprudence of the Supreme Court of Justice, the Constitutional Court and the Council of State affecting the application of such legislation.

91. In this connection, specific, sectoral or thematic decrees will be issued for each sector of the public administration, and compilations of current legislation will be produced for each administrative sector.

92. In addition, the Unified System of Information on Legislation (SUIN) will be brought into service, providing everyone with Internet access to the legal information compiled under the above-mentioned project.

93. This will allow increased and easier access to the texts of the various national and international human rights instruments incorporated in Colombia's legal system.

94. Furthermore, the Ministry of the Interior and Justice has published, through the Directorate for Human Rights, several works on human rights and their application at the domestic and international levels. The Ministry also has a national system of legal centres (*casas de justicia*): these multi-agency institutions do not charge fees for their services (information, human rights promotion, counselling, referral and dispute settlement), in the provision of which they use and apply mechanisms of formal and informal justice. The aim is to bring justice closer to the citizens by providing them with guidance on their rights, preventing crime, combating impunity, facilitating citizens' recourse to the formal justice system, and encouraging the use of alternative means of dispute settlement.<sup>35</sup>

95. In the performance of its function of attending to the promotion, exercise and dissemination of human rights, the Office of the People's Advocate has been promoting human rights education projects throughout the country in the framework of the national network of human rights promoters.

96. These activities have included the publication of a series of "collective creation" works, the fruit of the study and work of university professors, officials of the Office of the People's Advocate and social and community leaders; the central focus of these works is the analysis of specific economic, social and cultural rights.

97. These publications constitute the basic materials of the human rights courses run jointly by the Office and the universities in various educational institutions; this undertaking is also intended to provide the public at large with a source of advice and information.

98. Each publication deals with a specific human right (the rights to education, health and work and the right to a social security pension) and has a standard structure: (i) analysis of the meaning and scope of the right (on the basis of national and international legislation); (ii) a cases handbook; and (iii) a teacher's guide to the subject.

99. The Office of the People's Advocate has also been monitoring the published policies on economic, social and cultural rights.

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<sup>35</sup> Article 2 of Decree 1477 of 2000.

100. The Programme on the Monitoring and Evaluation of Public Human Rights Policies (ProSeDHer) consists of a set of methods for monitoring and evaluating public policies; the basic aim is to establish the degree to which the social policies devised and implemented by the Colombian State contribute to the realization of economic, social and cultural rights.

101. In order to attain this basic aim the Programme operates in three stages:

(a) Firstly, it establishes, in the light of international human rights law and Colombian constitutional law, the essential content of the various economic, social and cultural rights with which the Programme is concerned and the obligations of the State in terms of their realization;

(b) Secondly, it is designing a measuring tool to enable the Office of the People's Advocate to gather the necessary information for establishing the degree to which the public policies under examination deliver the various economic, social and cultural rights. This tool includes, on the one hand, a set of indicators to measure whether the various components of the public policies are consistent with the obligations imposed on the Colombian State by its undertaking to realize these rights and, on the other hand, a survey of the national, departmental and municipal authorities which devise and implement the public policies under evaluation;

(c) The third stage of the methodology used by the Programme consists of the conduct of surveys of the national, departmental and municipal authorities in order to collect the necessary information for determining the degree to which the various public policies contribute to the realization of economic, social and cultural rights. Once this information has been gathered, checked and validated, the Office of the People's Advocate submits reports and recommendations concerning the extent to which the rights in question are being exercised as a result of the implementation of the public social policies.

102. To give specific examples, the Office has been monitoring and evaluating public policies relating to the right to education. The first part of the document "The right to education and the obligations of the State in educational matters: framework for monitoring and evaluating public policies on education" explains the nature and scope of the right to preschool, basic and intermediate education and the various obligations of the State in educational matters. The content of the right and the State's obligations derive from the legal framework constituted by the international human rights instruments ratified by Colombia, the concluding observations of the Committee on Economic, Social and Cultural Rights, the observations of the United Nations Special Rapporteur on the right to education, the 1991 Constitution, and the jurisprudence of Colombia's Constitutional Court.

103. Where the right to health is concerned, the results of the first two parts of the study conducted by the Office of the People's Advocate are to hand. The first part is entitled "The right to health and the State's obligations with respect to health: framework for evaluating and monitoring public health policies". The nature and content of the right and the State's obligations derive from the legislative framework constituted by the international human rights instruments ratified by Colombia, the general observations of the Committee on Economic, Social and Cultural Rights, the observations of the United Nations Special Rapporteur on the right to health, the 1991 Constitution, and the jurisprudence of Colombia's Constitutional Court.

104. Furthermore, for the purposes of monitoring the implementation of the Covenant the Government has been working on the design of tools to contribute not only to the Covenant's implementation but also to its dissemination and understanding. It is developing in this connection a research procedure to produce a diagnosis and a number of technical tools for the permanent oversight, under the project on the establishment of an observatory on economic, social and cultural rights, of the status of the realization of these rights in Colombia.

105. This monitoring work will enable the State to measure the degree of progress made in delivering these rights, and its findings are to be reflected in the assessment of the public policies designed to prevent the marginalization of the poorest and to ensure that the greater part of resources and activities are directed to meeting the needs of the most disadvantaged people.

106. The need is to generate information which will help to improve the realization of human freedoms, such as the right to a life free of poverty, fear and discrimination, and to enhance the capacity to identify the hardship caused by failure to satisfy economic, social and cultural rights, in order that people may live fuller and healthier lives, be well informed and possess the necessary resources for maintaining a decent standard of living and participating in the life of society and the community.

107. In addition, this monitoring work will make it possible to determine the influence of various players on the realization of economic, social and cultural rights and establish whether they are fulfilling their obligations in this area. Where the State is concerned, these obligations are stated in Colombia's Constitution and legislation and in the rules of international law, which provide the framework for determining the indicators of legal responsibility.

108. The indicators of the realization of economic, social and cultural rights will serve as guidelines for creating regulatory instruments and promoting a human rights culture at the various administrative levels at which public policy is implemented. They will also allow civil society and the State to conclude agreements on the speed and intensity regarded as appropriate for the realization of economic, social and cultural rights.

109. The monitoring work will help to establish the progress made in realizing economic, social and cultural rights and to guarantee the sustainability of these rights and their permanent enhancement by means of social standards, institutions, laws and a favourable economic environment. The statistics produced in each of these areas will facilitate evaluation of the extent to which secure access to these rights is being delivered.

110. In addition, in December 2005 an inter-institutional group on the design of indicators of economic, social and cultural rights<sup>36</sup> was set up under the auspices of the Office of the Vice-

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<sup>36</sup> This group draws its membership from: the Observatory of the Presidential Programme on Human Rights and International Human Rights Law; the Office of the Vice-President of the Republic; the National Administrative Department on Statistics; the National Planning Department; the Office of the Attorney-General of the Nation; the Office of the People's Advocate; the Ministry of National Education; the Ministry of Agriculture and Rural Development; the Presidential Agency for Social Action and International Cooperation; the Colombian Family Welfare Institute; the National Plan of Action on Human Rights and

President of the Republic in order to create, in conjunction with other State entities, indicators for measuring the progress made in realizing economic, social and cultural rights in Colombia.

111. Work has started in this regard, with the support of the National Administrative Department of Statistics (DANE), on the identification and analysis of the production of information by the governmental bodies whose functions have a connection to this topic. This work will serve as the starting point for determining both the availability of the information and the data which it is necessary to begin to produce and for designing more precise and useful indicators for monitoring the realization of economic, social and cultural rights.

112. This work was initially concentrated on an exchange of experience concerning the indicators of economic, social and cultural rights which each of the participating bodies had introduced. A conceptual outline was subsequently devised, on the basis of consensus, in order to restrict the production of a set of indicators to the priority variables.<sup>37</sup> In a third phase the Observatory of the Presidential Programme on Human Rights and Human Rights Law put together in collaboration with DANE a technical proposal on how to generate information on respect for and the realization and protection of these rights, using inputs from the National Strategic Plan for Statistics (PENDES).<sup>38</sup> The work brought to light the gaps in the information on matters connected with the rights to education and health of displaced persons, persons with disabilities and ethnic minorities; this pointed to a need to improve the supply of information on economic, social and cultural rights and to identify the unsatisfied demand for such information.

113. In order to respond to this need while keeping in mind the restructuring exercise taking place in DANE, the subject of economic, social and cultural rights was included in the work programme of the political and cultural statistics unit.<sup>39</sup> The work of this unit therefore includes

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International Humanitarian Law; the Colombian Rural Development Institute; and the Office of the Controller-General of the Republic.

<sup>37</sup> The rights chosen were the rights to health and education of displaced persons, persons with disabilities, and ethnic minorities: the variables had to include sex, age and geographical location.

<sup>38</sup> PENDES was conceived as an organizational tool for the production of official statistics which would determine the information needs, assign responsibilities and stipulate the use of the statistics in accordance with parameters of quality, statistical standards, information technology and information systems.

<sup>39</sup> The new instrument known as “PLANIB” (National Basic Information Plan) consists of nine thematic and operational programmes and units which will be organized and related to each other in such a way as to create, produce and disseminate national statistics. The thematic programmes include social demography, prices, public services, the environment, national accounts, the geographical area (relating to cartography), the Millennium Development Goals, industry, trade and services, an political and cultural statistics. The programme of the EPYC unit, which will be working on the production of indicators of economic, social and cultural rights,

the improvement of administrative records<sup>40</sup> and the design of surveys on economic, social and cultural rights. It should be pointed out that the incorporation of this topic by DANE is of fundamental importance for ensuring that the work of measuring these rights is conducted systematically.

114. Furthermore, in line with commitments entered into by signing the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights in 1993, the process of drafting a national plan of action on human rights and international humanitarian law has been launched with a view to ensuring the full realization of human rights and the full application of humanitarian law in Colombia.

115. This plan is intended to constitute a guide for State action with respect human rights and international humanitarian law and, in view of the importance of Colombia's international commitments in this area, it will also promote the implementation of the international human rights treaties and the application of international humanitarian law.

116. There were vigorous exchanges of views with various sectors of civil society during the drafting of the plan. This led to the conclusion of preliminary agreements on the plan's thematic focuses and the establishment of a body to coordinate the relations between the State and civil society in order to enrich the proposals and invest the whole process with the necessary legitimacy for ensuring its effectiveness and sustainability.

117. The plan seeks to highlight the role of human rights in national development and the functioning of Colombia's institutions, in order to strengthen the rule of law and maintain a statehood which transcends a particular Government's term of office and takes account of the integrated nature of human rights.

118. The Commission which will be responsible for the joint drafting of the plan was established on 26 September 2006; it draws its members from governmental and State bodies, the international community and civil society.<sup>41</sup>

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includes the following projects: democracy and civic participation; culture, sports and leisure; and governance and rights.

<sup>40</sup> It will use for this purpose a tool developed by DANE, known as F2. This tool will be used to collect information on economic, social and cultural rights. It has three components: the first relates to the *description* of the statistical operations and the second to the indicators constructed on the basis of the statistical operations, while the third handles the description of the information systems in which the statistical operations and the indicators are installed.

<sup>41</sup> Government and State bodies: Ministries of the Interior and Justice, National Defence, Foreign Affairs and Social Protection; Office of the High Commissioner for Peace and the Presidential Programme on Human Rights and International Humanitarian Law; Office of the Public Prosecutor of the Nation; Office of the Attorney-General of the Nation; Office of the People's Advocate; organizations of the London/Cartagena process: Colombian Confederation of

119. The following are the objectives of the national plan of action on human rights:

(a) To provide a guide for coordinated action by the State and its collaboration with civil society organizations on matters of human rights and international humanitarian law;

(b) To encourage cooperation in the design and implementation of measures among governmental and State bodies, NGOs and voluntary organizations, professional groups and other sectors of civil society;

(c) To promote the application of the international treaties on human rights and international humanitarian law;

(d) To highlight the role of human rights in national development and the functioning of Colombia's institutions in order to strengthen the rule of law.

120. As conceived, this is a State plan which takes a gender approach, recognizes ethnic diversity and is based on the idea of the inseparability of human rights and the interdependence of civil and political rights with economic, social and cultural rights, in the light of the priorities which the country deems it necessary to set and in a context of collaboration among institutions and with civil society.

121. Economic, social and cultural rights constitute one of the plan's thematic focuses.

### **C. International cooperation and implementation of the Covenant**

122. The Presidential Agency for Social Action and International Cooperation (Social Action)<sup>42</sup> was created by the National Government as a channel for the national and international resources provided for the implementation of all the social programmes for vulnerable people affected by poverty, drug trafficking and the violence.

123. The Agency's functions include the coordination of the implementation of the social action policies and cooperation policies determined by the Government and the management and mobilization of non-reimbursable technical and financial international cooperation as instructed by the Ministry of Foreign Affairs.

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NGOs, National Council of Trade Unions, Colombian Federation of *Municipalities*, National Planning Council, National "Pastoral Social" Secretariat; the Restrepo Barco Foundation; Colombia-Europe-United States Coordination Office for Human Rights; Plataforma DESC; and the social sectors.

<sup>42</sup> The Presidential Agency for Social Action and International Cooperation (Social Action) was formed by the merger of the Social Solidarity Network (RSS) and the Colombian International Cooperation Agency (ACCI) and the affiliation to the new body of the Investment Fund for Peace (FIP); this merger was effected by Decree 2467 of 19 July 2005 in order to support the economic and social rehabilitation of persons affected by the violence, especially displaced and vulnerable persons, and to coordinate the country's international cooperation.

124. It also executes the programmes introduced under the social investment policy envisaged in the National Development Plan Act, which are determined by the Office of the President and aimed at Colombia's poorest and most vulnerable population groups.

125. One of the aims of international cooperation is to enhance the levels of development of the less advanced countries. To this end the National Government, the international community, the organizations of the United Nations system and Colombia's own voluntary organizations, mindful of the importance for the country's economic growth and social development of, inter alia, own-account employment and technical training, primary education, and the working and living conditions of workers, included these topics on a cross-cutting basis in the Colombian International Cooperation Strategy.

126. This document includes among its priority areas of intervention a component on the Millennium Development Goals (MDGs), in which it reiterates the commitment entered into by Colombia for 2015 when it undertook to reduce by half the proportion of its population living in poverty and extreme poverty.

127. It may be seen in this connection that in Colombia, although the general picture is a positive one and, by and large, the MDG targets for 2015 can be attained at the overall national level, some geographical regions and population groups exhibit levels of backwardness which it will take major efforts to overcome. This same imbalance also emerges from study of the indicators by social group and by urban and rural area: rural areas suffer a clear disadvantage.

128. With regard to article 6 of the Covenant, on "the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts" and on "technical and vocational guidance and training programmes", 2006 saw the implementation of 29 international cooperation projects, according to the records of Social Action's information system on official development assistance (SIAOD), supported by the United States Agency for International Development (USAID), the Japan International Cooperation Agency (JICA), the Inter-American Development Bank (IDB), the World Bank, Belgium, Canada, Italy, Germany and Spain, the United Nations Scientific and Cultural organization (UNESCO) and the United Nations Children's Fund (UNICEF).

129. With regard to article 7 of the Covenant, on "just and favourable working conditions", and article 9, on "the right of everyone to social security", 74 ongoing cooperation projects received support – from USAID, the Office of the United Nations High Commissioner for Refugees (UNHCR), IDB, Belgium, Spain, Canada and Italy.

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131. With regard to article 10 of the Covenant, which refers to rights relating to the protection of pregnant women and of mothers in the period immediately following childbirth and to the protection of children and young persons from discriminatory and inappropriate treatment at work, there was a total of 25 projects in operation in 2006 with cooperation from IDB, Canada, Spain, UNICEF, the United Nations Population Fund (UNFPA), UNHCR and USAID.

132. Pursuant to article 11 of the Covenant, on general living conditions, there were 143 projects in operation in 2006, with backing from IDB, Canada, the European Commission,



Spain, the Food and Agriculture Organization of the United Nations (FAO), Japan, JICA, the World Food Programme (WFP), UNDP, USAID, UNESCO, UNFPA, Sweden, the Netherlands and UNHCR.

133. With regard to the provisions of article 12 of the Covenant, on general conditions of health, 25 projects were implemented in 2006 with funding from Belgium, FAO, Canada, Japan, UNFPA, UNICEF, IDB, the Pan American Health Organization (PAHO), the World Health Organization (WHO), and the United Kingdom.

134. Pursuant to article 13 of the Covenant, on education, 68 projects were submitted, with support from the World Bank, IDB, Canada, the European Commission, Spain, Japan, JICA, UNICEF, Germany, UNHCR, UNESCO and USAID.

135. Lastly, pursuant to article 15 of the Covenant, on cultural rights, 12 projects were submitted, with backing from Spain, UNDP, UNESCO and UNICEF.

#### **IV. GENERAL PROVISIONS OF THE COVENANT**

##### **A. Right of self-determination (art. 1)**

###### **Legislative developments**

136. The constitutional legislation giving effect to the right of self-determination has not changed since the submission of the fourth periodic report, but in addition to the information given in the third periodic report, which contains a lengthy description of the relevant provisions, it is important to draw attention to article 3 of the Constitution, which provides that sovereignty is invested in the people.

137. Developing the principle of sovereignty, the Constitution envisages mechanisms of civic participation, which are regulated chiefly by Act No. 134 of 1994, relating, in addition to participation, to the oversight and monitoring of the management of public affairs. These mechanisms are the vote, plebiscite, referendum, consultation of the people, open councils, legislative initiatives, and revocation of mandates.

### **Developments in the jurisprudence<sup>43</sup>**

138. Decision C-1189/2000. This decision analyzes the scope of the concept of sovereignty in the light of international law, the relationship between the rules of international law and domestic law, and the sources of international law which are binding on Colombia.

139. Decision C-1200/2003. In the context of an action of unconstitutionality against Legislative Act 03/02 the Constitutional Court addressed the question of “a constituent act or founding act, such as *par excellence* an act of sovereignty”, stating that in democratic States only sovereignty, strictly speaking, possesses the constituent power by means of which a new system may be established and a new constitution adopted.

140. Decision C-249/2004. In the context of an action of unconstitutionality against several paragraphs of article 13 of Act 80 of 1993 (Statute of Administrative Contracts) which refer to non-Colombian legislation applicable to contracts concluded abroad, concluded in Colombia for execution abroad, or financed from the resources of foreign entities, the Constitutional Court explained the principle of sovereignty and the right of self-determination of peoples. It linked the evolution of the principle of sovereignty to the autonomous right of peoples to equip themselves with their own domestic legal system, to administer and take decisions on their own affairs and, in general, to engage freely in any activity which does not alter or harm the legitimate rights and interests of other States.

### **B. Right not to suffer discrimination (art. 2)**

#### **1. Application of the general principle**

##### **Legislative framework**

141. Article 13 of the Constitution provides that nobody shall suffer discrimination on the ground of sex, race, national or family origin, language, religion, political opinions, or beliefs. The following legislative developments have taken place in this regard:

142. Act 581 of 2000. Amongst other provisions this Act regulates the due and effective participation of women at the decision-making levels of the various branches and organs of Government, in accordance with articles 13, 40 and 43 of the Constitution.

143. Act 586 of 2000. This Act established 13 August every year as Day of Freedom of Expression.

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<sup>43</sup> It should also be explained that such jurisprudential rulings, i.e. decisions of type C, T or SU, have a general effect in Colombia: a type-C decision is an analysis of constitutionality which applies *erga omnes* or to the whole community; the effect of a type-T decision is between the parties or between equals, i.e. it applies to specific cases and not to the whole community; a type-SU decision, or unifying decision, has an *erga omnes* effect: its purpose is to unify the jurisprudence.

144. Act 931 of 2004. This Act regulates the right to equality of treatment in labour matters where age is concerned. The purpose is to provide special protection by the State for the rights of citizens in respect of equal treatment, including the right not to suffer discrimination by reason of their age when seeking work. In pursuit of this objective the Act prohibits a requirement, on the part of any person, that job applicants or persons wishing to exercise an occupation should fall within a specific age group in order to be considered for the job in question. In other words, the requirements for obtaining a vacant post or for exercising an occupation must relate to merit or experience, profession occupation.<sup>44</sup>

### **Developments in the jurisprudence**

145. In development of the principle of non-discrimination the Constitutional Court has handed down many rulings; attention is drawn to the following:

146. Decision C-371/00. This decision defined affirmative action, distinguishing it from so-called reverse or positive discrimination.

147. Decision C-289/00. This decision recognizes the various manifestations of family, marriage and free union.

148. Decision C-169/01. In its jurisprudence the Constitutional Court has addressed the question of positive discrimination, on the basis of the constitutional principle, in favour of vulnerable people who definitely do not stand on an equal footing with the rest of the country's population. The Court refers in particular to circumstances of an ethnic, racial or political nature which generate inequalities of access to economic resources and participation in the public sector.

149. Decision C-802/2002. With regard to the powers attributed to the President of the Republic in respect of the declaration of an "internal disturbance",<sup>45</sup> the Constitutional Court has reiterated in its jurisprudence the importance of protecting the principle of non-discrimination and the inalienable rights and therefore of restricting the exercise of these powers to strictly limited measures demanded by the situation.

150. Decision C-065/2003. This decision addresses the right of persons with physical disabilities to appear as witnesses.

151. Decision C-504/2004. This decision affirms equality of protection for males and females and the prohibition of gender discrimination with regard to the marriage of minors (minimum age of 14 years for both sexes).

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<sup>44</sup> The question of child labour is not regulated by this Act.

<sup>45</sup> Article 213 of the Constitution: "In the event of a serious disturbance of public order which constitutes an imminent threat to institutional stability, the security of the State or the social cohesion of its citizens and which cannot be quelled by use of the ordinary powers of the police authorities, the President of the Republic, subject to the signature of all his ministers, may declare a state of internal disturbance throughout the Republic or in a part thereof for a period of not more than 90 days, which may be extended twice for periods of the same length (...)."

152. Decision C-075/2007. This decision recognized the property rights of same-sex couples but its effects are limited to the property relations between persons living permanently together addressed in Act 54 of 1990.

153. Decision C-811/2007. This decision declared constitutional article 163 of Act 100 of 1993, on the understanding that the protection regime contained therein applies also to same-sex couples, so that by virtue of the principle of equality persons of the same sex living permanently together are eligible for health cover.

## **2. Application of the principle to foreigners**

### **Legislative framework**

154. Article 100 of the Constitution regulates matters relating to the rights and guarantees of foreigners, stating that they enjoy the same civil rights as are accorded to Colombians. However, it goes on to state that pursuant to the law and for reasons of public order these rights may be restricted. The following legislation was adopted in application of this principle:

155. Act 1070 of 2006. This Act regulates voting by foreigners resident in Colombia. It authorizes such foreigners to vote in municipal and district elections and consultations of the people in the place in which they have most recently established their domicile. Accordingly, foreigners resident in Colombia may vote in elections for the following offices: district and municipal mayors, district and municipal councillors and members of local district and municipal administrative boards throughout the national territory.

### **Developments in the jurisprudence**

156. Decision C-070/2004. Where its jurisprudence is concerned, the Constitutional Court has addressed the question of the constitutional rights of foreigners and contrasted their situation with that of Colombian nationals in the light of the principle of equality; according to the Court there is nothing to prevent the Legislature from establishing differential treatment, provided that there are “legitimate constitutional grounds justifying such treatment”.

157. Decision C-238/2006. In this decision the Court reviewed the constitutionality of statutory bill No. 285 of 2005 (Senate) and No. 129 of 2004 (House) “regulating voting by foreigners resident in Colombia”; it deemed the bill consistent with the Constitution and analyzed the question of according political rights to foreigners under a participatory democratic system such as Colombia’s and in the context “of the phenomenon of integration and reciprocity in realizing the rights of foreigners in Colombia and the rights of Colombian nationals in other countries”.

158. Decision C-523/2003. The Court reviewed the constitutionality of Decree-Law 1355 of 1970 (National Police Code) and analyzed at length the rights of foreigners contained in the Constitution and the power of the legislature to accord certain political rights to foreigners resident in Colombia.

### **3. Application of the principle to persons with disabilities**

#### **Legislative framework**

159. Since the adoption of the 1991 Constitution Colombia has been consolidating a legal framework establishing the rights of persons with disabilities and the obligations of the State and society towards them, with particular reference to articles 13, 47, 54 and 68 of the Constitution.

160. The State has an obligation to provide special protection for persons who, owing to their economic circumstances or physical or mental condition, find themselves in a manifestly weak position.

161. Within this constitutional framework, enormous progress has been made during the period under review:

162. Act 762 of 2002. This Act approved the Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities, which was ratified by Colombia in December 2003.

163. At the sectoral level, legislation has been introduced which, although applicable to the whole population, contains specific regulations on disability.

#### *Health*

164. Act 100 of 1993 (partially amending Act 1122 of 2007) created the Comprehensive Social Security System.<sup>46</sup>

165. Act 643 of 2001.<sup>47</sup> This Act established a specific schedule for the monopoly of revenue from games of chance and hazard.

166. Act 1109 of 2006.<sup>48</sup> This Act approved the WHO Framework Convention on Tobacco Control, adopted in Geneva on 21 May 2003.

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<sup>46</sup> The aim is to guarantee the inviolable right of the person and the community to a quality of life consistent with human dignity by protecting them against harmful contingencies (art. 1). The Act contains specific provisions on invalidity and disability in matters relating to the “General Pensions System” (arts. 38 and 39), the “General Health and Social Security System”, and the “General System of Occupational Risks Insurance” (arts. 249 to 243 and art. 257). In the case of the health system the Act provides that the population at large shall enjoy cover with respect to health, disease prevention, and treatment and recuperation; it is further provided that persons with disabilities lacking the capacity to pay shall be covered under the subsidized plan (art. 157) and that in the case of the contributory plan the family cover shall extend to permanently disabled persons of the age of majority (art. 163).

<sup>47</sup> Article 42 stipulates, with regard to the allocation of revenue from this monopoly to the health sector, that four per cent shall go to the subsidiary plan for persons suffering from disability, visual impairment or mental health problems.

167. Act 112 of 2007. This Act partially amended Act 100 of 1993.

168. Decree 205 of 2003. This Decree merged the Ministries of Health and Labour into the Ministry of Social Protection.<sup>49</sup>

169. Decree 1896 of 2001. This Decree adopted the Unified Classification of Health Procedures, including the procedures relating to functional performance and rehabilitation.

### *Employment*

170. Act 776 of 2002.<sup>50</sup> This Act introduced regulations on the organization and administration of the General System of Occupational Risks Insurance and on the benefits which it provides.

171. Act 909 of 2004.<sup>51</sup> This Act introduced, among other provisions, regulations on public employment, the civil service and the public administration.

172. Act 982 of 2005. This Act established, among other provisions, regulations on equality of opportunities for blind and deaf-blind persons.

173. Act 1081 of 2006.<sup>52</sup> Among other provisions this Act established benefits for the families of Heroes of the Nation and veterans of the civil and military forces of law and order.

174. Decree 2463 of 2001. This Decree regulates jurisdictions, institutions and time limits in connection with the procedures for acquisition of the status of incapacity to work

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<sup>48</sup> The Act points to tobacco as a cause of disability and sets out strategies for controlling tobacco use.

<sup>49</sup> This Ministry has specific competence to “propose and promote the implementation of policies of vocational retraining and jobs creation for persons with disabilities, in coordination with the Ministry’s other general directorates, namely Public Health, Occupational Risks, Employment, etc.

<sup>50</sup> This Act established the mandatory payment of economic and assistance benefits for workers who have suffered occupational accidents or illness, and in its articles 4 and 8 it established the mandatory re-employment and re-assignment of workers with disabilities resulting from work.

<sup>51</sup> This Act introduced arrangements for protecting persons with some kind of disability. The National Civil Service Commission, in coordination with the relevant State entities, is required to promote the adoption of measures to guarantee, on a basis of equality of opportunities, access to the civil service, in administrative posts, for citizens with physical, auditory or visual disabilities, in order to provide them with work suited to their condition.

<sup>52</sup> This Act established incentives for the recruitment of veterans with disabilities and incentives for employers.

### *Accessibility*

175. Act 1083 of 2006.<sup>53</sup> This Act introduced, among other provisions, a number of regulations on sustainable urban planning.

176. Decree 1660 of 2003. This Decree regulates access to means of transport for the public at large and for persons with disabilities in particular.

177. Decree 1538 of 2005. This Decree partially amended Act 361 of 1997 in order to establish minimum conditions of access to public spaces and housing.

178. Decree 975 of 2004. This Decree amended parts of Act 49 of 1990, Act 3 of 1991, Act 388 of 1997, Act 546 of 1999, Act 789 of 2002 and Act 812 of 2003 with respect to the Family Social Housing Subsidy by introducing positive discrimination to facilitate access by persons with disabilities to this housing subsidy; it also amended Act 1660 of 16 June 2003, which regulates access to all means of transport for the public at large and for persons with disabilities in particular.

### *Education*

179. Decree 1006 of 2004. This Decree changed the structure and functions of the National Institute for the Blind (INCI).

180. Decree 3020 of 2002. This Decree, which regulates Act 715 of 2001, states that, when establishing the manning tables of establishments for students with special educational needs, the local authority must comply with the criteria and parameters stipulated by the Ministry of National Education. It also provides that professionals possessing the teaching and therapeutic skills to facilitate academic and social integration should be assigned to the educational institutions designated for this purpose by the local authority.

### *Children*

181. Act 1098 of 2006. This Act contains the Code on Children and Adolescents.<sup>54</sup>

### *Justice*

182. Act 975 of 2005.<sup>55</sup> This Act contains provisions on the reintegration of members of armed groups operating outside the law, provisions which make an effective contribution to the attainment of national peace; it also contains other provisions on humanitarian agreements.

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<sup>53</sup> This Act introduced regulations on access to transport networks for persons with disabilities.

<sup>54</sup> In its article 36 in particular it addresses the topic of the rights of the children and adolescents with disabilities; disability is addressed from various standpoints throughout the Code.

<sup>55</sup> This Act establishes the rights of victims, a category which includes persons with disabilities, to truth, justice and compensation.

### *Territorial jurisdictions*

183. Act 715 of 2001.<sup>56</sup> This Act established basic regulations on resources and jurisdictions. It assigned responsibilities to the departmental and municipal authorities for the formulation and implementation of plans, programmes and projects for vulnerable groups.

### **Developments in the jurisprudence**

184. Decision C-531 of 2000. This decision declared constitutional article 26 of Act 361/97 and advocates increased protection of labour in order to safeguard the fundamental right to work and ensure that special protection is provided for clearly disadvantaged persons.

185. Decision T-219 of 2002. In this ruling on an application for *tutela* the Court stated that access to the public services of the social security system and to health care should be easier when it is required by persons suffering from some type of disability and that the State's policies in this area should therefore take into account the principles of ease of access, universality and solidarity.

186. Decision C-401 of 2003. This decision declared constitutional the Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities and the Act approving the Convention.

187. Decision T-519 of 2003. This decision declared article 26 constitutional subject to conditions, but the Court considered that two conditions must be satisfied with regard to any dismissal on the ground of personal limitations: authorization by the labour office and payment of 180 days' remuneration. These two burdens on employers were introduced by the Legislature in order to prevent cases of arbitrary dismissal of persons with disabilities.

188. Decision C-076 of 2006. In this decision the Constitutional Court declared unconstitutional the provision contained in Decree 960 of 1970 to the effect that "deaf" or "dumb" persons may not exercise the profession of notary public.

### **Administrative developments**

189. Disability has been accepted by the Government as a component of its human rights policies. Accordingly, in recent years persons with disabilities in Colombia have received

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<sup>56</sup> This Act has implications for the question of the management of disability; it specifies the responsibilities of the State and the departmental and municipal authorities in the formulation and implementation of the plans, programmes and projects of the education and health sectors in accordance with the provisions of Act 100 of 1993 and Act 115 of 1994, as well as of the "other sectors", which include transport, sports and recreation, culture, disaster prevention and relief, and services for vulnerable groups.



increased attention from the national, departmental and municipal governments. This increased support has been due to a new vision which has been gaining ground at the international level.<sup>57</sup>

190. *Americas Report 2004*<sup>58</sup> found that in Colombia an increasing number of persons are receiving assistance with regard to education, health, public spaces, etc. There are several institutions of the National Government concerned with matters of disability, but the Ministry of Social Protection is the Government's lead agency in this area; it has support from other bodies, including the Office of the Vice-President of the Republic.

191. In order to establish a comprehensive approach to this question the National Government formulated the National Disability Plan 2003-2006, which led to the creation of the Human Rights and Disability Programme of the Office of the Vice-President; the purpose of this Programme is to promote respect for and guarantees of the human rights of persons with disabilities by encouraging the removal of the obstacles to their full exercise of all their rights and by supporting measures of effective social inclusion and non-discrimination.

#### *National Disability Plan*

192. Where the Government's policy on disability is concerned, the National Development Plan 2002-2006: Towards a State for the Community laid the foundations for the formulation, within the framework of public policy, of a national plan to tackle disability as a vehicle for implementing intersectoral programmes and strategies to prevent disabilities.

193. Against this background, a national public policy on disability was published in document CONPES 80 dated 26 July 2004,<sup>59</sup> drafted with an eye to protection and the social management of risk. It envisages strategies to enable persons, families, NGOs, the State, and society and its institutions to prevent risks and to mitigate and deal with them when they do arise, as well as to reduce vulnerability to disability by protecting the well-being of the people and its human capital. Within an approach of shared responsibility, the aim is to identify the risks and formulate and implement measures to prevent discrimination and social exclusion.

194. The policy identifies the following strategies: (i) to promote disability-friendly arrangements in society which will generate positive attitudes to disability and equality of opportunities, social inclusion and integration (access to goods and services, labour market, social security, protection of the human rights of persons with disabilities, etc.); and (ii) to

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<sup>57</sup> According to Bulletin 10 "*Por el derecho a la diferencia y a la igualdad de oportunidades: los derechos humanos de las personas con discapacidad*" (For the right to be different and to equality of opportunities: the human rights of persons with disabilities), published by the Presidential Programme on Human Rights and International Humanitarian Law.

<sup>58</sup> Produced by the project on international monitoring of the human rights of persons with disabilities.

<sup>59</sup> National Economic and Social Policy Council, CONPES 80 "National Public Policy on Disability", 26 July 2004. (In Spanish only)

promote community participation in preventing, mitigating and correcting disability (comprehensive empowerment and rehabilitation).

195. The principles of equality, solidarity and shared responsibility, decentralization, and social participation and equity which underpin the policy on disability are based on the fundamental economic, social, collective and environmental rights embodied in the Constitution of 1991 and are consistent with the principles of the social protection system set out in the instruments by means of which the State endeavours to apply these principles. The purpose is to create the conditions in which individuals, families and the community at risk of or suffering from disabilities will be better able to enjoy and exercise their rights, duties and freedoms.

#### *Plan of action 2005-2007*

196. The National Public Policy on Disability was used as the basis for the formulation of the Plan of Action 2005-2007, which is a strategic management tool for national governmental bodies.

197. This Plan is designed to facilitate the coordination and fulfilment of the sectoral commitments in this area by determining and harmonizing the sectoral, intersectoral and inter-institutional tasks. The aim of this coordination work is to consolidate the social and institutional networks providing country-wide support for persons with disabilities by promoting the development of a culture of social cohesion and respect for the basic rights of such persons.

198. According to the Plan, the consolidation of public policy on disability calls for the strengthening of the collective endeavour in which representatives of the public and private sectors and civil society organizations are taking an active part at the national level, and indeed locally, by giving effect to concrete local action plans formulated by the local technical committees.

199. The Plan focuses on preventing disabilities and improving the quality of life of persons with disabilities and their families and their effective access to goods and social services by coordinating and harmonizing the governmental activities in each sector and of the national bodies working in this area.

#### *Human Rights and Disability Programme*

200. The Human Rights and Disability Programme of the Office of the Vice-President of the Republic of Colombia is an outcome of the National Disability Plan 2003-2006 and of the Vice-President's mission to promote and guarantee respect for the human rights of persons with disabilities.

201. The aim is to promote respect for the rights, both civil and political and economic, social and cultural, of persons with disabilities by working to eliminate the obstacles to their full exercise of all their rights and by supporting the processes of effective social inclusion and non-discrimination.

202. By means of such tools as its web page ([www.discapacidad.gov.co](http://www.discapacidad.gov.co)) the Programme seeks primarily to disseminate the rights of all Colombians suffering from any kind of disability. It also compiles and publishes legislation and jurisprudence, public policy information, statistics,

directories of institutions providing services and associations of disabled persons, both national and international, and other relevant information for the teaching of human rights and duties with regard to disability.

#### *Social support networks*

203. Since 2004 the Human Rights and Disability Programme has been operating a project promoting the reinforcement of the social networks providing support for the disabled population in the context of the coordination of the National Public Policy on Disability under the direction of the Ministry of Social Protection. This project has been implemented in 65 municipalities and nine small towns in the departments of Guaviare, Guainía, Risaralda, Quindío, Antioquia, Putamayo and Magdalena.

204. The following are the project objectives: (i) to support and strengthen the joint efforts of the departmental and local governments and community organizations to establish the National Public Policy on Disability; and (ii) to promote the social integration of persons with disabilities in these departments and provide tools to facilitate the use of the human, material, technical and financial resources of the community's existing social-support institutions and networks.

205. In the light of the experience gained in the above-mentioned departments, a methodology was established for the construction of a local public policy on disability which will provide conceptual and methodological tools for social managers to enable them to persuade the community to participate in networking; these local plans were delivered to the municipalities participating in the project.

206. In addition, a communication project was introduced under the title "*Pa To' el mundo, una muestra de capacidad*" (For the whole world, a demonstration of capacity); it was formulated in such a way as to be used by all the bodies, institutions and social networks in all regions of the country, with a view to generating a new social image of disability.

207. This project includes the design of a graphic and sound logo to communicate the ideas of plurality, tolerance, and acceptance of diversity in a human rights setting. The intention is to position this logo as the identifying mark of all the programmes and projects in Colombia to secure the social integration of persons with disability.

208. The aim is also to produce audio and video recordings designed to be used as support tools in the implementation of a national information, education and communication strategy on disability; this strategy is currently being formulated by all the bodies participating in the National Disability Plan.

209. The basic aim of this initiative is to support the building of an equitable social environment in which all persons find themselves able to exercise their citizenship as the holders of rights and duties.

#### *Disabilities census*

210. One of the most noteworthy administrative developments was the conduct of the 2005 General Census. As a result of this exercise, for the first time Colombia has data on disability.

According to the census figures, some 2,640,000 Colombians, or 6.4 per cent of the total population, have some kind of permanent disability.

211. A standard form for the registration of persons with disabilities was produced with a view to supplementing the census data; this form is a valuable tool for establishing, for the first time in Colombia and on the basis of technical criteria, the needs of this section of the population.

#### **4. Application of the principle to particularly vulnerable persons**

##### **Legislative framework**

The following are some of the legislative developments with regard to disability:

212. Act 782 of 2002. This Act obliges the National Government to bring into operation a programme for the protection of persons finding themselves under an imminent threat to their lives, physical integrity, security or liberty for reasons connected with political or ideological violence or with the “*internal armed conflict*” and it indicates the categories of person who may request protection.<sup>60</sup>

213. Decree 2816 of 2006. Among other provisions, this Decree sets out and regulates the Programme for the Protection of Human Rights of the Ministry of the Interior and Justice.<sup>61</sup>

##### **Administrative developments**

214. The State policy of democratic security, which guided the Government’s activities up to 2006, posits the consolidation of the rule of law throughout the national territory as the fundamental means of protecting the population at large against violations of human rights and infringements of international law. However, there are some Colombians who have required special attention owing to their vulnerability. The National Government has been working in this connection to strengthen the programmes for the protection of these people.

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<sup>60</sup> Leaders and activists of political groups, in particular opposition groups; leaders and activists of voluntary, civic or community organizations, professional associations or trade unions or associations of peasants farmers or ethnic groups; leaders and activists of human rights organizations and members of the medical profession; witnesses in cases of violation of human rights or infringement of international humanitarian law, regardless of whether the disciplinary, criminal or administrative procedures in question have been initiated in accordance with the legislation in force.

<sup>61</sup> The purpose of this Programme is to support the National Government in protecting the lives, physical integrity and security of the Programme’s target population who find themselves under a definite and exceptional threat as a direct result and by reason of the performance of their political, public, social or humanitarian work or functions.

*Protection Programme*

215. This Programme, unique in the world, was established in 1997 through cooperation between the Government and civil society in order to protect the right to life, physical integrity, freedom and personal security of certain population groups particularly vulnerable to the activities of armed groups operating outside the law.

216. The protected groups include:

- (a) Political leaders and activists, particularly of the opposition;
- (b) Leaders and activists of social, civic, community and professional organizations, trade unions, agricultural organizations and ethnic groups;
- (c) Leaders and activists of human rights NGOs;
- (d) Leaders and witnesses involved in cases of violation of human rights and international humanitarian law;
- (e) Leaders and members of the Unión Patriótica political party and the Communist Party of Colombia;
- (f) Reporters and social communicators;
- (g) Mayors;
- (h) Councillors;
- (i) Deputies;
- (j) Government officials;
- (k) Displaced persons<sup>62</sup>.

217. The measures taken to protect the above groups are either political, involving public recognition of the legitimacy of activities related to the defence of human rights and cooperation between the State and civil society through inter-institutional coordination meetings at the central, departmental and local levels, or security-related, including the provision of armour-plated equipment, mobile protection systems, national and international tickets, communications equipment and support for temporary relocation.

218. Despite the State's financial difficulties, the Government has allocated considerable resources to the Protection Programme. This funding has resulted in increased and more effective protection for vulnerable people, particularly with regard to their life and integrity. In the fiscal years 2002-2007, national budget appropriations for the Programme totalled

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<sup>62</sup> In accordance with Constitutional Court Decision T-025/04.



Category	Number of beneficiaries							
	1999	2000	2001	2002	2003	2004	2005	2006
Journalists	0	14	69	168	71	125	46	64
Deputies	0	0	0	0	43	45	33	58
Witnesses	-	-	-	-	-	-	-	21
Medical personnel	-	-	-	-	-	-	-	4
Former mayors	0	0	0	0	0	114	41	2
Total	177	880	2,354	4,857	5,221	5,446	5,507	6,097

*Source:* Ministry of the Interior and Justice.

*Support project for communities at risk*

219. This project is designed to enhance human rights protection for communities at risk, whose needs are addressed by State institutions at the national, regional and local levels. It is also a key component of related action plans for departmental measures, compliance with international commitments, fulfilment of recommendations of the United Nations High Commissioner for Human Rights (OHCHR) (recommendation No. 3 of 2004 in particular) and effective care under precautionary or provisional measures taken by protection agencies of the Inter-American System of Human Rights.

220. These objectives are pursued by means of the following strategies:

- (a) Enabling communities to identify risks;
- (b) Building the protection and prevention capacity of State bodies at the national, regional and local levels;
- (c) Restoring or improving State-community relations with a view to developing action plans for reducing the vulnerability of communities;
- (d) Providing technical assistance for the formulation of public policy on prevention and protection in the case of communities at risk.

221. The project focuses on communities located in the following areas: Antioquian and Chocoan Urabá, eastern Antioquia, the coffee-growing region, Cordoba, lower Putumayo, Arauca, southern Tolima, Montes de María, Nariño Pacific Coast, Ocaña and Catatumbo Province, Sierra Nevada of Santa Marta, Colombian Massif and Cauca.

*Ethnic groups*

222. The Government has been endeavouring to strengthen the country's ethnic groups by introducing legislation targeted on them and the promotion of their human rights.

223. Document CONPES 3310 of 2004, drafted in collaboration with the National Planning Department, was published on 20 September 2004; its purpose is to identify, increase and

improve the access of the Afro-Colombian population to the State's social programmes in such a way as to create increased opportunities for securing the benefits of development and improving the living conditions of this population by means of affirmative action measures.

224. The introduction of the regulations established chiefly in Act 70 of 1993 and the 2004 policy document CONPES 3310 ("Policy of affirmative action for the black and Afro-Colombian population") led to the initiation of the restructuring the Comprehensive Long-Term Plan for the Black, Afro-Colombian, Palenquero and *Raizal* Population.

225. There are other initiatives aimed at boosting the establishment of indigenous reservations. Between July 2004 and June 2005 alone 15 outline papers were issued on the establishment of indigenous reservations in the departments of Putamayo, Vichada, Guaviare and Nariño; this work is proceeding.

226. The Government has brought forward a strategy for protecting the human rights of ethnic groups; this strategy was submitted for consideration to the National Commission on the Human Rights of the Indigenous Peoples and to the High-level Consultation on Black Communities. In addition, efforts were made to incorporate the ethnic component in departmental and local human rights action plans.

227. In terms of security, in the period under review the indigenous communities have suffered the consequences of the activities of armed groups operating outside the law. The situation, although still worrying, has nevertheless improved as a result of the measures taken by the National Government to protect the right to life of the members of these communities and of the implementation of projects on the protection of the most vulnerable indigenous peoples against possible violations of their rights, such as the project on communities at risk carried out under the Programme on Human Rights and International Humanitarian Law of the Office of the Vice-President and the Ministry of the Interior and Justice.

228. According to information from the Human Rights and International Humanitarian Law Observatory, in the period 2000-2006 these projects led to a significant reduction in the numbers of indigenous murder victims in Colombia, which reached their peak in 2002, when 196 members of indigenous groups were killed.

<b>Indigenous murder victims 2000-2006</b>	
<b>Year</b>	<b>Victims</b>
2000	142
2001	181
2002	196
2003	163
2004	85
2005	49
2006	44

*Source:* Human Rights Observatory, Presidential Programme on Human Rights and Humanitarian Law.



### **C. Right to equality (art. 3 of the Covenant)<sup>63</sup>**

#### **Legislative framework**

229. The constitutional framework on which the legislative developments described below are based is discussed in Colombia's third periodic report to the Committee on the Elimination of Discrimination against Women (CEDAW) in the section on measures to eliminate discrimination against women.

230. Act 742 of 2002. This Act approved the 1998 Rome Statute of the International Criminal Court done at Rome on 17 July 1998 and adopted by the General Assembly of the United Nations on 15 November 2000; it covers offences of gender-based violence.

231. Act 800 of 2003. This Act approved the Convention against Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the Convention against Transnational Organized Crime adopted by the General Assembly of the United Nations on 15 November 2000.

232. Act 837 of 2002. This Act approved the International Convention against the Taking of Hostages adopted by the General Assembly of the United Nations on 17 December 1979.

233. Act 984 of 2005. This Act approved the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women adopted by the General Assembly of the United Nations on 6 October 1999.

234. Act 581 of 2000. This Act regulates the due and effective participation of women at the decision-making levels of the various branches and organs of the public power. It is commonly referred as the "Quotas Act".

235. Act 590 of 2000. This Act introduced regulations on the promotion and development of micro-enterprises and small and medium-sized enterprises. It accords special treatment to women.

236. Act 599 of 2000 (Criminal Code). This Act updated Colombia's penal legislation, criminalizing acts harmful to women and providing protection for women.

237. Act 600 of 2000 (Code of Criminal Procedure). This Act established the lodging of a complaint as a mandatory requirement for a conciliation hearing in domestic violence proceedings.

238. Act 640 of 2001. This Act amended the conciliation rules: chapter VII deals with extrajudicial conciliation in family cases.

239. Act 708 of 2001. This Act addresses the family social housing subsidy.

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<sup>63</sup> For more detailed information see Colombia's fifth periodic report to CEDAW (covering the period 1999-2003).

240. Act 731 of 2002. Rural Women's Act.

241. Act 747 of 2002. This Act amended and supplemented Act 599 of 2000. It created the criminal offence of trafficking in persons.

242. Act 750 of 2002. This Act contains provisions on house arrest and community service for women heads of household.

243. Act 790 of 2002. The purpose of this Act was to renew and modernize the structure of the executive branch of the National Government in order to ensure, subject to national financial sustainability, that the purposes of the State are properly and expeditiously fulfilled. It created a Welfare Fund to ensure job stability for women heads of household and persons with disabilities.

244. Act 812 of 2003. This Act approved the National Development Plan 2002-2006: Towards a State for the Community". It established the policy "Women: builders of peace and development".

245. Act 823 of 2003. This Act contains regulations on equality of opportunities for women.

246. Act 882 of 2004. This Act amended article 229 (Domestic violence) of Act 599 of 2000 (Criminal Code). It defines domestic violence as physical, mental or sexual abuse inflicted on any member of the family unit and it prescribes, unless the act in question constitutes an offence subject to a heavier penalty, a sentence of imprisonment of between one and three years. The sentence is increased by one half to three quarters when the abuse is inflicted on a minor or a woman.

247. Act 905 of 2004. Among other provisions, this Act amended Act 590 of 2000 on promotion of the development of Colombia's micro-enterprises and small and medium-sized enterprises. It established special regulations for women heads of family.

248. Act 1009 of 2006. This Act established the Gender Issues Observatory on a permanent footing.<sup>64</sup>

### **Developments in the jurisprudence**

249. Decision C-112/00. The Constitutional Court endorsed gender equality in the celebration of civil marriages in the place of domicile of either of the parties in response to an action against Article 126 of the Civil Code as amended by article 7 of Decree 2272 of 1989, which had provided that a marriage could be celebrated only in the domicile of the groom.

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<sup>64</sup> A responsibility of the Office of the President of the Republic discharged through the Presidential Council on Equality for Women; the Observatory's purpose is to identify and select a system of gender indicators, analysis categories and monitoring mechanisms for the production of critical observations on the policies, plans, programmes, legislation and jurisprudence relating to the advancement of women and gender equity in Colombia.

250. Decision C-371/00. This decision declared constitutional the Quotas Act (act 581 of 2000, mentioned above).

251. Decision C-1413/00. A question had been raised as to the constitutionality of article 149 of the Civil Code, which reads: “The children of a marriage which is declared null are legitimate and remain under the authority of the father and shall be maintained and educated at his and the mother’s expense.” The Court declared itself reluctant to rule on the contested language because the application lacked purpose: since the issuance of Decree Act 2820 of 1974, “which accords equal rights and obligations to women and men”, parental authority is exercised jointly by the two parents.

252. Decision T-522/01. This decision safeguards the right to genuine equality, the right to liberty, and affirmative action on behalf of women who find themselves in prison and request transfer to house arrest..

253. Decision T-400/02. In this decision the Court explained that it was a violation of the fundamental right to equality to accord different treatment by reason of gender without any objective and reasonable justification.

254. Decision C-184/03. This decision declared constitutional article 1 of Act 750 of 2002 “on the understanding that, when the requirements established by law are satisfied, the right may be accorded by the judge to a man who is actually in the same situation as a woman head of family, in order to protect, in the specific circumstances of the case, the best interests of a minor child or a disabled child”. The Court extended the advantages accorded to women heads of family to men finding themselves in the same situation.

255. Decision C-482/03. A question had been raised concerning article 140, paragraph 11, of the Civil Code, which reads: “A marriage is null and void in the following cases ... (11) when it is contracted between an adoptive father and his adopted daughter or between an adopted son and an adoptive mother or a woman who was married to the adoptive father.” The Court reaffirmed the validity of this provision but stated that its interpretation was subject to the condition that it should be applied on the same terms to men and to women.

256. Decision C-507/04. The Court declared unconstitutional the words “of 12” years found in the text of article 142, paragraph 2, of the Civil Code, for they established different treatment for males and females with regard to the minimum age of marriage and disregarded the equality of protection guaranteed specifically to girls and adolescent women.

### **Administrative developments**

#### *National Development Plan 2002-2006*

257. This Plan reflects the wish of the National Government to introduce a cross-cutting gender approach in its public policies by authorizing the Presidential Council on Equality for Women

(CPEM)<sup>65</sup> to carry out a policy for women and to supervise the introduction of a cross-cutting gender approach.

258. The Colombian State has been endeavouring to make optimum use of the national budget by means of results-oriented social management and by promoting transparency in the administration of public resources, monitoring and evaluating the achievements and targeting activities so as to give priority to disadvantaged population groups, without that necessarily implying the earmarking of budget resources for such groups, since the emphasis is on cross-cutting use of the available resources from the standpoints of social equity and gender equity.

259. The CPEM Plan of Action is a response to the proposal to build social equity by carrying out measures focused on the poorest women, in particular women heads of family, by encouraging increased, direct and independent participation by women's organizations in the various consultation and coordination forums, and by targeting all their activities on the promotion and protection of the human rights of women.

260. Eight programme areas for gender equity have been determined to this end; they provide the framework for the various activities and projects carried out for the benefit of women:

(a) Employment and business development. The aim is gradually to provide more opportunities for urban and rural women to obtain decent and well paid jobs, or to expand their business activities, by promoting measures of affirmative action designed to eliminate the gender-based differentials in the development indicators and counteract the factors which encourage deeper poverty, especially in depressed areas and areas affected by violence, and to secure recognition of women's contribution to the country's development;

(b) Education and culture. The objectives are: (i) to foster a cultural change in students of both sexes by providing training in values, attitudes and behaviour which contribute to the comprehensive development of all persons and to peaceful co-existence and help to build a more equitable, diverse and pluralist society for women and men, and to promote the theory and practice of gender equity in educational establishments by carrying out projects on gender equity designed to contribute to the consolidation of democracy by developing the relations between women and men from the standpoint of difference and diversity; (ii) to promote the expansion of the education coverage for children and young people by encouraging them to participate and perform well in all the fields of human activity, with a sense of justice and free from prejudice and discrimination; and (iii) to encourage in all areas of society an education for life which fosters an appreciation of diversity and tolerance and respect for gender differences;

(c) Sexual and reproductive health. The aim is to eliminate the inequalities preventing women from securing good health in all its aspects;

(d) Violence against women. The goals are: (i) to promote an efficient national legal framework consistent with Colombia's international human rights commitments for adult and

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<sup>65</sup> Created by Decree 1182 of 1999 on the transformation of the National Directorate for Equal Treatment for Women into the Presidential Council on Equality for Women.

young women and girls; (ii) to support and promote specific programmes for the defence and dissemination of the rights of adult and young women and girls and international humanitarian law; (iii) to encourage family democracy and the sharing of responsibility between women and men in the home and in the production and raising of children; (iv) to provide legal protection of sexual freedom and independence; (v) to promote the return of women and children displaced from their places of origin; and (v) to design, promote and support programmes to prevent trafficking in persons;

(e) Political participation. Here the purpose is to encourage women to participate in political parties and movements, to stand as candidates for elective posts and to seek decision-making posts in the public administration; in the latter case the measures include monitoring the implementation of the Quotas Act and the provision training to ensure its correct application;

(f) Communication. The aim is to promote communication programmes and strategies which contribute to peaceful co-existence and foster a balanced image of women and an attitude of respect for differences;

(g) Institution-building. The aim is to promote institution-building under the policy “Women: builders of peace and development” in national and local sectoral bodies.

261. Important progress was made in this area in the period 2002-2006 in improving women’s economic circumstances; attention is drawn to the following achievements:

262. The disbursement of micro-credits through the Agrarian Bank in a total amount of 7,628,332,460 pesos under the programme “Women heads of family and micro-enterprises”; the implementation for three years in succession of the National Businesswomen’s Fair programme, which in its first two versions secured the participation of 4,789 businesswomen at the sessions on promotion of the entrepreneurial spirit and 3,657 in the selection sessions (two fair events held in Coferias-Bogotá); there were 702 women exhibitors at the fair events (300 in 2004 and 402 in 2005); they were from five production sectors and made direct sales to 15,736 visitors in a total amount of 880,007,607 pesos, as well as forging important commercial contacts with buyers and securing the initiation of the third version of the programme, with the participation of 440 exhibitors from 25 departments and an array of public and private enterprises which had become involved in the implementation of the programme.

263. Attention is also drawn to the formation of 273 women’s community councils in 28 departments, with the participation of 3,068 women community leaders and members of community organizations; this development created an innovatory space for women’s participation, as well as for improving women’s knowledge of their civil, social, political and cultural rights, and indeed for preventing the various forms of violence to which they are subject, by means of the “Family democracy” strategy, the conduct or support of 228 encounters, workshops and forums for women, and the dissemination on the web page of information about legal remedies and affirmative action.

264. Other achievements include: the design, creation and establishment on a permanent footing, by Act 1009 of 23 January 2006, of the Gender Issues Observatory (OAG); monitoring from the gender perspective of 13 indicators of the Four Tools of Equity comprising the social reactivation policy; the periodic publication of OAG bulletins; the conduct of three regional

workshops and one central encounter with women members of the Guambiano, Arhuaco, Kogui, Wiwa, Kakuamo, Wayuu, Huitoto and Ticuna peoples to lay the foundation for the formulation of an affirmative action plan for indigenous women; the replies provided to 1,276 applications filed in exercise of the right of petition, the drafting and submission of 26 international reports, and the initiation of a cross-cutting gender approach, with 21 coordinated inter-institutional work programmes in operation; the effort to boost the awareness of the mass communication media between September 2003 and December 2005; the production of 108,536 copies of publications by the Office of the Presidential Adviser, distributed at the regional level and to women involved in the programmes and strategies promoted by the Office.

265. According to the most recent World Bank report,<sup>66</sup> the promotion of gender equality is indeed one of the areas in which Colombia is doing well. The World Bank notes that the wage gap between men and has been reduced substantially in Latin America and that in Colombia it has almost been closed.

266. With regard to respect for diversity, the National Government and the local governments, including the government of the capital of the Republic, have been endeavouring to ensure the realization of the rights of the LGTB community.<sup>67</sup>

267. The National Development Plan 2002-2006: Towards a State for the Community, endorsed in the National Development Plan 2007-2010: A State for the Community: Development for All, contains a commitment by the Government to promote the National Plan of Action on Human Rights and International Humanitarian Law, which the National Government has been formulating in conjunction with State bodies and civil society organizations in compliance with its international human rights commitments and the recommendations of international bodies.

268. One of the targeted development areas is precisely the effort to combat discrimination and encourage respect for individual identities. This is linked to the realization of the right to equality in all its manifestations: formal equality before the law; equality of treatment; equality of opportunities; the right to be different; material equality; prohibition of discrimination by reason of race, sex, beliefs or status; and special treatment for vulnerable population groups.

269. In addition, policies have been carried out at the local level to benefit the LGTB population, in particular in the capital of the Republic, where early in 2007 the project “For a Bogotá free of discrimination” was launched by the Office of the People’s Advocate and the district administration office with the support of the Office of the Mayor of Bogotá; the project objective are “zero exclusion, 100 per cent delivery of rights, and respect for every one of the differences of the inhabitants of Bogotá”.

270. The chief purpose of this project is to prompt the citizenry to reflect on the importance of participating in a cultural transformation in individuals and in the community which will help to reduce the levels of inequality and discrimination.

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<sup>66</sup> *Global Monitor Report 2007*.

<sup>67</sup> LGTB: lesbian, gay, transsexual and bisexual.

271. The bodies involved in this project committed themselves to working together in an alliance to enhance people's awareness of the reality of discrimination and of the need to expand the scope of inclusion and to back the submission and processing of the bill to combat exclusive attitudes.

272. The project declared Bogotá to be a place for diversity, where citizens can live side by side on the basis of respect for differences, work for the social inclusion of persons discriminated against by society, and join together with the oversight, administration and community bodies to find solutions for all persons whose behaviour differs from the norm.

## **V. SPECIFIC PROVISIONS OF THE COVENANT (arts. 6 to 15)**

### **A. Right to work (art. 6)**

#### **Legislative framework**

273. In addition to the information contained in Colombia's third periodic report to the Committee, which indicated the constitutional legislation regulating the right to work, it should be noted that article 25 of the Constitution provides that work has the dual character of right and obligation and that it is subject to special protection by the State. Important pieces of legislation on the protection of the right to work were enacted during the period under review; the most relevant are noted below.

274. Act 599 of 2000 (Criminal Code). This Act criminalized violation of the freedom to work and sabotage.

275. Act 712 of 2001. This Act amended the Code of Labour Procedure.

276. Act 789 of 2002. This Act contains regulations on the support of employment and the extension of social protection; it amended some of the articles of the Substantive Labour Code. It also contains a protection scheme for the unemployed.

277. Act 909 of 2004. Among other provisions this Act contains regulations on public employment, the civil service and the public administration.

278. Act 995 of 2005. This Act established paid holidays for workers in the private sector and for white- and blue-collar workers in the various classes and grades of the public administration.

279. Act 1010 of 2006. This Act contains measures to prevent, correct and punish harassment in the workplace and other abusive conduct in labour relations.

280. Act 1064 of 2006. This Act contains regulations on support for and strengthening of the education for work and human development classified as informal education in the General Education Act.

#### **Developments in the jurisprudence**

281. A wealth of constitutional jurisprudence has been produced in this area. Apart from the rulings handed down on actions of unconstitutionality, labour relations is one of subjects on

which the Constitutional Court spends most time, in particular with regard to questions of wages and pensions. Some of its rulings are noted below.

282. Decision C-325/00. This decision declared constitutional Act 515 of 1999 approving ILO Convention No. 138 on the minimum age for admission to employment, on the ground that it contributes to the consolidation of a legal mechanism for protecting Colombian children and safeguarding their education and comprehensive development.

283. Decision C-567/00. In this decision the Constitutional Court reiterated the concept of “constitutional corpus” and stated that ILO Conventions Nos. 87, 98, 151 and 154 formed part of that corpus.

284. Decision T-451/04. In this decision the Constitutional Court established a general rule for exercise of the remedy of *tutela* to obtain the payment of remuneration and benefits and, in general terms, payment due for work. It stated in this connection that actions for *tutela* were in principle inadmissible in such cases except when they related to remuneration or pension payments affecting the subsistence minimum of the applicant or his or her family unit.

285. Decision C-898/06. In this decision the Constitutional Court found that harassment in the workplace could give rise to sanctions of deprivation of liberty. It also extended the punitive scope of the Act and ruled that there should be no reduction of a sentence imposed for sexual harassment when the perpetrator has family or affective links with the victim.

286. These concepts and principles have also been developed in cases heard by the ordinary courts and the administrative litigation courts.

### **Administrative developments**

#### *Protection of labour: social protection measures*

287. The protection of labour is an obligation and an inalienable commitment of States and Governments and an essential mandate of the International Labour Organization. This principle posits the need to introduce arrangements suited to the new times and to the current characteristics of labour relations in order to ensure that persons who are parties to a labour relation have access to the basic protection which is their due in the exercise of their fundamental labour rights.

288. In discharging its responsibility to protect workers the Colombian State seeks to ensure the comprehensive application of the law and fulfilment of its commitments under the international conventions ratified by Colombia and to extend this protection to those workers rendered vulnerable in employment and social terms because their labour relations are informal.

289. The changes which have been taking place in the social, economic, political and cultural fields have given rise to new problems in the world of work, to an increase and diversification of partial, temporary or intermittent labour relations in the contracting of technical and professional services in which the commercial nature of the relationship predominates, and to an ever-increasing impact on traditional forms of recruitment in terms of wages, hours, dependence, subordination, benefits and social security.



290. Fundamental labour rights cannot be the privilege of any one group of workers: they constitute an acquired right of all individuals and a *sine qua non* of democracy, social justice, and equity in the labour market; it is a responsibility of all States to ensure that these rights are accorded to a greater number of workers every day, and authorities, employers, workers and society at large must combine their efforts to this end.

291. The protection of labour implies the defence of fundamental labour rights and is based on the inalienable principles of combating child labour, protecting the labour of young workers, guaranteeing equality for women in the workplace, recognizing the rights of rural workers, and developing alternative production models for enterprises, family businesses initiatives and cooperative arrangements for the above-mentioned groups of workers which deliver alternative forms of decent work, good practices and labour protection in accordance with the ILO conventions and recommendations ratified by Colombia.

*Fundamental rights, social dialogue and consensus: a labour protection strategy*

292. The system of social protection established in the new Employment and Social Protection Act,<sup>68</sup> together with the array of social policies designed to reduce the vulnerability and improve the quality of life of Colombians, in particular the most disadvantaged, seeks to guarantee, as a minimum, the right to health, the right to a pension and the right to work.

293. The system established by the Act creates the conditions for workers to come to terms with the new forms of work, organization and working hours. At the same time, protection is provided against the risks entailed by the economic and social changes. To this end the system must invest Colombia's citizens with new skills to enable them to cope with a dynamic economy in accordance with the demands of the new labour market offering reasonable prospects of economic growth.

294. In this context, the social dialogue is based on respect for the core labour principles and rights which are developed by means of civic participation and which, at the initiative of the citizenry, reinforce the processes of decentralization to restore confidence in public institutions and in their reconstruction, shifting from a representative to a participatory democracy for formulating public policies designed to improve the quality of life and reduce the vulnerability of the most disadvantaged Colombians.

295. It is also based on a State role in the establishment of arrangements for regional coordination to promote the peaceful settlement of disputes, the protection of civil rights, and enhanced human development based on sustainable use of the environment. To this end, steps were taken to establish tripartite forums, such as the Standing Committee on the Coordination of Wages and Employment Policy created under article 56 of the Constitution and the departmental subcommittees on the coordination of wages and employment policy, institutional forums which generate synergies among the various agents and the policies in question.

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<sup>68</sup> Act 789 of 2002.

296. In a tripartite agreement of the Standing Committee on the Coordination of Wages and Employment Policy (dated 14 December 2005) it was decided to establish a forum for dialogue to discuss matters of interest with the public-sector trade unions, to re-activate the Subcommittee on Coordination of the Public Sector, and to set up three working parties, which have been examining the following three issues:

- (a) The freedom of association, collective bargaining, and the Labour Statute;
- (b) The civil service;
- (c) Wages and social benefits.

297. Twelve social dialogue forums on questions of the human rights and fundamental labour rights of members and leaders of trade unions were held in various parts of the country, at which the parties made commitments and established monitoring arrangements.

298. The tripartite forums are formal bodies created under the Constitution and by law in which the fundamental principles referred to in Title I of the Constitution find an ideal place for developing the social State based on the rule of law by means of participatory democracy and which facilitate intervention by the stakeholders in the decisions which affect them.

299. The Ministry of Social Protection encouraged and supported the tripartite forums for social dialogue and coordination established in Act 278 of 1996, better known as the departmental subcommittees on the coordination of wages and employment policy. One of the results of this development is that the country's 32 departments made progress with the 22 subcommittees which had been established, each with its action plan agreed and its technical secretariat in place, in the departments which carry the greatest economic and social weight; there are plans to extend the coverage to all the departments. These subcommittees draw their members chiefly from departmental representatives of governors' and mayors' offices, the National Training Service (SENA), the Colombian Family Welfare Institute (ICBF), universities, trade unions (CUT, CGT, CTC), employers (Chamber of Commerce, family compensation funds, FENALCO, ANDI, etc.), and the local offices of the Ministry of Social Protection.

300. In addition, the implementation of programmes to promote and disseminate the fundamental principles and rights at work as part of the corpus of economic, social and cultural rights, the second generation of rights in the human rights catalogue, has led to an enhancement of values and social cohesion and has facilitated the social dialogue. The training of members of local authorities in the application and monitoring of these principles and rights ensures that they are not infringed by the State itself.

302. Various means have been used to publicize these principles and rights in order to reinforce the implementation of the policy, such as the holding of 22 regional forums and a national forum, attended by employers, workers, representatives of the Government, and academics; most of the events were attended by the director or personnel of the ILO Subregional Office for the Andean Countries, which has its headquarters in Lima, Peru. Other measures included the drafting, publication and republication of the handbook on fundamental principles and rights at work, in a total printing of 5,000 copies, and the publicizing on television of the main areas protected by these principles and rights.

*Protection of the labour of vulnerable groups of workers*

303. The protection of labour measures have been focused on children, young people and women workers and workers in the rural sector in terms of the nature of the activities which they perform, the conditions in which they perform them, their economic circumstances, and the obstacles to their access to resources. The intervention of the Ministry of Social Protection has been concentrated on generating policies and mechanisms to facilitate the elimination of discrimination in employment, the elimination of child labour, with emphasis on its worst forms, the protection of young workers, and recognition of the labour rights of rural workers.

304. Work proceeded in this regard on the implementation of a labour protection policy based on the construction of inter-institutional and intersectoral networks to facilitate the pooling of efforts and the optimum use of resources to deliver responses for these groups, responses which must take into account the capacity to adapt to the country's changing situation and the paucity of budget financing, without giving up the aspiration to improve the arrangements for the participation of the vulnerable groups of workers in the protection system and to secure recognition of their basic rights as workers.

305. Efforts were made to formulate coordinated inter-institutional and intersectoral measures which, in addition to improving working conditions and access to resources for the most vulnerable groups, foster progress in the construction of social protection networks. The efforts to prevent, mitigate and dispel the risks to which the most vulnerable workers are exposed must create organizational, economic, employment and production opportunities which will ensure their social well-being and prevent their further impoverishment, as well as facilitating social development, participation, integration, redistribution and building of social equity.

*Employment in Action programme*

306. This programme is designed to create work for SISBEN 1 and 2 population groups (the poorest members of the population) in the form of temporary jobs in socially useful civic projects. The programme provided funds to meet the demand for unskilled labour and materials. It was sponsored by municipalities, districts and decentralized public bodies.

307. This programme ended in 2004, having produced the following results:

<b>Projects</b>	<b>Total investment (millions of pesos)</b>	<b>Beneficiaries (estimated)</b>	<b>Social Action input (millions of pesos)</b>
3,724	491,031	170,084	228,013

*Source:* Social Action.

308. Progress was also made with the implementation of measures to promote occupational health and the prevention of occupational hazards among vulnerable young workers in the informal sector of the economy engaging in commercial and farming activities in municipalities in the north-eastern region of the country.

309. These measures address the definition of the health and working conditions of these workers and include social awareness meetings, training workshops on the specific occupational hazards of the work which they perform, implementation of simple measures of intervention to improve working conditions, representations to the offices of municipal mayors concerning the conduct of the SISBEN survey, and the granting of priority access for the young workers involved in the project to the benefits of the subsidized health insurance plan.

*Preventive protection of child workers, and discouragement and gradual elimination of child labour, with emphasis on its worst forms, in accordance with ILO Convention No. 182*

310. The National Plan for the Elimination of Child Labour and the Protection of Young Workers 2003-2006 is the fruit of a permanent national and international labour alliance<sup>69</sup> and is designed to tackle, prevent and eliminate this scourge in all its forms by ensuring that children are enrolled in the education system and have access to supplementary and comprehensive training, duly experiencing and enjoying their development to the full.

311. The national body responsible for these matters, apart from the Ministry of Social Protection (MSP) and the Colombian Family Welfare Institute (ICBF), is the Inter-institutional Committee on the Elimination of Child Labour and the Protection of Young Workers,<sup>70</sup> which is responsible for formulating and establishing the national policy on child labour and protection of young workers; the Committee is a forum where governmental bodies, workers' organizations, employers' organizations, international organizations, NGOs and representatives of civil society can meet to plan the implementation of systematic measures sustained over time to tackle the basic causes of child labour. For operational purposes the Committee has a technical secretariat provided by MSP, ICBF, the permanent ILO adviser and IPEC.

312. The Colombian Government has been increasing the resources allocated from the national budget to the various priorities of this undertaking with regard to prevention, monitoring and statistical evaluation of the situation, updating of legislation, decentralization and regional planning, personnel training, alteration of cultural patterns, and direct intervention.

313. Since this undertaking is under joint management, the governmental bodies, workers' and employers' organizations and representatives of civil society have combined their efforts to work towards a goal which transcends individual sectoral concerns and makes a contribution to the

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<sup>69</sup> The following institutions are members of this alliance: ICBF, MSP, ILO and the International Programme on the Elimination of Child Labour (IPEC).

<sup>70</sup> This Committee consists of representatives of MSP, the Ministry of National Education, the Ministry of Communications, the Ministry of Agriculture and Rural Development, DANE, DNP, ICBF, COLDEPORTES, SENA, the Office of the Attorney-General of the Nation, the Office of the People's Advocate, the General Confederation of Democratic Workers (CGTD), the United Workers Office (CUT), the Workers Confederation of Colombia (CTC), the National Association of Industry (ANDI), the National Mining Corporation (Minercol), the Colombian Association of Flower Exporters (ASOCLOFLORES), the Colombian Confederation of NGOs, UNICEF, and ILO-IPEC.

building of the country, supporting the processes of decentralization by providing guidance on the implementation of the Third National Plan on the Elimination of Child Labour and the Protection of Young Workers, which has five focuses (action and research; public policies, alteration of cultural patterns, legislation, and direct intervention) designed to help to prevent and eliminate the worst forms of child labour, in particular the commercial sexual exploitation of children, domestic child labour, child labour in the street, in marketplaces and in small-scale mining, and the recruitment of children and young people by armed groups operating outside the law.

314. Against this background, the principal strategy is to eliminate child labour and devise and introduce incentives for adult employment.

*National Policy on the Prevention and Elimination of Child Labour and the Protection of Young Workers*

315. An effort has been made to establish all the mechanisms for the protection of persons over 16 years of age and for their acquisition of vocational skills set out in Act 789 of 2002 in terms of the modalities of apprenticeship contracts and training for work. Furthermore, under the Sexual and Reproductive Health Policy emphasis has been given to the priority of reducing adolescent pregnancy rates in view of the impact of this problem on public health and the labour market.

316. In addition, information and counselling arrangements were introduced for young people to give them access to training and instruction, technical assistance, micro-credit, and support for business initiatives.

317. In accordance with the guidelines contained the national policies on children and the protection of the labour of vulnerable groups of workers and with the international commitments acquired by the signature and deposition of the instruments of ratification of ILO Convention No. 182 concerning the Prohibition and Immediate Action to Eliminate the Worst Forms of Child Labour, the Ministry of Social Protection formulated annual operational plans within the framework of the Third National Plan on the Elimination of Child Labour and the Protection of Young Workers 2003-2006; the following achievements were recorded in 2005:

(a) Project: module on the monitoring of indicators of child labour in the permanent household survey (2005). Agreement between the Ministry of Social Protection, ICBF and DANE;

(b) Technical cooperation between the Ministry of Social Protection and ILO-IPEC: module on the entry and retrieval of information concerning children identified and receiving attention as being exposed to the risk of child labour with a view to its incorporation in the MSP information system. This tool enables the bodies carrying out the programmes and action plans to bring together in a single source information on their plans and activities and on each of the children benefiting under the ongoing programmes, both those of the National Government and the regional and local ones, funded by public resources, international cooperation or the private sector;

(c) Technical cooperation between the Ministry of Social Protection and ILO-IPEC: manual on descriptive studies of child labour. The production of this manual was prompted by the need to provide guidance for the descriptive studies of child labour in Colombia and to encourage and upgrade the conduct of such studies by various researchers interested in the subject. The compilation and analysis of the information contained in the descriptions proposed in Colombia and in other countries was used to define the variables which are most commonly found and can provide most information in the quest to comprehend child labour, it being understood that the reality always exceeds the possibilities of data collection;

(d) Project on the study of child labour in Colombia: “How, why and what to do?”. Technical cooperation between the United States Department of Labour (Colombia Productiva/FEDESSARROLLO) and the Ministry of Social Protection. This study analyzes the characteristics of the child labour which appears to be a constant feature of Colombia’s labour market, in which significant numbers of under-18s are found performing most the marginal informal jobs instead of attending school;

(e) Adoption of a memorandum of understanding between the Colombian Government and ILO. The purpose of this instrument is to seek to improve the mechanisms of intervention and access to resources for the implementation of the programmes and projects in this area;

(f) Issuance of Resolution 004448 of 2005 on work which under-18s are prohibited from performing. This legal instrument, which was issued by the Ministry of Social Protection on 2 December 2005, updates and brings into line with recent developments in this area the list of work activities and situations prohibited to under-18s by the provisions of article 245, paragraph 23, of Decree 2737 of 1989 (the Children’s Code in force at that time);

(g) Inter-institutional technical cooperation activities in the context of the implementation of the Third National Plan: (i) MSP technical assistance for the project on the prevention and elimination of child labour in Colombia’s small-scale mining industry (“*Peptima*”) executed by INGEOMINAS and the National Royalties Fund; (ii) technical assistance for the project on the elimination of domestic child labour; (iii) technical support for ICBF in the application of Act 679/01 and other national and international legal instruments on child abuse and the commercial sexual exploitation of children; (iv) technical support for the Inter-institutional Committee to Combat Trafficking in Persons; (v) support and technical assistance for the project on preventing the recruitment of children by armed groups operating outside the law – one of the worst forms of child labour;

(h) Cooperation under the World Vision International project on eliminating child labour through education: (i) project on the prevention of child labour and protection of young workers at the national level; (ii) project on the elimination of the worst forms of child labour and alteration of the cultural traditions which sanction it; (iii) request to ILO for a technical cooperation programme of limited duration to provide support and assistance in implementing a public policy of eliminating child labour, with emphasis on its worst forms (Office of the Vice-President, MSP and ICBF),

318. The most significant progress made with the departmental plans for preventing, discouraging and gradually eliminating child labour may be summed up as follows:

- 96.8 per cent of the departments already have a departmental agency competent to promote and lead the efforts to tackle the problem at the regional level;
- 71 per cent of these agencies were created less than five years ago;
- 78.1 per cent of the departments have begun to address the problem of child labour, and 72 per cent of these departments have included the subject specifically in the departmental development plan;
- 76 per cent are formulating official programmes and projects on the prevention and elimination of child labour.

319. All these developments testify to the gradual and increasing acknowledgement that child labour and its worst forms is an area of children's social policy requiring urgent action.

320. Where the commercial sexual exploitation of children is concerned, it should be noted that 28 per cent of the departments have included this topic in the departmental development plan and that 31 per cent of these departments have formulated programmes and projects, and 13 per cent have included the topic in the municipal development plan, in which programmes and projects have been formulated in 11 per cent of cases.

321. The Ministry of Social Protection has furnished support and technical assistance in the formulation and implementation of the integrated projects and operational plans.

<b>YOUNG PEOPLE IN ACTION, 2000-2005</b>				
<b>Contracts</b>				<b>Resources (millions)</b>
<b>Invitation</b>	<b>ECAPS*</b>	<b>Courses</b>	<b>Young people</b>	
<b>First</b>	75	276	14,700	24,790
<b>Second</b>	149	547	34,183	65,460
<b>Third</b>	89	325	19,151	36,121
<b>Fourth</b>	118	951	26,615	51,248
<b>Total</b>	431	2,099	94,649	177,619

\* Christian Peace Action Groups.

*Source:* Presidential Agency for Social Action.

### **Protection of working women**

322. The Ministry of Social Protection committed itself to invest the roles and values which stereotype the social recognition of women workers, especially the less qualified ones, with a new and positive meaning, with priority assigned to female domestic workers, in an effort to eliminate the employment of minors and guarantee to all children the labour rights accorded to adults.

323. To this end it emphasized the importance and the necessity of employing more female labour on equal terms with men in most of the jobs where this is feasible and thus eliminating the existing discriminatory labour and remuneration practices in connection with pregnancy, maternity and breastfeeding.

324. It also devised information and counselling arrangements for women workers to facilitate their access to training and instruction, technical assistance, micro-credit, and support for entrepreneurial, family business and small production unit initiatives.

325. As a group, women workers are regarded as extremely vulnerable, for in addition to suffering discrimination, exploitation and lack of recognition they are exposed to a number of occupational hazards owing to the biological and social characteristics of their reproductive function, as well as having to work a double or triple working day.

326. Colombia introduced promotion and prevention measures aimed at female rural agricultural workers in order to comply with its gender and equity commitments and to help to improve the health and quality of life of this population group by reducing the incidence of occupational accidents and industrial diseases.

327. These measures have been concentrated on the poorest rural women workers in the informal sector of the economy who have unsatisfied basic needs, are not covered by social security, are exposed to unsuitable working conditions, and find themselves in precarious circumstances where technology and the organization of labour are concerned.

328. In 2005 measures targeted on 1,000 rural women workers were implemented in the departments of Boyacá, Cauca, Cundinamarca, Magdalena, Meta, Nariño, Quindío, Santander, Tolima and Valle del Cauca. These measures had a big impact at the local level, as is clear from the repeated requests for them to be replicated in other parts of the country. The process was continued in 2006, when measures were implemented in the departments of Antioquia, Bolívar, Caldas, Caquetá, Casanare, Cesar, Córdoba, Huila, Norte de Santander, and Risaralda.

#### *Protection of rural workers*

329. Work has proceeded under the programmes for the protection of rural workers on the elimination of child labour and the protection of young workers, in areas in which these vulnerable groups are exposed to the risk of the worst forms of child labour, by means of measures to raise the awareness of the need to guarantee them their fundamental rights at work.

330. Promotion and prevention measures aimed at vulnerable groups of workers were carried out under agreements between governors' offices and the Ministry of Social Protection; these measures were financed jointly by the Occupational Risks Fund and local authorities. The agreements accorded priority to rural measures for agricultural workers, especially those exposed to pesticides. Measures were carried out in the departments of Boyacá, Bolívar, Casanare, Córdoba, Cundinamarca, Huila, Nariño, Putamayo, Risaralda, Santander and Tolima.

#### *Promotion of the productivity of alternative models of business activity, production projects, associative arrangements, and entrepreneurship for vulnerable groups of workers*

331. Productivity and competitiveness are qualities in increasing demand in the economic and social activities of all national and international public and private entities as requirements for securing a stable market position, but the evaluation and monitoring of their social impact constitute a challenge.



332. The National Government had to take up the challenge of boosting productivity; to this end it drew on the experience accumulated since the 1990s. The process of assimilating this acquired experience began with the Government's involvement in the existing arrangements, such as the Specialized Labour Network, in which the efforts and commitments of public and private institutions come together with a view to devising means of promoting a culture of productivity and competitiveness in the country's economic and production system.

333. The National Government also supported the process of restructuring the network of regional productivity and competitiveness centres, which has nine regional units and a coordination unit – the National Productivity Centre.

334. In this connection the Ministry of Social Protection attended events held during "Productivity Week" in the cities of Medellín, Cali, Baranquilla and Bogotá: tripartite forums on the analysis of productivity from the standpoints of trade unions, employers and the Government.

335. Productivity transcends the formal output of a simple product of the relationship between two variables; it is social in nature and it implies a collective responsibility and commitment of the social actors in terms of their roles as employers, workers, Government, academics and other manifestations of social organization. In this light, utilization of the departmental subcommittees on the coordination of wages and employment policy is regarded as a suitable means of promoting and boosting productivity; through these subcommittees it is possible to identify the problems and coordinate measures and strategies to provide an effective response in the light of each region's needs and possibilities.

336. The productivity promotion project is linked strategically to the measures for the protection of vulnerable groups of workers (children, young people, women, rural workers, etc.) and for promoting the social dialogue and the fundamental rights at work - measures designed to create a culture of productivity which will be reflected in improved living conditions and access to social security and in a wider range of production options.

337. In this integrated policy context the Government formulated a project on investment in the National Bank for Investment Programmes and Projects entitled "Design of productivity systems and systems for the promotion of the fundamental rights at work of vulnerable groups of workers by means of prevention, targeting and monitoring measures at the national level"; a start was made under this project on ad hoc measures of support and technical assistance for business initiative proposals for vulnerable groups.

338. Efforts have also been made under this same project to promote self-sustainable business initiatives within the context of an economy beneficial to everyone.

**Indicators**<sup>71</sup>

339. In the period between the first quarters of 2001 and 2006 the national EAP<sup>72</sup> and PWA<sup>73</sup> totals increased to 1,027,100 and 3,472,500 respectively. However, as lower PWA growth was recorded in the first quarter of 2004, the total TPR<sup>74</sup> declined from 63 to 59.7 per cent. Although the participation rate fell in this period for both sexes, it remained in step, by and large, with the decline in the male TPR from 76.9 per cent in the first quarter of 2001 to 72.7 per cent in the first quarter of 2006, whereas the female TPR declined from 50.3 to 48 per cent.

340. In the last year of the period (first quarter of 2005 to first quarter of 2006) the national participation rate fell by 0.1 percentage points, whereas in the period 2004-2005 it had fallen by two points.

341. In the period between the first quarters of 2002 and 2006 the absolute number of employed persons in the total national population recorded an average quarterly growth of 401,300. This trend has been intensifying, with the growth rate speeding up in 2006. In fact, whereas 124,400 jobs were created in every quarter in the period between the first quarters of 2004 and 2005, the increase was 506,700 in the period between the first quarters of 2005 and 2006; in other words, the average increased by a factor of four.

342. In the first quarter of 2006 total employment rose by 557,000, whereas the increase in the first quarter of 2005 had been 178,300. Thus, 379,000 more jobs were created in the first quarter of 2006 than in the same quarter of the preceding year.

343. The increase in the national employment rate was due to the good performance of the urban jobs market. It should be kept in mind that in the period between the first quarters of 2004 and 2005 the rise in the national employment rate had been driven primarily by increased employment in urban areas where, averaged for the whole period, 162,000 jobs were created; however, this increase was offset by the loss, averaged for the whole period, of 37,500 rural jobs. In the period between the first quarters of 2005 and 2006 the average growth rate of urban employment continued to play an important role, for it recorded an average growth of 471,400 new jobs, while the average increase in rural areas was 35,200.

344. In step with the job creation rate, the national employment rate rose by 0.6 percentage points from 51.6 per cent in the first quarter of 2005 to 52.2 per cent in the first quarter of 2006. The labour market figures and indicators show that the upturn in employment in the first quarter of 2006 occurred as part of a process in which the economic system was showing a reduced

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<sup>71</sup> DANE. *Balance del Mercado Laboral en Colombia Segundo Semestre 2006* (Labour market balance in Colombia, second quarter 2006), Bogotá, 2006, prepared by Francisco J. Pérez Torres.

<sup>72</sup> Economically active population.

<sup>73</sup> Population of working age.

<sup>74</sup> Total participation rate (TPR = EAP/PWA).

demand for underemployed workers and an increased demand for workers who were “not underemployed”.

*Urban and rural rates, by sex*

345. In the period between the first quarters of 2001 and 2004 the national and urban TPR increased, while the rural TPR remained constant, but the decline in participation from the second quarter of 2004 shifted these trends to a downward direction. Except in rural areas, the first quarter of the current year recorded an upward trend, while the national trend rose by 0.1 percentage points from 59.6 per cent in the first quarter of 2005 to 59.7 per cent in the same quarter of 2006; similarly, the urban rate rose by 0.5 points and the rural TPR fell by 1 point from 56.7 to 55.7 per cent.

346. In gender terms, the national male TPR moved in the opposite direction to the female TPR. The male rate fell by 0.4 points while the female rate rose by 0.6 points. Where the long-term trends are concerned, the male and female rates are both declining. In the case of municipal chief towns the TPR fell for males by 0.2 points and rose for females by 1 point, indicating a downward trend in the long-term rates for both categories (first quarter of 2001 to first quarter of 2006). In 2006 rural areas recorded a drop in their TPR, but disaggregation of the figures by sex shows that the female rate fell by 0.9 points from 36.1 to 35.2 per cent while the male rate fell by 1 point from 75.9 to 74.9 per cent.

347. Unlike the rural TPR, which declined, the national and urban rates showed an upward curve between the first quarters of 2003 and 2006. It should be pointed out that owing to the decline in participation this performance by the national employment rate was less marked between the first quarters of 2004 and 2005, whereas in the first quarter of 2006, notwithstanding the trend, this indicator recovered by 0.6 points in comparison with the same quarter of the preceding year, evidence of an increased demand for labour. Both sexes enjoyed an increase in their employment rates; however, the absolute increase in national employment was due more to the rise in the female rate.

*Child labour*

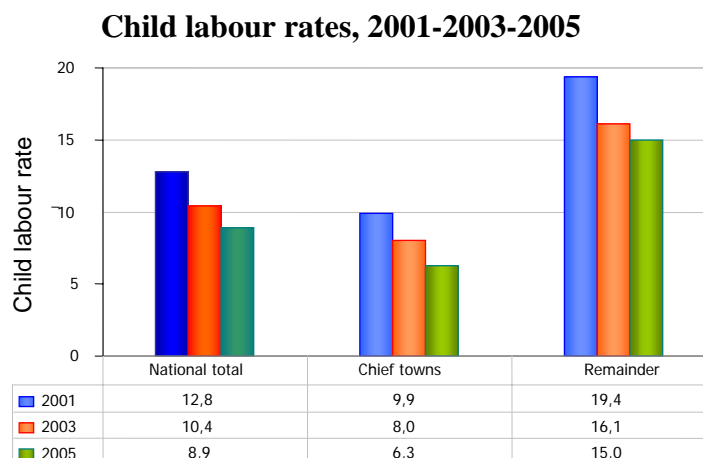
348. In compliance with the mandate contained in ILO Convention 182 and in order to address the problems confronting Colombia in this area, priority was assigned to the prevention and elimination of the worst forms child labour, in particular the commercial sexual exploitation of children, child domestic labour, child labour in the street, small-scale mining and the market place, and the recruitment of children by armed groups operating outside the law.

349. The national child labour rate per 100,000 children aged 5-17 declined in recent years from 12.8 per in 2001 to 10.4 in 2003 and 8.9 in 2005;<sup>75</sup> in 2005 it was 11.6 for boys and 6 for girls. The participation of girls increased by 6.4 per cent over 2001. A break-down by age group for 2005 produces a rate of 1.4 for boys aged five to nine, 4.9 for the 10-11 age group, 11.2 for the 12-14 age group, and 22.9 for boys aged 15 to 17. A total of 86.9 per cent of these boys were

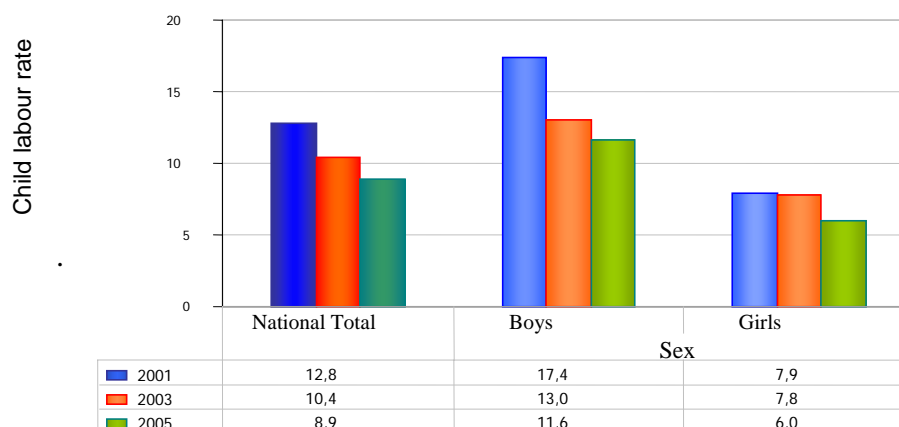
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<sup>75</sup> DANE. Child labour module 2001-2003-2005.

attending school, an increase of 1.5 per cent over the 2001 figure. The Pacific region had the highest rate (16.9) in 2003.



Source: DANE



Source: DANE

## B. Right to just and favourable conditions of work (art. 7)

### Legislative framework

350. In addition to the information contained in the third periodic report it is important to stress that, according to the general principles of labour, equality of opportunities means the right of all members of the human race to the same legal guarantees. This is what article 53 of the Constitution means when it states that equality also obtains when workers receive a disposable living wage proportional to the quantity and quality of the work performed; this principle is developed in article 143 of the Substantive Labour Code.

351. Similarly, in accordance with the regulations contained in article 13 of the Substantive Labour Code, which establishes the principle of a core minimum of workers' rights and guarantees, the National Government signalled arrangements for the effective application of this principle and the prohibition of any clause impairing or failing to acknowledge the core minimum.

352. The following legislative developments took place, in accordance with the Constitution, during the period under review.

353. Act 789 of 2002. This Act authorizes the parties to agree that the 48-hour working week may be made up of flexible daily working hours distributed over a maximum of six days in the week with one mandatory rest day, which may be Sunday.

354. Act 990 of 2005. This Act amended article 5 (c) of Act 278 of 1996. It regulates the membership and procedures of the Standing Committee on the Coordination of Wages and Employment Policy.<sup>76</sup>

### **Developments in the jurisprudence**

355. Decision C-1433/00. This decision established the scope of what the real and effective increase in remuneration should be in the light of the inflation index and the actual social and economic factors affecting the determination of the increase and, in particular, the need to guarantee the subsistence minimum and proportionality to the value of the work performed.

356. Decision C-1064/01. This decision established criteria for determining the minimum legal wage, the right to fair remuneration and the maintenance of purchasing power.

357. Decision C-535/02. This decision declared constitutional Act 704 of 2001 approving ILO Convention No. 182 on the worst forms of child labour.

### **Administrative developments**

358. As noted earlier, for the purposes of the negotiation of remuneration and employment policies the tripartite Standing Committee (representatives of the Government, employers and workers) is responsible inter alia for fostering good labour relations in order to secure justice in a spirit of economic coordination and social balance, for establishing remuneration policy by

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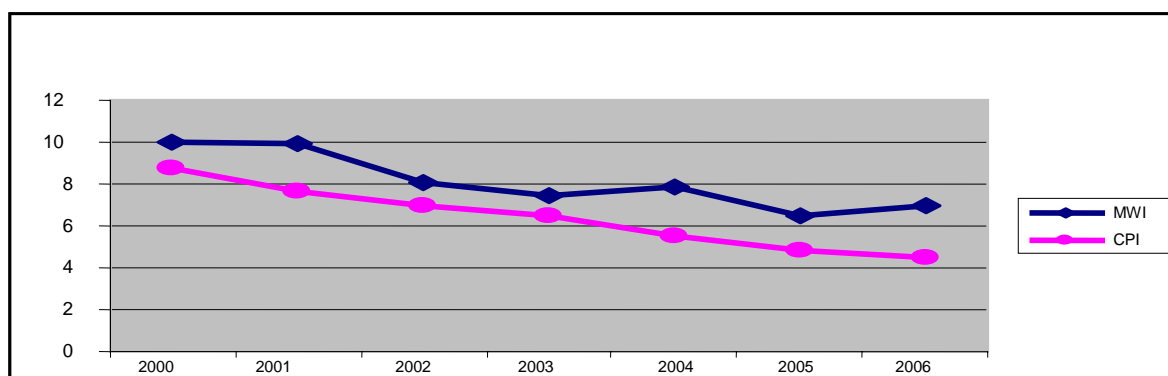
<sup>76</sup> This Committee's membership comprises: (1) three representatives with their personal alternates appointed and removed by the country's most representative trade-union confederations, which are determined on the basis of the number of members which each confederation has at the time of the election, according to the census taken for this purpose by the Ministry of Social Protection; (2) one representative of pensioners with his or her alternate; this seat rotates every four years between the two most representative pensioners' confederations; and (3) one representative of the unemployed; this seat rotates every four years between the country's two most representative associations of unemployed persons, determined on the basis of the number of members which each one of them has at the time of the election, according to the census taken for this purpose by the Ministry of Social Protection.

consensus, taking into account the constitutional principles governing this matter, and for fixing by consensus the general minimum wage, bearing in mind that it must provide workers and their families with a decent quality of life.

### Indicators

359. The efforts to combat inflation made by Colombia's Central Bank since 1991 ensured that from 2000 this indicator has stood at single-figure levels. This circumstance and the application of the rule imposed by the Constitutional Court in Decision C-815 of 1999<sup>77</sup> have had a positive impact on the recovery of real average wages.<sup>78</sup>

**Minimum wage increases (MWI) and consumer prices index (CPI)**



**MINIMUM WAGE INCREASES IN FIGURES**

YEAR	2000	2001	2002	2003	2004	2005	2006
MWI <sup>79</sup>	10	9.9	8,04	7.44	7.83	6.5	6.94
MWV <sup>80</sup>	\$260.100	\$286.000	\$309.000	\$332.000	\$358.000	\$381.500	\$408.000
CPI <sup>81</sup>	8.75	7.65	6.99	6.49	5.5	4.85	4.48

Source: DANE and MSP.

<sup>77</sup> This rule states that the minimum wage must not be adjusted by less than the past inflation rate; this guarantees an annual increase.

<sup>78</sup> *Política Monetaria y la Corte Constitucional: el caso del salario mínimo* (Monetary Policy and the Constitutional Court: the case of the minimum wage), Marc Hofstetter, Economics Faculty and CEDE, University of the Andes, 2006.

(<sup>79</sup>) Minimum wage increase.

(<sup>80</sup>) Minimum wage value.

(<sup>81</sup>) Consumer prices index.

### **C. Freedom of association and right to strike (art. 8)**

#### **Legislative framework**

360. The freedom of association is embodied in article 39<sup>82</sup> of the Constitution and the right to strike in article 56;<sup>83</sup> the right to strike is guaranteed except in respect of the essential public services determined by the Legislature, such as public utilities (Acts 142 and 143 of 1994), the administration of justice (Act 270 of 1996) and banking (Organic Statute of the Financial System and Act 31 of 1992 on the Central Bank), etc.

361. These rights are addressed principally in articles 12 and 353 of the Substantive Labour Code and in Acts 200 of 1995, 411 of 1997, 443 of 1998 and 996 of 2005. In addition, article 200 of the Criminal Code guarantees the exercise of these rights in the context of the criminal law. Attention is drawn to the following legislative developments in this area:

362. Act 599 of 2000 (Criminal Code). Article 200 regulates the criminal offence of violation of the freedoms of assembly and association.<sup>84</sup>

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<sup>82</sup> Article 39 of the Constitution: “Workers and employers have the right to establish unions or associations, without intervention by the State. The legal status of such unions and associations shall be recognized by the simple registration of the act of constitution.

The structure and internal procedures of trade unions and voluntary and professional associations shall be governed by the judicial system and the principles of democracy.

Legal personality may be cancelled or suspended only by judicial means.

Representatives of trade unions shall be accorded the privileges and other guarantees necessary for the performance of their functions.

The members of the civil and military forces of law and order do not enjoy the freedom of association.”

<sup>83</sup> Article 56 of the Constitution: “The right to strike is guaranteed except for the public services specified by the Legislature.

This right shall be regulated by law.

A standing committee comprising the Government and representatives of employers and workers shall promote good labour relations, contribute to the solution of collective labour disputes, and coordinate wages and employment policy. The law shall regulate the membership and procedures of this committee.”

<sup>84</sup> “Anyone who obstructs or disrupts a lawful meeting or the exercise of the rights accorded by the labour laws or takes reprisals against a lawful strike, meeting or assembly shall incur a fine.”

363. Decree 657 of 2006 (Criminal Code). This decree regulates the trade union contract, under which members workers' trade unions have the possibility to exercise administrative functions and thus take a greater part in the management of enterprises.

### **Developments in the jurisprudence**

364. Decision T-742/03. In connection with actions for *tutela* the Constitutional Court addressed the principle of non-discrimination in labour matters, specifically with regard to the formation of trade unions, and reiterated its jurisprudence in this area.

### **Administrative developments**

#### *Protection Programme*

365. Major resources have been allocated under the Protection Programme for the protection of trade union leaders. In 2005 alone the Programme had a budget for the whole country of 48,223,300,000 pesos, 40.09 per cent of which was assigned to trade unions for the protection of 1,493 leaders, and in 2006 this budget amounted to 50,393,400,000 pesos, 48.8 per cent of which was assigned to trade unions for the protection of 1,263 leaders.<sup>85</sup>

366. The Protection Programme has an Evaluation Committee comprising a representative from each of the groups covered by the Programme, representatives of the Vice-President of the Republic, the Administrative Department for Security, the National Police, the Deputy Minister of the Interior and the Office of the Attorney-General, and the Director for Human Rights of the Ministry of the Interior and Justice. This Committee has a number of functions: improvement of the security of the beneficiaries of the protection programmes, the arrangement of escorts and bodyguards, the conduct of preventive security courses, and the production of a proposal for the creation of an emergency services centre.

#### *Reduction of the violence*

367. Progress has been made with regard to the protection of the lives and physical integrity of trade unionists: there was a major decline in murders in this sector of the population from 121 in 2002 to 25 in 2006.<sup>86</sup> However, the National Government has pointed out in this connection that the target should be zero murders of trade unionists.

368. Attention is drawn in this same connection to the formulation and implementation of the Plan of Action for the Protection and Promotion of Workers' Rights, under which discussion and

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<sup>85</sup> The effort made by the State to protect trade union leaders and move investigations forward was recognized by ILO in its analysis of the case of Colombia in report 340/2006 of the Committee on Freedom of Association, at the 295<sup>th</sup> meeting of the Governing Body in March 2006.

<sup>86</sup> Human Rights and International Humanitarian Law Observatory, Presidential Programme on Human Rights and International Human Rights Law, Office of the Vice-President of the Republic.



social détente meetings chaired by the Vice-President of the Republic and the Minister for Social Protection have been held with various figures from the world of labour in more than 20 regions of the country.

#### *Tripartite social dialogue*

369. As a tripartite forum, the Standing Committee on the Coordination of Wages and Employment Policy has provided opportunities for the discussion of matters of great importance, such as employment, informal work, child labour, collective bargaining, etc., and for the building of consensus on the amount of the minimum legal wage in 2003 and 2005.

[368.] It also set up 23 departmental subcommittees on the coordination of wages and employment policy as forums for regional dialogue and consensus-building on the policies in question; these subcommittees have been working according to an agreed plan of action and with the assistance of a technical secretariat.

370. The project on the dissemination and promotion of fundamental labour rights has produced diagnoses of departmental problems, under inter-administration agreements with the National University of Colombia in a total amount of 685 million pesos, and training has been provided for the members of the subcommittees on the following topics: social protection, the rule of law, social dialogue, social capital, quality of life, public utility, social management, and basic rights.

#### *Participatory trade-unionism*<sup>87</sup>

371. By Decree 657 of 2006, regulating articles 482, 483 and 484 of the Substantive Labour Code, the National Government established the possibility that trade union contracts might authorize activities and services previously performed or provided by private individuals or third parties to be placed in the hands of the enterprise's workers. This means that trade unions, while using trade union contracts to increase their members' earnings, strengthen their organization and create more jobs, may also start to move away from a confrontational towards a participatory trade-unionism, under which workers and trade unions have the opportunity of involvement in business management.

#### *Worker training*

372. A training programme for trade union leaders was carried out with a view to expanding the social dialogue in the regions: from 2002 through the first six months of 2006, 27 training contracts were executed, not only for trade union leaders but also for members of unions affiliated to the CTC, CGT and CUT and of unions belonging to various other organizations, on such subjects as: the ILO conventions; strategic planning; training programmes on collective bargaining, social dialogue, new forms of trade union organization, free trade treaties, the labour rights of women, negotiation and dispute settlement, labour reforms, civic training, social leadership, etc.

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<sup>87</sup> Ministry of Social Protection, Bulletin 068.

373. Expenditure on the training of trade union leaders totalled 1,599,436,000 pesos, not counting the 2006 budget of 469,899,000 pesos, which would bring the resources devoted to this undertaking up to a total of 2,069,335,000 pesos.

374. The Ministry of Social Protection also organized 24 forums to disseminate and promote the fundamental rights at work, in Bogotá, Cali, Medellín, Pereira, Cartagena, Baranquilla, Santa Marta, Neiva, Tunja, Ibagué, Valledupar, Popayán, Cúcuta, Riohacha, Bucaramanga, Manizales, Sincelejo, Armenia, Monterá, Leticia, Villavicencio, Florencia, Quibdó, and San Andrés Isla, which were attended by 2,067 persons, including employers, workers, pensioners, government representatives and academics. Representatives of the ILO Subregional Office for the Andean Countries, which has its headquarters in Lima, Peru, also took part in these forums.

#### *Combating impunity*

375. With cooperation from the Government of the Netherlands and the technical assistance of the Colombian office of the United Nations High Commissioner for Human Rights, a specific public policy was formulated to combat impunity in cases of violation of human rights and infringement of international humanitarian law, including cases involving trade-unionists. This policy was adopted by the National Economic and Social Policy Council (CONPES),<sup>88</sup> which approved resources totalling 40 billion pesos (US\$ 18 million) to reinforce the capacity to investigate and prosecute and to improve the protection of victims and witnesses in such cases.

376. With a view to finding solutions to the problem of impunity, the investigation of murders of trade-unionists was transferred to the Human Rights Unit of the Office of the Public Prosecutor, and a special subunit was created to deal exclusively with the investigation of crimes committed against trade-unionists.

377. In addition, the Ministry of Social Protection, the Office of the Public Prosecutor and ILO agreed to conduct seminars for the investigation and prosecution services which handle 60 per cent of the investigations into murders of trade union members and leaders, with a view to boosting their personnel' awareness of the international labour legislation, the Declaration on Fundamental Principles and Rights at Work and the ILO oversight machinery.

378. The 100 criminal and disciplinary investigations approved by the ad hoc committee responsible for advancing investigations of violations of human rights included cases involving trade union leaders serving on national and regional boards.

#### *Participation in national democracy*

379. It should be noted that in the 2003 local, regional and parliamentary elections, in a context of electoral guarantees and freedoms, trade union members won such posts as: mayor of the capital of Colombia, the third most important post subject to popular ballot, the governorships of

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<sup>88</sup> CONPES 3411 of 6 March 2006: "Policy to combat impunity in cases of violation of human rights and infringement of international humanitarian law by reinforcing the capacity of the Colombian State to investigate, prosecute and punish". (In Spanish only)

several departments, including the governorship of the country's third largest department,<sup>89</sup> and the mayoralties of other chief towns, in addition to the seven seats in the Senate of the Republic won in 2002.

*Tripartite agreement on the freedom of association and democracy of June 2006*

380. In 2005 the Colombian Government issued invitations to visit Colombia to the Chairman of the ILO Committee on Freedom of Association and to the workers' and employers' vice-chairmen of the Committee on Application of Standards of the ILO General Conference to enable them to examine at first hand the situation with regard to the freedoms of association and assembly and to collective bargaining in Colombia.

381. As a result of the visit and at the invitation of the Colombian Government, a *Tripartite Agreement on Freedom of Association and Democracy* was signed in June 2006 at the ILO General Conference in Geneva, Switzerland, by representatives of the Colombian trade unions and employers and the Government; the commitments contained in this document included the establishment of a permanent ILO representation in Colombia.

382. It was further agreed that the National Government would allocated resources totalling 4.5 billion pesos over two years for the implementation of a *technical assistance project on the promotion of decent work at the national level*. These resources were included in the General Budget of the Nation for 2007.

383. This project has four subprojects: *Strengthening of the social dialogue, the fundamental rights at work and the inspection, oversight and monitoring of work in Colombia; Technical business training for 2,000 displaced young people at the national level; Implementation of national jobs-creation programmes for poor women; and Training for the development and strengthening of the capacity to promote local economic development (PRODEL) at the national level*.

384. The ILO representation will have a duration of two years, which may be extended for a further two years. It will be responsible for priority aspects of technical cooperation to promote decent work and the protection of the fundamental rights of workers. The ILO Governing Body appointed Mr. Marcelo Castro-Fox as the ILO permanent representative in Colombia.

385. It was also decided that, under an agreement between the Office of the President of the Republic and the Office of the Public Prosecutor, 4,016 million pesos (about US\$ 1.7 million) would be appropriated for the establishment of a special subunit to accelerate the proceedings in cases involving offences against the life or liberty of trade union leaders or workers.

386. A number of technical tripartite meetings have been held since November 2006 to study the four subprojects mentioned above. On 25 April 2007 a memorandum of understanding was signed by ILO and Colombia in which it was agreed that ILO should be the administrator of the resources.

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<sup>89</sup> Valle del Cauca.

387. The ILO office has been operating in Colombia since November 2006. The presence of the ILO representative, Mr. Marcelo Castro-Fox, has been decisive in facilitating tripartite agreement on the details of the execution of the four subprojects and in promoting the reactivation of the Special Committee on the Handling of Cases referred to ILO (CETCOIT).

388. CETCOIT was set up in 2000 under an agreement reached in the Standing Committee on the Coordination of Wages and Employment Policy. It is responsible for dealing with disputes relating to matters regulated by the ILO freedom of association conventions ratified by Colombia.

389. This Standing Committee comprises three representatives of each sector (employers, trade unions and Government); it meets twice a month to pursue the quest for tripartite solutions.

### Indicators

390. There are 6,078 trade union organizations entered in Colombia's registry of trade unions. The following table indicates the number of trade union organizations by departmental registry office and by branch of economic activity.

391. It will be seen from the table that the number of trade union organizations has declined as a result of mergers (by independent decision of the organizations concerned), cancellation of legal personality (in most cases as a result of a fall in membership to below the minimum number required by law; the decisions are taken by the ordinary courts, which have competence in this matter), and the disbanding of other organizations which appear inactive.

<b>MINISTRY OF SOCIAL PROTECTION</b>						
<b>Special trade union registration unit</b>						
<b>National trade union organizations</b>						
<b>DEPARTMENT</b>	<b>ENTERPRISE</b>	<b>INDUSTRY</b>	<b>OCCUPATIONAL</b>	<b>MISCELLANEOUS</b>	<b>EMPLOYERS' ASSOCIATIONS</b>	<b>TOTAL</b>
AMAZONAS	4	0	3	1	0	8
ANTIOQUIA	360	108	261	13	3	745
ARAUCA	8	1	14	1	0	24
ATLÁNTICO	202	45	246	0	2	495
BOLIVAR	94	30	229	1	1	355
BOYACÁ	80	21	134	5	1	241
CALDAS	64	11	132	20	2	229
CAQUETÁ	14	3	28	2	0	47
CASANARE	7	0	5	0	0	12
CAUCA	68	6	94	3	0	171
CESAR	24	9	66	4	1	104
CÓRDOBA	25	6	86	1	1	119
CHOCO	19	4	21	1	1	46
CUNDINAMARCA	1017	209	724	8	17	1975
GUAÍNIA	3	0	1	0	0	4
GUAJIRA	15	2	42	0	0	59
GUAVIARE	0	0	8	0	0	8
HUILA	32	8	95	11	1	147
MAGDALENA	76	14	134	2	0	226

MINISTRY OF SOCIAL PROTECTION						
Special trade union registration unit						
National trade union organizations						
DEPARTMENT	ENTERPRISE	INDUSTRY	OCCUPATIONAL	MISCELLANEOUS	EMPLOYERS' ASSOCIATIONS	TOTAL
META	46	17	71	2	2	138
NARIÑO	49	18	223	1	0	291
NORTE DE SANTAANDER.	68	23	102	1	1	195
PUTUMAYO	9	5	17	3	0	34
QUINDÍO	42	12	102	6	10	172
RISARALDA	53	13	122	9	6	203
SAN ANDRES	8	3	7	0	0	18
SANTANDER	121	45	195	15	1	377
SUCRE	18	4	92	0	0	114
TOLIMA	77	26	168	9	1	281
VALLE	302	59	276	8	14	659
VAUPES	1	1	2	1	0	5
VICHADA	2	0	6	0	0	8
TOTALES	2908	703	3706	128	65	7510
	NEW REGISTRATIONS				KARDEX ORGANIZATIONS	7510
TERMINATED BY MERGER		250			AUGUST 2004 TO OCTOBER 2005	90
TERMINATED BY COURT DECISION		602			SUB TOTAL	7600
INACTIVE.		670			(-) NOVEDADES	1522
<b>TOTAL</b>		<b>1522</b>			<b>TOTAL</b>	<b>6078</b>

Source: Ministry of Social Protection.

392. This table shows registered national trade unions by branch of activity; it is clear that most of the organizations are occupational trade unions, followed by enterprise trade unions and then by industry trade unions.

393. Where registration with the Ministry of Social Protection is concerned, in 2005 its 32 departmental offices and two special offices registered 113 trade union organizations and approved 66 statutes and 86 amended statutes.

394. The following table shows the registration of trade union organizations in the period 2002-2005.

REGISTRATION OF TRADE UNION ORGANIZATIONS				
Variable	2002	2003	2004	2005
Registration of trade union organizations	96	96	90	113

Source: Ministry of Social Protection.

395. The creation of trade union organizations has increased since 2001 as a result of the declaration of the unconstitutionality of article 357, paragraph 1, of the Substantive Labour Code

in decision C-567 of 17 May 2000, which removed the ban on the creation of parallel trade unions.

396. The classification of trade union organizations is addressed in article 356 of the Substantive Labour Code; all persons have the right to form trade unions, except for the members of the civil and military forces of law and order, and all persons except for civil servants have the right to engage in collective bargaining in accordance with article 416 of the Code.

#### **D. Right to social security (art. 9)**

##### **Legislative framework**

397. Article 48 of the Constitution<sup>90</sup> provides that social security is a mandatory public service coordinated and monitored by the State and that it is an inalienable right accorded to all inhabitants. These provisions are developed primarily in Act 100 of 1993 and its regulations and amendments, to which ample reference is made in Colombia's third and fourth periodic reports to the Committee.

398. Legislative Act 001 of 2005, amending article 48 of the Constitution, sets out parameters relating to the financial sustainability of the system, acquired rights, criteria for the award of pensions, etc.<sup>91</sup>

399. The following legislative developments have taken place in this area, in accordance with the Constitution:

400. Act 691 of 2001. This Act regulates the participation of ethnic groups in Colombia's General Health and Social Security System.

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<sup>90</sup> Article 48: "Social security is a mandatory public service which is provided under the direction, coordination and oversight of the State, in the light of the principles of efficiency, universality and solidarity, on the terms established by law.

All inhabitants are accorded the inalienable right to social security.

The State, with the participation of private individuals, shall gradually expand the social security coverage, which shall include the provision of services in the form prescribe by law.

Social security services may be provided by private or public entities, in accordance with the law.

The resources of the social security institutions may not be allocated or used other than for the purposes of social security.

The law shall determine the means for ensuring that the payments made to pensioners retain their purchasing power.

<sup>91</sup> No text in Spanish.

401. Act 700 of 2001. This Act contains, among other provisions, measures for improving the living standards of pensioners.
402. Act 715 of 2001. This Act contains basic regulations on resources and areas of competence in conformity with articles 151, 288, 356 and 357 (Legislative Act 01 of 2001) of the Constitution and other provisions on the organization of the provision of education and health services, etc.
403. Act 755 of 2002. This Act amended article 236 of the Substantive Labour Code (María Act). It regulates paid paternity leave.
404. Act 758 of 2002. Under this Act the State contributes part of the financing for the pensions awarded and paid by the Social Security Institute (ISS) in its capacity of employer, as of 23 December 1993.
405. Act 789 of 2002. This Act contains provisions to support employment and extend social protection; it amended some of the articles of the Substantive Labour Code. It makes provision for unemployment benefits.
406. Act 797 of 2003. This Act amended some of the provisions of the General Pensions System established in Act 100 of 1993 and contains provisions on the exemption and special pensions schedules.
407. Act 776 of 2002. This Act contains regulations on the organization and administration of the General System of Occupational Risks Insurance and the benefits which it pays.
408. Act 860 of 2003. Among other provisions this Act amended some of the requirements for obtaining an invalidity pension under the General Pensions System contained in Act 100 of 1993.
408. Act 864 of 2003. This Act approved the Headquarters Agreement between the Government of Colombia and the Ibero-American Social Security Organization (OISS) on the establishment of the headquarters of the OISS Regional Centre for Colombia and the Andean Area, signed at Cartagena de Indias on 22 November 2001.
410. Act 828 of 2003. This Act contains regulations on monitoring evasion of the requirements of the General Health and Social Security System
411. Act 952 of 2005. This Act amended article 2 of Act 700 of 2001 on the remittance of pension payments to the place elected by the recipient.
412. Act 1023 of 2006. Among other provisions this Act brought the family units of community mothers within the scope of the health cover provided under the General Health and Social Security System.
413. Act 1122 of 2007. This Act amended the health components of the General Health and Social Security System and guaranteed the resources to enable Colombia to provide full health cover by 2010 for people classified as SISBEN 1, 2 or 3 who satisfy the requirements for affiliation to the System. This new regulation also seeks to improve the quality and efficiency of

the health services, streamline the flow of resources, limit vertical integration, impose controls to ensure that the sector's funds are better invested and the users of the services better served, and reinforce the inspection and oversight procedures of the National Health Administration.

### **Developments in the jurisprudence**

414. There has been considerable development of the jurisprudence relating to social security, in particular as a result of actions for *tutela* to protect personal life and liberty. Attention is drawn here to the following rulings of the Constitutional Court:

415. Decision C-974/02. In this decision the Court clarified the possibility of the provision of health services by private enterprises, in the context of the economic freedom which, pursuant to the Constitution and in general terms, should apply to the activities of private individuals.

416. Decision T-1038/01. The Court states in this decision that persons with disabilities may seek protection of their lives and dignity, once they have attained the age of majority, when their parents are affiliated to the social security system.

417. Decision C-823/06. The effect of this decision is to include casual workers, in practical terms, in the social security system; it restates in legal terms the right to equal treatment possessed by casual workers.

### **Administrative developments**

418. The social protection system has placed the emphasis on social assistance programmes owing to their importance in promoting equity and building human capital. These programmes include the ones concerned with assistance, restitution of rights, and support for children, adolescents, elderly persons and families.

#### *Health services*

419. Under the social protection system the Colombian State addresses the protection of the right to social health services by means of three basic policies: (i) providing the poor with a mandatory subsidised health plan as part of a gradual process of expanding the coverage towards a target of universal coverage by 2009; (ii) providing services for the uninsured poor by means of contracts concluded by local authorities with the public network of health services providers, with guarantees of access, quality and efficiency; and (iii) carrying out general public health measures for the population at large, including health-promotion and disease-prevention measures. These arrangements are without prejudice to the promotion of affiliation to the contributory plan by persons with the capacity to pay, who may join a mandatory contributory health plan.

420. It should be noted that in the case of the health services provided under the General Health and Social Security System in Colombia the State has a major role as moderator, regulator and provider of funding, but the actual provision of the health services is shared with private entities such as the health insurers which administer the benefit plans and with the public and private providers of health services, which are subject to monitoring and evaluation, chiefly by the Ministry of Social Protection and, through the inspection, oversight and monitoring system



(established under Act 1122 of 2007), by the National Health Institute with regard to public health and by the Institute for the Monitoring of Medicines and Foods.

421. The implementation of the Government's policy has expanded the total coverage of the health services of the General Health and Social Security System, which increased by 26.58 per cent for the population as a whole, from 56.14 per cent in 2002 to 82.72 per cent in 2005.

#### MEMBERSHIP OF THE CONTRIBUTORY AND SUBSIDIZED PLANS

Year	Contributor y	Subsidized	Total members	Total population	Coverage
2002	13.165.463	11.444.003	24.609.466	43.834.117	56,14
2003	13.805.201	11.867.947	25.673.148	44.531.434	57,65
2004	14.857.250	15.553.474	30.410.724	45.325.261	67,09
2005	15.533.582	18.581.410	34.114.992	41.242.948	82,72

*Source:* DANE and the information subsystem of FOSYGA<sup>92</sup> and BDUA (the figures for 2005 include active and suspended members), the Directorate-General for Economic Security and Pensions, and the Directorate-General for Health Demand Management; the figures for the subsidized plan up to 31 December 2005 include partial subsidies.

422. **Contributory plan.** The Government set the goal of increasing the membership of the contributory plan as part of its efforts to achieve social and economic reactivation as a tool of equity. In December 2005 the total membership increase stood at 2,368,119, thus attaining a level of 155 per cent of the target set by the Government. By 31 March 2006 the coverage had expanded to 15,967,055 members, an increase of 433,473 over December 2005 and 2,801, 592 over December 2002.

423. **Subsidized plan.** The coverage of the social security system has expanded over the past five years. To achieve this, the Government increased the FOSYGA<sup>93</sup> budget allocated to the subsidized plan by 214 per cent between 2002 and 2007 to a total of 6,688 billion. The membership of the subsidized plan increased steadily from to total 20.2 million in 2006. In December 2006 it had a nation-wide coverage of 81 per cent of the population classified as SISBEN 1 or 2.<sup>94</sup>

424. The partially subsidized health plan was introduced in 2004; it is aimed at the SISBEN level 3 population not covered by the General Health and Social Security System. The partial subsidies guarantee access to a mandatory subsidized health plan with a service coverage designed to deal with the pathologies which impose the greatest burden on the population, such as diseases requiring expensive treatment, certain complicated secondary treatment involving

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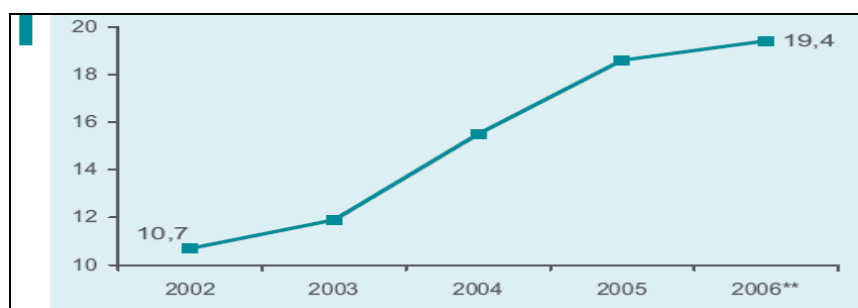
<sup>92)</sup> Solidarity and Guarantee Fund.

<sup>93</sup> Solidarity and Guarantee Fund.

<sup>94</sup> National Development Plan. Performance balance 2002-2006. (In Spanish only)

traumatology or orthopaedics, the supply of basic medicines, and comprehensive coverage of maternity and of children aged under 12 months. At the end of 2006 the partially subsidized plan had 2.04 million members.

**Membership of the partially subsidized plan (millions) \***



\* Includes full and partial subsidies.

\*\* Figures as of 31 July.

*Source:* DNP and MPS.

425. Universal coverage was achieved in six departments in 2005 (Antioquia, Arauca, Casanare, Cesar, Huila and Guajira), with a total membership of 1,556,218, including 1,361,553 under the fully subsidized plan and 194,665 under the partially subsidized plan.<sup>95</sup>

426. Measures have been implemented under the policy on the delivery of health services to improve the accessibility, quality and efficiency of service provision by both public and private providers.

427. In order to help to provide services for the uninsured poor, the public provision of health services has been undergoing reorganization into networks of service providers under the direction of the departments. In support of this process the National Government introduced a programme for the reorganization, redesign and modernization of networks of health service providers, which underpins the conformation and reorganization of these networks with a view to their integrated organization on terms of business, technical and financial viability to facilitate their sustainability within the framework of the General Health and Social Security System.

428. It should be pointed out that a mandatory quality control system was also introduced under this policy, for the fundamental purpose of maintaining qualification and accreditation requirements which will ensure proper care for the public, reinforce human resources, and empower the users and their associations by developing the system of quality-control information.

429. Lastly, attention is drawn to the public health policies executed by local authorities in accordance with the guidelines of the Ministry of Social Protection in the light of the epidemiological situation in each region. Act 1122 of 2007 contains a national public health plan

<sup>95</sup> Four-year report 2002-2006. Ministry of Social Protection. (In Spanish only).

in the process of formulation, which is intended to prevent and deal with the main health risks and promote healthy living conditions and lifestyles. Among other measures, programmes on vaccination, sexual and reproductive health, mental health, and general prevention and promotion activities are being established under this component.

*Pensions system*

430. On 31 December 2005 the membership of the pensions system stood at 1,228,551, an increase of 10.87 per cent over the figure for 31 December 2003 and of 5.51 per cent over the total of 613,756 members reported for 31 December 2004. The increase between 31 December 2003 and 31 December 2004 was 5.44 per cent, equivalent to 614,795 members.

Administrative body	2003		2004		2005	
	Contributors	Non-contributors	Contributors	Non-contributors	Contributors	Non-contributors
Average premium plan	2.317.689	3.412.525	1.981.988	3.724.969	2.105.096	3.751.678
Exemption scheme	361.074	0	464.753	0	314.325	0
Personal plan	2.538.688	2.674.335	2.843.644	2.903.752	2.458.094	3.903.669
Subtotals	5.217.451	6.086.860	5.290.385	6.628.721	4.877.515	7.655.347
<b>Total membership</b>		<b>11.304.311</b>		<b>11.919.106</b>		<b>12.532.862</b>

*Source:* Financial Inspectorate, FOPEP reports and MPS forms submitted by the pensions payment and administration bodies.

431. On 31 December 2005 the membership of the system showed an increase of 34.14 per cent (330,737 pensioners) over 31 December 2003 and of 6.50 per cent (79,278) over 31 December 2004. The number of pensioners increased by a further 25.96 per cent (251,459) between 31 December 2003 and 31 December 2004.

432. On 31 December 2005 there were 1,299,416 pensioners, 84.7 per cent whom belonged to the average premium plan, 13.9 per cent to the exemption scheme, and 1.4 per cent to the personal savings plan.

433. On 31 December 2005 the average premium plan showed an increase of 33.77 per cent (277,795) over 31 December 2003.

Administrative body	2003	2004	2005
Average premium plan	822.506	1.068.641	1.100.301
Exemption scheme	132.211	135.396	180.447
Personal savings plan	13.962	16.101	18.668
<b>Total pensioners</b>	<b>968.679</b>	<b>1.220.138</b>	<b>1.299.416</b>

*Source:* Financial Inspectorate, FOPEP reports and MPS forms submitted by the pensions payment and administration bodies.

434. **Pensions Solidarity Fund.**<sup>96</sup> On 31 December 2006 the pension contribution subsidies sub-account of the Pensions Solidarity Fund showed a total of 204,459 members, a decrease of 10.3 per cent (23,487) from the 227,946 members covered as of 31 December 2003.

435. The membership figure for 31 December 2005 also showed a decrease, of 8.80 per cent (20,065), over the figure for 31 December 2003. This situation was due chiefly to the mandatory amendment of the requirements established in Act 797 and Decree 2681 of 2003 and supplemented in Decree 569 of 2004, which produced a substantial reduction in the target population for this sub-account by introducing requirements of the attainment of age 55 and 650 weeks of contributions to the pensions system. However, ways have been devised to increase the population receiving the subsidy.

436. In March 2006 the distribution of the membership of the sub-account showed a participation of 60.73 per cent for urban independent workers and 34 per cent for rural independent workers.<sup>97</sup>

#### MEMBERSHIP OF THE PENSIONS SOLIDARITY FUND

	Independent workers		Community mothers	Disabled persons	Total
	Rural	Urban			
March 2006	69.507	124.169	6.385	4.398	204.459

Source: *Prosperar Hoy* consortium.

#### *Occupational health and occupational risks*

437. The activities in this area have been carried out under the National Development Plan, focussing specifically on building social equity, enhancing the efficiency of the State, achieving sustainable economic growth, and creating jobs; four basic goals were set in this regard: improvement of the system's coverage and financial viability, technical, technological and scientific development; institution-building; and promotion of occupational health and safety and prevention of industrial accidents and occupational diseases.

438. The strategies for the attainment of these goals were designed to regulate the affiliation of independent workers to the General System of Occupational Risks Insurance (SGRP) and to prevent evasion. In September 2003 regulations were issued in Decree 2800 on the affiliation of independent workers under service provision contracts and in September 2005 in Decree 3615 on the affiliation of other independent and informal workers through occupational associations or groupings.

439. Several measures were introduced to prevent evasion, chiefly in the form of the training and dissemination measures concerning affiliation and its promotion carried out by the Ministry

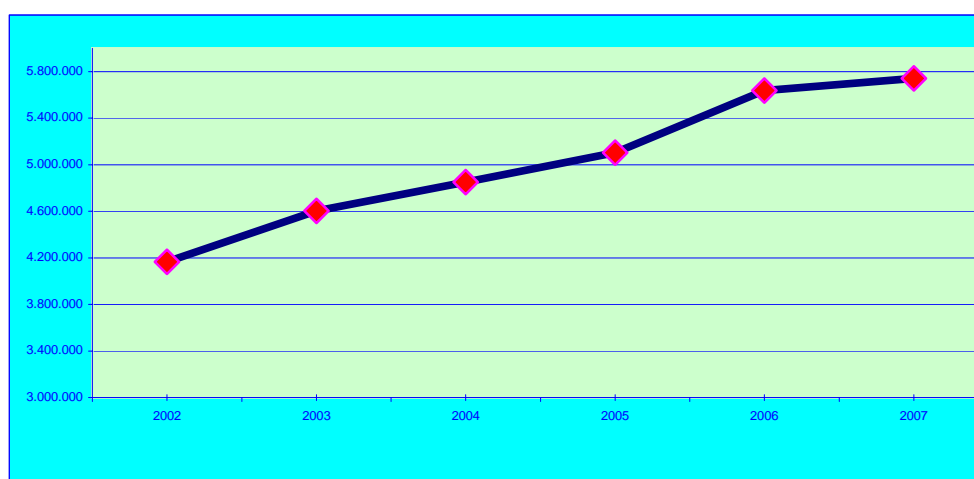
<sup>96</sup> This Fund is described in detail in Colombia's fourth periodic report to the Committee.

<sup>97</sup> Ministry of Social Protection, 2002-2006 report.

of Social Protection throughout the country and the oversight and monitoring work done by the Ministry's local offices.

440. The SGRP coverage increased over the past four years as a result of these measures. The figures for April 2006 indicate a coverage of 25.5 per cent of the economically active population (EAP) (an increase of 4.1 per cent over December 2002). These figures also show an increase of 1,061,143 in the SGRP membership as of April 2006.

### COVERAGE OF THE GENERAL SYSTEM OF OCCUPATIONAL INSURANCE



441. The promotion and prevention measures were set out in plans and policies designed to foster good health and safeguard the country's people against occupational accidents and diseases; a plan of work was formulated for the purposes of preventing occupational accidents and diseases and improving their diagnosis, recording and reporting; the aims are to consolidate the collection of data, enhance workers' awareness of their duties and rights, improve doctors' technical skills with respect to diagnosis, recording and reporting, implement prevention programmes, produce estimates of the burden of occupational disease in Colombia and the associated economic costs, and build scientific and technical capacity. The diagnosis of occupational diseases by health insurers (EPS) was monitored under the plan of work, and the findings were published in 2003; in addition, a report entitled "Occupational diseases in Colombia 2003-2004" was produced.

442. A national campaign on the prevention of carpal tunnel syndrome (one of the commonest occupational ailments of Colombia's working population) was carried out in 2005 with the aim of furnishing employers and workers with information about the relationship between this pathology and the associated risk factors. And two studies were produced: "Technical criteria for the classification of stress-related pathologies" and "Violence in the workplace in Colombia: its forms and consequences".

443. As a result of the measures carried out, 2005 saw an increase in the recording of the incidence per 100,000 workers of 34 diseases. However, both incidence and diagnosis remain under-recorded.

444. In 2005 the scope of the recording work was increased to cover the incidence per 100,000 workers of 52 diseases.

445. In addition, a national campaign to prevent occupational accidents and diseases was initiated in five high-risk areas (mining, construction, and exposure to biological risks, ionizing radiation and high temperatures), together with a campaign to prevent the consumption of mind-altering substances in the workplace; and an agreement was signed with the National Institute of Oncology on the production of a study of occupational cancers in Colombia.

446. A new policy was introduced on protection and prevention work with forcibly displaced children and young people at risk of exploitation as labour.

447. Arrangements for rehabilitation and retraining were established under the SGRP, including the updating and republishing of the handbook on occupational rehabilitation and retraining procedures and the design of tools for the implementation of these arrangements. Technical regulations were issued on high-risk activities.

448. **Occupational Insurance Fund.** This Fund was administered by the trust La Previsora S.A. in the period 2002-2006. Improvements were made under Act 716 of 2001, including changes in the Fund's reporting under the General Public Accounts Plan of the General Accounting Office of the Nation and the reorganization of the Fund's budget records.

449. Progress has also been made with the development of the integrated information system, with a view to creating greater transparency in the disbursement of the resources and consolidating the measures to prevent the evasion and avoidance of contributions; these measures have improved the revenue flow and strengthened the Fund.

450. The following table sets out the principle SGRP statistics.

#### STATISTICS ON THE GENERAL SYSTEM OF OCCUPATIONAL RISKS INSURANCE

Item	2003	2004	2005	2006 (to March)
Affiliated workers	4.602.468	4.829.098	5.104.050	5.216.885
Affiliated enterprises	347.219	368.153	369.847	370.994
Invalidity pensions paid	339	425	375	95
Fatalities classified as occupational	842	530	587	153
Fatalities	865	860	852	221
Permanent partial disabilities	4.678	5.338	5.333	1.367
Diseases classified as occupational	1.121	10105	1.909	621
Accidents classified as occupational	279.275	229.956	263.316	68.772
Occupational diseases per 100,000	24,36	23,32	37,97	
Occupational fatalities per 100,000	18,29	11,18	11,68	
Fatalities per 100,000		633.585,9	729.384	194.878,70
Contributions to SGRP by occupational risks insurers (millions)	4.602.468	4.829.098	5.104.050	5.216.885

Source: Occupational Insurance Administration. La Previsora S.A.

451. Colombia's family compensation funds perform social security functions; they are subject to State oversight and monitoring. One of their functions is to administer the family subsidy.<sup>98</sup> The number of beneficiaries of the family subsidy system increased over the past five years from 9,378,021 in 2002 to 11,559,296 in 2005 and to 11,672,796 in 2006.<sup>99</sup>

<b>AFFILIATION TO FAMILY COMPENSATION FUNDS, 2002-2005</b>				
	<b>DEC 2002</b>	<b>DEC 2003</b>	<b>DEC 2004</b>	<b>DEC 2005</b>
Affiliated workers	3.422.734	3.574.910	3.982.629	4.390.160
Affiliated workers	172.778	183.691	194.827	214.473

*Source:* Family Subsidy Administration.

#### *Unemployment subsidies*

452. The national Government took action on unemployment subsidies by establishing as the target population those unemployed heads of household who had been affiliated to the compensation funds for 12 months, continuously or with interruptions, during the three years preceding the date of the subsidy application.

453. It also opened the possibility for unemployed heads of household not previously affiliated to a compensation fund to apply for the unemployment subsidy, with priority given to sportsmen and sportswomen, writers and artists.

454. An unemployed head of household is defined as a person with dependants who can prove that he or she was previously affiliated (as a contributor and not as a beneficiary) to a health insurer or a compensation fund and who, at the time of receipt of the unemployment subsidy, is not affiliated either to a health insurer or to a compensation fund as a contributor or as a beneficiary (art. 13, para. 1, of Act 789 of 2002).

455. The State granted a total of 237,156 subsidies under the unemployment protection programme between August 2002 and August 2006. In terms of modality, the largest group of beneficiaries consisted of persons requesting the unemployment subsidy in the form of food vouchers (99.42 per cent), followed by those requesting health or education vouchers.

456. The benefit is equivalent to one and a half times the current minimum legal wage (650,550 pesos in 2007), which is divided up and paid in six equal monthly instalments (108,425 pesos), which may be made in the form of contributions to the health system or food or education vouchers, as the beneficiary chooses.

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<sup>98</sup> The family subsidy is "a social benefit paid in cash, kind and services to middle- and low-income workers in proportion to the number of persons whom they support (art. 1 of Act 21 of 1982).

<sup>99</sup> Family Subsidy Administration.

*Social promotion policy*

457. The National Planning Department produced a technical proposal entitled “Towards the consolidation of the social protection system” on the redesign of the social assistance policy and the related institutional structure (the social assistance system). This proposal constitutes a conceptual framework and an outline of the short-, medium- and long-term measures for the redesign of the social promotion policy and was discussed with the social protection bodies: the Ministry of Social Protection, ICBF, Social Action, the Administrative Department of the Office of President (DAPRE), and the Family Subsidy Administration.

**E. Protection and assistance for children,<sup>100</sup> the family and maternity  
(art 10 of the Covenant)\***

**Legislative framework**

458. **Children.** In addition to the information contained in Colombia’s third periodic report, it should be noted that article 44 of the Constitution sets out the fundamental rights of the child, including the rights to life, physical integrity, social security, health and a balanced diet and the right to a family.

459. The Constitution also establishes the obligation of the family, society and the State to assist and protect children in order to ensure their harmonious and comprehensive development and the full exercise of their rights, which take precedence over the rights of others.

460. The Constitution goes on to stipulate specifically free health care for children aged under 12 months who do not have any kind of protection or social security cover.

461. **Adolescents.** Article 41 of the Constitution provides that adolescents are entitled to protection and comprehensive training and imposes an obligation on the State and society to ensure the participation of adolescents in the public and private bodies responsible for the protection, education and advancement of young people.

462. **The family.** The family is the basic unit of society, and its comprehensive protection must be guaranteed by the State and society, in accordance with article 5 of the Constitution.

463. **Maternity.** Maternity is accorded special protection by the Constitution, from the period of pregnancy and in the post-partum period, and a maintenance grant is made if the mother is unemployed or unprotected. The State must furnish special support to women heads of family.

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<sup>100</sup> For more detailed information on the subject of children, see Colombia’s third period report to the Committee on the Rights of the Child, dated 28 June 2004.

\* [Translator’s note] In general references in the English version of this report “children” means “children and adolescents” as defined in Colombian law, which divides minors into those two categories; i.e. “children “ *is* used in the English version to designate persons below the age of 18 years, in accordance with the Convention on the Rights of the Child.



464. **The elderly.** Article 46 of the Constitution establishes the duty of the State, society and the family to contribute to the provision of protection and assistance for persons of the third age and encourage their integration in working life and the community. It also provides specifically for the guarantee by the State of comprehensive social security services and a maintenance grant in the event of extreme poverty.

465. Legislative developments relating to the protection and guarantee of these rights have taken place during the period under review, in accordance with the principles embodied in the Constitution. These developments include the following:

466. Act 575 of 2000. This Act partially amended Act 294 of 1996 and contains provisions on domestic violence.

467. Act 599 of 2000 (Criminal Code). Article 162 states: “*Unlawful recruitment. Anyone who, in the event or in the course of armed conflict, recruits children below the age of 18 years for direct or indirect participation in hostilities or in armed actions shall be sentenced to imprisonment for a term of six to 10 years (...).*”

468. Act 620 of 2000. This Act approved the *Inter-American Convention on the International Return of Children*”, signed at Montevideo, Uruguay, on 15 July 1989 at the fourth Inter-American Specialized Conference on Private International Law.

469. Act 670 of 2001. This Act partially develops article 44 of the Constitution in order to safeguard the life and physical integrity and provide for the rehabilitation of children exposed to hazards by handling fireworks or explosives.

470. Act 679 of 2001. This Act contains a statute on preventing and combating the exploitation of children and child pornography and sex tourism, pursuant to article 44 of the Constitution.

471. Act 700 of 2001. This Act contains provisions on improving the living conditions of pensioners.

472. Act 704 of 2001. This Act approved ILO Convention No 182 on the Prohibition and Immediate Action to Eliminate the Worst Forms of Child Labour, adopted at the eighty-seventh ILO General Conference in Geneva, Switzerland, on 17 June 1999. Ratified on 28 January 2005.

473. Act 721 of 2001. This Act is concerned with proof of parentage by means of genetic fingerprinting.

474. Act 724 of 2001. Among other provisions this Act established “Children and Recreation Day”.

475. Act 745 of 2002. This Act criminalized the consumption and possession of individual doses of narcotic drugs or other substances which cause dependence and constitute a danger to children and the family.

476. Act 750 of 2002. This Act regulates the question of special support when sentences of house arrest or community service are imposed on women heads of household.

477. Act 765 of 2002. This Act approved the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, adopted in New York on 25 May 2000.

478. Act 880 of 2004. This Act approved the Inter-American Convention on the International Return of Children, signed in Montevideo on 15 July 1989 at the fourth Inter-America Specialized Conference on Private International Law.

479. Act 833 of 2003. This Act approved the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.

480. Act 882 of 2004. This Act increased the penalties for domestic violence contained in the Criminal Code (Act 599 of 2000).

481. Act 861 of 2003. This Act contains provisions on the sole ownership of urban or rural immovable property belonging to a woman head of household. A mechanism of protection for the family.

482. Act 975 of 2005. This Act contains the eligibility criteria for collective demobilization; it states:

“The benefits established by this Act may be accorded to the members of armed groups operating outside the law who have been or may be charged, tried or convicted as the perpetrators of or participants in offences committed during and by reason of their membership of such groups, when they do not benefit under any of the arrangements established in Act 782 of 2002, provided that their names appear on the list submitted by the National Government to the Office of the Public Prosecutor of the Nation and they also satisfy the following conditions: (...) 10.3 That the group places at the disposition of the Colombian Family Welfare Institute all the minors recruited.”

483. The Act also states in its chapter on the right of victims to compensation: “Members of armed groups operating outside the law who benefit under the provisions of this Act have a duty to compensate the victims of the punishable acts of which such members have been convicted by the courts.”

484. Act 1008 of 2006. This Act established some of the jurisdictions and procedures for the application of the international agreements on children and the family.

485. Act 1027 of 2006. In this Act Colombia declared 7 May “AIDS Orphans’ Day”.

486. Act 1060 of 2006. This Act amended the regulations on challenges to paternity and maternity. It amended article 213 of the Civil Code so as to include within the assumption of filiation children born during a de facto marital union.

487. Act 1091 of 2006. This Act acknowledged treasured Colombians. It grants benefits to persons aged over 65 years.

488. Act 1098 of 2006. This Act contained the Code on Children and Adolescents. It recognized children as holders of rights, in accordance with the Convention on the Rights of the Child,

within a context of comprehensive protection and the joint responsibility of the State, society and the family to ensure the full exercise of children's rights.

489. Act 1106 of 2006. This Act prolonged and amended Act 782 of 2002 and Act 418 of 1997. It orders the Colombian Family Welfare Institute to design and execute a special protection programme to assist all minors who have taken part in the hostilities or have been victims of the political violence in the context of the "*internal armed conflict*".

490. Decree 128 of 2003. This Decree regulates Act 418 of 1997, as prolonged and amended by Act 548 of 1999, and Act 782 of 2002, which had established jurisdictions, assigned functions and specified procedures in connection with reincorporation in civil society.

491. Article 25, in chapter V on the protection and care of minors separated from armed groups, regulates the surrender of such minors to ICBF:

"The Colombian Family Welfare Institute shall introduce expeditious administrative procedures to integrate separated minors in the special protection programme which it is to execute under this Decree; in any event this programme shall take an approach and provide specific treatment tailored to the minors' circumstances and consistent with the provisions of this Decree."

492. Decree 3043 of 2006. This Decree created the Office of the Presidential Adviser on the Social and Economic Reintegration of Persons and Armed Insurgent Groups.

493. Decree 395 of 2007. This Decree partially amended Decree 128 of 2003; it states:

"The benefits received, either individually or collectively, by demobilized persons in the context of the reintegration, by application of Decree 128 of 2003, of armed groups operating outside the law may be accorded to each such person in accordance with the criteria previously established by the Office of the Presidential Adviser on the Social and Economic Reintegration of Persons and Insurgent Armed Groups and shall terminate when the process of economic and social integration is completed, which shall be determined in the light of each person's progress."

### **Developments in the jurisprudence**

494. The Constitutional Court has handed down important rulings relating to the protection of children and realization of their rights.

495. Decision C-157/02. This decision allows children aged under three years to remain with their mothers during imprisonment, but the Court points out that decisions in such cases must be taken by a family-court judge and not by an inspector.

496. Decision 535/02. This decision declared constitutional Act 704 of 2001 "approving Convention No. 182 concerning the Prohibition and Immediate Action to Eliminate the Worst Forms of Child Labour" adopted at the eighty-seventh ILO General Conference in Geneva, Switzerland, on 17 June 1999.

497. Decision T-999/03.<sup>101</sup> This decision addresses, in the context of an action for *tutela*, the question of the special protection which must be enjoyed by pregnant women and it endorses the importance attached to this condition in the constitutional order.

498. Decision T-025/04. This decision established the obligation of the State to implement prevention and protection measures with regard to forcibly displaced children and young people who are at risk of exploitation as labour.

499. Decision C-203/05. In this decision the Constitutional Court stated:

“Any action taken by the authorities in relation to minors demobilized from armed groups operating outside the law must address, as a first step, the promotion and realization of (i) the minors’ best interests, (ii) their prevailing fundamental rights and (iii) their status as objects of reinforced legal protection. The fact that the minors in question have been members of one of these groups or have committed criminal acts does not only *not* deprive them of these rights but also increases the importance of full compliance with these three guiding principles in the course of the processing of their cases.”

500. The Court continued:

*“... that the guarantees applicable to the trial of juvenile offenders must also be invested with a particular concern for the care and protection of the children or adolescents in question in view of their status as victims of the political violence and of the special and additional protection conferred on them by international law as child soldiers: this concern for their protection renders it imperative to take this kind of consideration into account in determining their criminal liability and the measures to be taken. All of this is without prejudice to the cooperation between the competent judicial authorities and the Colombian Family Welfare Institute, which is responsible for carrying out the measures of protection and social reintegration ordered by law.”*

501. Decision T-307/06. This decision established that, as an integrated concept, health has mental, emotional and social aspects as well as physical ones in cases involving minors requiring “cosmetic” surgery.

502. Decision T-137/06. This decision opened up the possibility for children lacking protection or suffering abuse to be removed from their parents.

### **Administrative developments**

503. Colombia is currently carrying out major reforms and projects aimed at building a public policy on children which takes a rights-based approach and is consistent with the special needs and characteristics of the various population groups. It has also addressed the problem of the elderly. The main targets of this undertaking are described below.

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<sup>101</sup> Constitutional Court. Reporting judge: Jaime Araujo Rentería.

*Comprehensive protection*

504. The new Code on Children and Adolescents (Act 1098 of 2006) brings Colombia's legislation into line with the principles embodied in the Convention on the Rights of the Child. It establishes substantive and procedural rules on the comprehensive protection of children and adolescents in order to ensure the exercise, or the restoration, of the fundamental rights and freedoms accorded to them by international human rights instruments, the Constitution and the law.

505. This comprehensive protection is set out in an array of policies, plans, programmes and measures executed at the national, departmental, district and municipal levels and matched by a corresponding allocation of financial, material and human resources.

506. It is founded on basic principles, such as the best interests of the child, the precedence of children's rights, and the joint responsibility of the family, society and the State as guarantors of the realization of the rights of children and adolescents.

*Municipal and departmental strategy for children and adolescents*

507. In 2004 the Colombian Family Welfare Institute (ICBF) formulated a national project on the official evaluation of the results of action taken for children at the local level by means of monitoring of and reporting on the living conditions and quality of life of children in the departments and municipalities.

508. In 2005 this project was incorporated in a national process conducted under the auspices of the Office of the Attorney-General of the Republic and UNICEF and known as the "Municipal and departmental strategy for children and adolescents". The following areas were specified as targets of the monitoring work: (1) the inclusion of the question of children in development plans; and (2) children's living conditions and quality of life.

509. Eight priority areas were determined in conjunction with the local bodies: maternal health; child health; maternal breastfeeding and nutrition; education in early childhood; sexual and reproductive health (with emphasis on the prevention of adolescent pregnancies); prevention of violence and child abuse; drinking water and basic sanitation; civil registration; and prevention of the violation of rights and restoration of the rights in question.

510. Under this strategy the base lines of the main indicators were raised and meetings were held with governors to establish commitments in the principal thematic areas. The year 2007 saw the formulation of a six-year strategic plan and the continuation of the local assistance approach with emphasis on the two monitoring targets. Three meetings were held with governors, at which they reiterated their commitment to give priority in their activities to the eight thematic areas, to take action with regard to the National Development Plan, and to analyze and evaluate public expenditure on children.

*National Plan for Children and Adolescents*

511. In fulfilment of the commitment entered into at the special of the General Assembly of the United Nations on children, held in New York in May 2002, Colombia initiated in 2003, in conjunction with national and local bodies, the formulation of the National Plan for Children and

Adolescents. Objectives, targets and strategies were determined throughout this process with an eye to improving children's quality of life over the next 10 years.

512. This Plan, known as the "*Plan País*", is being implemented in accordance with a rights-based approach; it forms part of the system of social protection and social management of risk and takes as the foundation of its activities the joint responsibility of the family, society and the State. Accordingly, it seeks to set out general guidelines for formulating local development plans over the coming years which respect ethnic and cultural diversity and the principle of non-discrimination. In the long term it seeks to consolidate the attention devoted to and the investment made in children as a priority of the country's public agenda.

513. The Plan's inclusion in the Government's National Development Plan 2006-2010 was recently approved, and it was expected to be published, disseminated and set in motion country-wide in November 2007.

*Colombia's targets and strategies for attainment of the Millennium Development Goals (MDGs)*

514. In document 091 of 2005 of the National Economic and Social Policy Council (CONPES) Colombia set out the targets which it hopes to attain by 2015. The strategies contained in this document form part of the national development plans and the sectoral policies. Efforts are also being made to have them included in the regional plans in order to secure investments under the national and regional budgets for the attainment of the MDGs.

515. According to the study "Colombia's regions and the Millennium Development Goals (2004)", the targets can be achieved at the national level but a greater effort will have to be made in the less developed regions to enable them to do so, owing to the existing inequalities causing some regions to lag behind the others.

*Protection network against extreme poverty*

516. A protection network to reduce extreme poverty was created under document CONPES 102 of 2006 with the aim of promoting the effective incorporation of the poorest households in the State's social systems and their escape from poverty by: (i) integrating the provision of social services to ensure that they are consistently focused on the family; (ii) furnishing, on a temporary basis, support and preferential access for families in order to ensure that the resources and measures help to establish minimum standards with respect quality of life which do not currently obtain; and (iii) creating an environment of joint responsibility with the service users to ensure that families make a commitment to tackling their situation. This network is one of the proposals made by the task force on the design of a strategy to reduce poverty and inequality in Colombia (MERPD), which was set up at the end of 2004 with the aim of attaining the MDGs and the targets set in *Visión Colombia 2019*.

*National sexual and reproductive health policy*

517. The objective is to promote the exercise of the rights and improve the sexual and reproductive health of the entire population, with special emphasis on reducing vulnerability and the kind of behaviour which places people at risk, and on boosting the protection and care provided for groups with specific needs.

518. The policy includes the following strategies: promotion of good health and reduction of unwanted adolescent pregnancies; intersectoral and inter-institutional coordination; strengthening of institutional management; expansion of social participation; conduct of research and empowerment of the social support networks.

519. In each of these areas the policy sets out measures for implementing the strategies. The sexual and reproductive health policy also includes a component on possible sources of financing for its implementation and a map of jurisdictions and responsibilities covering the main operators in this and related sectors.

520. This policy will help to reinforce the measures which Colombia has been carrying out in recent years, with emphasis on reducing maternal and perinatal mortality through the implementation of the National Plan to Reduce Maternal Mortality and utilization of the biological-psychological-social model. Attention may also be drawn to the following measures:

(a) The formulation, dissemination and country-wide implementation of an emergency plan to reduce maternal mortality, with support from PAHO/WHO;

(b) The agreement with the Health Secretariat in Bogotá: strategies, methods and tools were designed to strengthen the management by the departmental bodies of the national sexual and reproductive policy and improve compliance with the specific protection rules, with a view to enhancing the sexual and reproductive health of adolescents and ensuring the early diagnosis of cervical cancer and domestic and sexual violence by the General Health and Social Security System.

*Programmes to strengthen the family*

521. Within the framework of the action taken by the State to strengthen the family as the essential and basic unit for the care and development of children, the Colombian Government has carried out programmes aimed at economically and socially vulnerable population groups, centred on the family as the fulcrum of the intervention and ultimately designed to benefit poor children.

522. **Families in Action.** This programme was started in 2000 with a view to providing efficient and efficacious direct monetary support for the country's poorest families (SISBEN level 1) and more recently for displaced families, in order to improve their health, nutrition and education, in return for the following commitments:

523. To obtain the education grant: attendance at a total of 80 per cent of the classes in every two-month period and for the growth and development checks scheduled every two months for under-sevens.

524. The programme seeks to reduce absenteeism and drop-out rates among primary and secondary pupils and to entice those children of school age who have dropped out back to school and encourage them to attend for more years, preventing them from taking jobs and, in particular, from suffering exploitation in the informal labour market.

525. The programme also seeks to supplement the incomes of poor families with children aged under seven years in order to boost family spending on food.

526. In addition, it aims to improve the health care of under-sevens and contribute to their maintenance during the critical stage of growth and development by upgrading child-care practices with respect to health, nutrition and early stimulation and by preventing domestic violence.

527. In the period 2000-2005 this programme aided 487,215 SISBEN level 1 families (1,224,586 children) and 63,312 displaced families (139,631 children), for a total investment of 810,126 million pesos.

528. The effect of the programme is clearly visible in increases of between 15 and 19 per cent in the consumption of basic goods by the beneficiary families: primarily foods with a high nutritional content; children's footwear and clothing; school perquisites; and school transport (no increases were recorded in the consumption of tobacco or alcohol). There was a positive impact on children's nutrition and health: it should be noted, where these improvements are concerned, that the incidence of severe diarrhoea fell from 21 to 10 per cent among rural children aged under four years. Moreover, the evaluation exercise revealed a rise of 12 per cent in the rate of immunization against diphtheria, pertussis and tetanus (DPT) in this age group in rural areas as result of improved attendance by families for all the growth and development checks. In terms of the impact on education and child labour, the school attendance rate improved for secondary children (aged 12 to 17) benefiting under the programme by 12.1 per cent in rural areas, from 77.1 to 89.2 per cent; in urban areas the increase was 5.9 per cent, from 87.7 to 93.6 per cent. For primary children in the 8-11 age group the increase was 2.9 per cent in rural areas, from 84 to 86.9 per cent. In urban areas the attendance rate reached 90.23 per cent.

529. The increases in school attendance are reflected in a fall of six per cent in child labour among children in the 10-13 age group in rural areas, and in urban areas the time spent working by children aged 14 to 17 declined by between 80 and 100 hours a month. There was also an increase in the employment of adult women in urban areas and of men in rural areas, suggesting the replacement of child labour by adults from the household.

530. **Forest ranger families.** This programme provides financial and technical support for a limited period for peasant-farmer, indigenous and Afro-Colombian families living in environmentally strategic ecosystems involved in or threatened by illicit crops who wish to eradicate these crops and adopt "legal production options". It promotes the lawful and sustainable use of natural resources while also consolidating community organizations and improving democratic participation. The Colombian Government invested more than 200 billion pesos in this programme in 2005.

531. **The Food Security Network (RESA).** This programme, which is aimed at small rural producers who have been displaced or are at risk of displacement, is promoting food production projects for own-consumption in order to restore the production capacity of these people and encourage them to remain in the countryside or return to it. It constitutes a tool for creating a culture of own-production of food to improve the supply, variety and suitability of the target population's diet.

532. This programme, which started up in 2003, has a budget of 48,183 million pesos and reaches 1,878,603 persons under 160 projects. Forty per cent of these beneficiaries are women heads of family and 18 per cent belong to indigenous groups.



533. RESA conducted an evaluation of the pilot programme in three projects, with the following findings:

(a) The funding mechanisms established under the programme constitute an important achievement in themselves: 38.6 per cent contributed by Social Action;

(b) Rather than substituting consumption items, the programme generates savings by facilitating access to a larger basket of foods, thus supplementing people's diets;

(c) RESA beneficiaries have significantly more access to training than non-beneficiaries; this fosters the programme's sustainability;

(d) The impact on the population of foods for family consumption stimulates increased production of such foods, valued at 21,489 pesos a month;

(e) The wish to maintain the permanent availability of own-consumption foods means that households keep more than a two-months supply of such foods.

<b>RESA programme, 2003-2006</b>					
	<b>Municipalities</b>	<b>Families</b>	<b>Persons</b>	<b>Investment (millions)</b>	<b>Counterpart</b>
<b>Total</b>	839	370,413	1,878,603	48,183	64,814

*Source:* Social Action.

534. **Family consolidation.** This programme promotes the formation and development of families to help them to perform their social role and raise their children properly. It operates through two modes of assistance - the family educator and the school for families - in which community leaders take on the functions of mediators in family disputes and providers of support for families. In 2006 the family educator mode achieved a coverage of 693,769 users and the school for families mode a total of 596,127 users.

535. **Support for thinly populated areas.** This programme is aimed at families and children. It supports the building of a life project for children and for peasant-farmer families, regarded as the basic unit of social and community cohesion and the full exercise of rights. The programme seeks to improve the situation of children in terms of maintaining their school attendance, preventing repeated years, and fostering their sense of belonging and of their local roots, as well as encouraging rural practices, habits and customs. The coverage totalled 122,702 persons in 2005 and 91,956 in 2004, an increase of 16,375 over 2002.

#### *Early childhood policy*

536. In fulfilment of the international agreements signed by Colombia and the commitments established by the international community at Dakar in 2000 at the World Summit on Education for All, 2004 saw the production of a support programme for the formulation of early childhood policy, with the participation of national institutions coordinated by ICBF. The early childhood policy is designed to improve the living conditions of under-sixes. The programme has hosted international forums which have debated the various topics and shared national and international experience in this area.

537. For implementation purposes the policy's objectives were included in the National Development Plan 2006-2010, together with the MDGs, *Visión Colombia 2019* and the National Plan for Children and Adolescents. The emphasis will be on the implementation of the public policies on integrated early childhood services. The National Planning Department and the Ministries of Social Protection and National Education will coordinate their work to this end. In this period comprehensive services (care, nutrition, health and education) will be provided for 400,000 children classified as SISBEN 1 or 2. Furthermore, the community teaching project will be reviewed and adapted to bring it into line with the life skills framework of the country's education system. This harmonization is a fundamental step in ensuring that children move comfortably and satisfactorily from the setting of the ICBF services to enrolment in the formal education system. In addition, own resources and cooperation funds will be used to continue the gradual transformation of the traditional community centres into multi-purpose centres and community gardens or into facilities of similar or higher quality

538. During the formulation of this policy a grand alliance was formed between ICBF, the Ministries of National Education and Social Protection, universities, NGOs, grass-roots communities, etc., in order to determine jointly the targets and strategies of the measures for children in this segment of Colombia's population.

539. The national public health priorities in respect of nutritional support for schoolchildren and adolescents include:

(a) The drafting and approval of a methodological document on strengthening the management capacity of local authorities and health and occupational risk insurers in order to expand the coverage with regard to the early detection, prevention and treatment of the people's nutritional problems, with emphasis on the most vulnerable groups;

(b) The distribution and use of the dietary handbooks for the country's children aged under and over two years and the extension of this exercise to pregnant women and breastfeeding mothers, etc.;

(c) The review, adaptation and coordination of the regulations on baby foods, foods with additives of essential elements, special diet foods, nutrition labelling, and oils and fats;

(d) A review of the international standards by the subcommittees on nutrition and special diets and on the oils and fats of the Codex Alimentarius, and the provision of training on topics connected with food safety;

(e) The formulation of a food safety and nutrition policy based on the recommendations resulting from the evaluation of the National Food and Nutrition Plan (PNAN) in the period 1996-2002. This policy was devised by ICBF with the assistance of various governmental bodies; its central aim is to ensure that Colombians in all the country's regions have access to and can obtain and consume sufficient quantities of food of satisfactory quality and it will be targeted primarily on people living in the most vulnerable areas. ICBF envisages eight lines of action for the policy's implementation: food safety; protection of consumers by controlling food quality; prevention and monitoring of micronutrient deficiencies; prevention and treatment of infectious and parasitic diseases; promotion, protection and support measures for breastfeeding mothers; measures for the promotion of good health and healthy eating habits and lifestyles; food

and nutrition evaluation and monitoring; and human resources training in food and nutrition policy;

(f) With assistance from FAO, Colombia formulated a national food safety and nutrition plan for the period up to 2015, and work is currently proceeding on regional plans.

540. As one of its functions ICBF carries out many measures to tackle the nutrition problem. Its regional offices have introduced new service modalities which enhance the food security of the people at large as well as reaching the thinly populated areas; with regard to the integrated protection of under-18s, the ICBF measures cover the total daily food intake of all the children which it serves. In 2002 ICBF reached a total of 2,398,410 beneficiaries through various modalities of food security provision; in 2005 this coverage increased to 3,941,031 children. Under the projects mentioned above ICBF included Bienestarina in the daily food rations. Production of Bienestarina totalled 39,353 metric tons in 2005 and 41,192 tons in 2006.

<b>ICBF programmes (nutrition)</b>			
<b>Programme</b>	<b>2002</b>	<b>2005</b>	<b>2006</b>
<b>Baby foods</b>	78,152	1,006,074	1,006,534
<b>School meals</b>	2,229,687	2,786,509	4,058,186 <sup>102</sup>
<b>Nutritional treatment</b>	90,571	148,448	145,852
<b>TOTAL</b>	2,389,410	3,941,931	5,210,602

Source: Planning Department, ICBF.

*National Policy on Building Family Peace and Cohesion (“Haz Paz”)*

541. In order to realize the rights of the child the Colombian State ratified the international treaties on the protection of children’s rights and incorporated them in domestic law with the status of constitutional rules; it also enacted the following domestic legislation: Act 294 of 1996, containing provisions on “prevention, remediation and punishment of domestic violence”; Act 575 of 2001, transferring the jurisdiction of the family courts over domestic violence to the family commissions and police inspectors and providing for assistance for victims of abuse; and Act 1098 of 2006, issuing the Code on Children and Adolescents, which is based on the recognition of children as holders of rights.

542. Colombia also consolidated the National Policy on Building Family Peace and Cohesion (known as “Haz Paz”). This policy was formulated in order to prevent and deal with domestic violence by means of a strategy of supporting individuals, families and communities in their task of transmitting principles and values of democracy and social cohesion and equipping the basic units of the community with suitable tools for solving disputes peacefully and boosting and

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<sup>(102)</sup> Under the new guidelines, the nutrition services for schoolchildren and adolescents include: preschool breakfasts (519,985), year-1 breakfasts (797,671), year-2 and higher breakfasts (1,229,529), lunches (782,231), Bienestarina under agreements (721,957), play-centres (1,740) and new modalities (5,073).

improving the provision of services to families experiencing conflicts and to victims of domestic violence through the coordinated efforts of the national institutions and local bodies.

543. In this connection, ICBF has been endeavouring since 2003 to give concrete expression to this policy and implement it at the local level through the *National Plan on the promotion of family peace and cohesion and the prevention, detection and monitoring of domestic violence and on comprehensive measures for dealing with it*; ICBF also furnishes technical assistance to the departments and municipalities in formulating their own plans and putting them into action.

544. The general objective of *Haz Paz* is to foster family peace and cohesion and the consolidation of democratic families which tolerate differences and respect the dignity and rights of their members, irrespective of age, sex, culture or physical or mental capacity.

545. As coordinator of the policy, ICBF has also been promoting specific projects under the policy's various components, including:

(a) The prevention component: the aim is to have an impact on the causes and the means of preventing domestic violence and on the factors which precipitate and contain it, by promoting cultural changes and through education;

(b) The treatment component. The aim is to increase the availability of services and human resources and to adapt the inter-institutional and intersectoral arrangements for dealing with domestic violence, with a view to responding to the specific needs in each case;

(c) The institutional change component: the aim is to furnish technical support to the departments and municipalities in formulating *plans for fostering family cohesion and preventing and dealing with violence*.

#### *Rural youth*

546. This programme is operated by the National Training Service (SENA) in partnership with the local administrations. Through this programme SENA has succeeded in reaching the country's remotest areas and providing the most vulnerable rural population groups with an opportunity to obtain the kind of training which it provides. The training is tailored to the production characteristics of the area in question, with a view to offering young people jobs and the possibility of starting up new businesses.

547. SENA assisted 147,000 persons under the rural youth programme in the period 2004-2005.

#### *Comprehensive care of abused and sexually exploited children*

548. The action taken by the State in the context of inter-institutional cooperation with ICBF as coordinator of the National Family Welfare System (SNBF) included the promotion over the past four years of this programme on the comprehensive care of abused and sexually exploited children, which seeks to provide protection for children who have fallen victim to these offences or are at risk or in danger of doing so.

549. Act 679, containing measures on the commercial sexual exploitation of children, was issued in 2001; the measures in question are designed to combat the exploitation of children,

child pornography, sexual tourism involving children, and the other forms of sexual abuse of children by establishing legal rules relating to prevention and punishment.

550. The inter-institutional and intersectoral activities have made progress in terms of information, training and communication, including an important advance in the implementation of the project “Construction of social networks to prevent and detect the sexual exploitation of children” in five of the country’s cities.

551. In order to prevent access to and the dissemination of materials containing child pornography, efforts have been made to promote social mobilization against and social awareness of the sexual exploitation of children by encouraging self-regulation and codes of conduct on the use of global information systems; other measures included the publication of criteria for classifying child pornography on the Internet and the conduct of information campaigns such as “Clean Internet” to prevent the use of children for purposes of sex by means of global information systems.

552. An effort has also been made to encourage research and publications by the institutional communication media on the phenomenon of sexual exploitation of children, the provision of training on this subject for providers of tourism services in 14 regions of the country, and the establishment of telephone report lines:

(a) *Research*: Partnerships have been established with local authorities, the academic world and the private sector in order to study the social, individual and environmental dimensions of the phenomenon of sexual exploitation among children, families and clients of this exploitation in a number of regions and towns where the phenomenon is particularly common and at the national level, and work is proceeding on the study of the viability of establishing reliable information systems on this problem;

(b) *Public policy*: here the focus has been on areas of action such as promotion of the principles of joint responsibility and participation, direct assistance for children and their families under programmes and services of education and psychological, medical and social rehabilitation, and legal and administrative measures for the restoration of rights by means of coordinated intervention by the judicial, health, education and protection services;

(c) *Regulation*: the focuses are the Committee to Combat Trafficking in Women and Children created by Decree 1974 of 1996 and the approval of Act 985 of 2005, under which measures were adopted to combat trafficking in persons, together with regulations on the care and protection of victims of trafficking.

*National Plan of Action to Prevent and Eliminate the Commercial Sexual Exploitation of Children 2006-2011*

553. The institutions responsible for applying Act 679 of 2001, which introduced a statute on preventing and combating the exploitation of children, child pornography and sexual tourism involving children, have indeed been promoting its application and have taken measures which go even further than its provisions require, such as the formulation of the National Plan of Action to Prevent and Eliminate the Commercial Sexual Exploitation of Children and Adolescents 2006-2011.

554. This Plan is a response to the need to devise and make active use of effective mechanisms by the competent bodies: prevention, detection and reporting; zero tolerance and rejection of any kind of justification; and formulation and dissemination of strategies to help all children, especially all those who have been excluded from access to social goods and services, with a view to restoring their rights, gaining a better understanding of their lives, strengthening them as holders of rights, and creating the conditions to enable them to increase their self-esteem and build more worthy and hopeful life projects. The undermining of self-esteem is perhaps one of the most critical factors in cases of child victims of exploitation and abuse, for building these victims up and recognizing their worth and potential are one of the fundamental means of supporting them in constructing a new life project.

*Services for displaced families and children*

555. The report of the Office of the President of the Republic to the Congress (dated July 2006) concerning the action taken by the State indicated that the combination of measures implemented with regard to security, social policy and economic recovery had led to a reduction in forcible displacement from more than 92,000 households in 2002, the historical high point, to under 37,000 in 2005.

556. Within the framework of the policy on services for people displaced by the violence, the purpose of the ICBF Plan of Action is to provide care for the families and communities forcibly expelled from their places of residence and their land. The whole Institute was mobilized to protect the lives and physical integrity of the children, women and families in the groups most seriously affected by the violence, which have been excluded as a result of the country's social situation and denied opportunities to enjoy a decent quality of life and to exercise their rights.

557. ICBF participates in the National Comprehensive Care Scheme for the Displaced Population and has devised and is executing a special plan. It has the following four focuses: (a) providing priority and prompt attention to the displaced population, without any obstacles to access; (b) promoting family cohesion and preventing and dealing with domestic violence among the displaced population; (c) promoting the participation of the displaced population and their organizations in ICBF measures; and (d) promoting the obligations and rights of the displaced population.

528. ICBF uses several modalities, including psychological and social care, with emphasis on crisis intervention, food assistance and support for psychological and social and community reintegration; the people concerned may join regular ICBF programmes.

559. Among the most salient special programmes for the displaced population is the Protracted Relief and Recovery Operation (PRRO), developed jointly with Social Action of the Office of the President and the World Food Programme (WFP), which is intended to boost the social and economic rehabilitation of persons affected by the violence, specifically the internally displaced population, through the delivery of food aid and improved food security.

560. The PRRO has the following components:

(a) Relief: this component absorbs 38 per cent of the PRRO food aid. Its aim is to meet the immediate needs of recently displaced groups, protect the human and physical assets of

families which have been displaced for less than 18 months, and provide support for groups at high risk of displacement;

(b) Recovery: for groups which have been displaced for between six and 12 months the assistance provided during the first six months is supplemented by food aid for a longer period. This component covers: under-fives at risk of malnutrition, pregnant women, breastfeeding mothers and children under age two, children aged 3-5 (preschool age), food for schoolchildren; food for work and food for training, and community kitchens.

561. This operation assisted 1,059,598 persons in 2005 and 2006; the resources contributed by all the bodies participating in the two phases of the operation amounted to some US\$ 80 million. The extension of the PRRO for the period April 2007 to March 2008 has been agreed.

562. ICBF has 56 mobile emergency aid units in 29 departments of the country. It is estimated that in 2006 they furnished aid to 236,807 persons in 340 municipalities. The following are the main areas of intervention of the mobile units: diagnosis and planning; psychological and social care, especially in crises; community organization and participation; and food and nutritional security. Children and families are enrolled in the ICBF programmes immediately on the outbreak of an emergency.

563. The estimated annual operating costs of each of these mobile units is 248,580,144 pesos, including instructors and liaison officers, and there are plans to increase their number to 58 in 2007, at a cost of 9,049,700,000 pesos.

564. There is another component, on emergency food rations. The aim here is to contribute to emergency humanitarian aid and the relief of families affected by natural or human disasters by providing a food supplement for pregnant women, breastfeeding mothers and children aged between 6 months and 5 years 11 months while they deal with the effects of crises and emergencies, and also to support families forcibly displaced by the violence by providing food parcels and psychological and social care in cooperation with the National Comprehensive Care Scheme for the Displaced Population.

565. During 2006, 44,988 persons received aid and 110,391 rations were distributed, at a cost of 4,078,222,865.95 pesos.

566. Under its regular programmes ICBF assists families through its family educators and schools for families, in an effort to consolidate families in thinly populated rural areas and to prevent and deal with domestic violence. Its early childhood activities (for under-sixes) include the operation of community welfare centres and children's homes, provision of breakfasts for children, and nutritional rehabilitation of children in the 6-17 age group. It also provides nutritional support for schoolchildren and adolescents and runs clubs for pre-adolescents and adolescents, as well as assisting the elderly under the Juan Luis Londoño de la Cuesta National Food Programme for the Elderly.

*Modalities of protection provided by ICBF for the restoration of children's violated rights*

567. Within its sphere of competence ICBF operates programmes and services designed to protect and restore the full exercise of the rights of children aged under 18 years who are

neglected, at risk or in conflict with the criminal law, or who are victims of or have been separated from armed groups operating outside the law, with a view to securing their reintegration in their families and communities and society.

568. The services are provided by such means as the family-setting modality, where the emphasis is on family links, and day-attendance and residential programmes, foster homes, etc. In serious cases, when it is difficult to maintain links with the family or when no such links exist, the services are provided by institutional means in closed facilities (protection and re-education institutions). Attention is drawn in this connection to the role of the country's 201 local centres, in which services are permanently available to respond to whatever demands may arise.

569. The following table shows the coverage of the protection and restoration of rights services.

**PROGRAMMES AND SERVICES FOR THE PROTECTION AND RESTORATION OF THE FULL EXERCISE OF CHILDREN'S RIGHTS**

		2002	2003	2004	2005
<b>Protection in family setting</b>	Foster homes, support, friends, protection centres	15.801	14.292	16.157	16.395
	Therapeutic treatment	21.519	28.345	40.388	74.674
	Partial day-attendance, day-attendance and support	32.408	23.853	28.512	23.542
	Subsidies			1.057	3.225
<b>Institutional care</b>	Unsupervised children, and children whose rights are at risk or have been violated	27.374	33.945	32.182	28.125
	Children separated from armed groups**	561	1.159	2.871	1.981
	Juvenile offenders	15.475	14.934	54.875*	15.663
<b>Social/family care</b>	Foster homes for disabled children whose rights have been violated *	-	1.792	1.834	1.881
	Disabled or mentally disturbed children	-	2.864	3.319	2.737
<b>Residential institutions:services for children</b>	With disabilities	1.480	1.588		1.812
	With mental disturbances	289	384		463

\* Data undergoing review.

\*\* Includes the rotation of the year's quotas: arrivals and departures.

Source: ICBF. Planning Department. Programming Unit. Attainment of social targets, 2002-2005.



570. In 2006, 140,220 beneficiaries were assisted under the social/family modality and 66,334 under the institutional modality.

*Support for community mothers: strategies pursued under the policy of upgrading the community welfare centres*

571. ICBF wants to improve the situation of community mothers by offering them support under various programmes designed to enhance their quality of life which will enable them to continue providing quality care for children in their charge in the community welfare centres. To this end ICBF is using the following strategies, in the context of the policy of upgrading its community welfare centres:

(a) It is increasing by 10 per cent the allowances received by the country's 79,000 community mothers. Two per cent of this allowance will be deposited by ICBF in the National Savings Bank in savings accounts in the name of each community mother; after one year the mother may obtain a loan for housing improvement or purchase from the Banca de Oportunidades, depending on the amount saved;

(b) It is providing literacy training for 7,000 community mothers in partnership with the Ministry of National Education.<sup>103</sup> Furthermore, under an agreement with the Colombian Institute for External Education Loans and Technical Studies (ICETEX) efforts will be made to enhance the professionalism of community mothers who so wish by means of loans covering 75 per cent of the cost of enrolment in pre-degree education programmes, such as the additional courses offered by higher teacher-training schools, vocational training schools, technical schools and universities;

(c) In accordance with the upgrading policy the Ministry of Social Protection is drafting a circular to explain the scope of Act 1023 of 2006 "which, among other provisions, affiliates the families units of community mothers to the General health and Social Security System";

(d) Article 1 of this Act states that "community mothers of the community centres programme of the Colombian Family Welfare Institute shall be affiliated with their families to the contributory plan of the General Health and Social Security System and shall be entitled to all the assistance and economic benefits provided under the System." The circular will make it clear that the children of community mothers who satisfy the requirements or suffer from disabilities will remain affiliated to the subsidized plan;

(e) ICBF and the Ministry of the Environment, Housing and Land Development have been implementing the "Housing with Welfare Covenant" by combining their efforts to direct and support the execution of housing and land development policy in every region of the country;

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<sup>103</sup> According to the 2004 census, 6,851 community mothers out of the total of 77,695 recorded, with their identification, geographical location and maximum education level, had incomplete primary education.

(f) This collaboration will be based on the principle of the best interests of the child, so as to provide families with a favourable setting for children's development and facilitate access to institutional and community services;

(g) Community mothers currently in receipt of benefits from the Ministry of the Environment, Housing and Land Development and other beneficiary families will have access to the two basic components of the training provided in healthy lifestyles and behaviour, sexual and reproductive health, prevention of domestic violence, eating habits, etc., and will receive support for six months from family educators, with a view to improving relations within the family;

(h) In addition, ICBF allocated resources to enable the community welfare centres to upgrade their premises and thus to ensure healthy living conditions both for the children and for the community mothers. ICBF is also seeking alternative means of subsidizing the public utilities used by community welfare centres;

(i) Where these public utilities are concerned, ICBF will devise, in conjunction with local authorities and utilities companies, alternative means of subsidy for the premises in which the community welfare services operate. It is currently endeavouring to secure the inclusion in the National Development Plan of a proposal under which community welfare centres will be placed in category 1 with respect to the calculation of charges for water supply, sewerage and sanitation;

(j) The standards set by the community welfare centres programme are designed to improve service provision and ensure that effective attention is given to the needs of the children using the centres; these standards have to be applied by the programme's education workers and verified by ICBF, in the light of the rights of the child, by means of its arrangements for supervising and advising service providers, all with reference to the policy of improving the quality of the services which the State provides for Colombian children through ICBF.

*Children separated from armed groups operating outside the law*

572. Colombia takes a specific and different approach to children separated from armed groups operating outside the law than in the case of demobilized adults. The definition of these children as victims of the violence emphasizes the obligations of the State and society.

573. A special programme was formulated in 1999 to contribute to and support the process of consolidating the life projects of such children, in the context of safeguarding and restoring children's rights and building good citizenship and democracy on the basis of gender mainstreaming, social integration<sup>104</sup> and shared responsibility, with emphasis on preparation for life in society and at work.

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<sup>104</sup> This means producing sustainable means of generating income, teaching job skills and creating family production units, as well as coordinating the various institutional measures to improve both State and private provision, with a view to facilitating genuine access to rural and urban services.

574. The ICBF care programme for children separated from armed groups operating outside the law has three focuses of intervention: prevention, care, and monitoring of children after they leave the programme.

*Prevention of the involvement of children in armed groups operating outside the law*

575. Children separated from armed groups operating outside the law, in addition to being holders of all the rights embodied in Colombia's Constitution and laws, are subject to additional and specific judicial protection as victims of the political violence, the offence of unlawful recruitment, and violation of the right to be protected against the use of one of the worst forms of child labour, in the context of international human rights law, international labour law, and the decisions of United Nations bodies.

576. With regard to prevention measures, it should be noted that the implementation of the National Initiative to Prevent the Involvement of Children in Armed Groups Operating Outside the Law was begun in 2004, jointly by the Office of the People's Advocate, UNICEF, the International Organization for Migration (IOM) and ILO, with backing from the Governments of the United States of America, Norway and Sweden; the purpose of this Initiative is to prevent the use, involvement and recruitment of children and young people by armed groups operating outside the law and allow them to continue to live their lives as children, and to enhance the awareness of the people of Colombia, so that it ensures that children are able to exercise their rights. The Initiative was introduced first in the departments of Huila, Santander, Antioquia, Cesar, Valle de Cauca, and Tolima.

577. The prevention policy is designed to prevent the use and involvement of children by armed groups operating outside the law by means of the following measures:

- (a) Support for the formulation of public policies on children at the departmental and municipal levels and coordination of these policies with UNICEF, IOM and the Office of the Attorney-General of the Nation;
- (b) Focus on social investment in specific projects for children in the municipalities with the highest recruitment rates;
- (c) Particular emphasis on the promotion of youth participation initiatives for the implementation of prevention projects to safeguard rights;
- (d) Information, awareness-raising, and mobilization of institutions and communities.

578. The prevention policy seeks to identify accurately and tackle situations fostering involvement in armed groups by means of a variety of programmes: education, food, nutrition, use of leisure time, strengthening of the social fabric and community life in high-risk urban and rural areas, and institution-building at the national, departmental and municipal levels.

579. Accordingly, the prevention measures should be seen as actions aimed at high-risk and vulnerable groups among Colombia's children and young people and at their family and community environments.

580. In short, they amount to a public commitment to increase the options for high-risk children and young people in order to facilitate their integration on the basis of the exercise of full citizenship.

581. The strategy to prevent recruitment has at least five areas of intervention:

(a) *Inclusion on the public agenda of the question of the prevention of the involvement of children and young people in armed groups operating outside the law.* This means making representations to various public and private institutions and bodies at the national, regional and local levels, with a view to making society at large aware of the importance of acknowledging the situation and creating the necessary conditions for preventing it;

(b) *Establishment of a platform of quality opportunities relevant to the children's lives.* This means expanding the supply of goods and services in order to prevent Colombia's children and young people from viewing the armed groups operating outside the law as life options. In some cases the armed groups present themselves as ways of escape from emotional, family, socio-cultural and economic conflicts;

(c) *Early warning system.* Here the measures are designed to set in motion various mechanisms of State protection against the threat of the forcible recruitment of children and young people by armed groups. They also seek to support a number of protection projects carried out with families, communities and ethnic groups and in the education system, etc.;

(d) *Prevention of domestic violence.* The measures are intended to reverse the trend in some of the country's regions and socio-cultural groups where the nature of the family relationships tends to expose children and young people to violence. These measures are carried out in the context of the national policies (*Haz Paz*; Building peace and family cohesion; Women: builders of peace and development) designed to secure peace, equity and equality of opportunities;

(e) *Prevention, detection and treatment measures for children victims of domestic violence and sexual abuse and action to restore their violated rights.* These measures are designed to prevent victims of these forms of abuse from regarding the armed groups operating outside the law as a means of obtaining restoration of their rights;

(f) *Prevention and care measures for children and young people living in the street.* The purpose of these measures is to establish the nature of the problem, provide support for families and children at risk, strengthen the institutional services, establish social networks, activate institutional networks, and furnish specialized care for children and young people living in the street.

582. It should also be noted that the social/family care provided under the ICBF programme is being strengthened, especially in the supervisory centre modality, with conditional subsidies and a support unit; 86 adolescents are currently receiving attention under this modality, with an impact on a total of 86 families and 344 persons.

583. The Outline of the National Development Plan 2006-2010 refers in respect of children to the Plan for Children and Adolescents 2005-2015, which has the following components:

584. Where the protection of children's rights is concerned, the National Government formulated the *National Plan for Children and Adolescents 2005-2015*, with ICBF, the Ministries of Social Protection and National Education and the National Planning Department (DNP) as the lead agencies and with the support of other State bodies, civil society and international organizations, in order to create the necessary conditions to enable children to grow up in a country of opportunities and social justice in which families and children can be happy and exercise their rights as citizens.

585. To this end the Plan sets concrete targets in four main areas of rights in the form of specific measures: (1) healthy lives: to guarantee Colombia's children the right to life, health and well-being; (2) quality education: to improve children's human development; (3) special protection: to promote and improve the conditions for the full exercise of the rights of especially vulnerable children; and (4) participation: to create conditions, spaces and opportunities for the active participation of children in matters affecting their comprehensive development.

586. In order to give effect to the Plan, each of the strategic policies outlined above is applied in the form of targets to be attained and measures to be implemented during the coming decade.

587. The goal of the strategic comprehensive protection policy is to improve and foster the conditions for the full exercise of the rights of especially vulnerable children by emphasizing the joint responsibility of the family, society and the State.

588. The targets are designed to secure the protection and restoration of the rights at risk of violation or already violated, and to prevent further violations, by giving priority to care in the family setting and by means of measures to strengthen the links between children and their families and between children themselves.

589. With respect to the prevention of the involvement of children in armed groups operating outside the law, the Plan proposes to:

- (a) Identify the scope of the problem of children involved in such groups in terms of numbers and circumstances and study the extent of exploitation and forcible recruitment by region;
- (b) Devise prevention measures and measures to create opportunities for access to health, education and social assistance when required in the ranks of the armed groups operating outside the law for adolescents living in the municipalities affected by exploitation and forcible recruitment;
- (c) Back and execute projects of comprehensive psychological support for households with separated children;
- (d) Construct at the local level, with the support of the Nation, real possibilities for personal development and growth for households with children at risk of recruitment, in the regions where the influence of armed groups operating outside the law is strongest;
- (e) Boost the national and regional initiatives to increase the awareness of children, families and communities, in order to prevent the recruitment of children into armed groups operating outside the law;

(f) Develop and reinforce attitudes of individual, family and community self-protection against the forcible recruitment of children;

(g) Encourage the study and the creation of new management options for dealing with the emotional problems of households which have children separated from armed groups operating outside the law;

(h) Promote the reunification of separated children with their families.

*Care programme for children separated from armed groups operating outside the law*

590. There are institutional and social/family models for the provision of care. Under the institutional model the services are provided in a transit centre (phase 1), a specialized care centre (phase 2) or a juvenile centre (phase 3) or by the network of protection institutions (in specific cases involving psychiatric patients or the use of mind-altering substances). Under the social/family model care is provided by a foster family or a supervisory centre.

**591. The institutional model:**

(a) *The transit centre.* This is an institution which attends to the procedures of identification, diagnosis of the psycho-affective and family situation, assessment of abilities and state of health, and formulation of a treatment plan;

(b) *The specialized care centre.* This institution initiates the implementation of the recommendations of the programme's technical team, which take the form of psychological and social support, education and training, and use of free time. Children stay in these centres for about one year;

(c) *The juvenile centre.* This is an institution in which young people make a start on living in accordance with the principles of joint responsibility and independence, in the context of their continuing education and social integration. On completion they may be placed in the social and economic reintegration programme of the Office of the Presidential Adviser on Social and Economic Reintegration, provided that they satisfy the legal requirements and complete the legal and certification procedures of the Operational Committee on the Surrender of Arms (CODA), or they may return to their families if the security situation so allows.

**592. The social/family model:**

(a) *Foster family.* In this care modality a selected family which has been trained according to ICBF technical criteria volunteers to take in, full-time, a child aged under 18 requiring foster placement because he or she is at risk, having been separated from an outlawed armed group and having been used by the group in unlawful activities; the family provides the child, in a loving environment, with comprehensive care which safeguards the child's rights and allows him or her to exercise them;

(b) *Supervisory centre.* The aim of this modality is to create the conditions for the personal, family and social development of children in their (original or a related) family if the security conditions so allow. All the stages of the care model are completed. The children and

their family network are monitored and assisted in their place of residence by support units staffed by psychological and social experts.

593. In 1999 the care programme for children separated from armed groups operating outside the law began to compile the accumulated ICBF experience of caring for vulnerable children and young people which could be used in the design and application of a model adapted to the typical profile of children separated from these armed groups. This model has undergone adjustment and change in the almost eight years during which it has been in use, in response to the continual changes in the profile of the separated children and the country's political situation: new care modalities have been created with emphasis on the establishment of relations with and reintegration in the child's original family or a related family and reducing resort to placement in institutions, which experience has shown not to be the best care option for many of the children.

594. In the process of ensuring effective and sustained realization of the right to comprehensive protection with regard to health, education, rehabilitation and public assistance and in carrying out measures to achieve effective social integration, action has been taken in the form of representations to and cooperation with various sectors and international aid organizations: agreements and understandings have been reached with such bodies as the Ministry of Social Protection, the National Council on Health and Social Security, the Ministry of National Education, the National Training Service, and the Office of the Presidential Adviser on Social and Economic Reintegration, as well as with such international organizations as IOM, UNICEF, the German Agency for Technical Cooperation (GTZ), the European Union, etc.

595. Technical tools have been created, as part of the process of establishing specialized care modalities, to tackle the problems of this population; these tools are tailored to their specific profile, as are the policies on matters relating to the family, psychological and social intervention, prevention and management of the use of mind-altering substances, sexual and reproductive rights, gender issues, etc.

596. Between 1999 and 31 July 2007 the specialized programme assisted a national total of 3,290 children every year, according to figures provided by the ICBF information system.

*Monitoring and support of children separated from armed groups operating outside the law*

597. One of the following methods is used in every region to monitor children released from the care services:

(a) Referral and youth opportunities centres (CROJs). These centres are for over-18s released from the ICBF services. They offer personal counselling and social referrals for young people who have been reintegrated with their families or are living independent lives. They coordinate the network of public and private social services with a view to facilitating the full exercise of the young people's rights in society;

(b) The purpose of the CROJs is to provide counselling and referrals for young people released from the ICBF programme in order to help them to build independent lives and consolidate a life project;

(c) There are also support units to furnish comprehensive and specialized assistance to children and their families with respect to family placement or reintegration in their own families and to support them in the process of returning to their family units by facilitating the restoration and repair of emotional ties, contributing to the restoration of their rights, and assisting in the process of family and social reintegration, using the local service network in the family's place of residence.<sup>105</sup>

#### *Street children*

598. Street children receive particular attention under regular programmes on the restoration of their rights and from reception and care services in specialized institutions.

599. In view of the critical situation of street children, a "Support programme for young people and children living in the street in Colombia", sponsored by the European Union, was formulated and set in motion. Under this programme ICBF has been executing seven local pilot projects in Bogotá, Bucamaranga, Cali, Cartagena, Medellín, Pasto and Pereira with a view to determining specific models for measures to prevent and deal with the problem in each city and using the resulting projects to care for existing and potential street children and their families.

600. A total of 4,474 children were helped in 2006. It is important to keep in mind, with regard to estimates both of the size of the beneficiary population and of the magnitude of the problem, that the numbers are very variable owing to the very characteristics of this population. The distribution by city is shown below.

<b>COVERAGE OF THE STREET CHILDREN PROGRAMME</b>				
<b>City</b>	<b>Target</b>		<b>Assisted in 2006</b>	
	<b>Children</b>	<b>Families</b>	<b>Children</b>	<b>Families</b>
Bogotá	600	150	581	220
Medellín	700	250	1,092	203
Cartagena	200	100	228	86
Bucamaranga	600	120	349	150
Pasto	800	200	856	172
Pereira	430	100	440	120
Cali	500	200	273	126
<b>Subtotal</b>	<b>3,830</b>	<b>1,120</b>	<b>3,819</b>	<b>1,077</b>

*Source:* Support programme for young people and children living in the street in Colombia (funded by the European Union and executed by ICBF), 31 March 2007.

#### *Assistance for the elderly*

601. Preventive measures have been carried out under the care strategy for the elderly on the basis of the pensions and assistance systems, through which resources are transferred directly to the elderly members of the population, in particular the poor ones, in the form of benefits in cash or kind.

<sup>105</sup> The professional teams of the support units also monitor and support children under the supervisory centre modality.



602. In 2002 the Government set in motion the Social Protection Programme for the Elderly (PPSAM), which consists of an economic subsidy provided in cash and in the form of supplementary social services with a view to protecting the poor and extremely poor older members of the population against the economic difficulties caused by their inability to generate income and the social problems resulting from their exclusion.

603. Two basic mechanisms have been used in the efforts to attain this objective: (i) the payment of a monthly economic allowance representing the minimum amount needed to overcome poverty and covering at least the equivalent of 32 per cent of the current minimum legal monthly wage (SMLMV) for each beneficiary (between 35,000 and 75,000 pesos); and (ii) the provision of economic assistance in kind in the form of core social services (food, housing, medicines and technical assistance) not covered by the Compulsory Health Plan (POS) of the subsidized plan and in the form of supplementary social services (education, leisure, culture, sports, tourism and production projects) for beneficiaries living in old people's homes and for indigenous beneficiaries living on reservations.

604. As of July 2006 the number of recipients of these benefits totalled 216,172; more than 50 per cent of this total was comprised of persons with disabilities and persons living in poverty.

## **Indicators**

### *Violence and abuse*

605. Abuse and violence remain worrying phenomena in Colombia, as shown by the statistics contained in forensic reports and in the complaints processed between 2000 and 2005 (PROFAMILIA, 2005). The situation is critical, especially when the high rate of under-recording of this problem is taken into account.

606. Where the statistics on forensic reports are concerned, in 2005 there were 10,170 reports on abuse of children aged under 18 (16 per cent of the total number of reports), as against 9,847 in 2004 and 10,337 in 2002. Seventeen per cent of these 10,170 reports concerned abuse of under-fives;<sup>106</sup> this proportion has remained constant in recent years.

607. According to the ICBF National Simulated Care Centre (CNAV), reports of domestic violence and child abuse increased by 65 per cent in 2005 in comparison with 2003, from 28,984 to 47,767. In 2005, four in 10 reports related to physical abuse, followed by sexual abuse (up by 15 per cent), mental abuse and neglect. Reports of physical abuse increased by 52 per cent from 13,261 in 2003 to 20,211 in 2005, while reports of mental abuse increased from 2,495 to 4,090 (up by 64 per cent) and abuse in the form of neglect increased by 78 per cent.

### *Victims of forcible displacement*

608. Forcible displacement by the violence is a complex phenomenon in Colombia today; it has many causes and manifestations and degrees of intensity and damage to the civilian population.

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<sup>106</sup> National Institute of Forensic Medicine and Science. Forensis, 2004.

609. The official figures of the Presidential Agency for Social Action and International Cooperation, coordinator of the national system of services for displaced persons and the National Registry System, show that 1,976,970 displaced persons were registered between 1994 and 3 February 2007,<sup>107</sup> 1,036,507 of them male (52.43%) and 940,463 female (47.57%). This total included 711,328 children, in the following age groups: 0-2 years, 22,085; 3-5 years, 94,925; 6-14 years, 459,354; and 15-18 years, 134,964.

*Sexual abuse, sexual exploitation and trafficking in persons*

610. There were 15,180 reports of sexual offences in 2005, 14,434 in 2004, and 12,202 in 2002. The victims were aged under 18 in 84 per cent of the cases, a proportion which has increased annually. Fourteen per cent of the offences recorded were committed against children aged under five, 78.5 per cent of whom were girls.<sup>108</sup>

611. Reports of sexual abuse submitted to ICBF increased by 127 per cent in the period 2003-2005, from 1,451 to 3,301.

612. Reports submitted to the Public Prosecutor concerning offences of sexual abuse, exploitation or assault committed against under-18s increased from 3,821 in 2003 to 3,939 in 2005; 61 per cent of the victims were aged under 14 and 81 per cent were females.

613. According to the National Police, 3,148 sexual integrity offences committed against children were recorded in 2002; 141 of these cases involved the offence of procuring.

*Children victims of homicide, kidnapping or anti-personnel mines*

614. Where kidnapping and attacks on personal liberty are concerned, pursuant to Act 282 of 1996 the National Fund for the Defence of Individual Freedom (FONDELIBERTAD) assigns operational responsibility for combating these offences to the unified action groups for personal freedom (GAULAS), consisting of members of the National Police and the armed forces and coordinated by the Administrative Department for Security (DAS) and the technical investigation unit (CTI) of the Office of the Prosecutor-General.

615. The official figures indicate a significant decline in the number of kidnappings in the period 2003-2005, from 2,122 in 2003 to 800 in 2005, as against 3,114 in 2002.

616. According to GAULA figures for the period 2003-2005, the number of kidnappings of children fell by 52 per cent, with 103 cases recorded in 2005. Between 2002 and June 2005, 313 children were kidnapped and held for ransom.<sup>109</sup>

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<sup>107</sup> Presidential Agency for Social Action and International Cooperation. National Registry System, 3 February 2007.

<sup>108</sup> ICBF, national policy group on peace and social cohesion, Department of Direct Intervention.

<sup>109</sup> FONDELIBERTAD.

617. In general terms, these same figures show that 43 per cent of the kidnappings of children were committed by common criminals, followed in descending order by the irregular armed group the National Liberation Army (ELN), the Revolutionary Armed Forces of Colombia (FARC-EN) and unidentified groups, and by the United Self-Defence Forces of Colombia (AUC), now demobilized.

618. The problem of anti-personnel mines has increased markedly in Colombia in recent years. The proliferation of these mines throughout the national territory has had an adverse impact on the whole people, but especially in the country's rural areas. According to the figures published by Anti-Personnel Mines Watch, 10,163 explosions caused by these devices were recorded between 1990 and 1 March 2007: 2,964 of them were accidental<sup>110</sup> and 7,199 incidental.<sup>111</sup> Twenty-seven accidental and 69 incidental events were reported in the first two months of 2007.

619. Anti-personnel mine accidents caused 5,735 deaths and injuries between 1990 and 1 March 2007. A total of 1,103 victims was reported in 2006, more than in the preceding years, except for 2005 when a similar number (1,104) was reported. Sixty-three per cent of the victims of anti-personnel mines and/or abandoned unexploded munitions were members of the armed forces and 37 per cent civilians. Twenty-four per cent of the total number of victims recorded in the past 15 years (11 per cent of them children) died as a result of the injuries caused by the accident, and a considerable number of the survivors have some degree of permanent disability.

620. The children involved in armed groups operating outside the law or in such groups forming part of the community have been directly affected by anti-personnel mines and abandoned unexploded munitions – it should be remembered that children are used as human shields for the rest of the irregular group. Moreover, these children are often induced into manufacturing the devices and can suffer physical or mental harm as a result of having to handle explosives.

621. Given this situation, the National Government, the departmental and local governments, the Anti-Personnel Mine Watch of the Office of the Vice-President of the Republic, NGOs, local communities and international cooperation organizations are continuing their coordinated implementation of the National Plan for Integrated Action against Anti-Personnel Mines and Unexploded Munitions 2004-2009.

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<sup>110</sup> Any event which leaves a human victim, either because it causes a person's death or because it causes physical or mental harm to a survivor.

<sup>111</sup> Any event which has the potential to affect a person: the seizure of mines or of explosives or other materials for their manufacture, deaths of animals caused by the detonation of mines by the animals themselves, etc.

## **F. Right to an adequate standard of living (art. 11)**

### **1. Right to food**

#### **Legislative framework**

622. The Colombian State is founded, pursuant to article 1 of the Constitution, on respect for human dignity, which must inspire all the acts of the State. Human integrity constitutes the reason for the existence, the principle and the ultimate purpose of the organization of the State.

623. In accordance with this principle, article 44 of the Constitution addresses the right to a balanced diet as a fundamental children's right and the right of pregnant women to a food subsidy if they are unemployed or lack protection. In addition, article 65 establishes protection for farming activities, according priority treatment to persons or entities producing food.

624. Within this constitutional framework attention is drawn to the following legislative developments affecting the right to food which took place during the period under review.

625. Act 611 of 2000. This Act contains regulations on the sustainable management of species of wild and aquatic animals.

626. Act 623 of 2000. Among other provisions this Act declared the elimination of common swine fever from the entire territory of the country to be in the social interest of the Nation.

627. Act 811 of 2003. Among other provisions this Act amended Act 101 of 1993 and created the food-chain organizations in the agriculture, fisheries, forestry and fish-farming sectors and the agricultural processing companies.

628. Act 914 of 2004. This Act created the national system of cattle identification and information.

629. Act 1011 of 2006. Among other provisions this Act authorizes and regulates heliculture activities.

630. Act 1059 of 2006. This Act authorizes the departmental assemblies and district councils to issue a food-safety and departmental rural development stamp.

#### **Developments in the jurisprudence**

631. Decision T-025/04. This decision declared an unconstitutional state of affairs with regard to forcible displacement, ruling that the right to food is one of the rights of displaced persons.

632. Decision T-1125/03. This decision established that, in the case of persons finding themselves in a clearly weakened position as a result of vulnerability caused by a disaster, the principle of solidarity includes a specific dimension entailing that the right to a decent life is directly related to health, food security and a minimum level of protection against, inter alia, weather hazards. Accordingly, the State, together with society and the family, must endeavour to protect this legal right.

633. Decision C-071/03. This decision declares constitutional the Cartagena Protocol on Biological Safety to the Convention on Biological Diversity, adopted at Montreal on 29 January 2000.

634. Decision C-1297/01. This decision established that the para-State resources of the agriculture sector serve the purpose of developing and promoting the country's food security by encouraging research and the transfer of technology, marketing and the creation of investment tools for the sector.

### **Administrative developments<sup>112</sup>**

#### *National Food and Nutrition Plan<sup>113</sup>*

635. On 29 May 1996 the National Economic and Social Policy Council (CONPES) approved the National Food and Nutrition Plan 1996-2005 (PNAN), in document CONPES 2847, as an inter-sectoral tool for tackling food and nutrition problems on the basis of constitutional rights.

636. The Plan's general objective was to help to improve the food and nutrition situation of the Colombian people, in particular its poorest and most vulnerable members, by carrying out multi-sectoral measures in the fields of health, nutrition, food, agriculture, education, communications, and the environment.

637. The Plan's policies took into account the multiplicity of the causes, and their execution was based on inter-sectoral activities and the coordination and integration at the municipal, departmental and national levels of eight areas of action:

- (i) Food security;
- (ii) Protection of consumers by means of food quality and safety controls;
- (iii) Prevention and monitoring of micronutrient deficiencies;
- (iv) Prevention and treatment of infectious and parasitic diseases;
- (v) Promotion, protection and support of maternal breastfeeding;
- (vi) Promotion of good health and healthy eating habits and lifestyles;
- (vii) Food and nutrition evaluation and monitoring;
- (viii) Human resources training in food and nutrition policy.

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<sup>112</sup> *Seguimiento de la Aplicación del Plan de Acción de la Cumbre Mundial sobre Alimentación: Informe Nacional 2002-2005* (Monitoring of the implementation of the World Food Summit Plan of Action: National Report 2002-2005), Colombia, March 2006.

<sup>113</sup> [www.icbf.gov.co/espanol/plan.asp](http://www.icbf.gov.co/espanol/plan.asp).

638. An evaluation of the PNAN was carried out between August 2002 and September 2003 in the light of the Plan's targets and goals.

639. The evaluation produced the following main conclusions:

(a) The PNAN, designed as a State plan, is an initiative which, between its introduction and 2002, remained in operation throughout the terms of office of three Governments; this circumstance enabled it to consolidate itself at the national level and achieve the targets fixed at the outset. However, there is a clear need to extend the Plan's decentralization;

(b) During the period evaluated (1996-2002) the country generally succeeded in reducing the rates of child malnutrition (among under-fives) by strengthening the programmes of agro-industrial promotion and the food-supplement programmes for vulnerable groups, although the progress varied from region to region;

(c) Despite the efforts made, the country's socio-economic and political situation caused increasing forcible displacement, abandonment of the countryside, economic crises, unemployment, etc., problems which in turn increased the level of food insecurity among the affected population;

(d) The country made a combined intersectoral effort, in terms of regulation and legislation, to monitor and control the quality of food for human consumption in order to guarantee food safety and protect the consumer. This process should be continued and the measures should be reinforced in all the sectors having responsibilities in this area;

(e) Progress was made with the fortification of mass-consumption foods such as wheat flour (from 1997), and the quality control of iodized and fluoride-enriched salt was improved. Colombia was declared a country free from ailments caused by iodine deficiency in 1998;

(f) In 2000 the Ministry of Health issued resolution 412 establishing the technical standards and guidelines on specific protection against and the early detection and treatment of diseases of particular significance for public health, in order to improve the health of the population at large and reduce the risk of sickness and death;

(g) The Ten-Year Plan for the Promotion and Support of Maternal Breastfeeding 1998-2008 was formulated and introduced on a decentralized basis; this Plan involves various sectors, local bodies, institutions, universities, and health and education professionals. One important feature of this exercise is the backing provided by such international bodies as UNICEF, WHO/PAHO and the World Alliance for Breastfeeding Action;

(h) There is now less maternal breastfeeding during the first six months of life, mainly as a result of cultural changes, women's new role as earners of family income, the marketing strategies of producers of mother's milk substitutes, and the advice, generally mistaken, of health workers who are still unaware of the national and international policies and recommend the early introduction of foods other than mother's milk;

(i) Colombia made a big effort to produce and publicize food handbooks for all population groups, exceeding the target set in the PNAN. This was an important achievement,

but the support of other sectors, in particular education, is required for the distribution and use of these handbooks;

(j) The country welcomed the “Healthy Schools” strategy, which has facilitated the promotion of good health and healthy habits in the schools in which it has been implemented. However, what is needed is more decisive and committed participation by the bodies responsible for executing the strategy and the political will at the local level to pursue it;

(k) Colombia has made progress with food and nutrition research. But there are still unexplored topics requiring research, promotion and more detailed examination, topics necessary to the taking of decisions which will have a favourable impact on the nutritional state of the Colombian people;

(l) The support and implementation of the PNAN necessarily require talented and well trained human resources equipped with up-to-date knowledge of the various aspects of food and nutrition.

#### *Children’s breakfasts programme*

640. This governmental programme, which is headed by ICBF and the municipal town halls and is aimed at improving the nutritional state of children between the ages of five months and six years born in the most vulnerable population groups, provides children with breakfasts from Monday to Friday for 250 days a year under two arrangements: the type 1 breakfast, which consists of one kilo of Bienestarina per child per month for children aged between six and 11 months; and the type 2 breakfast for children aged 12 to 71 months, which consists of one kilo of Bienestarina per child per month plus a ration of 200 millilitres of full-cream cow’s milk, which is ultra-pasteurized and enriched with natural or flavoured iron, and a maximum of 40 grammes of an iron-enriched biscuit product.

641. During the implementation of this programme the number of recipients increased by more than 928,000 between 2002 and 2006; in August 2006 the coverage stood at 1,006,640 children.

#### *Services for children of school age*

642. ICBF provides services for children of school age in strata 1 and 2 enrolled in public schools in years 1 and 2 in the shape of a dietary supplement which provides between 20 and 30 per cent of the calories required at specific ages. Priority is given to rural schools, indigenous schools and schools with a high proportion of displaced children.

643. The school canteens programme is designed to encourage children to enrol in the education system, prevent drop-outs and promote regular attendance. The service is universal from pre-kindergarten to the second year of primary.

644. A total of 2,786,509 children benefited under this programme in 2005. The figure rose from 2,229,687 in 2002 to 2,786,509 in 2005 and to 2,297,009 in the first quartet of 2006.

*Services for the elderly*

645. The Juan Luis Londoño National Food Programme for the Elderly was carried out during the period under review with the aim of improving the diet and mitigating the risk of malnutrition of a population of 400,000 elderly persons suffering displacement or poverty or belonging to SISBEN level 1 by providing a food supplement, with the support of local authorities, religious organizations, local NGOs and the community. This programme began operations at the end of 2004, furnishing the service to 25,710 elderly persons. The number of beneficiaries totalled 288,212 in 2005 and 393,027 in 2006. The displaced population benefiting under this programme totalled 2,867 in 2005 and 11,897 in 2006.

*Displaced and vulnerable persons*

646. The State has made great efforts to deal with the food problem among the displaced and vulnerable population by reinforcing the Protracted Relief and Recovery Operation (PRRO), and the Food Security Network (RESA) and by carrying out self-sustaining production projects.

647. The PRRO is run jointly by the World Food Programme (WFP), ICBF and Social Action; its purpose is to foster the social and economic rehabilitation of persons suffering or at risk of forcible displacement by supplying food aid and support designed to achieve food security.

648. The beneficiaries are recently displaced persons (whether or not entered in the Register of Displaced Persons) who are living in regions with large concentrations of displaced person at the stage of transition from emergency aid to recovery and who are not receiving assistance from the State, together with persons at high risk of displacement who find food very hard to come by.

649. The aims are to reduce the amounts spent on food by this population, diversify their diet and help to maintain them as human assets. The PRRO is based on two strategies: the first is the distribution of emergency rations, which vary according to the modalities of the aid and rehabilitation components and in the light of the food needs of each group; the second is the acquisition of skills for the preservation and diversification of the subsistence base.

650. Food is distributed under the relief component, either through the provision of a food ration every 40 days for a period of 150 days or in community kitchens. The aim of the recovery component is to protect the means of subsistence by such methods as “food for work” and “food for training”: families receive food rations for a maximum of 120 days either in return for work or by acquiring the skills to enhance their competitiveness in the market place; the aim is for both methods to contribute to the social and economic rehabilitation of this population.

651. The PRRO seeks to guarantee the food security of the target population either by providing food and emergency assistance or by supplying food in return for work or training. In so doing it ensures access to food for specified periods and takes into account cross-cutting factors such as the improvement of gender equity by making women the focal points of the operation; it also tailors its assistance to different population groups, for example children aged under five and pregnant and breastfeeding women. Although it does not address all the elements of food security – stability for example – it does endeavour to furnish some tools of social and economic rehabilitation.



Consolidated performance of the PRRO, 2000-2007						
Inputs	PRRO-6139		PRRO-10158		OPSR-10366	
	US\$	PESOS	US\$	PESOS	US\$	PESOS
<b>PMA</b>	7.751.705	11.960.880.815	25.949.993	60.022.333.809	39.818.311	96.360.312.620
<b>Social Action/ ICBF</b>	11.100.000	17.127.300.000	22.072.889	51.054.592.257	33.057.851	80.000.000.000
<b>TOTAL</b>	<b>18.851.705</b>	<b>29.088.180.815</b>	<b>48.022.882</b>	<b>111.076.926.066</b>	<b>72.876.162</b>	<b>176.360.312.620</b>

Source: Social Action.

WFP-Colombia: Summary of beneficiaries and food aid provided per year under the prro, 2000-2006 <sup>114</sup>							
Year	Operation/ Project	Total Prro Beneficiaries	Benef. Icbf Mode	Benef. Rss/soc.act. Mode	Tons Delivered (exc. Bienestarina)	Bienestar. (tons.)	Total Tons. (Inc. Bienest)
2000	6139	28939	7255	21684	233		
2001	6139	111061	52210	58851	1721		
2002	6139	151488	51293	100195	6376		
2003	6139	64935	18391	46544	4054	747	13131
2003	10158	103754	86433	17321	789	156	945
2004	10158	412947	180449	232498	12316	1190,8	13507
2005	10158	345684	189660	156024	5149	396	5545
2005	10366	425256	249911	175345	8518	676	9194
2006	10366	607875	226000	381875	11662	1870	13532
				<b>TOTALS</b>	<b>50818</b>	<b>5036</b>	<b>55854</b>

Source: Social Action.

652. Production projects are one of the strategies of the programme on the voluntary manual eradication of illicit crops, which is designed primarily to establish a regional and local economic base which will offer stable and legal sources of jobs and incomes and help to improve the food security of peasant farmers and communities through the sustainable use of natural resources.

653. With support of international cooperation, sustainable production projects are being formulated and executed in accordance with the technical, economic, financial and environmental criteria determined by the programme and in harmony with the development plan for each region.

<sup>(114)</sup> The Social Action figures are updated to December 2006; the ICBF figures are forecasts for the year in question.

654. Pursuant to CONPES 3218, priority is given to such crops as rubber, premium coffees, timber, palm oil and cocoa.

655. The projects selected under this arrangement are financed as follows:

- (a) Non-reimbursable contributions of up to 40 per cent of the total amount allocated to production of the crops and to social and technical back-up;
- (b) Private-sector resources;
- (c) Resources of beneficiary families.

656. The model also includes an additional component on food security in order to optimize the input-output ratio in such a way that the properties produce sufficient food for family consumption and avoid having to buy in what can be sown or produced (without seeking to obtain tradable surpluses). The projects also promote the generation of savings to supplement the central activity during the off season. The aim in this regard is to establish:

- (a) Subsistence crops;
- (b) Temporary crops;
- (c) Small fisheries operations and raising of smaller species of animal.

657. Since 2002 the Colombian State has invested 409,531 million pesos in 675 projects; the programme has been backed by USAID, which has carried out 19 projects for a total investment of about 43,000 million pesos.

658. The principal objective of the Food Security Network (RESA) programme is to generate a change of attitude among small-farmer families at risk of exposure to the violence or already harmed by it by promoting food-production projects for own-consumption with the ultimate aim of preventing displacement in the future and encouraging people to stay on their land and/or return to it and by taking advantage of Colombia's natural wealth in its various climate zones, its wide diversity of soils, and the variety of flora and fauna found throughout the national territory.

659. The programme seeks to attain its objectives by executing projects which generally cover more than one municipality; since 2003, the year in which the programme started, 188 projects have been carried out in 926 municipalities for the benefit of a total of 435,465 families. Every project has three components: motivation, dissemination and inputs.

660. The aim under the first component is to ensure that small farmers are aware of the possibility of producing themselves enough food to satisfy their nutritional needs and those of their families; in addition, the participants receive training at this stage in the use of simple agricultural production techniques which are within their scope and in the application of traditional knowledge of the production of farm goods. The training includes play activities which use the creativity of the participants in a given project to ensure that these techniques are properly assimilated.

661. The second component consists of a strategy to motivate the participants by means of the mass media (radio, television, press, etc.) to change their attitudes to the use of the land available to them; this component is closely linked to the first component in that it seeks to encourage small farmers to take advantage of the natural richness of their land to improve their access to food and satisfy their own and their families' needs.

662. The third component comes into play towards the end of the project in the shape of a one-off delivery of agricultural and fisheries inputs in amounts and varieties which depend on the needs of the communities participating in the project; the aim is to provide the project's small farmers with the means of continuing to work on their properties.

663. Once a RESA project has been completed, the programme monitors the families which participated in it, with a view to checking that they maintain the tools and inputs necessary for ensuring that they can continue, by their own means, to acquire sufficient food to satisfy their nutritional requirements and enable them to lead healthy and active lives.

664. The RESA programme conducted a pilot evaluation exercise in three projects; it produced the following findings:

(a) The cofinancing arrangements secured by the RESA programme are in themselves an important outcome: 38.6 per cent contributed by Social Action;

(b) In addition to introducing substitute crops, the programme generates savings and facilitates access to a bigger basket of foods to supplement people's diets;

(c) Opportunities of training are considerably greater for RESA users than for non-users, a circumstance which consolidates the programme's sustainability;

(d) The impact of access to food for family consumption increases in turn the amount of such food, valued at 21,489 pesos a month;

(e) The desire to maintain a permanent supply of own-consumption products means that families hold more than a two-months' stock.

665. The programme's impact is currently being evaluated with the technical support of the National Planning Department (DNP) in order to measure its effects on the participants and confirm the findings of the pilot evaluation.

<b>RESA programme, 2003-2006</b>					
	<b>Municipalities</b>	<b>Families</b>	<b>Persons</b>	<b>Investment (millions)</b>	<b>Counterpart</b>
Total	839	435,413	2,188,983	56,477	75,677

*Source:* Social Action.

*Capital District programme to combat hunger*

666. Where activities at the local level are concerned, it is worth drawing attention to the effort made in the Capital District. The city's administration has been executing the "Bogotá without hunger" project under a public policy of food security and nutrition for the capital, with the

involvement of private businesses, the social-support sector, the Church, the university, local shops, small producers in Bogotá's rural area, numerous voluntary networks and organizations, and representatives of the Capital District Council and the regional authorities.

667. For the purposes of this programme, the right to an adequate diet has at least four components:

- (a) Availability of an ample and diversified supply of food in local markets at fair prices;
- (b) Accessibility – in such a way that families and every one of their members do not encounter any economic restrictions or physical or geographical obstacles in acquiring food, in any place and at any time;
- (c) Stability of supply and access;
- (d) Food consumption and use.

668. The food security and nutrition policy advocated by the Capital District administration is incorporated in the general policy structure and is far removed from the concepts of assistance alone, but without abandoning the concern with and interest in designing and setting in motion programmes and measures providing concrete responses to the severe malnutrition and impairment of the right to food which are the experience of a large number of the city's inhabitants.

669. This is the framework for the community canteens and school meals programmes, which are based on the principle of shared responsibility and cooperation between the State and the citizenry.

670. This desire, manifested in a shared vision of public policy, implies a change of priorities and a different way of organizing action. On the one hand, it is important to guarantee the food and nutritional security of the entire city; on the other hand, there is a need to eliminate the unjust and avoidable inequalities between individuals, households and localities. In this way it is possible to achieve the universal exercise of the right to food on equitable terms.

671. According to the Capital District policy, the efficiency of the food-supply chain is a decisive factor for the city's food security. However, it is not a sufficient means of guaranteeing the food and nutritional security of households and families and their members. Purchasing power must be boosted in order to prevent lack of money from becoming a cause of exclusion. But an efficient supply and increased purchasing power do not solve the problem of quality or ensure that the food coming into the city and sold in neighbourhood markets satisfies the calorie and protein requirements and people's food preferences and takes their cultural diversity into account.

672. Accordingly, one of the priorities is to generate a momentum for cultural changes leading to the incorporation of good practices in every link of the food chain and to alteration of the decision-making patterns of family men and women, as individuals, and, as a group, of every one of the agents in the supply chain.

673. The Capital District has proposed these courses of action in order to produce a public agenda for the city's food and nutritional security which will facilitate progress towards realization of the universal right to food and the elimination of inequality and exclusion.

674. The "Bogotá without Hunger" programme was initiated in 2004 on the basis of the Capital District Development Plan 2004-2008: "A social commitment to fight poverty and exclusion"; a total of 627,980 daily food supplements had been distributed by the end of 2006.

675. In addition to the implementation of the school meals and community canteens projects, this undertaking was extended to include the provision of food services and support for rural communities and persons with severe disabilities, the distribution of over 600,000 food and nutrition supplements to children, pregnant women and breastfeeding mothers suffering from malnutrition, and the provision of training in nutrition and healthy lifestyles for some 200,000 persons, in conjunction with the "Health for your Household" programme of the Capital District Health Secretariat.

676. Other achievements include the distribution of micronutrient supplements to mothers and children and to pregnant women and breastfeeding mothers as a public health measure to prevent, control and make good micronutrient deficiencies.

677. Where guarantees of food supply are concerned, today Bogotá has its Masterplan for food supply and security, which will help to eliminate the proliferation of intermediaries and inefficient arrangements which drain family resources.

678. The purpose of the Masterplan is to reorganize Bogotá's food supply by involving in the management systems the small and medium-sized producers of the central region of the country, together with shippers, processors, distributors and shopkeepers.

679. The project's integrated nature is also evident in such measures as the urban agriculture project, the mobilization of the university and academic world, and the response of businesses to the appeal launched by the Capital District's administration: "Take an interest" in the fight against hunger.

## **Indicators**<sup>115</sup>

### *Nutrition*

680. In 2006, 13.5 per cent of children presented chronic malnutrition, 6.7 per cent general malnutrition and 0.8 per cent severe malnutrition; in 2005, 12 per cent of under-fives presented chronic malnutrition, 7 per cent general malnutrition and 1 per cent severe malnutrition.<sup>116</sup> In 2005 the mortality rate from malnutrition in this age group was seven per 100,000 children (this

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<sup>115</sup> *Seguimiento de la Aplicación del Plan de Acción del Cumbre Mundial sobre Alimentación: Informe Nacional 2002-2005* (Monitoring of the Implementation of the World Food Summit Plan of Action, National Report 2002-2005).

<sup>116</sup> *Ibid.*

represents 801 deaths a year for the whole country,<sup>117</sup> a situation connected with marginalization and poverty), while total malnutrition<sup>118</sup> among children belonging to the lowest income group amounted to 19.8 per cent, as against under 1 per cent in the highest income group<sup>119</sup>.

<b>Malnutrition among under-fives, 2000-2005</b>		
<b>Type of malnutrition</b>	<b>2000</b>	<b>2005<sup>120</sup></b>
Chronic (weight/age)	13.5	12
Slight	10.7	10
Moderate/severe	2.8	2
Acute (weight/age)	0.8	1
Slight	0.7	1
Moderate/severe	0.1	1
General (weight/age)	6.7	7
Slight	5.9	1
Moderate/severe	0.8	6

*Sources:* Ministry of Health (now Ministry of Social Protection) and Colombian Association of Medical Faculties, 1965; Mora, José O., 1977; Castro de Navarro, L. and Acosta, F., 1986; PROFAMILIA and others, 2005.

681. Malnutrition among under-fives is a more serious problem in rural areas and in large poor families with little spacing between the children. The mothers of children suffering from malnutrition have few years of formal education.

682. In the 10-17 age range the urban population presents a chronic malnutrition rate of 12.9 per cent; the rate is twice as high in rural areas, at 24 per cent. Overweight and obesity have become the principal problem among the adult population (18 to 64 years), affecting 46 per cent of its members, most of them women.

683. A total of 49.2 per cent of pregnant women are classified as nutritionally normal, 20.7 per cent as underweight, 22.9 per cent as overweight, and 7.2 per cent as obese.

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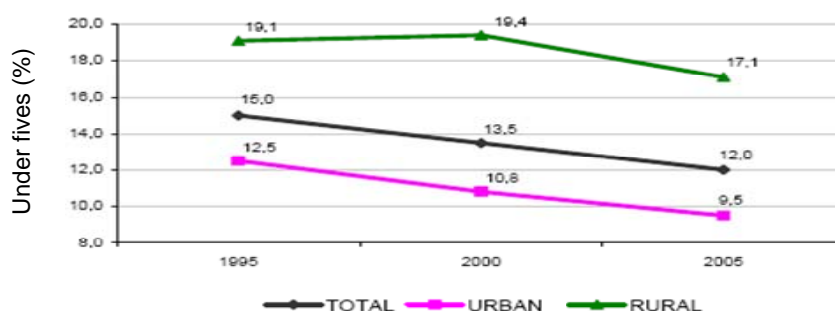
<sup>117</sup> DANE, 2002 (9).

<sup>118</sup> This refers to children in the sample presenting two or more standard deviations below the average for the reference population.

<sup>119</sup> PROFAMILIA and others, *op. cit.*, (52).

(<sup>120</sup>) PROFAMILIA and others, *op. cit.* (52).

### Evolution of chronic malnutrition among under-fives



Source: PROFAMILIA, National Demographic and Health Survey (five-year).

684. Nutritional anaemia affects 32.8 per cent of females in the 13-49 age group, 44.7 per cent of pregnant women, 37.6 per cent of children in the 5-12 age group, and 33.2 per cent of children aged one to four years. The highest rate is found among children aged 12 to 23 months (53.4 per cent of the total).<sup>121</sup>

685. Food consumption varies in Colombia by age group and type of food. According to the 2005 Nutrition Survey, the consumption of milk, the main source of calcium and protein, is very low at all ages and critically low in the 2-18 age range. The consumption of meat and meat products, sources of protein of high biological value, is adequate in the 2-8 age group, but in the older groups it remains at low levels, ranging between 30 and 40 per cent of what it ought to be. This situation seriously compromises the protein intake of the persons in question. The consumption of legumes is higher than the recommended level in all age groups, possibly owing to people's habit of avoiding expensive foods such as meat and milk.

686. The information coming from the mass media and the advertising of industrially processed products has an influence on Colombians' decisions when it comes to buying and consuming food, but this type of product usually has a low nutritional value and contains large quantities of fats, colourings and preservatives. The consumption of this type of food and of fast food, especially in the towns, is causing overweight and obesity, recognized risk factors for cardiovascular diseases.

### Percentages of the population with nutrition problems, 2005

Adults (18-64)	Men	Women	Pregnant women
Underweight	3.7	3.9	20.7
Overweight	31.1	33.0	49.9
Obesity	8.8	16.6	22.9

Source: ICBF.

<sup>121</sup> ICBF, National Nutrition Survey, 2005. (In Spanish only)

### *Maternal breastfeeding*

687. Ninety-seven per cent of Colombia's women breastfeed their children for some period or other; however, despite the international recommendation that exclusive breastfeeding should be maintained during a baby's first 180 days, the average period in Colombia is 2.2 months from birth, although this period has been gradually increasing, from 0.6 months in 1990 to 1.7 months in 2000 and to 2.2 months in 2005.

688. By 2005 the average period of maternal breastfeeding in conjunction with a suitable additional food had increased to 14.9 months, three and a half months longer than in 1995.<sup>122</sup>

689. Skin-to-skin contact and the early initiation of maternal breastfeeding during the first half hour following birth improves the mother's neonatal adaptation and her health. However, this indicator has been in a downward trend in comparison with the sharp upturn in the 1990s from 34.1 per cent in 1990 to 50.5 per cent in 1995 and to 61.3 per cent in 2000. There has been a worrying downtrend in the five-year period 2000-2005 to 48.9 per cent.<sup>123</sup>

## **2. Right to adequate housing**

### **Legislative framework**

690. Article 51 of the Constitution establishes the right of all Colombians to decent housing. The State must create the necessary conditions for the realization of this right by way of social housing plans, adequate funding systems, and associative action.

691. Many regulations have accordingly been issued to give effect to the right to housing, including:

692. Act 627 of 2000. This Act made some amendments to the General Budget of the Nation for 2000 in order to finance housing subsidies through the Fund for the Reconstruction and Social Development of the Coffee Sector (FOREC) (following the earthquake in the country's coffee-growing region in 1999).

693. Act 633 of 2000. This Act contains tax regulations, including provisions on the treatment of the mandatory funds for social housing and new rules to consolidate the finances of the judicial branch.

694. Act 708 of 2001. Among other provisions this Act introduced regulations on the Family Housing Subsidy.

695. Act 795 of 2003. This Act amended some of the rules of the Organic Statute of the Financial System. Article 1 establishes the leasing of housing and micro-credits for the purchase, construction and improvement of property; the amounts of these loans must not exceed

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<sup>122</sup> PROFAMILIA, National Demographic and Health Survey, 2005.

<sup>123</sup> PROFAMILIA, National Demographic and Health Surveys.



25 current legal minimum monthly wages, with a term of under five years and an interest rate equivalent to the rate set for the funding of social housing.

696. Act 820 of 2003. Among other provisions this Act contains the urban accommodation rental schedule.

697. Act 823 of 2003. This Act contains regulations on equal opportunities for women. Article 10 establishes specific regulations on the right to housing.

698. Act 854 of 2003. This Act amended article 1 and article 4, paragraph 2, of Act 258 of 1996 in order to provide comprehensive protection for the family. Assignment of property as family housing.

699. Act 973 of 2005. This Act regulates matters relating to the Armed Forces and Police Housing Promotion Fund.

700. Act 1001 of 2005. Among other provisions this Act contains measures relating to the portfolio of the National Institute for Social Housing and Urban Redevelopment (INURBE), which is being wound up. It provides that national public bodies shall surrender for social housing, free of charge, land in their ownership which constitutes State property and has been illegally occupied, providing that the illegal occupation took place before 30 November 2001. Under this same Act the National Government authorized INURBE to settle the unpaid loans of the adjudicators of the defunct Land Loans Institute (ICT).

701. Act 1114 of 2006. This Act provided for an increase in the social housing budget from 150,000 million to 410,000 million pesos a year.

702. Decree 975 of 2004. This Decree regulates the Family Social Housing Subsidy (paid in cash) in urban areas.

703. Decree 2480 of 2005. In addition to other provisions on family housing subsidies, this Decree established the conditions for applications for and award and payment of the family subsidy for urban and rural social housing awarded by the National Social Housing Fund and the Agrarian Bank of Colombia S.A. to families affected by disasters, public calamities or emergencies which are caused or may be caused by natural events.

704. Decree 951 of 2001. This Decree regulates the question of housing and housing subsidies for displaced persons.

705. Decree 2569 of 2000. This Decree regulates the question of *socio-economic stabilization*. This refers to the socio-economic stabilization of persons displaced by the violence, the terms of the access of displaced persons to programmes designed to satisfy their basic needs with respect to housing, health, food and education from their own means or to programmes operated for this purpose by the National Government or by local authorities within their spheres of competence and subject to the availability of funds.

706. Decree 2007 of 2001. This Decree regulates parts of articles 7, 17 and 19 of Act 387 of 1997 with regard to provision of prompt assistance to members of the rural population displaced

by the violence, within the context of their voluntary return to their places of origin or their resettlement in other places; it also contains measures to prevent such displacement.

### **Developments in the jurisprudence**

707. Decision T-419/03. Developing its jurisprudential policy on displacement, the Court addressed in this decision the measures to satisfy the housing needs of displaced persons and the action taken to secure their economic stabilization.

708. Decision T-1091/03. In this decision the Constitutional Court invested the right to housing with the status of a fundamental right if *“some linkage to another fundamental right comes into play or when it can be shown that the minimum subsistence level is affected, especially in the case of persons in a manifestly weakened situation, for, as this Court has stated repeatedly, the right to housing is of importance for the realization of human dignity.”*

709. Decision T-617/05. In this decision the Court invested the right to decent housing with the status of a fundamental right because of its linkage to the rights to an adequate standard of living and the free development of the person. It also indicated the need to adapt the procedures and requirements for access to housing programmes operated by the State.

710. Decision C-936/03. In this decision the Court concluded that the right to decent housing does not imply solely the right to own property and that various secure modes of holding property are admissible, with reference to the leasing system established in Act 795 of 2003.

### **Administrative developments**

711. The proposition “Colombia – a country of owners” is one of the seven tools of equity of the National Development Plan 2002-2006. This tool has two action fronts to encourage private ownership of property: the increase of micro, small and medium-sized enterprises and better access to social housing.

712. The aim of the housing policy is to contribute to economic growth, social reactivation, and jobs creation by relying on economic agents to promote housing construction in accordance with the criteria of good business and social responsibility, with a view to mounting an effective challenge to the increasing quantitative and qualitative housing deficits and turning Colombia into a country of owners.

713. Three strategies for the attainment of the objectives of the housing policy have been pursued:

- (a) The national system of family subsidies and loans for urban and rural social housing;
- (b) Financial instruments;
- (c) Technical development.

*Family subsidies*

714. The following measures are carried out under the national system of family subsidies and loans for urban and rural social housing: (i) ensuring optimum use of the subsidies model under which the public and private sectors interact; (ii) implementation of the National Family Housing Subsidies Programme, which brings together the resources of the Government, the Family Compensation Funds, the Housing Promotion Fund and the National Savings Bank; (iii) establishment of the National Rural Housing Subsidies Programme, under which procedures have been introduced for the award of subsidies; and (iv) implementation of the National Programme on the Award of Subsidies in Kind, under which the aim is to award subsidies in the form of land suitable for social housing transferred to the National Housing Fund (FONVIVIENDA) by national public bodies.

715. The family housing subsidy is a contribution by the State in cash or kind awarded to recipients once only in order to facilitate the solution of their accommodation problems by means of social housing; the subsidy does not have to be repaid, provided that the recipient satisfies the requirements of the regulations.

716. The family housing subsidy is available to applicant families with few resources to enable them to obtain housing or to improve or acquire legal title to an existing property; the regulations establish the procedures for verifying the applicants' circumstances.

717. The bodies which award this subsidy are the FONVIVIENDA (which replaced INURBE), the Family Compensation Funds, and the Agrarian Bank in rural areas.

718. In order to guarantee access to decent housing for the poorest families, the Government took action to improve and expand the availability of subsidies and loans for social housing.

719. The annual allocation of subsidies increased by 76 per cent between 2002 and 2005, and loans by 74 per cent. A total of 395,885 housing subsidies and loans were granted. The commitment on the part of the financial and social-support sectors contributed to this achievement. Under an agreement concluded with these sectors in 2004, resources totalling over 448,000 million pesos were allocated for social housing.

720. As a result of the success of this agreement, a decision was taken to renew it in mid-2005 with the participation of the National Guarantees Fund. Between July 2005 and June 2006 a total of 990,000 million pesos was placed for this type of housing under the renewed agreement.

721. Where displaced persons are concerned, a total of 33,394 social housing subsidies were awarded as a result of the focusing of resources and measures on this vulnerable population group.

*Financial instruments*

722. The following measures are being carried out under this strategy: (i) new schemes to promote the supply of credit: in order to increase the purchase of housing costing less than 70 times the current legal monthly minimum wage, at the end of 2003 the National Government signed an agreement under which banking institutions and financial cooperatives will place at least 0.5 per cent of their total loan portfolios in new property loans or micro-credits to finance

the construction, improvement and/or purchase of urgently needed housing; (ii) promotion of housing micro-credits; (iii) promotion of insurance cover against inflation of the Real Value Unit (UVR), a form of cover introduced as a new mechanism of protection against UVR movements, which means that borrowers will make their repayments in a fixed amount for the entire duration of the loan, so that they can be sure in advance of the amount of each of their repayment instalments; (iv) elimination of unproductive loans: here the National Government is seeking to reduce the risks associated with the current arrangements for mortgage finance; [...] promotion and adaptation of the leasing scheme; (v) development of the urban housing rental scheme: this was achieved by the passing of Act 820 of 2003, which provided for an income-tax exemption to encourage private investment in the construction of social housing for rental.

### *Technical development*

723. This ensures effective monitoring of the correct use of the family housing subsidies for eligible projects which offer the recipients of subsidies the possibility of acquiring decent housing; there are also programmes to foster a better quality of life by improving the quality of housing and the correct use of materials in accordance with proper technical and quality standards.

724. The housing policy is applied on the same terms throughout the national territory, in accordance with the established strategies, for the benefit of all the families which satisfy the eligibility requirements.

725. In order to attain the objectives proposed by the National Government under the social housing policy, several programmes were devised to attend to the needs of vulnerable members of the population, including displaced persons, persons affected by terrorist attacks or natural disasters, demobilized or reintegrated groups, and soldiers wounded in combat; these programmes are governed by the current regulations on the award of family housing subsidies from the various sources of financing.

726. Priority treatment is accorded to these groups by two such sources – the Unified National Fund and the Subsidies in Kind and Additional Subsidies Fund: pursuant to Decree 3111 of 2004, eligibility for priority treatment is verified as follows:

(a) Households are grouped by the category of vulnerable population to which they belong. Each group is treated in accordance with its assigned category;

(b) Subsequently, the groups of households are placed at the head of the overall list of pre-selected households, in the following order of precedence:

- (i) Households officially registered under relocation programmes in respect of natural risks which cannot be mitigated;
- (ii) Victims of terrorist attacks or natural disasters;
- (iii) Persons displaced by the violence;
- (iv) Households consisting of persons participating in the reintegration programmes;

- (v) Households located in critical areas where the democratic security programme is in operation;
- (vi) Regular soldiers, professionals and small farmers;
- (vii) Households participating in urban renewal programmes certified by the municipality;
- (viii) Households carrying out projects under self-management arrangements.

727. Under the arrangements described above, FONVIVIENDA or its authorized agent includes in the list other households which submit applications, which are placed in descending order according to the category to which each of them is assigned. A similar procedure is used for the allocation of subsidies from the Unified National Fund, as stipulated in Decree 4429 of 2005. FONVIVIENDA has allocated resources for the award of family housing subsidies from both the Funds referred to in the preceding paragraph.

#### *Basic sanitation*

728. The drinking water and basic sanitation sector is decentralized: the municipalities are responsible for the efficient provision of these services throughout their jurisdictions. In addition, the regulations on the provision of domestic utilities allow these services to be furnished by either public or private operators in order to improve efficiency in the sector in terms of service quality and investment, administration, and operating and maintenance costs.

729. With regard to the basic sanitation situation, the National Quality of Life Survey conducted in 2003 indicated that 86.8 per cent of Colombia's total population had a public, community or village piped water supply. There was a marked difference between urban and rural areas (97.6 and 53.5 per cent respectively). A total of 72.2 per cent of the population had sewerage (90.5 per cent in urban areas and 16 per cent in rural areas).

#### *Agrarian reform*

730. Although noteworthy results have been achieved, in terms of rural social development, in the reactivation of farming activities, in the size of the sown areas, and in the award of loans, the results produced by such undertakings as the agrarian reform programme have been poor.

731. In the period 2002-2006 only 60,000 hectares were awarded to 4,026 families out of the 150,000 hectares scheduled for award to 15,000 families. This is the basic reason for the slowness of the restructuring of the use of the estates previously used for illicit activities, title to which had been extinguished, for the delays in producing valuations, and for the difficulties encountered in implementing programmes by delegating functions to local authorities. Nor have all of the Government's targets been attained with respect to changes of land use, owing in some cases to deficiencies in the determination of methods of financing, in others to the failure of irrigation techniques as a result of high levels of soil salinity.

*Tackling the housing shortage: Act 1112 of 2006*

732. The National Government is endeavouring to reverse the country's housing shortage by means of this regulatory instrument. Beginning in 2007, the amount of the national budget resources appropriated for social housing is being increased by 260,000 million pesos a year. In other words, it will increase from 150,000 million to 410,000 million pesos a year.

733. These new resources will benefit 820,000 poor Colombian households in the form of subsidies for the purchase of new or existing urban or rural housing, housing improvements, and legalization of titles.

734. Under this Act the funds will be used to provide social housing (VIS) subsidies in both urban and rural areas. Under no circumstances may this section of the budget be cut.

735. In addition to increasing the resources for VIS subsidies, the new Act provides that 80 per cent of the appropriation of 410,000 million pesos a year shall be allocated to the urban sector and 20 per cent to the rural sector.

736. In addition, the agreement which the Government has with the compensation funds for the tertiarization of the subsidies, i.e. for the subsidies to be granted through these funds, is being extended until 2010. A further benefit of this exercise is that it enables individuals to save with the National Savings Bank (FNA) so that they will qualify for its loans.

737. FNA membership is also open to commissioned and non-commissioned officers, regular soldiers, police officers, civilian personnel of the Ministry of Defence, the armed forces and the National Police and teachers earning a full salary. Affiliation by means of voluntary savings is obtainable on request, in accordance with the regulations issued by the National Government.

738. Persons saving voluntarily with the FNA may also be eligible for the tax benefits applicable to savings accounts for the promotion of construction.

739. The Act further provides that the municipal and district authorities shall make it mandatory for all housing projects to reserve one per cent of the houses built, and for projects with fewer than 100 houses to reserve one of them, for persons with disabilities.

740. This reserved housing may not have any interior architectural obstacles and must be adapted for occupation by persons with disabilities, in accordance with the regulations issued in this regard by the National Government.

## **Indicators**

### *Housing and construction*

741. According to the DNP paper "Recent developments in social housing in Colombia", the principal housing sector indicators performed very favourably during 2005. In fact, the figures for the number of housing starts and the number in the pipeline, which measure the sector's real activity, increased by 6.5 and 13 per cent respectively in 2005.

**Principales indicadores vivienda y construcción, 2004 – 2005**

Indicator		Latest figures	2004	2005	Variation
Construction GDP	Millions of 1994 pesos	Annual total to Sept. 05	2.895.814	3.088.556	6,7%
Units started	VIS	September/05 – acum. Annual	26.746	27.369	2,3%
7 Metropolitan areas	NON-VIS	September/05 – acum. Annual	34.634	37.980	9,7%
	Total housing	September/05 – acum. Annual	61.380	65.349	6,5%
Units in pipeline	VIS	September/05 – annual average	18.633	20.051	7,6%
7 metropolitan areas	NON-VIS	September/05 –annual average	34.383	40.038	16,4%
	Total housing	September/05 –annual average	53.016	60.089	13,3%
Permits (units)	VIS	December/05 – acum. anual	36.805	41.044	11,5%
77 towns	NON-VIS	December/05 – acum. anual	57.824	62.064	7,3%
	Total housing	December/05 – acum. anual	94.629	103.108	9,0%
Number of loans	VIS	September/05 – acum. anual	21.843	22.759	4,2%
Whole country	NON-VIS	September/05 – acum. anual	22.226	24.828	11,7%
	Total housing	September/05 – acum. anual	44.069	47.587	8,0%
Mortgage portfolio	VIS	September/05	4.841.144	4.877.777	0,8%
Thousand million pesos	NON-VIS	September/05	9.572.922	8.757.766	-8,5%
	Total housing	September/05	14.414.066	13.635.543	-5,4%
Consignments of concrete	Tons	December/05 – acum. anual	7.823.725	9.983.073	27,6%

Source: DANE, ICPC, ICAV. Calculations: DNP-DDUPA.

742. This performance has been reflected in a sustained rise in the annual supply of housing in recent years. In fact, DNP studies of construction activity over the past 15 years show that, although 1993 was the most dynamic year for housing starts (137,000 units), the average number of housing starts in the period 2002-2005 outperformed the preceding three periods (105,000 units a year).

743. It is important to bear in mind in this connection that, although the construction GDP and the number of housing construction permits are similar to those recorded at the peak in the

1990s, the number of housing starts was actually greater in 2002-2005 owing to the fact that in this period social housing accounted for a bigger proportion of the total supply, especially in the case of units costing under 70 times the current legal minimum monthly wage. Recent years have thus witnessed greater efficiency and productivity on the part of builders, as a result of which they have been able to build housing of similar quality at average prices lower than those of the preceding decade.

#### *Tenure of housing*

744. Information from the “Study of the supply and demand for social housing loans in Colombia” produced by the University of the Andes and from the Quality of Life Survey shows that more than half of Colombia’s households own or are buying their own homes, i.e. that they are owners. About 57 per cent of households own their homes. This proportion falls to 49 per cent for households with less than three current legal minimum monthly wages.

<b>Tenure of housing (percentages of the population)</b>		
<b>Type of tenure</b>	<b>Total population</b>	<b>Households with under three SMLMV</b>
Owned, fully paid up	51.7	43.39
Owned, not fully paid up	5.5	5.44
Rented or sublet	27.5	34.31
Usufruct	13.9	15.82
De facto occupied	1.4	1.04
<b>Total</b>	<b>100</b>	<b>100</b>

*Source:* Quality of Life Survey, 2003. Calculations: CEDE.

745. According to the findings of the 2005 General Census, 31 per cent of all the households counted lived in rented or sublet accommodation, while 54 per cent owned their homes. In the municipal chief towns, 37 per cent of households lived in rented or sublet accommodation and 52 per cent owned their homes. In rural areas, 12 per cent of households lived in rented or sublet accommodation and 62 per cent in their own property, while 17 per cent occupied accommodation rent-free with the owners’ permission.

#### *The housing shortage*

746. The housing shortage has two aspects: quality and quantity. The first aspect relates to defects of structural components (roofs, walls, flooring, etc.), the poor access to public utilities, and unsatisfactory environmental conditions. The second has to do with the over-demand reflected in the excess of households in relation to the total stock of available housing units (CONPES 3200, 2002).

747. The following table shows the DNP estimates of the housing deficit, from which it may be concluded that Colombia had quantitative shortage of 1.5 million units in 2002 and that 900,000 units had structural problems, i.e. qualitative defects (CONPES 3200, 2002).



<b>HOUSING DEFICITS, 2002</b>		
<b>Housing deficits</b>	<b>Households</b>	<b>%</b>
1. Total households	7,596,205	100.0
2. Units without structural defects	5,223,457	68.8
3. (4+13) Total housing deficit	2,372,748	31.2
4. (5+6) Quantitative deficit	1,496,095	19.7
5. Shared accommodation	1,318,383	17.4
6. (7+8+9+10+11+12) Units not susceptible of improvement	177,712	2.3
7. Units without piped water, sewerage or proper walls	39,494	0.5
8. Units without piped water or sewerage and with dirt floors	29,121	0.4
9. Units without water supply, sewerage or proper walls and with dirt floors	0	0
10. Units without sewerage or proper walls	49,997	0.7
11. Units without sewerage and with dirt floors	59,100	0.8
12. Units without sewerage or proper walls and with dirt floors	0	0
13. (14+15+16+17+18+19+20) Qualitative deficit	876,653	11.5
14. Without walls or floors	111,936	1.5
15. Without utilities	334,597	4.4
16. Overcrowded	325,175	4.3
17. Without structure or utilities	37,177	0.5
18. Without structure and overcrowded	35,815	0.5
19. Without utilities and overcrowded	19,608	0.3
20. Without structure or utilities and overcrowded	12,345	0.2

*Source:* National Household Survey. Calculations: DNP, DDUPA, SV.

748. Given the housing shortage, Act 820 of 2003 (the Rentals Act) was designed not only to solve the procedural problems in the rental market at the time when the Act was passed but also to make an effective and real contribution to making good the shortage by generating a powerful socio-economic impact.

749. Incentives are offered for investment in rental property in the shape of more flexible repossession procedures, which provide greater legal security, exemptions for revenue received by the Funds generated by the taxes on rental of new social housing, low interest rates, controlled inflation, and bigger yields from investments.<sup>124</sup>

750. Today 63 per cent of Colombians are owners and 30 per cent renters. In other words, over 15 million Colombians live in rented accommodation.

#### *Housing subsidy*

751. The resources allocated by the State to the family housing subsidy have increased every year, from 120,000 million pesos in 2003 to 194,800 million in 2006.

<sup>124</sup> The Colombian Federation of Realtors (FEDELONJAS) estimates a 100 per cent increase in the mortgage portfolio by the end of 2007.

<b>STATE RESOURCES FOR AWARD OF FAMILY HOUSING SUBSIDIES</b>					
<b>(millions of pesos)</b>					
		<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>
	FONVIVIENDA	120,000	122,497	154,000	154,800
	Social Action		80,000	40,000	40,000
<b>TOTAL</b>		<b>120,000</b>	<b>202,497</b>	<b>194,000</b>	<b>194,800</b>

*Source:* Ministry of the Environment, Housing and Land Development.

752. The following table shows, by contributing body and by year, the resources appropriated for family housing subsidies: FONVIVIENDA and the Agrarian Bank award subsidies directly from the General Budget of the Nation and allocate resources to other bodies from their own budgets.

<b>EVOLUTION OF BUDGET APPROPRIATIONS</b>				
	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>
<b>Body</b>	<b>Appropriation</b>	<b>Appropriation</b>	<b>Peso appr.</b>	<b>2006 mill.</b>
1. INURBE/FONVIVIENDA	120,000	202,497	194,000	194,800
2. Agrarian Bank	30,000	30,000	46,000	59,250
3. Colombian Coffee Federation	163,126	181,541	290,000	240,000
4. Military Housing Fund	62,159	83,212	74,279	84,000
5. National Savings Bank	141,067	235,178	380,000	294,000
6. Land Development Finance Corporation				
<b>TOTAL</b>	<b>516,352</b>	<b>732,428</b>	<b>984,279</b>	<b>872,050</b>

*Source:* Ministry of the Environment, Housing and Land Development.

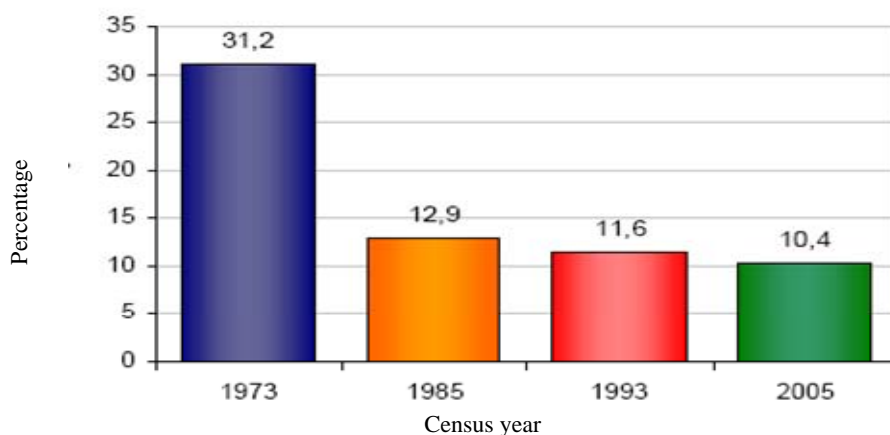
#### *Persons living in inadequate housing*

753. This indicator describes the physical state of housing deemed unfit for human occupation.

754. This category includes movable shelters, shelters in natural locations or under bridges, and shelters without walls, or with walls made of fabric or scrap and dirt floors; rural housing with dirt floors should be assumed to have walls made of semi-permanent or perishable materials.

755. A total of 10.4 per cent of Colombia's population live in housing unsuitable for human occupation.

**Percentages of persons living in inadequate housing  
National total**

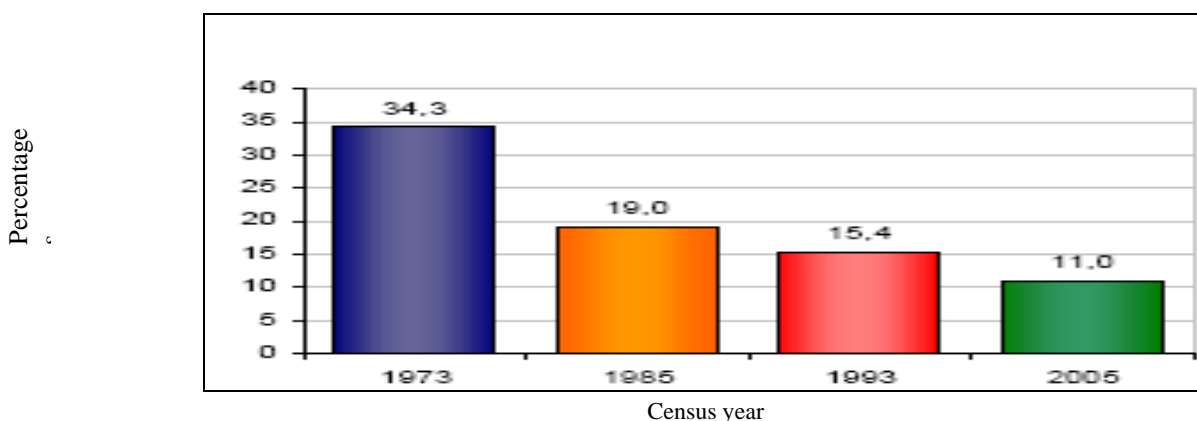


Source: DANE. General Census 2005. NIB Bulletin.

756. This indicator describes more graphically the lack of access to minimum living conditions and sanitation services. In the chief towns it includes households without sewerage or which, in the absence of a piped water supply, obtain their water from rivers, springs, tanker trucks or rainfall. In the rest of the country, given the conditions in rural areas, it includes households without sewerage or piped water which obtain their water from rivers, springs or rainfall.

757. According to the most recent national census, in 2005 a total of 7.4 per cent of Colombians were living in housing with inadequate services; this figure had declined by 3.1 points since the 1993 census.

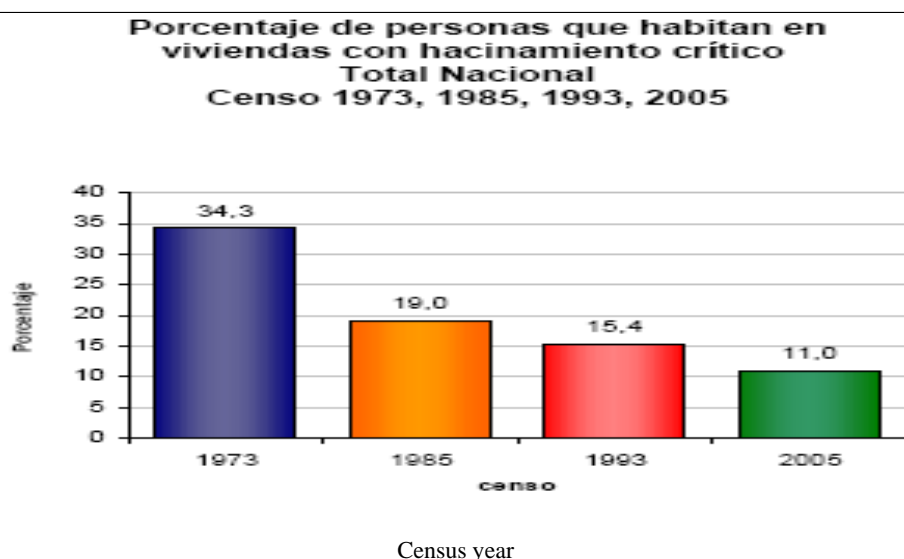
**Percentages of persons living in housing with inadequate services  
National total  
1973, 1985, 1993 and 2005 censuses**



Source: DANE. General Census 2005. NIB Bulletin.

758. Persons living in critically overcrowded housing: this category includes housing occupied by more than three persons per room (excluding kitchens, bathrooms and garages). According to the findings of the 2005 census, 11 per cent of the population live in critically overcrowded accommodation; this figure had declined by 4.4 points since the 1993 census (15.4%).

**Persons living in critically overcrowded housing  
National total  
1973, 1985, 1993 and 2005 censuses**



Source: DANE. General Census 2005. NIB Bulletin.

**G. Right to physical and mental health (art. 12)**

**Legislative framework**

759. Article 49 of the Constitution regulates the right to health, establishing health care and environmental health as public services provided by the State which guarantee everyone access to services for the promotion, protection and restoration of health.

760. Article 44 of the Constitution provides specific protection for the right to health as one of the fundamental rights of the child, establishing its precedence over the rights of others. In addition, for children aged under one year who are not covered by any kind of protection or social security it stipulates free treatment in all the health institutions which are supported by the State, in accordance with article 50 of the Constitution.

761. Progress has been made during the period under review with regard to health legislation. Attention is drawn to the following instruments:

762. Legislative Act 002 of 2000. This Act amended article 52 of the Constitution (Training and health functions of sport).

763. Act 776 of 2002. This Act contains regulations on the organization and administration of and the benefits provided by the General System of Occupational Risks Insurance.

764. Act 812 of 2003 (National Development Plan). This Act sets out policies relating to the right to health in articles 38 to 58.

765. Act 919 of 2004. This Act prohibited the sale of human body parts for transplants and criminalized trafficking in human body parts.

766. Act 972 of 2005. This Act contains regulations designed to improve the care provided by the State for persons suffering from disastrous or life-threatening diseases, in particular HIV/AIDS.

767. Act 1122 of 2007. This Act reformed the General Health and Social Security System and guaranteed the resources to enable Colombia to provide full health coverage by 2010 for persons classified as SISBEN 1, 2 or 3.

768. The following developments should be noted with regard to those aspects of the environment which have a direct impact on the right to health:

769. Act 618 of 2000. This Act approved the Amendment to the Montreal Protocol adopted at the eleventh meeting of the parties in Montreal on 17 September 1997. (Ozone layer.)

770. Act 629 of 2000. This Act approved the Kyoto Protocol to the United Nations Framework Convention on Climate Change, adopted in Kyoto on 11 December 1997.

771. Act 690 of 2002. This Act approved the Protocol to the Amazon Cooperation Treaty, adopted in Caracas on 14 December 1998.

772. Act 693 of 2001. Among other provisions this Act contains regulations on the use of fuel alcohols and introduces incentives for their production, marketing and use.

773. Act 776 of 2002. This Act approved the Convention on Assistance in the Event of Nuclear Accidents and Radiological Emergencies, adopted in Vienna on 26 September 1986.

774. Act 807 of 2003. This Act approved the amendments to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), adopted in Washington D.C. on 3 March 1973, in Bonn, Germany, on 22 June 1979 and in Gaborone, Botswana, on 30 April 1983. (Species threatened with extinction.)

775. Act 885 of 2004. This Act approved the International Convention on Oil Pollution Preparedness, Response and Cooperation, adopted in London on 30 November 1990 and the Protocol on Preparedness, Response and Cooperation with regard to Pollution Incidents by Hazardous and Noxious Substances, adopted in London on 15 March 2000.

776. Act 945 of 2005. This Act approved the Basel Protocol on Liability and Compensation for Damage resulting from the Transboundary Movement of Hazardous Wastes and their Disposal, adopted in Basel on 10 December 1999.

777. Act 960 of 2005. This Act approved the Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer, adopted in Beijing, China, on 3 December 1999.

778. Act 981 of 2005. This Act introduced the environmental surcharge on the tolls on roads situated near or in the conservation or urban protection areas, Ramsar sites or wetlands of international importance, especially as wildfowl habitat, mentioned in Act 357 of 1997 or near or in biosphere reserves or absorption zones.

779. Act 994 of 2005. This Act approved the Stockholm Convention on Persistent Organic Pollutants, adopted in Stockholm on 22 May 2001.

780. Act 1083 of 2006. Among other provisions this Act established regulations on sustainable town planning.

781. Act 1109 of 2006. This Act approved the WHO Framework Convention on Tobacco Control.

### **Developments in the jurisprudence**

782. Decision C-355/06. This decision decriminalized abortion by declaring article 122 of Act 599 of 2000 (Penal Code) constitutional; the Constitutional Court stated that the offence of abortion is not committed when, with the woman's consent, a pregnancy is interrupted in the following cases: (i) when the continuation of the pregnancy constitutes a threat, certified by a doctor, to the woman's life or health; (ii) when the foetus has a serious deformity rendering life unviable, certified by a doctor; and (iii) when the pregnancy resulted from an act, duly reported, constituting carnal knowledge, a non-consensual sex act or an act of abuse, from the non-consensual transfer of a fertilized egg or from incest. The decision also established the duty of the State to ensure the provision of safe health services in this regard.

783. Decision T-1237/01.<sup>125</sup> This decision addressed at length the question of responsibility for the provision of care and protection for the mentally ill.

### **Administrative developments**

784. The resources allocated for expenditure on health services have been in an upward trend, but this trend cannot be regarded as sustained. In the period 1993-2003 this budget item increased by about 24.2 per cent, fluctuating between 6.2 and 7.7 per cent of GDP. Notwithstanding this performance, it should be explained that throughout the period under examination the system was being transformed from a monopoly insurance scheme to a model significantly influenced by market mechanisms (in circumstances of price-regulated competition and focused on subjective considerations of service quality and access). These values were

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(<sup>125</sup>) Constitutional Court. Reporting judge: Clara Inés Varga Hernández.

assessed in the study “Health accounts in Colombia 1993-2003”<sup>126</sup> produced by the Ministry of Social Protection and the Inter-American Development Bank.

785. The basic aim of this study was to secure the consolidation and systematic organization of health spending by identifying the main sources of funding and the agents involved in the system, for the purposes of economic analysis, decision-making and evaluation of the impact of the health sector reforms.

786. Against this background, the period shows, on the one hand, a decline in the proportion of private spending (from 52.3 per cent in 1993 to 15.9 per cent in 2003) and, on the other hand, an increase in expenditure on health social security under the contributory plan (from 25.7 per cent in 1993 to 44.5 per cent 2003) and in total public expenditure (from 21.9 per cent in 1993 to 39.6 per cent in 2003) as a proportion of total health expenditure.

787. This trend occurred in private spending owing to the impact of the prepaid medicine, health insurance, personal accident and compulsory traffic accident insurance (SOAT) components.

788. In terms of the evolution of the components of health expenditure, there was an increase in total public health spending as a result of two specific circumstances: (i) the omission of social security expenditure in the period 1993-1994 owing to the consolidation of the market agents structure (in terms of the operations of health service providers); and (ii) the increase in spending by the sectional and local health offices attached to the public hospitals at each level of care.

789. The following tables, published in the study on health accounts in Colombia, show the evolution of each of the sector’s aggregate components.

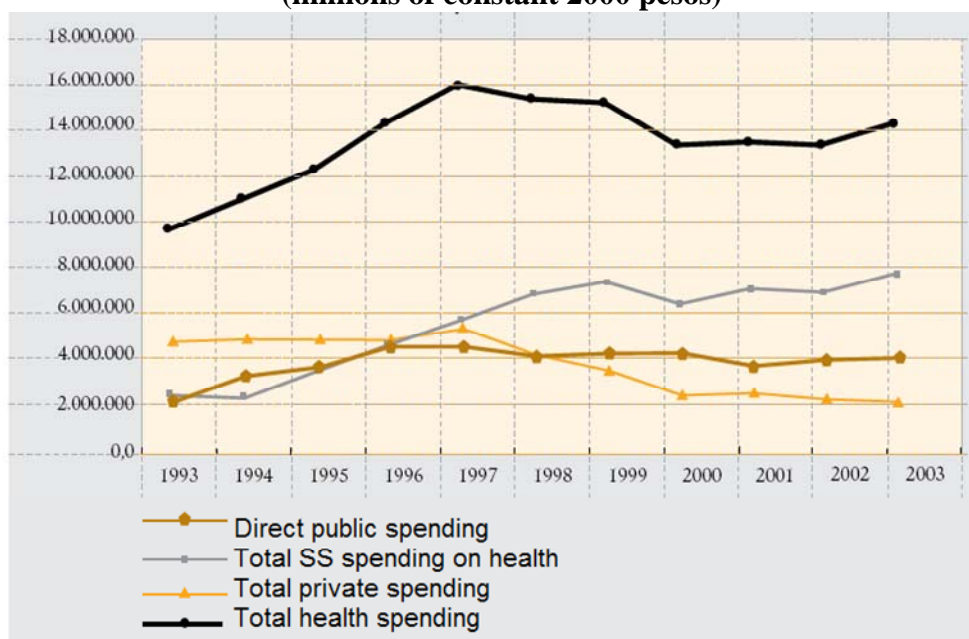
#### SOCIAL SECURITY (SS) EXPENDITURE ON HEALT

Components and indicators	1998	1999	2000	2001	2001	2003
I. Direct public spending	4.215.321,0	4.316.348,0	4.309.347,5	3.646.693,9	3.970.435,5	4.075.899,7
II. SS spending	6.959.716,2	7.424.101,4	6.523.705,9	7.166.827,7	7.029.054,9	7.921.663,4
SS spending (contributory plan)	5.630.259,7	6.107.460,8	5.269.410,2	5.589.388,7	5.339.263,6	6.347.651,4
Public SS spending (subsidized plan)	1.329.456,5	1.316.640,6	1.254.295,7	1.577.489,0	1.689.791,8	1.574.012,0
III. Total private spending	4.377.277,9	3.647.096,3	2.549.829,9	2.663.539,1	2.384.123,0	2.272.499,8
Private insurance and prepaid medicine	860.393,2	1.007.997,4	1.044.508,8	1.089.452,5	1.052.235,8	1.200.535,3
Direct or cash spending	3.516.884,7	2.639.098,9	1.505.821,1	1.574.086,7	1.331.887,2	1.071.964,4
Other						
<b>Total health spending</b>	<b>15.552.815,1</b>	<b>15.387.545,6</b>	<b>13.382.883,2</b>	<b>13.477.060,6</b>	<b>13.383.613,4</b>	<b>14.270.062,9</b>
As % of GDP						
Direct public spending/GDP	2,5	2,6	2,5	2,1	2,2	2,2
SS/GDP	4,2	4,5	3,7	4,1	4,0	4,3
SS (contributory plan)/GDP	3,4	3,7	3,0	3,2	3,0	3,5
Public SS spending/GDP	0,8	0,8	0,7	0,9	1,0	0,9
Total private spending/GDP	2,6	2,2	1,5	1,5	1,3	1,2
<b>Total health spending/GDP</b>	<b>9,3</b>	<b>9,3</b>	<b>7,7</b>	<b>7,7</b>	<b>7,6</b>	<b>7,8</b>

Source: DNP/DDS/SS and MPS/PARS, health accounts project.

<sup>(126)</sup> This study, written by the consultant Gilberto Barón Leguizamón, facilitates a retrospective analysis of the development of the reform between 1993 and 2003, in addition to furnishing an indication of the resources which the sector will need in the future.

**Evolution of total health spending  
(millions of constant 2000 pesos)**



Source: DNP/DDS/SS and MPS/PARS, health accounts project

*Child health*

790. There has been an increase over the past five years in the capacity of the local authorities, health and occupational risks insurers, and grass-roots agents to improve the overall management of child health as a result of the implementation of strategies to boost the effective access of under-fives and pregnant women to quality promotion, prevention and mother and child services.

791. The increased political commitment may be seen in the inclusion of the prevention and control of common childhood diseases among the priorities of the strategic health plan and in the technical guidelines for the formulation and implementation of the strategic and operational plans of the Basic Care Plan 2004-2007,<sup>127</sup> as well as in the increased resources allocated for the execution of information, education and communication measures through the mass medias and by word of mouth.

792. With regard to improvement of the institutional management and expansion of the coverage of early diagnosis and comprehensive treatment of common childhood diseases (AIEPI), the principle objective is to ensure the early treatment of diseases commonly found among under-fives and to incorporate promotion and prevention measures. Formulation, coordination and dissemination activities are carried out for all the departmental health bodies, on the basis of a management model which adapts the AIEPI components of the regulations of the General Health and Social Security System.

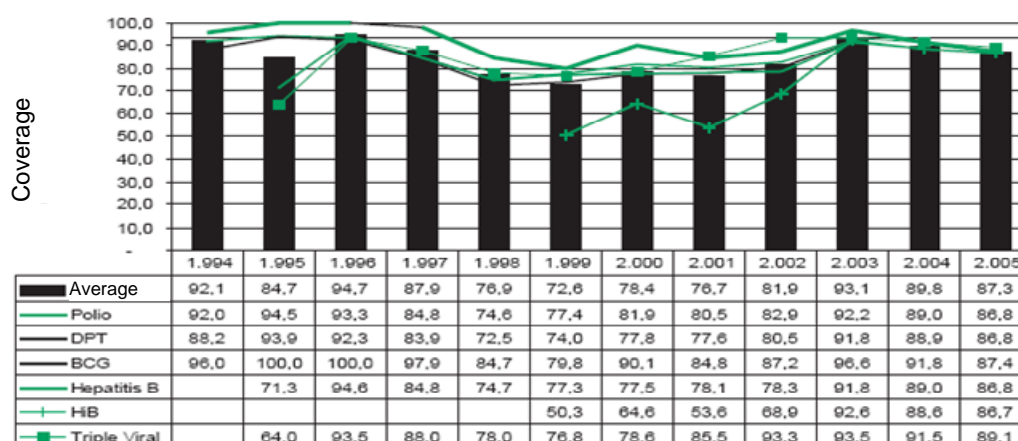
<sup>127</sup> Established in Circular 18 of 2004.



793. The chief measures carried out for the improvement of the vaccination coverage included the formulation of a strategic plan to consolidate the expanded programme immunization (EPI) at the national and local levels and the arrangement of loan of 133,700 million dollars with the international banking system to strengthen the EPI throughout the country in the period 2005-2008; this has facilitated more equitable treatment where vaccinations are concerned, increased efficiency in resource use, institution-building and more efficient institutional action.

794. Another of the big advances made under the EPI was the introduction of pentavalent vaccine, for it has virtually eliminated meningitis caused by haemophilic influenza type B (HIB) and reduced by about 50 per cent pneumonia and otitis media from the same cause. In addition, a regular schedule of viral influenza vaccination was introduced in the second half of 2005 for children aged 6 to 18 months and elderly persons at high risk, and a study is being made of the cost effectiveness of rotavirus vaccination and the combined pneumococcal vaccination.

### VACCINATION COVERAGE, 1994-2005



Source: Ministry of Social Protection.

795. The following percentages of vaccination coverage were recorded in 2006: polio – 86.5; DPT – 86.1; BCG – 88.2; Hepatitis B – 86.1; HIB - 86; and tetanus - 88.3.

796. Congenital deformities are one of the five commonest causes of death among under-fives. It is estimated that 1,000 new cases of congenital German measles occur in Colombia every year; the annual cost of treating every child suffering from congenital German measles syndrome may be in the region of 60,000 dollars, but the social costs, given the severity of the disability caused by this syndrome, are incalculable. Accordingly, the vaccination of some 20 million men and women aged between 14 and 39 years was initiated in the second half of 2005; this operation was completed in June 2006 at a total cost of about 12 million dollars for the essential biological and vaccination materials. As of 30 April 2006, 17,560,859 Colombians had been vaccinated – a coverage of 96.3 per cent of the campaign's target population.

*National Sexual and Reproductive Health Policy*<sup>128</sup>

797. The National Government designed National Sexual and Reproductive Health Policy for the period 2002-2006 based on the concept of sexual and reproductive health (SRH) proposed at the Fourth World Conference on Women in 1995 and at the International Conference on Population and Development in 1994, which incorporated the WHO definition.

798. This policy includes an analysis of the SRH situation in Colombia to demonstrate the connection between SRH, sexual and reproductive rights (SRR) and development and to identify the main problems raised by the priority themes on which the policy hinges: safe maternity, family planning, adolescent SRH, cervical cancer, sexually transmitted diseases (STD), including HIV/AIDS, and domestic and sexual violence.

799. The policy also refers to various national and international legal and political events and experience in support of the strategic proposal, including, among the most important: the world conferences convened by the United Nations, in particular the International Conference on Population and Development (Cairo, 1994) and the Fourth World Conference on Women (Beijing, 1995), the Colombian Constitution, and the legislation developing it; it also identifies the main problems raised by the priority themes on which the proposal hinges: safe maternity, family planning, adolescent SRH, cervical cancer, sexually transmitted diseases (STD), including HIV/AIDS, and domestic and sexual violence.

800. The policy's general objective is to improve the sexual and reproductive health of the entire population and promote the exercise of their SRH rights, with special emphasis on tackling the factors causing vulnerability and behaviour generating risks and on improving the protection and treatment of groups with specific needs.

801. In the particular case of family planning, the measures are designed to provide the entire population with access to a variety of safe, available, acceptable and reliable methods of contraception by furnishing advice on quality, making the chosen method readily available, and ensuring that it is subject to the necessary monitoring to guarantee its optimum use and adaptation by every user.

802. In addition, the question of sexual and reproductive health is addressed at the local level in the technical guidelines on the local formulation and implementation of the strategic and operational plans of the Basic Care Plan (PAB) for 2004-2007,<sup>129</sup> which include among the mandatory measures the promotion of good health and sexual and reproductive health, with emphasis on adolescents, and the supply of hormonal, barrier and emergency methods of birth control for adolescents engaging in unprotected sex, for displaced persons and in marginal and risk areas.

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<sup>128</sup> Ministry of Social Protection. National Sexual and Reproductive Health Policy. February 2003.

<sup>129</sup> Circulars 052 and 018 of 2002 and 2004.

803. The reinforcement of institutional management resulted in the formulation, dissemination and implementation of the Shock Plan to reduce maternal mortality and the conclusion of an agreement on the reduction of maternal mortality with local authorities and health and occupational risk insurers, which includes social mobilization measures for the prevention and control of maternal mortality and the improvement of institutional management.

804. Activities focusing on sexually transmitted diseases (STD) and HIV/AIDS include measures aimed not only at the vulnerable population groups but also at the population at large and designed to promote the protection and risk-prevention factors, the availability of diagnosis and proper treatment of STD, and the consolidation of the public health monitoring arrangements.

805. The increased political commitment and the additional investment funds provided by the Solidarity and Guarantee Fund (FOSYGA) have led to the conduct of advertising campaigns on the prevention of HIV/AIDS, promotion of blood donation, reduction of discrimination and marginalization against persons living with HIV/AIDS, and prevention of mother-to-child transmission. Under the project of the Global Fund to Fight AIDS, Tuberculosis and Malaria on the building of an intersectoral response with regard to sexual and reproductive health, with emphasis on prevention and on the treatment of STDs, HIV and AIDS among young people and adolescents in the communities hosting displaced persons in Colombia, training has been provided for NGO, health and education personnel in 24 departments and 48 municipalities, in order to improve the access of young people and adolescents to STD services.

806. In addition, new diagnostic procedures and anti-retroviral drugs were included in the Compulsory Health Plan (POS) in order to improve the treatment of HIV and the technical rules and treatment guidelines on the specific regulation of the provision of protection, diagnosis and treatment in the components of the national STD policy.

807. The most important achievements with regard to sexual and reproductive health in the period 2000-2005 included the fall in the total fertility rate from 2.6 to 2.4 children per woman and in the number of pregnancies not benefiting from institutional antenatal care. This period saw increases from 76 to 78 per cent in the actual use of contraception by women of childbearing age, from 91 to 94 per cent in antenatal care, and from 86.4 to 92 per cent in institutional births. The coverage of smear testing for cervical cancer rose to 84 per cent.

*Intersectoral Plan for a National Response to HIV/AIDS, Colombia, 2004-2007*

808. This Plan was formulated in the framework of the National Sexual and Reproductive Health Plan in conjunction with the United Nations Programme on HIV and AIDS and with IOM Colombia. The plan has the following objectives: (i) to strengthen the capacity of the State and civil society to respond to the HIV/AIDS epidemic by means of inter-institutional and intersectoral coordination to optimize the use of human, financial, technical and administrative resources at the national, departmental and municipal levels; (ii) to collect, process and disseminate information on the epidemiological, social and economic effects of HIV/AIDS by means of intersectoral and inter-institutional cooperation; (iii) to increase people's awareness and encourage attitudes, conduct and practices which foster, throughout the life cycle, the development of healthy sexuality from a comprehensive standpoint of human, sexual and reproductive rights and on a basis of gender equity, in order to reduce stigmatization,

discrimination and marginalization; (iv) to diminish the effect on Colombia's people of the factors of vulnerability linked to STDs, HIV and AIDS, with emphasis on the groups identified as most vulnerable; (v) to reduce the transmission of infection in all its forms and prevent the spread of the HIV/AIDS epidemic in Colombia; (vi) to satisfy the demand for comprehensive treatment from persons and families affected by HIV/AIDS and to furnish quality services to them efficiently and with equity; and (vii) to ease the social and economic impact of the HIV/AIDS epidemic on the family groups and work and socio-cultural environments of the persons affected by encouraging respect for their fundamental human rights and freedoms and to reduce the epidemic's impact on the finances and sustainability of the General Health and Social Security System.

#### *Mental health*

809. The National Mental Health Study 2003 and an outline document on the formulation of a national mental health policy were produced during the period under review, with the assistance of WHO, Harvard University and the Foundation for Higher Education (FES); FOSYGA resources totalling 1,500 million pesos were appropriated for this purpose. Publicity measures were carried out in this context in order to encourage a public debate and drafting and coordination work on the policy. The period also saw the completion of the processing and analysis of the data produced by the national survey, conducted in 2004-2005, of the use of mind-altering substances in Colombia by schoolchildren in the 12-17 age group; the survey's report is currently being edited for publication.

#### *Provision of health services for families displaced during the emergency*

810. The Ministry of Social Protection has been endeavouring to satisfy the health needs of displaced persons by operating a decentralized model of health service provision under which the State, the departments and the municipalities exercise the jurisdiction and administer the resources assigned by Act 100 of 1991 and Act 715 of 2001. It is apparent that 59 per cent of the resources of the General System of Contributions available for health services are allocated to finance the primary and secondary hospital network under the direction of the departmental and/or district authorities and that the remaining 41 per cent is allocated to the provision of primary care by the certified municipality and/or district. In conjunction with this undertaking the Ministry is cofinancing the provision of health services, under annual agreements concluded with 32 departmental and four district bodies, for displaced persons who lack the capacity to pay and do not have health cover under the General Health and Social Security System.

#### **Appropriations for displaced persons (millions of pesos)**

	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>
Appropriations under agreements	19,999	21,300	23,000	24,000
Beneficiaries	No data	87,272	161,260	179,049

*Source:* Ministry of Social Protection, 1 September 2007.

811. It should be noted that the amended version of Act 100 imposed penalties of up to 2,000 times the current legal monthly minimum wage on providers who fail to provide emergency services for all Colombians, created a user protection service, which will be coordinated jointly

by the National Health Administration and the Office of the People's Advocate, and eliminated counterpart contributions as a financial barrier to access by persons affiliated to the subsidized plan.

<b>Health services furnished to displaced persons</b>			
<b>Description</b>	<b>Dec. 2002</b>	<b>Dec. 2004</b>	<b>Dec. 2005</b>
<b>Consultations</b>	505	3,549	61,743
<b>Hospitalizations</b>	0	162	1,989
<b>Operations</b>	0	5,303	142,691
<b>Births</b>	2	10	290
<b>Emergencies</b>	0	27	2,341
<b>Totals</b>	507	9,051	209,324

*Source:* Ministry of Social Protection, RIPS (August 2006).

812. The Ministry of Social Protection and PAHO have installed a software programme which collects and processes data on the provision of health services to displaced persons. This tool is already being used in 10 departments (Nariño, Valle del Cauca, Chocó, Cauca, Norte de Santander, Santander, Putamayo, Caquetá, Huila and Tolima); it is scheduled to be introduced country-wide.

813. In addition to this progress in the recording and monitoring of resources, the Ministry is conducting a study on the provision of health services for displaced persons with the assistance of the Technical University in Pereira. The framework for this study is the General System of Quality Control, and the sample used is the network of service providers and the displaced person settlements in Cali, Pereira and Soacha. The hope is to obtain more information which can be used satisfy the health expectations of displaced persons.

814. It is also worth mentioning that psychological and social services are furnished as part of the implementation and monitoring of the mental health component of local health plans via the Basic Care Plan and the Compulsory Health Plan (POS). However, the Ministry finances these measures at the individual and family levels from the resources allocated to the inter-institutional agreements which it concludes with local bodies.

815. The Ministry also has investment resources for psychological and social measures. These measures differ from general mental health measures of this kind in that they are targeted on specific groups but avoid the use of medicines, concentrating instead on reinforcing the social fabric as a means of consolidating the identity of individuals and of society at large and bolstering faith in social institutions and economic security on a basis of solidarity and trust.

816. The Ministry also provides support for local authorities, through its emergencies and disasters unit, by drawing on its stocks and medicines centre and by improving the local hospital plans for dealing with disasters, including complicated emergencies such as large-scale displacement.

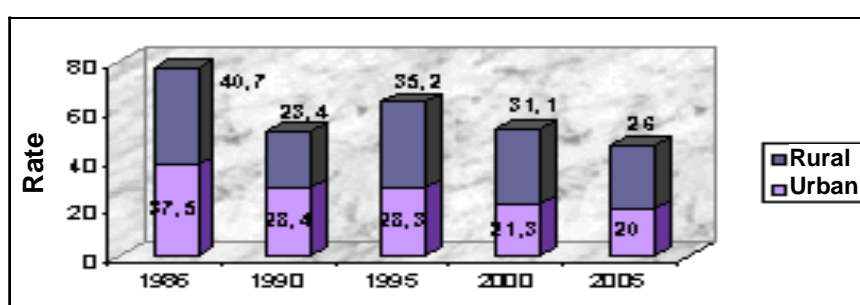
817. Although the responsibility for psychological and social services falls on several sectors and institutions, the ICBF mobile units carry out emergency treatment measures in crises as the first step in psychological and social care.

### Indicators

#### *Infant and child mortality and children aged under five years*

818. The infant mortality rate<sup>130</sup> was 19 per 1,000 live births in the five-year period 2000-2005.<sup>131</sup> The main causes of infant mortality are specific respiratory disorders in the perinatal period, congenital deformities, chromosomal deformities and abnormalities, and other common conditions of this age group, acute respiratory infections, and bacterial sepsis in newborn babies.

**Infant mortality, 1986-2005**



Source: CELADE.MPS graphics.

819. The infant mortality rates for different areas of the country differ sharply from each other: in 2000 the urban rate was 21.3 and the rural rate 31.1 per 1,000 live births; in 2005 these rates fell to 20 and 26 per cent per 1,000 live births respectively. According to the 2005 National Demographic and Health Survey,<sup>132</sup> these big differences are due chiefly to the difficulty of access to health services in rural areas.

820. The education level of mothers is another decisive factor in infant mortality: in 2000 the rate was 42.3 per 1,000 live births among women with no education, 28.2 among women with primary education, and 19.6 among women with secondary education.

821. The child (under-fives) mortality rate fell from 26 per 1,000 in 2000 to 21 per 1,000 in 2005. The rural/urban differences were maintained: in 2005 the urban rate was 17 and the rural

<sup>130</sup> Infant mortality refers to deaths occurring during the first year of life and child mortality to deaths of under-fives.

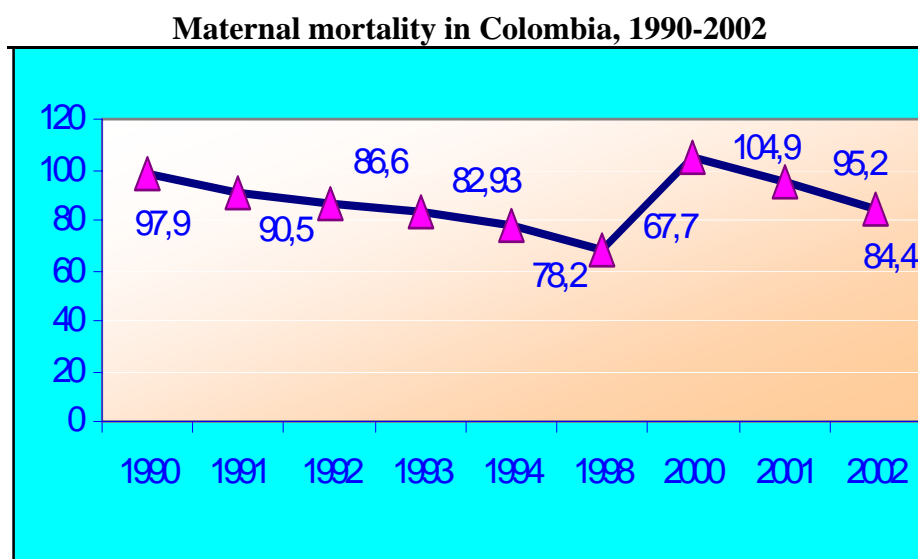
<sup>131</sup> DANE, 2001.

<sup>132</sup> PROFAMILIA and others, op. cit., (52).

rate 24 per 1,000.<sup>133</sup> The main causes of death in this age group remain acute respiratory infections, severe diarrhoea, nutritional deficiencies, accidental drowning, accidents on dry land, and infectious intestinal diseases.<sup>134</sup>

### *Maternal mortality*

822. Maternal mortality underwent a sustained decline between 1990 and 2002, from 97.9 to 83.3 per 100,000 live births; the 2001 rate was 98.6, higher than at the start of the period, probably as a result of improved registration. However, the period 2001-2002 saw Colombia's highest average maternal mortality rate: 104.9 per 100,000 live births; as in the case of the other indicators, differences were recorded by age group, region, living conditions, and degree of vulnerability (forcibly displaced women, for example)<sup>135</sup>.



Source: UNICEF<sup>136</sup> MPS graphics.

823. In some departments (Chocó, Nariñas, Amazonas, Caquetá, Cauca and Putamayo, which have the country's lowest human development indices) the maternal mortality rate was two or

<sup>133</sup> DANE, 1993; PROFAMILIA, 2005 (11).

<sup>134</sup> Ibid.

<sup>135</sup> Ministry of Social Protection, National Sexual and Reproductive Health Policy, 2004 (36). (In Spanish only)

(<sup>136</sup>) The data were taken from “*Un árbol frondoso para niños y niñas*” (“A shady tree for children”).

three times higher than the national average, reaching levels of 225 per 100,000, the same as in the areas affected by the violence, in rural areas and among the indigenous population.<sup>137</sup>

824. The mortality rate is higher among women aged under 20. Many pregnant young women do not receive antenatal care or apply to the services at too late a stage. In 2005, 83 per cent of pregnant women had four or more antenatal checks (87 per cent in urban areas and 73 per cent in rural areas); 8 per cent had two or three checks, and under 2 per cent only one check; 6 per cent had no checks at all.<sup>138</sup>

#### *Fertility and birth rates*<sup>139</sup>

825. In the period 2002-2005 the total fertility rate was 2.4 children per woman. This rate stood at 83 births per 1,000 women of childbearing age and the gross birth rate at 20 births for every thousand inhabitants. The fertility rate has been in decline since the mid-1960s, when the total rate was seven children per woman.

#### *Adolescent fertility rate*<sup>140</sup>

826. The adolescent fertility rate rose in the decade 1986-1995, from 70 to 89 per 1,000; in 2005 it stood at 90 per 1,000. The biggest numbers of adolescent girls who have been pregnant at some time were found in the departments of Caquetá, Meta and Cauca, followed by Cesar, Chocó and the chief towns of Arauca and Guaviare.

#### *Family planning*

827. According to the 2005 National Demographic and Health Survey, all the country's women know about contraception; the commonest methods are the pill, injections, condoms and female sterilization. Eighty-one per cent of the women interviewed had used contraception at some time in their lives. Current use rose by only one percentage point over the past five years, as against six points in the preceding five-year period and five points five years earlier. The rate of contraceptive use was 78 per cent in 2005 among married women and women in open unions.

#### *Sexually transmitted diseases: HIV/AIDS*

828. Notwithstanding a severe problem of under-recording of health statistics in Colombia, the 2005 National Demographic and Health Survey estimated the number of HIV carriers at over 300,000 in that year.

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<sup>137</sup> Ibid.

<sup>138</sup> PROFAMILIA, 1990-2005 (53).

<sup>139</sup> Ibid.

<sup>140</sup> Ibid.



829. According to UNAIDS,<sup>141</sup> Colombia's national epidemiological information on HIV/AIDS compiled in the period 2000-2005 has discrepancies between the information sources.<sup>142</sup> However, figures establishing the trends are presented below.

**Evolution of notifications, 2003-2005**

Year	Cases notified to SIVIGILA	INS slips	Slips collected in 2005	Total slips sent per year	% correlation SIVIGILA/slips
2003	1.898	1.621	1.620	3.241	SIVIGILA under-recording
2004	3.177	378	2.409	2.787	87,7
2005	3.940	0	2.387	2.387	60,5
<b>Total</b>	<b>9.015</b>	<b>1.998</b>	<b>6.401</b>	<b>8.415</b>	

Source: National Health Institute, Department of Public Health Oversight and Monitoring, STD/HIV group, annual HIV/AIDS events report, 13<sup>th</sup> epidemiological period, January 2006.

830. HIV/AIDS is regarded as a children's problem which is on the increase. INS<sup>143</sup> estimates that the problem will double in terms of mother-to-child transmission, while the UNAIDS 2005 report estimates that 4,000 under-15s are living with the disease. It is also estimated that by 2010 the number of cases may exceed 800,000, with 16,000 of the sufferers aged under 15. This report also suggests that the impact of HIV/AIDS is increasing the vulnerability of increasing numbers of children.

831. The ICBF data show that in 2004-2005 ICBF treated 152 children affected by HIV/AIDS in 84.8 per cent of its regional branches.

832. In terms of the feminization of the epidemic and its implications for children, 58,000 Colombian women of childbearing age may be infected. Between 4,000 and 8,000 children were estimated to be infected with HIV in Colombia in 2004 (UNAIDS, 2005). Up to August 2005 a

<sup>141</sup> "HIV/AIDS infection in Colombia, 2000-2005." Joint and Co-sponsored United Nations Programme on HIV and AIDS (UNAIDS).

<sup>142</sup> This information comes from three main mutually complementary sources and is based on second-generation epidemiological monitoring: (1) regular notification of cases of HIV and AIDS and of deaths; (2) biological monitoring, including watchtower studies, regular checks on blood banks, and seroprevalence studies of specific groups; (3) studies of the behaviour of specific groups.

The national epidemiological monitoring reports are produced by the National Health Institute (INS) and are based on two sources of information: passive monitoring of the weekly notification of public health events (by SIVIGILA), and case descriptions based on analysis of the notification slips.

<sup>143</sup> National Health Institute. "Twenty years of HIV/AIDS in Colombia 1983-2003". (In Spanish only)

total of 314,190 pregnant women had taken the ELISA test in Colombia, under the national project to reduce mother-to-child transmission of HIV. HIV infection was diagnosed in 623 of these women, and 14 babies were found to be infected. The feminization of the epidemic has been gradual in Colombia. The epidemic is shifting from a pattern of predominantly male homosexual transmission to heterosexual transmission, chiefly in the Caribbean region (the male/female ratio declined from 20:1 in 1987 to 3:1 in 1999-2003).

833. INS uses two sources of information for the monitoring system: the weekly collective notification of the national public health monitoring system (SIVIGILA); and the case notification slips received piecemeal by INS; this is the basis for the presentation of the following data.<sup>144</sup>

**Cases of HIV/AIDS reported to SIVIGILA among children aged under 12 months, 1-5 years and 5-14 years**

Age	2003	2004	2005
Under 12 months	38	35	35
1-5 years	26	35	42
5-14 years	46	73	84

Source: INS, February 2006.

834. The relevant international agreements include the United Nations Millennium Declaration, in the context of which a proposal was made to formulate in 2003 and implement in 2005 national policies and strategies to build and strengthen governmental capacity to provide a framework of support for children affected by HIV/AIDS. The third intersectoral plan to tackle HIV/AIDS in Colombia in 2004-2007 was implemented country-wide by the Ministry of Social Protection and UNAIDS; under this plan ICBF is committed to producing an annual analysis of the under-five population orphaned by HIV/AIDS and to designing and executing a policy of protection and comprehensive care for these children through the provision of training and technical assistance for the regional ICBF teams.

## **H. Right to education (art. 13)**

### **Legislative framework**

835. Article 67 of the Constitution establishes the right to education, stating that education is a public service with a social function. It also provides that education is compulsory between ages five and fifteen, including a minimum of one year of pre-school and nine years of basic education, and is provided free in State institutions. The following legislative developments have taken place in this area:

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<sup>144</sup> Taken from the document *Diseño de investigación: Análisis de situación de la niñez y la adolescencia afectada por VIH-Sida en Colombia* (Research design: analysis of the situation of children affected by HIV/AIDS in Colombia). Final report presented as the outcome of the contract with Bibiana Castro Franco supervised by the Research Department.

836. Act 812 of 2003 (National Development Plan). Articles 84, 85 and 86 of this Act address the subject of education.

837. Act 934 of 2004. Among other provisions this Act established the National Physical Education Development Policy.

838. Act 986 of 2005. Among other provisions this Act contains measures for the protection of kidnap victims and their families. Article 19 established arrangements for protecting the right to education of children of kidnap victims.

839. Act 1014 of 2006, on the promotion of a culture of entrepreneurship

840. Act 1019 of 2006. This Act approved the memorandum of understanding between the Government of Australia and the Government of Colombia on cooperation in the field of education and training, signed on 6 August 2002.

841. Act 1029 of 2006. This Act amended article 14 of Act 115 of 1994 on compulsory education.

842. Act 1034 of 2006. Among other provisions this Act created the “Day of Reading in Colombia’s Parks and Prison Establishments”.

843. Act 1064 of 2006. This Act contains regulations on supporting and strengthening the education for work and human development established as informal education in the General Education Act.

844. Act 1084 of 2006. By this Act the State consolidated the higher education provided in remote areas and areas of difficult access.

### **Developments in the jurisprudence**

845. Decision T-491/03.<sup>145</sup> This decision addresses the right to education as a “right/duty”.

846. Decisions T-202/00, T-944/00 and T-308/03. These decisions reiterate the Constitutional Court’s designation of the right to education as a fundamental right.

### **Administrative developments**

847. Under the sectoral plan for 2002-2006 (the “Education Revolution”) the National Government proposed to expand the coverage of education, giving special attention to the most vulnerable population groups, as a means of ensuring greater equity in the provision of the service.

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<sup>145</sup> Constitutional Court. Reporting judge: Clara Inés Vargas.

848. In order to give effect to this proposal, the Education Development Plan designated three core education policies: (i) expansion of the coverage of education; (ii) improvement of the quality of education; and (iii) improvement of the efficiency of the education sector.

*Expansion of the coverage*

849. Noteworthy results in terms of expansion of the coverage were achieved under this policy in the period 2002-2006, such as the creation of 1,419,427 new places in basic and intermediate education and 301,580 new places in higher education. These results produced an increase of the coverage of basic and intermediate education from 82 per cent in 2002 to 90.1 per cent in 2006, while the coverage of higher education expanded from 21 per cent in 2002 to 26 per cent in 2006.

850. In addition to seeking to increase the number of enrolments every year, the Government endeavoured to ensure that the children remained in the system after enrolment. It succeeded in reducing the drop-out rate from public schools (basic and intermediate education) by two points, from 8 per cent in 2002 to 6 per cent at the end of 2005.<sup>146</sup>

851. In order to persuade children to persevere with their education the Government executed the programme “Not one less”, improved the administration of the enrolment process as a planning tool, consolidated the integration of formal education institutions, and introduced school transport programmes in areas of difficult access, and executed infrastructure and school meals projects, thus improving pupil performance and reducing the drop-out rate.

852. This kind of achievement boosted the country’s sustained economic development and had some impact in other areas as well, such as child labour for example. It was indeed an achievement to reduce the proportion of children in the total economically active population, from nine per cent in 2001 to six per cent in 2005.

*Improvement of the quality of education*

853. In the context of the “Education Revolution” the Ministry of National Education proposed to design and set in motion a permanent system for improving the quality of education based on the coordination of the components of the quality chain: (i) design and introduction of basic skills standards; (ii) assessment of pupils, teachers and school administrators and publication of the findings of these assessments; and (iii) improvement of quality.

854. **Design and introduction of standards.** The language and mathematics standards were introduced in 2003 and those for natural and social sciences and citizenship skills in 2004 by means of distribution through the mass media of 2.4 million copies of textbooks. Training in the use of these textbooks was also given to 18, 300 teachers and school administrators. A project on the formulation of core educational standards for technology and information technology, early childhood education, and the teaching of English has been under development.

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<sup>146</sup> Source: DANE, Household Survey.

855. **Pupil assessment.** Here the Colombian Institute of Higher Education (ICFES) brought the SABER tests (fifth and ninth grades) and the State tests (eleventh grade) into line with the standards and curriculum guidelines established by the Ministry of National Education for language, mathematics, natural sciences, social sciences and citizenship skills, thus harmonizing standards and assessment.

856. **SABER tests.** The first general assessment of pupils in the fifth and ninth grades was made in 2002-2003, in mathematics, language, natural sciences and citizenship skills (for the first time in Colombia in the latter two subjects); the second national SABER-test assessment of fifth- and ninth-graders was conducted in 2005-2006 in the same four subjects plus social sciences, to bring the number of pupils tested in the period 2003-2006 up to 9,471,891, thus attaining 146 per cent of the target set for the period.

857. **Assessment of teachers and head teachers.** A significant step forward was taken in this regard with the introduction of competitive examinations for teachers and head teachers: 274,815 teachers were assessed for recruitment to the State education service in 2004 and 2005, and 42,144 appointments were made in the assessment period.

858. **Improving the management of education institutions.** *Improvement plans.* These plans set out targets and concrete measures for specific periods to mobilize everyone involved in school management to work to obtain the expected results. In the period 2003-2006, 8,949 education institutions formulated and implemented improvement plans in 77 local authorities.

859. **Use of teaching tools and resources.** This strategy includes the building of infrastructure and connectivity, expansion of teacher training and development of course content. In the period 2003-2006, 5,248 education institutions (equipped with computers) were improved through the introduction of new information technology, and training in information and communication technology was provided for 142,730 teachers, thus exceeding the target of 100,000 set for this subject.

860. **Training of teachers in basic skills and improvement plans.** In the period 2003-2006, 43,813 teachers received training in improvement plans, work skills, basic skills, citizenship skills, environmental education, adaptation of curricula to rural situations, bilingualism, science skills, and incorporation of standards in classroom teaching projects.

*The National Literacy and Basic Education Programme for Young People and Adults*

861. This Programme is part of the coverage component of the “Education Revolution” Plan 2002-2006. Its aim is to help to tackle illiteracy throughout the country; according to the latest census, 2,476,502 Colombians aged 15 or older are illiterate, a rate of 8.6 per cent. Three recognized methods are currently being used in the public sector: the continuing education programme of the Family Compensation Fund (CAFAM); the “*A crecer*” (To grow) programme; and the “*Transformemos*” (Let’s change ourselves) programme.

862. All three of these methods are flexible and require part-time attendance. They are conducted in the classroom, with a minimum attendance requirement of four hours a week, backed up by non-classroom work using self-teaching materials. This course lasts between six and 10 months. The duration of the learning period depends on various factors, including the

number of hours of attendance, previous education level, motivation, and the skills of the teachers and facilitators.

863. The Programme is funded from national budget resources, which are used for teacher training, teaching materials, monitoring, publicity and assessment. The appropriations for teachers' salaries come from the national budget via the General Contributions Systems and from the resources of local authorities

864. Since the start-up of the Programme technical and financial resources have been made available by international cooperation organizations, primarily for the benefit of women.

*Services for vulnerable population groups*

865. Projects have been initiated to provide preferential treatment for persons displaced by the violence, the indigenous and Afro-Colombian population, children with disabilities, and people living in thinly populated rural areas. Joint measures have been carried out with the Social Solidarity Network, now the Presidential Programme on Social Action and International Cooperation, the social-sector ministries and international cooperation organizations to provide flexible and temporary protection for displaced persons, backed by programmes on the return of displaced persons to their places of origin. Special programmes have also been introduced in areas classified as hosting displaced persons in order to expand the capacity of their education systems to satisfy the additional needs generated by displacement.

866. In addition, flexible education models supported by teaching and learning tools, education packages and training for officials, head teachers and teachers have been introduced in order to improve the relevance and quality of the education service provided for vulnerable population groups and reduce their drop-out rate. In the period 2003-2006 training was given to 34,781 teachers (against a target of 30,000) in the use of flexible models and the education of vulnerable groups, and such models were introduced in 15,087 locations (79 per cent of the target of 19,120 set for the four-year period).

867. In support of this project, in 2005 ICFES devised an evaluation tool and evaluated a sample of 4,100 students in higher education establishments and institutions.

868. In addition, it executed in rural areas the Rural Education Programme (PER), which is designed to back the programmes by expanding the availability of education for people living in rural areas and by introducing teaching methods which take their particular circumstances into account. The implementation of the PER is based on the introduction of education models which have already proved themselves (New School, Rural Post-primary, Tutorial System, Rural Education Service) and of some more innovatory models (Telesecondary, and Accelerated Learning).

869. Support projects designed to boost the demand, improve retention rates and upgrade the efficiency of the education system were started up in order to complement the benefits of the programmes on expansion of the coverage. The National Government, in conjunction with the departmental and municipal administrations, took steps to improve the "Families in Action" programme, increase the number of school canteens, promote school transport projects to facilitate pupils' access to school and encourage them not to drop out, and carry out literacy

programmes, which between 2003 and 2006 alone taught 392,560 illiterate young people and adults to read and write.

870. The National Government realizes that the State's minimum obligation with regard to the education of displaced children aged five to 15 is to guarantee their school attendance by providing the necessary places in local public and private schools;<sup>147</sup> the education secretariats of the districts, departments and certified municipalities provide displaced persons, at the emergency humanitarian assistance stage, with access to local education facilities in order that they may receive an education.

871. The education sector has focused its action on the stage of social and economic stabilization, with a view to ensuring the effective exercise of the right to education and complying with the guidelines set out in the 2005 National Plan for the Comprehensive Care of Persons Displaced by the Violence. However, the Ministry of National Education is seeking to devise, in conjunction with the education secretariats of the districts, departments and certified municipalities, a strategy for delivering education for displaced persons at the emergency humanitarian assistance stage.

872. Act 715 of 2001 clarified the division of jurisdiction between the various local authorities (of departments, districts and certified municipalities) and the State. In this connection the aim of the reform was to ensure that public education provides a real service for children, young people and adults in accordance with the criteria of equity and financial sustainability.

873. Against this background the Ministry of National Education issued regulations on the provision of the public education service for displaced persons (Decree 2562 of 2001 and the 2005 education policy for displaced persons). Prior to the adoption of Act 715, the Ministry and the Social Solidarity Network (now Social Action) issued a joint circular.

874. The Ministry subsequently issued Ministerial Directive 23 of 2005 on services for displaced persons provided in accordance with Decision T-025 of 2004 and Resolutions 2620 of 2004 and 6816 of 2006. The first of these resolutions contains guidelines, criteria and procedures for the provision of the education service to separated children and children of persons demobilized from armed groups operating outside the law; the second regulates the allocation of additional resources to local authorities to expand and maintain the coverage of the vulnerable population and establishes criteria for their use.

875. Following the decentralization of the education sector, it is the responsibility of certified education secretariats to give prompt attention to possible users of the education service; they must therefore provide education for displaced persons. Similarly, the certified education secretariats have an obligation to administer not only the provision of the service but also the financial resources.

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<sup>147</sup> Constitutional Court decision T-025 of 2004 .

876. These requirements mean that:

(a) The education secretariats of the departments, districts and certified municipalities must request from the Care and Counselling Unit (UAO) information about the levels of education of children and young people who are at this stage, with a view to formulating a relevant teaching strategy; they then make their existing education facilities available to these persons;

(b) The education secretariats have a “pathway” to education for displaced persons;

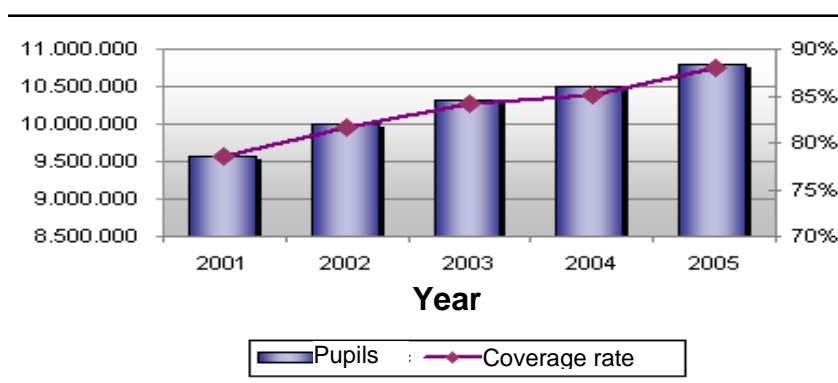
(c) The fourth meeting of officials responsible for services for displaced persons, held on 20 and 21 November 2006, reviewed and amended the educational pathway and produced 29 local pathways;

(d) Twenty-nine education secretariats currently have local pathways to facilitate the delivery of education services. This tool enables displaced families to orient themselves in their locality and use the education service.

#### *Basic and intermediate education*

877. In 2005 there were almost 11 million children in basic and intermediate education. The basic education coverage stood at 88 per cent. According to the figures reported by the education secretariats, there were 8,310,165 pupils in official institutions and 2,475,304 in non-official institutions.<sup>148</sup>

#### **National coverage**



	2001	2002	2003	2004	2005
Institutions	59.248	56.162	56.162	53.215	55.057
Pupils	9.575.175	9.994.404	10.323.582	10.501.959	10.720.493
Coverage rate	79%	82%		85%	88%

Source: Ministry of National Education

<sup>148</sup> Ministry of National Education. Sectoral statistics. [www.mineducacion.gov.co](http://www.mineducacion.gov.co).



878. In 2006, 334,412 new places were created in basic and intermediate education, bringing the cumulative total for the four-year period up to 1,419,427 new places, with a gross coverage rate of 90.1 per cent.

879. Between 2003 and 2006, 559,500 new school places were created for vulnerable population groups. In 2006 the education system attended to the needs of 234,018 victims of displacement.

880. With regard to the free provision of basic education, the Constitution states that “*education shall be free in the institutions of the State, without prejudice to the right to charge fees to persons who can afford to pay...*”<sup>149</sup> It provides further that the State, society and the family are responsible for education, which is compulsory between the ages of five and 15 years and includes a minimum of one year of preschool and nine years of basic education.

881. The State transfers resources directly from the General System of Contributions to the local authorities to fund public education. In 2003 alone it distributed a total of \$US 2,600 million, representing about 10 per cent of the General Budget of the Nation, for the payment of teachers, head teachers and administrative personnel and the basic operating costs of education establishments, in order to guarantee a satisfactory education service for children of school age.

882. The following table shows the resources distributed from the General System of Contributions in the period 2002-2007.

**General System of Contributions (SGP) Education sector**  
Millions of current pesos

<b>Year</b>	<b>SGP - Education</b>
2002	6,750,338
2003	7,357,194
2004	7,981,819
2005	8,580,456
2006	9,211,119
2007	9,854,055

*Source:* DNP. CONPES social documents.

883. Families bear some of the costs arising from school attendance, such as notebooks, students’ cards, certifications and use of equipment; depending on their socio-economic circumstances, they may also have to pay school fees; according to the Ministry of National Education, these costs represent between five and 10 per cent of the amount allocated by the State for the provision of the education service.

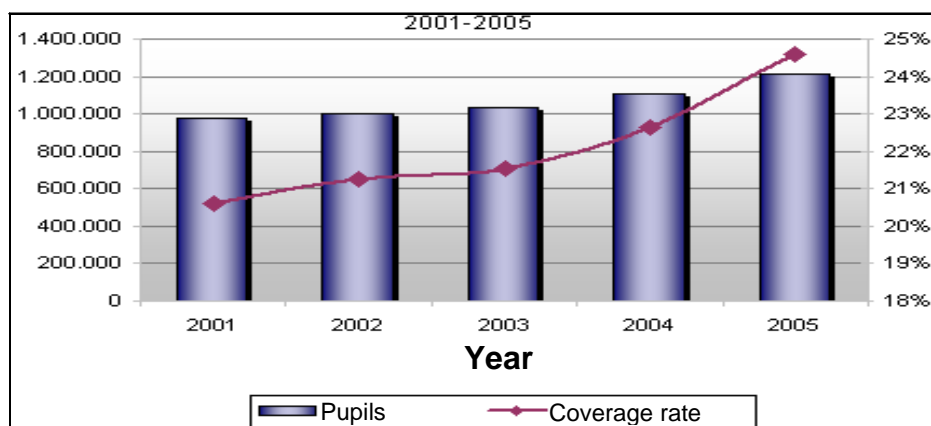
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<sup>149</sup> Decree 0135 of 1996 established the criteria and the scale of fees chargeable for education in State education establishments and requires the education secretariats of certified local authorities to issue the corresponding regulations.

*Higher education*

884. In the period 2002-2006, 301,580 new places were created in higher education, increasing the coverage from 21 to 26 per cent, with a total enrolment of 1,301,728 students. The most significant growth has been in technical and technological subjects.

**Higher education National coverage**



Source: Ministry of National Education.

	2001	2002	2003	2004	2005
Establishments	271	272	274	275	276
Students	977.243	1.000.148	1.050.353	1.113.724	1.212.037
Coverage rate	21%	21%	22%	23%	25%

885. Chief among the strategies which contributed to the progress and the attainment of targets in higher education were the increase of the number of programmes with some technical or technological content and the introduction of new technical and technological programmes, the provision made for 101 regional centres of higher education, 81 of which are in operation, and the award of 109,731 student loans for quality access to higher education (ACCES), 86,547 of which were legally contracted during the four-year period, as the following table shows.

ACCESS loans contracted					
Year	Technical	Technological	University	Supplementary course*	Totals
2003	1,914	3,067	14,601	29	19,611
2004	1,683	2,234	16,125	53	20,095
2005	1,511	1,857	16,373	33	19,774
2006	1,621	2,254	23,158	34	27,067
<b>Total</b>	6,729	9,412	70,257	149	86,547

\* Grades 12 and 13 in teacher training colleges.

Source: ACCES-ICETEX project, as of October 2006: giro payments.

*Comprehensive vocational training*

886. The five-year period saw an annual increase in the number of places. The National Training Service (SENA) offered over 3.8 million places for comprehensive vocational training (including degree and supplementary courses) in 2005, an increase of 237 per cent over 2002. Between January and July 2006 SENA offered 2.4 million places. This provision facilitated the job placement of unemployed young people and adults and equipped them with technical and technological skills tailored to business needs.

<b>Comprehensive vocational training places</b>	
2001	937,777
2002	1,142,798
2003	2,263,382
2004	2,964,766
2005	3,853,352

*Source:* Ministry of National Education.

*Computers for Education Programme*

887. This programme was launched by the National Government in March 2000 in a joint undertaking with private business and with support from the Government of Canada to collect computers no longer required by public and private entities in order to recondition them and offer them free of charge to under-resourced public schools in all regions of the country.

888. The distribution of these computers to schools is intended to provide greater equity in access to the means of training, knowledge acquisition and participation which modern technology has to offer.

889. Since its launch in 2000 the Computers for Education Programme has reconditioned 81,307 computers and 7,659 printers, for the benefit of 8,960 schools and a possible total of 116,480 teachers and 2,727,228 pupils.

*Human rights training*

890. In compliance with the constitutional principle of the independence of education institutions with regard to curriculum design and development and in order to ensure equity in the quality of the education provided, the National Government, acting through the Ministry of National Education, produced curriculum outlines for the teaching of the Constitution and democracy, ethics and human values, and social sciences, subjects in which human rights serve as reference points for curriculum design.

891. In addition, the Citizenship Skills Programme which the National Government has been promoting and which is designed to instil in the education community the knack of peaceful co-existence, participation and respect for differences, has four main areas of intervention: (i) respect for and promotion and protection of human rights; (ii) building of peace and social cohesion; (iii) democratic participation and assumption of responsibility; and (iv) plurality, identity and respect for differences, in a broad context of respect for and promotion and

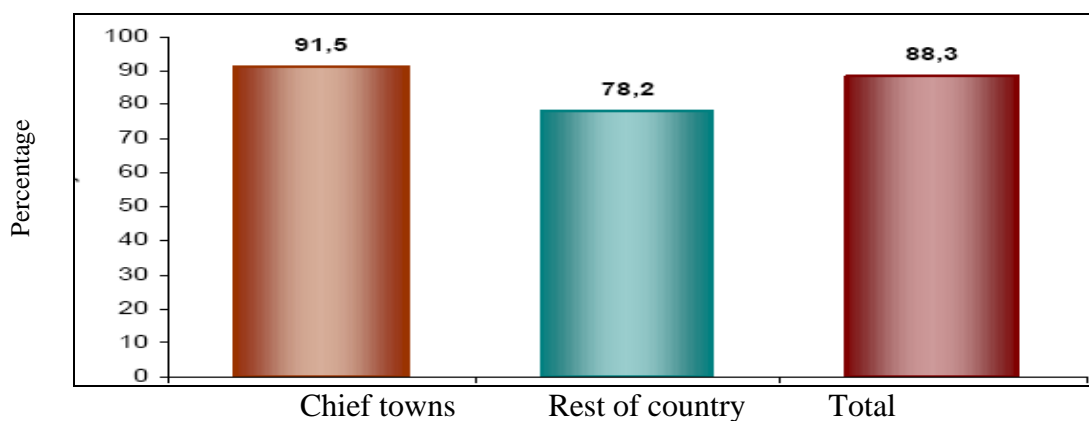
protection of human rights which incorporates the first three areas explicitly and on a cross-cutting basis. A document setting out quality standards was produced for these four areas of intervention to provide guidance for the teaching of this subject in the country's schools.

892. Contributions to the dissemination and explanation of the quality standards document were made by the national network of human rights promoters, the Office of the People's Advocate, and the network of promoters of culture for children (ROCIN) of the Ministry of Culture, with a view to facilitating a dialogue in the formal, non-formal and informal education institutions on the teaching of citizenship skills.

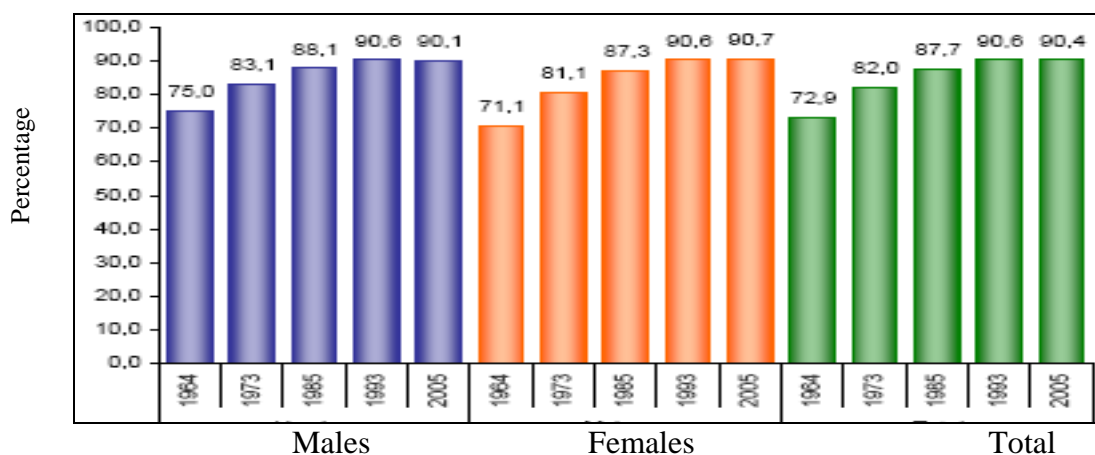
### Indicators

893. According to the 2005 national census, 88.3 per cent of the population aged five years or older can read and write.

**Literacy rates, chief towns and rest of country**



**Literacy rates – persons aged 15 years or older  
COLOMBIA. Literacy rates, persons aged 15 years or older**

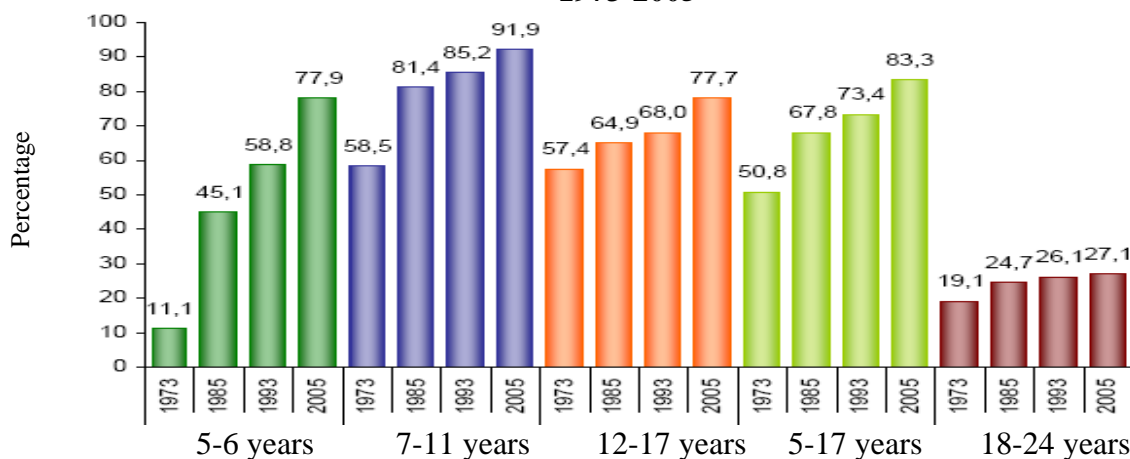


Source: population and housing censuses

894. According to the findings of the General Census, the illiteracy rate declined over the past 41 years among the population aged 15 years or older, from 27.1 per cent in 1964 to 9.6 per cent in 2005.

895. A total of 90.4 per cent of the population aged 15 years or older can read and write. The rate is 93.3 per cent for the municipal chief towns and 80.2 per cent for the rest of the country.

**COLOMBIA. School attendance by age group  
1973-2005**



Source: population and housing censuses.

896. The results of the General Census show a significant increase in the levels of attendance in public schools:

- While in 1973 the attendance rate for the 5-6 age group was 11.1 per cent, by 2005 this rate had risen to 77.9 per cent;
- For the 7-11 age group the rate increased from 58.5 per cent in 1973 to 91.9 per cent in 2005;
- For the 12-17 age group the 1973 rate was 57.4 per cent and the 2005 rate 77.7 per cent;
- In the 5-17 age group the rate rose from 50.8 per cent in 1973 to 83.3 per cent in 2005;
- For the 18-24 age group the 1973 rate was 19.1 per cent and the 2005 rate 27.1 per cent.

897. It should be noted that the most recent World Bank report<sup>150</sup> described the improvement in the coverage of primary and secondary education in Colombia as noteworthy. According to this report, 95 per cent of primary pupils completed the primary cycle in 2005, while 100 per cent did so in Argentina, Peru, Bolivia, Brazil and Ecuador.

898. However, the same report states that there are problems of quality, for the reading ability of nine-year-olds shows the differences between poor and rich countries: in Argentina, Colombia

<sup>150</sup> Global Monitor Report 2007.

and Morocco, for example, half of the children of this age do not have the reading ability of children living in the countries of the Organization for Economic and Social Development (OECD), the world's 30 most developed countries.

899. From the gender perspective, a disaggregation of the preschool, basic and intermediate enrolment by sex in the period 2002-2005 shows a slight percentage difference in favour of boys over girls. This slight difference is due to the gender distribution of the population and not to restrictions on access to the education system, which tends to be the same for boys and girls.

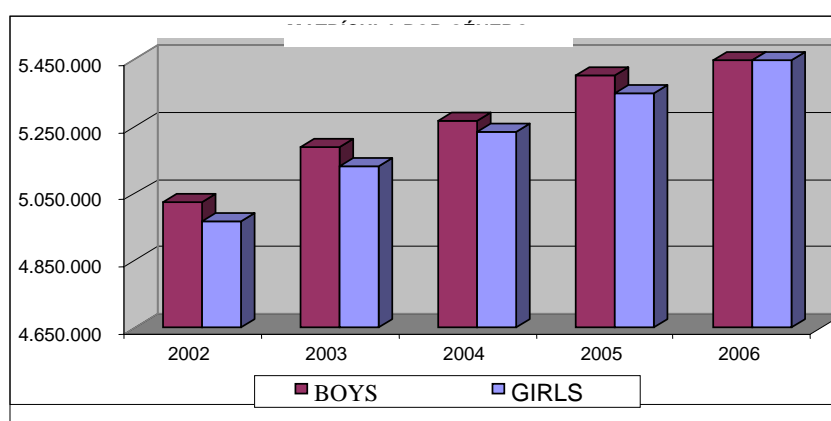
#### Total enrolment, by sex, 2002-2006

Year	Boys	Girls	Total
2002	5,025,888	4,968,516	9,994,404
2003	5,191,298	5,132,284	10,323,582
2004	5,267,125	5,234,834	10,501,959
2005	5,403,809	5,348,921	10,752,730
2006*	5,541,703	5,485,414	11,027,117

\* Preliminary information.

Source: MEN Advisory Office for Planning and Finance.

#### Enrolment, by sex



Source: MEN (the 2006 data are preliminary).

900. The increase in enrolment between 2002 and 2006 was slightly larger for girls than for boys.

#### Increases in enrolment, by sex, 2002-2006

Sex	2002	2006*	Increase
Boys	5,025,888	5,541,703	10.3%
Girls	4,968,516	5,485,414	10.%
Total	9,994,404	11,027,117	10.3%

\* Preliminary data.

Source: MEN Advisory Office for Planning and Finance.

## **I. Right to culture and scientific progress (art. 15)**

### **Legislative framework**

901. The right to culture is addressed in article 70 of the Constitution, which establishes the duty of the State to encourage and promote access to culture for all Colombians on a basis of equal opportunities by means of lifelong education and scientific, technical, artistic and vocational training. The following legislative developments took place in this area during the period under review:
902. Act 565 of 2000. This Act approved the Universal Copyright Convention of the World Intellectual Property Organization, adopted in Geneva on 20 December 1996.
903. Act 603 of 2000. This Act amended article 47 of Act 222 of 1995 in respect of management reports on compliance with the regulations on intellectual property and copyright.
904. Act 814 of 2002. This Act contains provisions to encourage film making in Colombia.
905. Act 881 of 2004. Tribute to the National Artist.
906. Act 896 of 2004. This Act approved the Agreement between the Government of the Republic of Colombia and the Government of the Republic of Bolivia on the recovery of cultural property and other stolen or illicitly imported or exported items, signed in La Paz on 20 August 2001.
907. Act 897 of 2004. This Act approved the Audiovisual Co-Production Agreement between the Government of the Republic of Colombia and the Government of Canada, signed in Bogotá on 10 July 2002.
908. Act 899 of 2004. This Act approved the Second Protocol to the Convention for the Protection of Cultural Property in the Event of Armed Conflict, adopted in The Hague on 26 March 1999.
909. Act 904 of 2004. This Act declared the Bogotá Summer Festival to be of social, cultural and sporting value.
910. Act 927 of 2004. Among other provisions this Act authorized the affiliation of the General Archive of the Nation, the National Library and the National Museum to international organizations.
911. Act 929 of 2004. This Act regulates the question of free admission to museums and cultural centres and monuments.
912. Act 930 of 2004. Among other provisions this Act recognized certain property of cultural value.
913. Act 932 of 2004. This Act developed articles 50 and 54 of Act 397 of 1997 and created incentives for donations and patronage arrangements to enlarge the collections of public and private museums.

914. Act 969 of 2005. This Act approved the Agreement on Technical, Scientific and Technological Cooperation between the Government of the Republic of Colombia and the Government of the Republic of Honduras, signed in Bogotá D.C. on 12 November 2003.

915. Act 997 of 2005. This Act declared the soprano guitar (*tiple*) to be part of the cultural and artistic heritage of the Nation and invested it with the status of national indigenous instrument.

916. Act 1022 of 2006. This Act declared the Festival of Wayúu Culture to be part of the cultural heritage of the Nation.

917. Act 1026 of 2006. This Act declared the National Queen of Bambuco (a dance song) Folklore Festival and the International Folklore Exhibition to be part of the cultural heritage of the Nation.

918. Act 1037 of 2006. This Act approved the Convention for the Safeguarding of the Intangible Cultural Heritage adopted by the UNESCO General Conference at its thirty-second session in Paris (completed on 17 October 2003 and adopted and signed in Paris on 3 November 2003).

#### **Administrative developments**

919. Work was completed on the formulation of a cultural policy, an outline of which had been included in the National Development Plan 2002-2006.

#### *National Culture Plan*

920. The National Culture Plan contains policies which, within a general framework, bring together various cultural proposals with a view to the joint construction of a plural and democratic future project. The Plan proposes arrangements under which groups, individuals, movements and institutions, within their various spheres and contexts, can formulate their proposals, have a presence in public spaces and exchange with each other the knowledge and recognition which cultural policies should be able to foster.

921. Document CONPES 3162 of 2002 (Policy outline on the sustainability of the National Culture Plan 2001-2010: Towards a democratic cultural citizenship) was produced in order to consolidate this Plan.

#### *National Reading and Libraries Plan*

922. The National Reading and Libraries Plan is part of the National Development Plan 2002-2006. Its purpose is to improve standards of reading and writing, reinforce and rationalize the services provided by Colombia's public libraries, and facilitate access for the entire population to information, knowledge and entertainment. Document CONPES 3222 of 2003 (Outline of the National Reading and Libraries Plan) was produced in order to supplement the policies proposed in the National Development Plan.

923. Between 2002 and 2006 the Plan supplied books to 683 libraries in 637 municipalities (some of these endowments were made in villages and small towns within the same municipal chief town). Each of these libraries received on average 2,300 titles, including, in addition to



volumes with a formal academic content, works on the arts, trades, handicrafts, cooking and other topics which a general readership finds useful and attractive. The aim is to make the public library a meeting place where any citizen can find an answer to his or her problems.

924. In addition to their book collections, these libraries were supplied with recording, VHS and DVD equipment, television sets, computers with bibliographic software, and a film package (over 100 Colombian and Latin American film titles, 43 children's films, 30 Colombian documentaries, and a set of 60 videoclips on the rights of the child produced by UNICEF).

925. With a view to supplementing the collections, training programmes were carried out under the Plan for librarians, teachers and other local agents of culture. A total of 11,000 persons received training in the period 2002-2006.

926. The criteria for the selection of municipalities to participate in the Plan were based on a prior diagnosis of poverty, clear lack of library resources, and inability of the community to obtain information and knowledge. The priority has been to reach those municipalities which have no library facilities and have indicated their wish to be included through the municipal and departmental authorities.

#### *National Music for Social Cohesion Plan*

927. The National Music for Social Cohesion Plan (PNMC) was also formulated during the period under review to provide an open and inclusive opportunity for building independence and social cohesion through the processes of musical development by coordinating the various actors, encouraging an interface between popular and academic knowledge and establishing a presence in all the country's departments and municipalities. The implementation of the Plan has consolidated decentralization and encouraged local participation, for it involves departmental and municipal institutions and community organizations as prime movers.

928. The PNMC is designed to promote musical training and performances and to expand the public's opportunities to come to know and enjoy music. It has therefore made its central focus the creation and consolidation of informal music schools in the municipalities, based on the traditional popular music groups and performances by bands, choirs and orchestras, with a view to creating spaces for expression, participation and developing good relations. These schools are intended to coordinate the existing arrangements in urban and rural municipalities and offer upcoming generations an opportunity to acquire a basic level of musical training as a safeguard and vehicle of their fundamental right to comprehensive education and the free development of their personalities.

929. The PNMC encourages every municipality to develop, as a minimum, a collective musical life adapted to the local interests and possibilities. The departmental chief towns are also encouraged to establish an orchestra for children and young people.

930. Since music is one of the expressions of culture most commonly found in all contexts and possesses an enhanced capacity to influence the daily lives of individuals and communities, it was chosen as one of the priority cultural strategies for supporting the political and social purposes of the current National Development Plan.

931. In order to achieve these purposes and to make optimum use of the resources and deliver a more powerful and sustainable impact, the Plan was structured around five components: management, training, equipment, extension, and information.

932. The implementation of the Plan led to the inclusion of music in the development plans of 32 departments and two districts, and in 497 municipalities consensus was reached with the local authorities on the approval of municipal agreements on the establishment of informal music schools.

<b>Actors/function</b>	<b>Wind bands</b>	<b>Choirs</b>	<b>Traditional music</b>	<b>Orchestras</b>	<b>Total</b>
Directors trained	585	367	332	60	1,344
Municipalities reached	546	318	265	18	1,147
Child beneficiaries	25,155	7,220	9,900	1,800	44,075

*Source:* Ministry of Culture.

933. With the assistance of international cooperation, including contributions from China and the Republic of Korea, 300 municipalities were equipped with 3,748 band and 6,682 pre-band instruments and 50 municipalities with 959 traditional musical instruments.

934. Special attention has been given to vulnerable and displaced persons in the Batuta music training centres, which were attended by over 19,000 children and young people between 2003 and 2006. The Batuta Foundation's national system of symphony and children's orchestras in Colombia is a not-for-profit organization which provides children and young people with a means of coping with life's hardships. Although children from any social stratum are welcome, the Foundation concentrates on those who have suffered as a result of the violence, stimulating them to dream and to make their dreams come true by acquiring musical skills and an appreciation of music.

935. The excellent results of the implementation of the PNMC in 2006 led to the issuance of document CONPES 3409 (Policy outline on the consolidation of the National Music for Social Cohesion Plan), the main purpose of which is to expand the coverage to more municipalities.

#### *National Culture and Social Cohesion Plan*

936. In the context of the social cohesion policy formulated by the Ministry of Culture, the National Culture and Social Cohesion Plan was built on the bases established in the National Culture Plan for the construction of a democratic cultural citizenship and on the provisions of the National Development Plan concerning "institution-building and the consolidation of a national culture of social cohesion". The Plan uses the potential of culture to foster a shared sense of difference and thus to improve the coordination of the culture sector, with emphasis on the participatory and decentralized formulation of cultural policies of social cohesion, and to propose coordination with other sectors working on social cohesion, with a view to mutual support and building cultural potential. The Plan was given concrete shape in the formulation of departmental and municipal culture and social cohesion plans, the conduct of training courses, the execution of local cultural projects, and the implementation of the project "Citizens' radio: a space for democracy".

937. The National Culture and Social Cohesion Plan reported that 50,491 promoters of culture and social cohesion had been trained or briefed over the past four years: these are citizens who undertake to promote through their everyday behaviour respect and tolerance for and solidarity with culturally diverse groups and sectors (including persons attending round tables on the formulation of departmental culture and social cohesion plans, promoters working for diplomas in social cohesion, and local and regional workshops held under outreach projects). It also reported that 9,746 cultural outputs had been produced under the Plan (including departmental plans, municipal projects and outreach projects on culture and social cohesion).

938. The implementation of the Plan's strategies benefited 379 of the country's municipalities. The target for the next four-year period is to continue the municipal culture and social cohesion projects which are already under way, broadcast opinion-shaping outreach pieces on Citizens' Radio in 200 new municipalities, and evaluate the implementation of the Plan so far, with a view to determining the strategy to be pursued over the next four years; it is important to stress that one of the achievements of the Ministry of Culture under the Plan has been to build institutional capacity to foster social cohesion by formulating the departmental and municipal plans and encouraging the execution of independent projects in each department.

939. Other programmes were consolidated in the period 2002-2007, in the following areas:

- (a) Support for symphony music in Colombia (CONPES 3208 of 2002);
- (b) Provision of additional resources for investment in cultural heritage projects (CONPES 3255 of 2003: Policy outline on the distribution of 25 per cent of the local revenue accruing from the four per cent increase in the tax on mobile phones);
- (c) Promotion of film making (CONPES 3462 of 2007: Policy outline on the consolidation of film making in Colombia).

#### *Scientific matters*

940. Steps were taken during the period under review to ensure the implementation of scientific programmes for the benefit of Colombians. In November 2005 the National Science and Technology Council approved the National Policy on the Acquisition of Science and Technology by Society as one of the strategies of the National Development Plan 2002-2006: Towards a State for the Community. The purpose of this document to summon and mobilize Colombian society to create a national atmosphere of interest in and commitment to science and technology as a "strategy for the future",<sup>151</sup> in order to tackle the problem of limited access to information and the restrictions on public participation in decision-making on science and technology.

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<sup>151</sup> "Strategy for the future" means guaranteeing increased national wealth and the generation, communication, discussion and use of scientific and technological knowledge to help to improve the quality of everyday life and democratic life, as well as exploring and presenting alternative solutions to Colombia's conflicts on the basis of valid knowledge. This is possible only if the institutions constituting the political, economic, social and cultural fabric of Colombian society commit themselves to the cause of science, technology and innovation.

941. In addition, the National Government, working through the Colombian Development Institute for Science and Technology (COLCIENCIAS) has sought: (i) to build the capacity for science, technology and innovation which Colombia's society, groups and regions require; (ii) to promote the expansion of scientific knowledge and the development of the technology and innovations needed to secure the advance of the regions, the welfare of their inhabitants, and the progress of the Nation; and (iii) to encourage an receptive attitude towards knowledge on the part of society.

942. The work of increasing society's knowledge of itself and its recognition of its identity and capacities has focused on support for research into the country's cultural and regional diversity. For example, between 2000 and 2005 backing was provided for 17 projects on the study of Colombia's individual cultural identities, in an amount of some 700 million pesos.

943. Invitations have also been issued for the proposal of projects for the establishment of a "knowledge dialogue" to encourage the academic and other communities to learn from each other, in particular with respect to the traditional knowledge of indigenous, black, peasant and village communities. The first invitation of this kind, in 2005, led to the funding of 10 projects, in an amount of roughly 500 million pesos.

944. Like many other countries, Colombia is afflicted by the phenomenon of violence. The need to foster of sense of citizenship and devise other means of conflict resolution and to care for the vulnerable population groups prompted the issuance of invitations to submit research proposals on citizenship training, institution-building, and displacement. Where displacement is concerned, support was provided for eight research projects during the period 2002-2005, in an amount of some 390 million pesos.

945. In view of the importance of citizenship training and institution-building for the development of a sense of citizenship and fostering respect for and recognition of diversity, backing was given to 16 citizenship training projects in an amount of some 450 million pesos and to eight institution-building projects in an amount of about 200 million pesos. In general terms, COLCIENCIAS has been promoting the conduct of academic research on improvement of the quality of education in Colombia and education's contribution to the national culture.

946. Attention must be drawn to the action taken by Colombia with regard to ethno-education and recognition of the languages of ethnic groups. Several universities offer specialist and master's degree courses in this area, and the Ministry of National Education has promoted the introduction of formal ethno-education courses. The University of Antioquia has introduced a course on indigenous communities in its education doctorate, recruiting its first indigenous teacher for this purpose.

947. Efforts have also been made to disseminate the knowledge obtained from this research to the scientific communities by means of public events and publications. Furthermore, free access to the knowledge produced from the research funded by COLCIENCIAS may be obtained by visiting its documentation centre.

<b>PROGRAMME OF SCIENTIFIC STUDIES ON EDUCATION RESEARCH PROJECTS TO ENHANCE CITIZENSHIP SKILLS</b>			
<b>No.</b>	<b>Project</b>	<b>Entity</b>	<b>Amount approved (pesos)</b>
1	Citizenship skills for social cohesion and prevention of violence	University of the Andes	29,991,000
2	Science-related citizenship skills: small scientific projects	University of the Andes	30,000,000
3	A proposal to assess social cohesion among educated young inhabitants of Bogotá	Alberto Meraní Institute	29,973,000
4	Citizenship training and basic training in natural sciences	National University	30,000,000
5	Self-awareness of over- and under-performing students	National University	24,600,000
6	Curriculum proposal for the training of engineers, with emphasis on CTS+1 studies (science, technology and society)	Del Cauca University	28,672,000
7	PAIDÓPOLOS: outreach proposal to create environments and processes for developing citizenship skills	Industrial University of Santander	27,000,000
8	Analysis of citizenship skills and forms of social cohesion in schools	Teacher Training University	16,100,000
9	Conflict and symbolic mediation among schoolchildren in marginal urban areas. The case of commune 20 in Cali	San Buenaventura University	24,000,000
10	Understanding conflicts in narrative texts: a means of citizenship skills training	University of Valle	29,995,000
11	The school as a stage for political socialization: attitudes to and sense and practice of civic participation of young people in strata 1 and 2 in four regions of the country taking part in the National Programme “Young People – Builders of Peace”	University of Manizales	50,435,000
12	Moral education: teachers’ thinking on the formation of values	FUNVHEC	39,980,000
13	Subjects and situations regarded as conflictual from the moral standpoint by secondary and intermediate students in the country’s towns. Their views on the assessment and educational implications of such subjects and situations	University of Manizales	18,000,000
14	Communication, education and citizenship. Speeches by schoolchildren actors	Central University	24,000,000
15	Society’s thinking on the value of justice as a starting point for strengthening social cohesion in schools	University of Antioquia	24,240,000
16	Analysis of the ethics of responsibility and of ethical, political and educational assessment criteria in the formation of values	FUNVHEC	26,000,000
<b>TOTAL</b>			<b>452,886,000</b>

<b>PROGRAMME OF SCIENTIFIC STUDIES ON EDUCATION RESEARCH PROJECTS TO ENHANCE CITIZENSHIP SKILLS</b>			
<b>No.</b>	<b>Project</b>	<b>Entity</b>	<b>Amount approved (pesos)</b>
<b>PROGRAMME OF SCIENTIFIC STUDIES ON EDUCATION: RESEARCH PROJECTS TO PROMOTE RECOGNITION OF AND RESPECT FOR DIVERSITY, 2000-2005</b>			
<b>No.</b>	<b>Project</b>	<b>Entity</b>	<b>Approved amount (pesos)</b>
1	Representation and interpretation of social reality through acting games and other play/artistic means of expression among children from diverse cultural backgrounds	University of Antioquia	23,700,000
2	Social and cultural mobility, social paths, gender and identity among students at the National University	National University	18,200,000
3	Situation of indigenous university students: needs and prospects. A study in Antioquia and Chocó	University of Antioquia	40,000,000
4	Education and adoption of outside cultures by indigenous young people	Caminos de Identidad Foundation	45,760,000
5	Education policy, equity and teacher training	Teacher Training University	25,600,000
6	Concepts of knowledge and research in university contexts and indigenous contexts	University of Antioquia	40,000,000
7	Intercultural chair	University of Rosario	10,000,000
8	Education system and social inclusion in Medellín 1994-2005		
<b>TOTAL</b>			<b>203,260,000</b>

948. The measures taken in recent years by representatives of the scientific community and by the National Government to increase the attention given to scientific and technological activities in public policies and in society at large have produced positive results. However, these measures are still regarded as insufficient in terms of giving a great boost to the so-called “information society”. Accordingly, COLCIENCIAS has proposed the following action:

(a) Formulating and implementing programmes to publicize and raise the profile of Colombian science and technology in the mass media and by producing more publications on this subject, promoting the publication of science and technology reports in the regional and national press, and producing and broadcasting television programmes on science and technology, as well as “Science for All” programmes on community radio;

(b) Encouraging civic participation and public awareness of science and technology by creating spaces for people to debate these matters in 10 departments and by means of National Science, Technology and Innovation Week and the proposed “See Science” scientific film and video festival;

(c) Providing support for regional science centres in medium-sized towns: (in one region of the country) the Maloka Life Museum; the Maloka Universe Museum; the invitation to tender for interactive centres; and “Maloka Viajera”;

(d) Implementing programmes and projects to foster a scientific culture based on the interests and needs of society: science tourism and establishment of a science-tour circuit in two regions of the country;

(e) Promoting training for science facilitators by supporting programmes on the communication of science to the public and appointing a peripatetic specialist in this subject.

## VI. CONCLUSIONS

949. All the measures described in this report testify to the efforts and achievements of the State and to the difficulties which it has encountered in restoring effective guarantees of economic, social and cultural rights for all Colombians, but especially for the millions who today are sunk in poverty and have to suffer the effects of inequity.

950. The Government’s policy of democratic security, which has led to the restoration of security in Colombia and ensured the viability of democracy, the consolidation of the legitimacy of the State and the reinforcement of the rule of law, constituted a solid foundation for the country’s substantial economic growth since 2002, which led in turn to improved social indicators.

951. Against this background the Government concentrated on reducing the vulnerability of the population groups historically affected by inequity by addressing poverty and extreme poverty, the indicators of which have recorded their lowest levels since comparable figures have been available, and by strengthening the social protection system, expanding the coverage of quality education, reactivating the management of the countryside and improving the quality of urban life.

952. This has presented the country with an enormous challenge which it will have to continue to tackle, for despite the economic growth and wealth generation still greater efforts must be made, particularly with regard to income distribution, an area where wide gaps persist. With that in mind, the Government made progress in the period under review in the design of policies which have guided and will continue to guide the efforts to consolidate an exclusion-free social model based on equality of opportunities and backed by a State guarantee of social equity; moreover, the more extensive legislative and jurisprudential foundations which have been laid down will act as guides for the authorities in their efforts to achieve these objectives.

953. Accordingly, a strategy of equity has been posited for the coming years which, in accordance with the National Development Plan 2006-2010: *A State for the community: Development for All*, will mean ensuring that all Colombians are equal in terms of access to and quality of social services which provide a sufficient income for them to lead decent lives. It is a question of moving on from an assistance-based approach by pursuing policies which include conditional support, temporary assistance, and graduated schemes and which facilitate the development of skills for generating future income. The objective is thus to ensure that all

Colombians have access to quality education, a fair and supportive social security system, the labour market, and effective mechanisms of social improvement.

954. Today there are documents such as the mission paper on the design of a strategy to reduce poverty and inequality, which has improved the knowledge of the factors which determine poverty and inequality and contains proposals to reduce these phenomena, document CONPES Social 91, which elevated to the status of State policy the country's commitment to attain the goals and targets agreed at the Millennium Summit, and, as part of the long-term planning exercise, *Visión Colombia 2019*, a document which sets as one of the country's 15-year objectives the building of a more egalitarian society, with specific targets to be attained by 2010 and 2019: one such target is to achieve by 2019 full coverage by the health, basic and intermediate education, drinking water and basic sanitation services.

955. The National Government has also presented its Cooperation Strategy 2007-2010, which concentrates the demand for cooperation on three thematic areas: the Millennium Development Goals; combating the worldwide drug problem and protecting the environment; and reconciliation and governance. This last thematic area includes such questions as economic and social reintegration, consolidation of the rule of law, humanitarian assistance, and services for victims of the violence.

956. In the light of the situation described above, the Government formulated, by coordinating the efforts of a number of State bodies, a strategy for reinforcing democracy and promoting social development, with the fundamental objective of consolidating the achievements and advancing even further towards the basic goals of reinforcing democracy, dispelling the threats to democratic stability, promoting human rights, achieving economic and social development, and combating poverty.

957. Furthermore, given the problems of Colombia's displaced population and its special vulnerability, policies have been set down in document CONPES 3400 of 2006 to secure the social and economic stabilization of the people in question; these policies include the implementation of measures to restore their violated rights and provide them with preferential access to education, health, income-generation and land services.

958. The formulation of these and other relevant policies which seek to guarantee the full exercise of economic, social and cultural rights testify to a will and a commitment to continue working with determination to fulfil Colombia's international commitments and to secure justice and equity for all Colombians.

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