

COLOMBIA

CERD A/39/18 (1984)

128. The initial report of Colombia (CERD/C/85/Add.2) was introduced by the representative of the reporting State. He provided additional information regarding the ethnic composition of the population of Colombia, where approximately 50 per cent of the 28 million inhabitants were mestizos, 8 per cent Negroes, 18 per cent mulattos and 20 per cent white. There were also approximately half a million indigenous people comprising 77 communities, the largest of which was the community of the Paez Indians who lived in the Department of Cauca and the region of Tierra Adentro. In the past, they had been victimized by settlers, but those responsible had been severely punished and since then the Paez Indians had been protected and their community land and properties could not be alienated. In order to increase their holdings, the State had acquired properties which had been transferred to the indigenous town councils for use by the community. The indigenous communities also enjoyed protection in respect of their culture in order to help them maintain their own identity. Decree No. 1142 of 1982 had established an educational strategy to enable the indigenous peoples to decide on their own educational system. Bilingual and bicultural programmes had been drawn up in various departments and regions for different indigenous communities and researchers were teaching approximately 25 indigenous peoples the grammatical rules of their own languages.

129. Commenting on the report, the Committee welcomed the initiation of the dialogue with Colombia as well as the spirit in which its initial report had been submitted. It drew attention, however, to the Committee's guidelines (CERD/C/70/Rev.1) which had not been followed in the elaboration of the report and to the fact that the information contained in the report did not help the Committee to determine whether the provisions of the Convention were being correctly implemented. The Committee recommended that its guidelines should be taken into account in the preparation of Colombia's next periodic report, which was due on 2 October 1984.

130. Concerning the status of the Convention under the Colombian legal system, the Committee wished to know whether the Convention was binding and could be invoked before the courts, whether its provisions had been incorporated into Colombian law, and whether it prevailed over domestic law. It also requested detailed information on the laws enacted to prevent racial discrimination.

131. With regard to articles 1 and 2 of the Convention, the Committee welcomed the additional information presented orally by the representative of Colombia concerning his country's demographic composition. The Committee, however, expressed the wish that the next report should include information on the population of Colombia. It requested information on the National Development Programme for Indigenous Peoples, measures to help disadvantaged groups and comparative figures for the various groups relating to education, per capita income, housing and medical care. Statistics should also be furnished in the next report on the employment of members of the various racial groups in the public service and their representation among elected officials.

The Committee would also like to have information on the enjoyment by members of the indigenous population of their political as well as cultural rights, their real situation and what was being done specifically to preserve the indigenous languages. It was asked whether slavery had at any time existed among the indigenous population. Clarifications were requested regarding the indigenous population living in the reservation lands, in particular about the Government's land policy, the legal status of the reservations, whether the indigenous population had the right to acquire real property elsewhere in Colombia and dispose of it at will, and what specific measures had been adopted to ensure the more rapid development of reservation lands. The Committee also wished to know how the rights of the indigenous population were protected if a reservation was used for a national development project, whether the indigenous population was permitted to migrate from its reservation land and, if so, whether it lost its rights to the land from which it had emigrated.

132. Concerning article 3, members of the Committee requested information on measures taken to give effect to that article and details of the status of Colombia's diplomatic, economic and other relations with South Africa.

133. With regard to article 4, the Committee underlined that compliance with the obligations under that article was absolutely compulsory for States parties. It urged Colombia to adopt immediate and positive measures to that effect.

134. With respect to article 5, members of the Committee requested information about how the right to security of person and protection by the State against violence or bodily harm, as well as political rights, were applied to the population as a whole, and more specifically to the indigenous population. They also asked for information on freedom of movement and the right to leave and return to the country as well as on the way in which the right to equality before the law was implemented.

135. In relation to article 6, more details were requested about the remedies available in Colombia.

136. As for article 7, the Committee inquired about the initiatives that had been taken to give effect to that article of the Convention and hoped that the next periodic report would contain information on educational and informational policies.

137. Replying to questions posed concerning the indigenous population, the representative of Colombia said that, in order to preserve their cultural identity and language, the indigenous peoples required special protection because of their vulnerability to economic exploitation. No obligations were imposed on them while on the reservation and they were exempt from taxes. If, however, anyone living on a reservation wished to leave, he was free to do so. There were no similar laws for any other ethnic group. The title to reservation lands was vested in the community, and individuals could not demand a part of that land for themselves. The reservation lands belonged to the indigenous population so long as it wished to remain on them. If a member of the community left the reservation, he did not lose his rights as he could return at any time. The law which prohibited the sale of reservation lands had been designed to prevent the indigenous population from being left landless. Nobody could purchase reservation land, as it could not be transferred or assigned. If any part of such land was required for a public purpose, such as the construction of an airport, a special act of Congress would be required and the public interest would have to be stated specifically in the act. There were provisions for proper compensation, and judges were strict in applying the laws

relating to the use of reservation land for public purposes. Every indigenous community had a primary school where instruction was provided in the language of the community. Information on training in agriculture and on agrarian reform would be provided in the next report. Indians participated in Colombia's political life like any other citizens; they could elect their own representatives and be elected to the highest offices in the land. Because the reservations were located in remote inhospitable regions, they were often backward and it was difficult to ensure their rapid development. Major development plans were, however, being implemented in a number of cases.

138. Turning to questions raised in connection with the status of the Convention in Colombian law, he said that the Convention had been ratified by Congress and was the law of the Republic. In Colombia, international treaties enjoyed the same status as the national Constitution. Treaties took precedence over any laws that might be enacted. No law or constitutional provision ran counter to any article of the Convention; it had not been necessary to amend the Constitution or any other law in order to allow the Convention to come into force in Colombia.

139. Replying to questions posed in relation to the implementation of article 3, the representative of Colombia informed the Committee that his country had no diplomatic, cultural or other relations with South Africa. His country had always been in total disagreement with the policy of apartheid and had supported all decisions taken by United Nations bodies against the South African régime.

140. In conclusion, he assured the members of the Committee that all their comments would be taken into account by his Government in preparing its next report, which would be drawn up in accordance with the Committee's guidelines.

CERD A/40/18 (1985)

444. The second periodic report of Colombia (CERD/C/112/Add.1) was considered by the Committee at its 731st and 732nd meetings, on 8 August 1985 (CERD/C/SR.731 and SR. 732).

445. The report was introduced by the representative of Colombia who referred to the history of his country and to his Government's policy regarding the indigenous population and other minorities, as well as to measure taken to strengthen national unity among all sectors of the population. He stated, in particular, that Colombian legislation prohibited slavery and discrimination, and there were no tangible barriers to rising in society for blacks or persons of indigenous origin. He also stated that the overall trend was to stop treating the indigenous peoples as minors and to grant them some kind of self-government in an attempt to adjust to international standards of conduct.

446. The Committee expressed appreciation for the substantive report submitted by Colombia, which closely followed the Committee's general guidelines (CERD/C/70/Rev.1) and contained comprehensive information about the indigenous population and the efforts being made to improve its situation. Some members, however, pointed out that the report contained a discrepancy between paragraph 1, in which it was stated that "in Colombia there is no racial discrimination", and paragraph 178, in which it was stated that "racial discrimination exists in every nation of the world with varying degree of intensity and in a great diversity of forms". Clarification was sought on that point.

447. With regard to the implementation of article 2 in conjunction with article 5 of the Convention, much of the discussion revolved around the Government's policy for the indigenous population and the legislation and practical measures designed to ensure the protection and promotion of the rights of Indians and other minorities. The Committee welcomed the proposed reorganization of the national programme for the development of the indigenous population (PRODEIN). It wished to receive more information on the socio-economic and political activities of the indigenous population and other ethnic groups and asked whether they took part in political organizations, government and opposition parties, whether there were any voluntary bodies formed by the ethnic communities themselves and, if so, what role they played, and whether there were advisory councils in which they participated. Referring in particular to the activities and programmes of the Colombian Agrarian Reform Institute (INCORA), clarification was requested as to how the Institute dealt with evictions of indigenous inhabitants from their lands, whether they were given legal assistance in order to enable them to defend their territorial rights, how many deeds of land ownership had in fact been handed over to the indigenous population on either an individual or a collective basis, how many such indigenous groups were able successfully to make the transition from a subsistence economy to a productive economy, and whether any plans for establishing co-operatives had been put into effect.

448. Referring to the right to freedom of movement in the context of the indigenous population, clarification was requested on the formalities that had to be complied with if a private person wished to visit a reservation or if an indigenous person wished to leave the reservation.

449. More information was also requested on the extent to which the freedom of worship of

indigenous populations was respected; it was asked whether the prevailing culture permitted them to adhere to a religion which was consistent with their own cultural background.

450. With reference to the information provided in the report on education and literacy programmes, members wished to know whether the Colombian Government carried out any special programmes for the indigenous population, to what extent the various groups of society took part in the ongoing educational process, to what extent primary education was influenced by economic constraints, and what measures the Government had introduced to ensure balance in the private education sector and to prevent alienation of the indigenous populations.

451. Additional information was requested regarding the settler population which migrated to the forest land traditionally occupied by the Indians, and on how disputes between settlers and Indians were resolved. Moreover, members raised the question of the rain forests in Latin America, which were heavily exploited, and wished to know whether that was true of the rain forests of Colombia, and whether the indigenous groups living in those forests were affected. It was also noted that there had been an influx of settlers and multinational companies involved in mineral exploitation in the areas occupied by the indigenous population. In that connection, information was sought regarding any laws that might have been enacted to prevent their exploitation and protect their rights.

452. The Committee commended the Colombian Government on its position with regard to article 3 of the Convention and on the fact that it had never had or contemplated establishing diplomatic relations with South Africa. However, in view of South Africa's offensive to overcome its isolation by the international community, it was asked whether there were any trade or sporting contacts with that country, even at the non-official level, and if so, what measures the Government had taken to prevent such contacts.

453. Referring to the implementation of article 4 of the Convention, the Committee pointed out that further measures were necessary to implement in particular the provisions of paragraphs (a), (b) and (c) of that article; that the Decree relating to the sound broadcasting service, referred to in the report, was a first step; and that the report did not provide any specific information on the implementation of that fundamental article of the Convention.

454. In relation to article 6 of the Convention, members noted that, according to the report, a person whose rights had been violated could apply to the judicial authorities to seek redress. It was pointed out that, in the case of an individual wishing to complain of an act of racial discrimination, a judge would find himself in a very difficult position, since he would be unable to apply any specific provision as a penalty for such an act. Members asked what legal norms would be applied in such a case, those of the Convention, or those of the Colombian Civil Code.

455. Concerning article 7 of the Convention, the Committee congratulated the Colombian Government on the comprehensive information provided and noted with interest the role of UNESCO clubs and UNESCO associated schools referred to in the report. Additional information was requested, in particular, on training programmes for teachers, lawyers and government officials emphasizing the need for mutual respect in dealing with indigenous communities.

456. In reply to questions raised and comments made by members of the Committee, the

representative of Colombia stated that he interpreted the affirmation in the report that racial discrimination did not exist in Colombia as applying to racial discrimination sanctioned by legal instruments. Colombia did not pretend to be a model; it had made mistakes with regard to the indigenous populations and was trying to advance towards equity and historical reparation. The approximately half a million members of the indigenous population of Colombia came from some 77 ethnic groups and a large number of them were found in the Andean zones - those groups which were settled in the highlands having most effectively resisted the Spanish conquest. Under the most recent Government, a different approach had been adopted advocating a type of participation which took into account the different elements, historical conditions, characteristics and aspirations in the country. Nevertheless, it was a tremendous problem to change the real situation and bring it into line with the ideals of conventions, constitutions and laws. It was the misfortune of the indigenous population to exist in an age of scorn for aboriginal things. He also said that the indigenous population had a right to leave their reservations, although that right was somewhat theoretical, and that access to reservations existed for foreigners. A major objective was to arrive at a sort of indigenous self-management with increasing community participation.

457. He went on to say that current policy was to make the reservations reserves in order to give the indigenous population title to ancestral lands. In that area there was close collaboration with INCORA. However, there were enormous difficulties, particularly in relations with other settlers on the land, who had a more individualist attitude to property and were more destructive of nature. Ecological interests had to be taken into account, particularly when establishing national parks where the indigenous had a right to settle.

458. With regard to the problem of the marginalization of indigenous populations, he stated that immense efforts were needed in order to incorporate them into national life while respecting their individuality, and provide them with access to equitable conditions. The current Government was endeavouring to establish mechanisms for the participation of the indigenous populations, such practical mechanisms were the key to ensuring that the laws and the Convention did not remain dead letters.

459. As far as education was concerned, the representative said that primary education was obligatory, but not secondary and university education. However, recent figures for illiteracy showed the 13.8 per cent of the population in urban areas, 36.5 per cent in rural areas and 28.5 per cent overall were illiterate. In spite of an adult literacy plan, much remained to be done and constitutional provision had been made for a minimum of 10 per cent of the national budget to be devoted to education.

460. Turning to relations between the Church and the State, he explained that the Church had played an important and controversial role in Colombia's history; it represented an element of protection for minorities and had struggled to protect minority rights and the rights of the indigenous population.

461. With regard to freedom of movement, the representative said that there were no internal laws in Colombia requiring work permits for different sections of the country. The restrictions mentioned in the report were not political and referred exclusively to matters of traffic control in the case of physical dangers.

462. As for the implementation of article 3 of the Convention, he stated that Colombia had no relations of any type with South Africa. As a general principle, Colombia was in favour of peaceful settlement of disputes and neither encouraged nor condemned violent solutions in any part of the world.

463. Referring to questions put in connection with article 4 of the Convention he indicated that in Colombia it was unusual for organizations inspired by ideas of racial superiority to exist, and if a request were received for the establishment of an organization based on such ideas, permission would be refused under the general rules prohibiting such organizations. He did not believe that the enactment of laws restricting the broadcasting of information would be well received in Colombia. The general system of Colombian law provided for the punishment of theories justifying crime and incitement to crime - and, in his view, that was probably sufficient - though no precise regulations implementing article 4 existed.

CERD A/44/18 (1989)

247. The third and fourth periodic reports of Colombia (CERD/C/143/Add.1 and CERD/C/166/Add.1) were considered by the Committee at its 841st and 842nd meetings, held on 15 August 1989 (CERD/C/SR.841 and 842).

248. The reports were introduced by the representative of the reporting State, who provided to the Committee further information to that contained in the reports under consideration, with particular attention given to the description of Colombia's indigenous policy since independence. Having described the main features of the past policies in that sphere, he pointed out that since 1982 that policy, labelled "indigenous self-administration", had been characterized by the active participation of indigenous communities in decision-making on measures affecting their own economic and social development and by respect for their own cultural institutions and traditional organizations. In 1982 the First National Indigenous Congress had been held and the National Indigenous Organization of Colombia had been set up, with which the Government had been promoting programmes on land, health, education, economic development and the protection of natural resources. He said that in 1988, there were 67 reservations or protected areas of colonial or ancient origin, with a population of approximately 150,000 indigenous people, and 177 new protected areas established by the Colombian Institute of Agrarian Reform (INCORA), with a population of about 158,000 indigenous people, whereas previously there had been only 27 reserves with population of 15,000 indigenous inhabitants out of a total indigenous population estimated at around 450,000. He also gave a detailed description of the health, education and culture aspects of the Government's indigenous policy.

249. The representative declared that Colombia had no national or local policies, legislation or regulatory provisions tending to create or perpetuate racial discrimination, as referred to in article 2 of the Convention. In addition, the provisions in force, both constitutional and legislative, guaranteed full enjoyment of the rights of all citizens without any discrimination, whatever their racial or ethnic group. The recognized means of appealing against any provisions violating constitutional guarantees were in operation, prominent among them the system for review of the constitutionality or laws by the Supreme Court of Justice, which recognized the right of all citizens, native or naturalized, whatever their racial origin, to challenge any legal provision that infringed the Constitution. The representative provided further information on the legal and administrative measures and policies formulated and developed by the present Government with the aim of increasing the participation of the indigenous community in the collective life of the Colombian nation, with due regard for their native traditions and values.

250. The representative said that in addition to the indigenous groups, ethnic groups of African origin had made a valuable contribution to Colombian development. The members of the black race, he emphasized, enjoyed full citizenship, without distinction as to rights and obligations. That equality also extended to immigrants from diverse racial groups who had arrive in Colombia at different periods. Although Colombia, with a population base of indigenous, Spanish and African peoples, had not been a prime example of a country of immigrants, its social and legal organization had always guaranteed racial equality and the treatment of all elements of the population without discrimination. Finally, he declared that Colombia had supported the cause of racial equality in all

international forums and had embodied such equality in its internal legislation as one of the most precious conquests in the struggle for the protection of human rights.

251. Members of the Committee congratulated the Government of Colombia, which maintained a fruitful dialogue with the Committee and with other bodies dealing with the protection of human rights, despite the rather complex political situation and the difficulties encountered, and regularly presented reports. Members of the Committee referred to the serious problems caused by political violence and the narcotics traffic in Colombia, and observed that terrorism and the narcotics traffic seriously affected the policies drawn up and applied by the Government to give effect to the provisions of the Convention and, therefore, expressed a desire for observations and explanations from the Government of Colombia in that regard. With reference to this problem, special mention was made of the report on Colombia of the Working Group on Enforced or Involuntary Disappearances presented to the Commission on Human Rights (E/CN.4/1989/18/Add.1 of 6 February 1989).

252. With reference to the assertion, contained in the introduction to the fourth report of Colombia that there was no racial discrimination in Colombia and that no such acts affecting the racial minorities living in Colombia were practised, members of the Committee disagreed with such an assertion and clarified that under article 9 of the Convention, States parties did not undertake to proclaim the non-existence of racial discrimination on their territories, but to inform the Committee of the measures that they had adopted and that gave effect to the provisions of the Convention, as Colombia had done in the second part of its third and fourth reports. The hope was expressed that observations of the Committee would be taken into account in the future periodic reports of Colombia. Having indicated that 12 States parties, including 4 Latin American States, had made the declaration referred to in article 14 of the Convention, members wished to know whether the Government was contemplating the possibility of making such a declaration.

253. Members of the Committee wished to know what progress had been made with respect to the Colombian Constitutional Reform Bill, which includes a provision prohibiting incitement to racism and racial discrimination; what the policy of the present Government was towards the National Programme for the Development of the Indigenous Populations (PRODEIN); what major progress had been made in PRODEIN since 1986; how the present development plan affected the indigenous populations; and what changes had been made in PRODEIN. Further information was sought on the scope and content of the Plan for the Elimination of Absolute Poverty and the Comprehensive Rural Development Plan, showing how far both plans envisaged specific measures for the indigenous population and the important black minority. It was also asked what changes had been introduced in the new legislation on agrarian reform and specifically what aspects of that legislation were more favourable to the indigenous inhabitants, especially with regard to reservations and other possible forms of rural property. Members also wished to know how the lack of adequate resources affected the indigenous policy of government, and what the difference was between the notions of "indigenous reservations" and "protected zones". With reference to the incidents that had taken place on 24 March, 14 April and 15 May 1987 in the Choco region, in which police forces and Indians were involved, information on the work of the governmental commission was requested. It was also asked what resources would be made available by the Government to enable the indigenous population to preserve the natural resources of the tropical forests.

254. With regard to article 3 of the Convention, members noted with satisfaction that Colombia had no diplomatic relations with South Africa, but asked whether it maintained consular and trade relations with that country.

255. With reference to article 4 of the Convention, it was noted that Colombia had not adopted the measures referred to under article 4 (a), and it was suggested that Colombia should consider modifying its Penal Code and its Code of Criminal Procedure so as to implement fully provisions contained in article 4, paragraphs (a) and (b), of the Convention.

256. As for the implementation of article 5 of the Convention, further information was required on the extent to which all citizens had the possibility of enjoying the rights spelled out therein in practice; more information was sought on the enjoyment of political and cultural rights by the indigenous peoples and other minority ethnic groups, with comparative figures for different groups regarding education, per capita income, housing, availability of the medical care facilities and representation. The question was also raised of whether indigenous Colombians, who spoke only dialects, could also vote without having to sit a language test in Spanish. Clarifications were requested concerning the projects being carried out by the government to provide the indigenous population with professional skills, what the Government had done to assist indigenous children to gain access to secondary education and whether a scholarship programme for indigenous Colombians existed.

257. With reference to article 6 of the Convention, members asked whether the Office of the Attorney-General could bring the cases involving racial discrimination to court; how many offices of the Public Defence Service had been created since the establishment of that Service; and what the functions were of the Presidential Adviser on the Defence, Protection and Promotion of Human Rights. Additional information was also requested on the functioning of the special office for indigenous affairs.

258. Responding to the questions put and comments made by members of the Committee, the representative of the State party acknowledged that it was not enough for a State party to declare on a theoretical level that it complied with international instruments: it should specify the laws and other measures adopted to that end. Colombia had striven to provide the Committee with as much information as possible on the subject, and would continue to do so in forthcoming reports. Colombia planned to accept the procedure laid down in article 14 of the Convention. The constitutional reform bill had been approved in its first reading during the 1988 legislative session. The reform would enable the State to establish institutions that were more appropriate to the type of social and economic problems currently facing the country.

259. Two problems with which the Government of Colombia had to cope were violence and the drug traffic. Concerning violence, he said that certain groups in the country resorted to violence in an attempt to change institutions instead of using the democratic means available to them. As far as the drug traffic was concerned, Colombia was unfortunately a centre for the processing and distribution of narcotics. The drug traffickers openly threatened to conduct a bloody war against the lawful authorities of the country, who were working to put an end to the trade. In such circumstances, it was not only difficult to guarantee the security of all citizens on a permanent basis, but it was also particularly hard to find resources and institutional support to assist, protect and

promote the interests of minorities.

260. On the subject of development projects for the indigenous population, the representative said that in Colombia, as in many other Latin American countries, continuity in such programmes was ensured even if a new government changed their names. The fundamental elements of the projects initiated under the previous Government had been retained and even strengthened. Under one such project, a new law on agrarian reform had been adopted in 1988. The law had already begun to produce results, but some time would be required to ascertain the impact of the new policy of land distribution on the indigenous populations.

261. In response to requests for statistical data made by members of the Committee, the representative pointed out, giving the breakdown of the population as an example, that it was difficult to draw up statistics in Colombia because it was a country of mestizos. The wholly white population, which was almost exclusively of Spanish origin, made up less than 20 per cent of the population. There were more than 50 per cent of mestizos, in other words people who were a mixture of Indians and Whites. Mulattos, the product of the mixture of the Whites and African Blacks, made up about 20 per cent of the population. There were also 7 or 8 per cent of pure-blooded or nearly pure-blooded Blacks, and lastly the indigenous groups, who were considered to be pure-blooded, accounted for around 1 to 1.5 per cent of the population. In such circumstances it was not easy to indicate how many indigenous Colombians, Blacks mestizos or mulattos worked in government, education or the public services. The very few pure-blooded Indians lived in areas remote from the large cities and were therefore rather cut off from the rest of the country, so that their involvement in economic and social life was fairly limited.

262. The representative of the State party provided detailed replies to the questions relating to the application of article 2 of the Convention. He explained in particular that the concept of "reservations" dated from the colonial period; the indigenous community was granted an entitlement to enjoy the use of the land in question, which remained the property of the State. The current official policy was to transform the reservation step by step into "protected areas" over which the indigenous populations enjoyed a genuine title of collective ownership that was more in keeping with their traditions. Concerning the protection of disadvantaged populations and means of ensuring such protection, when a choice had to be made between paternalism and autonomy, the representative said that the problem was common to all countries with indigenous populations, Colombia being no exception. After providing a historical outline of the problem, the representative said that at the moment it was necessary to reach a compromise in practice guaranteeing both the advancement of the indigenous communities and the preservation of their cultural identity. Concerning the incidents that had taken place in the Choco region, the information requested would be provided in Colombia's next periodic report.

263. Turning to the application of article 3 of the Convention, the representative said that Colombia maintained no relations, whether diplomatic, commercial or consular, with South Africa.

264. Concerning the obligation to comply with the provisions of article 4 of the Convention, the representative said that the adoption of the Code of Criminal Procedure at the end of 1988 had been reported to the Committee, and that the information requested would be supplied in the next period report.

265. Replying to the questions posed in connection with articles 5 and 6 of the Convention, the representative said that there were no restrictions on the right to vote and be elected. Even the illiterate could vote. He also provided additional information, indicating in particular that the Office of the Presidential Adviser on the Defence, Protection and Promotion of Human Rights had been set up at the end of 1988 to co-ordinate and focus efforts to identify human rights violations. The Adviser was responsible for preparing reports describing the circumstances in which such violations had occurred and drawing them to the attention of members of the judiciary and other authorities whose task it was to investigate them. The Adviser worked in very close co-operation with the Attorney-General.

266. Regarding the arrangements made to bring literacy to indigenous Colombians living in remote areas, the representative said that special courses had been organized by volunteers for people living in those communities. He also said that the Government drew on the experience of indigenous Colombians in its efforts to protect the environment and worked together with the indigenous communities in that sphere.

267. In reply to the questions concerning the application of article 7 of the Convention, the representative said that the task of translating handbooks on national legislation into a score of indigenous language was a rather substantial one, the work being costly and extremely difficult, but that progress had been made in that area in recent years.

CERD A/47/18 (1992)

142. The Committee considered the fifth periodic report of Colombia (CERD/C/191/Add.1) at its 944th, 945th and 950th meetings, on 6 and 11 August 1992 (see CERD/C/SR.944, 945 and 950).

143. The report was introduced by the representative of the State party, who stated that the election of the Constituent Assembly had paved the way for democratic reconciliation. Colombia was a multiracial society and attached a great deal of importance to defending the cultural heritage of all indigenous communities. The rights of minorities were protected by a number of articles in the Constitution. Reference was made in that regard to the provisions of articles 5, 7, 10, 43, 246 and 286 of the Constitution. Two decrees had been adopted since the submission of the report, namely Decree No. 436 of 10 March 1992 establishing the National Indigenous Policy Council, and Decree No. 716 of 28 April 1992 which set up the National Commission on Indigenous Rights. The National Indigenous Policy Council, consisting of three senators and four representatives elected by the indigenous communities, helped to promote the interest of those communities, notably by defining priority areas for social welfare assistance. As to the National commission on Indigenous Rights, its function would be to coordinate activities for the prevention of any violation of the rights of indigenous peoples. The Government was currently monitoring the environmental impact of construction and prospecting operations in indigenous areas. Two projects, one in Chocó and another at the airport of Punto Mayo, had been halted because of the risk of damage to the environment. The National Committee for Indigenous Linguistics had assisted in the training of 20 language experts, 15 of whom were indigenous. Efforts were also being made to adapt school curricula to the needs of indigenous communities. The Government was endeavouring to make authorities at all levels more aware of the rights of indigenous peoples.

144. Members of the Committee welcomed the positive attitude of the Government of Colombia towards its reporting obligations and the regularity with which it submitted its reports. They noted with satisfaction that the report basically complied with the Committee's guidelines for reporting. At the same time, members expressed regret that the report had not provided sufficient information concerning the practical implementation of constitutional or legislative provisions. Noting the absence of a general part in the report relating to the social, economic, political and institutional framework within which the Convention was implemented in Colombia, members of the Committee wished to receive detailed information on the demographic composition of the population, in particular with reference to minority groups other than indigenous communities, and on the extent to which those groups were integrated into Colombian society. It was also pointed out that in preparing the country's next periodic report, account should be taken of the consolidated guidelines for the initial part of the reports of States parties. Concerning the newly elected Constituent Assembly, clarifications were sought as to the process of electing representatives of the indigenous peoples in that Assembly. Members also wished to know whether there had been actual cases of the Convention being invoked before the national authorities, and whether there were any court rulings referring to it; whether references to the Convention or other international human rights instruments had been made in the process of drafting Colombia's new Constitution; whether international obligations deriving from the Convention were binding in Colombian law, or could be overruled by subsequent legislation; and whether Colombia had taken steps to make the declaration provided for under article 14 of the Convention, as had been stated by its representative during the consideration

of the previous report of Colombia. Members also wished to receive further information on the findings of the commission of inquiry set up to investigate incidents in the Chocó region in 1987 concerning mining rights. They also sought clarification of reports of violence perpetrated by military or paramilitary groups, including abduction of children by death squads, violence against rural dwellers in guerrilla areas, and other violations of human rights. In that connection, members of the Committee inquired to what extent the indigenous populations were affected by violence - whether they were just victims or also participated in it.

145. With regard to article 2 of the Convention, members of the Committee wished to receive further information on measures taken to recognize the rights of the indigenous peoples and to improve their legal, economic and social situation. They requested some clarification of the exact meaning and status of indigenous reservations and asked whether the indigenous inhabitants of the reservations could hold land individually or only on the basis of communal ownership. They asked whether the reservations occupied 25 per cent of Colombian territory or whether there were indigenous persons concentrated in other regions of the country. Details were requested on the areas for special management, on how such areas differed from reservations and on the meaning of the upgrading of reservations and of the “coordinating bodies” to enable the participation of indigenous populations in development activities. Members wished to know whether the Government was reviewing the titles to reservations set up in the colonial period. They inquired about the exact number of hectares granted to indigenous communities which had no or insufficient land. It was asked whether non-renewable resources were the property of the State, who was entitled to exploit such resources, and what was the situation where those resources were in areas where indigenous populations owned the land. Members of the Committee requested information on the appointment and functions of the indigenous inspectors of natural resources, and asked whether the Government had succeeded in putting a stop to environmental contamination and acts of violence in the Amazon region. In that connection, they wished to know whether the indigenous peoples had received any compensation for the damage to the environment and infringement of their land rights by the lumbering and mining companies. Information was also requested on the infant mortality rate and the life expectancy of members of the indigenous communities as compared with those of the rest of the population. Members of the Committee wished to know whether Decrees Nos. 88 of 1976 and 1142 of 1978, establishing the right of indigenous communities to a bilingual and bicultural education, and the 1984 resolution calling for curricula to be based on the principles of ethnic development and ethnic education, had been properly implemented, and whether bilingualism applied only to indigenous communities or to the rest of the population as well. It was also asked whether indigenous peoples were required to register births and deaths.

146. In respect of article 3 of the Convention, it was noted that Colombia had no diplomatic or other relations with South Africa.

147. With regard to the provisions of article 4, members of the Committee noted that the Colombian authorities had not yet adopted specific legislation prohibiting racial discrimination. In that connection, they recalled the mandatory character of such legislation and stressed the importance of legal anti-discriminatory provisions, if only for preventive purposes.

148. Concerning article 5 of the Convention, members noted that information provided in the report did not cover all aspects of that article. More information was requested on practical measures taken

or planned to secure the right to protection against violence exerted by military or paramilitary groups. Further clarification was also sought on the enjoyment by the indigenous peoples and other minority ethnic groups of political, economic, social and cultural rights. Comparative figures were requested on education, per capita income, housing, medical care and political representation.

149. In connection with article 6 of the Convention, members of the Committee wished to know to what extent citizens availed themselves of facilities such as the national telephone line enabling individuals to report any threat to, or restriction of, the right to life or freedom. Further information was requested on the number of cases brought to the judicial authorities and settled by them, as well as details on punishments imposed on perpetrators of violence, and action taken against lumbering and mining companies which had failed to comply with conditions for their operations.

150. Replying to questions and comments by members of the Committee, the representative of the State party emphasized that Colombia had embarked on a highly complex political process whose outcome was vital for the country's future. Colombia was an open, democratic country confronted with serious problems such as drugs and violence. The indigenous populations lived in the Amazon and Orinoco Basins, both of which were remote regions, and the authorities were endeavouring to protect them against exploitation and massive deforestation and to help them to conserve their habitat and culture. With regard to the representative of indigenous persons in the Constituent Assembly, the representative stated that the two indigenous members of the Assembly had been chosen in elections in which the whole population had participated. The representation of indigenous person in Congress resulted from a constitutional guarantee, article 171 of the Constitution providing for the election of two members in special constituencies by indigenous communities. With regard to the status of international instruments in internal law, international law prevailed over domestic legislation.

151. Despite the demobilization and disarmament agreement concluded between the Government and some of the six groups of guerrillas which had existed in the late 1980s, peace efforts had not yet been fully successful and two movements, the Revolutionary Armed Forces of Colombia and the National Liberation Army, were still waging guerrilla warfare. The violence afflicting Colombia was related to the drug phenomenon. A cooperation agreement had been signed between the Government and the indigenous communities to combat that phenomenon. The central Government had set up a committee composed of representatives of the indigenous communities and members of the central administration in order to launch a programme for poppy-crop substitution, establish a service infrastructure and develop the production system. The Constitution recognized the international instruments ratified by the Government, particularly the Convention, as sources of law that could be invoked before the country's judicial bodies. Regarding the declaration provided for in article 14 of the Convention, the Government of Colombia still had the matter under review. With respect to the events that had occurred at Chocó in May 1987, which had not been related to the exploitation of mineral deposits, that had not been a confrontation between indigenous communities and the Government but, rather, a clash between two rival neighbouring tribes in Chocó, and the Government had endeavoured to reconcile the parties.

152. Concerning article 2 of the Convention, the representative of the State party stated that the traditional territorial unit of the indigenous communities was the resguardo, which was regarded as a full-fledged municipality. The resguardos were intended to promote the cultural unity of

indigenous persons; they came under the authority of an indigenous governor responsible for promulgating and implementing laws and establishing a judicial system in line with the community's practices. The indigenous communities were entirely independent with respect to the distribution of land, ownership of which was subject to the indigenous land tenure system. With regard to the exploitation of mineral deposits on indigenous lands, the legislation stipulated that any mine situated on land governed by title preceding 1986 belonged to the owners of the land concerned. In other cases, subsoil resources belonged to the nation. Two cases had arisen, still to be settled by the courts, in which communities had sought to assert their mining rights. With regard to lumbering, the National Institute of Renewable Natural Resources and the Environment (INDERENA) had taken steps to resist major multinational interests and curb the deforestation of which the indigenous populations were the prime victims. The Government's decision to protect the ecosystems and respect the rights of indigenous persons living in Amazonia had been intended to entrust management of the Amazon Basin to the communities which had always lived there. The Colombian bilingual education programme launched in 1975 had trained teachers specializing in bilingual education for indigenous peoples. Under the new indigenous administration, it would be possible for the various communities themselves to organize education and health services on their respective territories, with the support of the competent ministries. All births and deaths had to be registered with a notary in the relevant constituency.

153. With regard to article 4 of the Convention, the representative of the State party said that no complaint of racial discrimination had ever been received by the courts. In multi-ethnic societies such as Colombia, the problem of racism was not on the same scale as elsewhere; however, the Government would be advised of the Committee's wish that greater attention should be paid to the implementation of article 4.

154. With respect to article 5 of the Convention, the representative stated that the Constitution guaranteed everybody, including indigenous persons, the right to vote. Most ethnic communities lived in great isolation, in sparsely populated regions. The State had tried to provide them with basic welfare but their precarious living conditions meant that their average income was probably very low.

Concluding observations

155. The Committee took note of the reform of the Constitution and the substantial legal reforms introduced with a view to protecting human rights. It complimented the legislation and the drafting of programmes to enhance the economic, social and educational conditions of the indigenous population. The Committee also concluded that the indigenous population could benefit from the Government's plans for the conservation of the Amazon region.

156. The Committee, however, noted that similar projects and programmes for the economic and social situation of indigenous peoples had been launched previously and hence the Committee had expected to be informed about their results.

157. In general, the report lacked information on the actual economic, social and educational situation of the indigenous population. The subsequent report should contain data on the economic, social and educational situation of indigenous groups compared with the rest of the population.

Only on the basis of such data would be Committee be in a position to assess accurately the situation of the indigenous population. Further, the Government of Colombia should include information on the factual situation of the black community, on which no adequate information was provided so far.

158. The Committee reiterated its concern that article 4 of the Convention was not properly reflected in the national penal law.

159. The Committee expressed concern about ongoing violence in Colombia. As already stated by the Human Rights Committee, ^{4/} the measures that had been taken by the Colombian Government did not seem to be sufficient so far to effectively protect the life, health and property of the citizens, and especially of members of the indigenous population.

^{4/} [Official Records of the General Assembly], Forty-seventh Session, Supplement No. 40 (A/47/40), para. 393.

CERD A/51/18 (1996)

38. The Committee considered the sixth and seventh periodic reports of Colombia (CERD/C/257/Add.1) at its 1135th and 1136th meetings (CERD/C/SR.1135-1136), held on 29 February and 1 March 1996, and adopted at its 1149th meeting, held on 11 March 1996, the following concluding observations.

A. Introduction

39. The Committee expresses appreciation for the opportunity to continue the dialogue with the State Party on the basis of its sixth and seventh periodic reports. It regrets, however, that the report did not provide concrete information on the implementation of the Convention in practice and therefore did not fully comply with the State Party's obligations under article 9 of the Convention. The Committee also noted that many concerns and recommendations expressed during previous dialogues between the State Party and the Committee remained unaddressed.

40. It is noted that the State Party has not made the declaration provided for in article 14 of the Convention, and some members of the Committee requested that the possibility of such declaration be considered.

B. Factors and difficulties impeding the implementation of the Convention

41. It is recognized that the climate of generalized violence linked to the guerilla war, the narco-trafficking and the existence of paramilitary armed groups impedes the full implementation of the Convention.

C. Positive aspects

42. The recent legislative and institutional measures adopted by the Government of Colombia to bring the national legislation into closer conformity with the Convention and to enhance the protection of the human rights of indigenous and Afro-Colombians are welcomed. In that connection, note is taken of the adoption in 1991 of the new Constitution and in 1993 of Law No. 70, and of the creation of the Directorate of Black Community Affairs within the Ministry of Home Affairs.

D. Principal subjects of concern

43. The lack of reliable statistical and qualitative data on the demographic composition of the Colombian population and on the enjoyment of political, economic, social and cultural rights by the indigenous and the Afro-Colombian people makes it difficult to evaluate the results of different measures and policies.

44. It is also noted that the report did not provide information on indicators and other mechanisms aimed at evaluating the governmental policies for the protection of the rights of indigenous and Afro-Colombian communities, including the land use and ownership policies.

45. Particular concern is expressed at the lack of effective implementation of policies aiming at guaranteeing to indigenous and Afro-Colombian communities control of the quality of their environment and the exploitation of their territories.

46. Concern is expressed once again that the State Party has not implemented the provisions contained in article 4 of the Convention, which call for the enactment of specific penal legislation. It is stressed that the State Party's obligation under article 4 of the Convention is mandatory and should be fully implemented.

47. Particular concern is expressed over reports that the rights of indigenous persons have been violated by men in uniform.

48. Serious concern is expressed at the lack of implementation of article 5 of the Convention. It is noted that various corroborating sources of information indicate the persistence in Colombian society of structural discriminatory attitudes towards the indigenous and Afro-Colombian communities, appearing at various levels of the political, economic and social life of the country. Those discriminatory attitudes relate to, among other things, the right to life and security of persons, political participation, educational and occupational opportunities, access to basic public services, the right to health, the right to adequate housing, the application of the law, and land ownership and use.

49. With regard to implementation of article 6 of the Convention, the Committee expresses its concern that the information provided concerning cases of judicial remedy for acts of racial discrimination did not allow it to undertake a proper evaluation.

E. Suggestions and recommendations

50. The Committee requests the Government of Colombia to provide in its next report detailed and accurate information addressing the concerns expressed by the Committee.

51. The Committee recommends that efficient mechanisms be created immediately by the Government to coordinate and evaluate the various policies of protection of the rights of indigenous and Afro-Colombian communities, including their institutional aspects. Such mechanisms should promote full enjoyment of all human rights by the members of these communities and guarantee their life and security, as well as real and adequate participation by representatives of these communities in public life.

52. The Committee reaffirms that the provisions of article 4 are mandatory, as stated in its General Recommendation VII (32). The Committee stresses that Colombia should fulfil all its obligations under the mandatory provisions of the Convention. In doing so, the Government should also take into account General Recommendation XV (42) of the Committee.

53. The Committee expects the State Party to continue and to strengthen its efforts to improve the effectiveness of measures and programmes aimed at guaranteeing to all groups of the population the full enjoyment of their political, economic, social and cultural rights. The Committee also recommends that the State Party give the necessary attention to the migration processes, including

by undertaking large-scale awareness-raising programmes oriented towards human rights and tolerance, in order to avoid social and racial prejudice and discrimination.

54. The Committee recommends that particular attention be paid to the problem of unlawful orders in the military, police and law enforcement agencies. Instances of unlawful orders being issued and carried out should be investigated and those found to have committed illegal actions should be punished. Impunity should be eliminated. These matters should also be covered in the training programmes of the agencies mentioned.

55. The Committee also recommends a stronger commitment on the part of the Government of Colombia to defending the basic rights of indigenous and Afro-Colombian communities as far as the use and ownership of their land is concerned.

56. The Committee further recommends that the next periodic report of Colombia contain detailed information on cases of judicial remedy for acts of racial discrimination.

57. The Committee suggests that the State Party intensify its cooperation with the technical assistance programme of the United Nations Centre for Human Rights, including for the training of those involved in activities related to human rights and for the education of the younger generation.

58. The Committee recommends that the State Party ratify the amendments to article 8, paragraph 6, of the Convention, adopted by the 14th meeting of States Parties.

59. The Committee recommends that the State Party's next periodic report, due on 2 October 1996, be an updating report and that it address all the points raised in the present observations.

CERD A/54/18 (1999)

454. The Committee considered the eighth and ninth periodic reports of Colombia (CERD/C/332/Add.1) at its 1356th and 1357th meetings (see CERD/C/SR.1356 and 1357), on 17 and 18 August 1999, and adopted, at its 1362nd meeting (see CERD/C/SR.1362), on 20 August 1999, the following concluding observations.

A. Introduction

455. The Committee welcomes the extensive report submitted by the Government of Colombia, including information concerning Colombia's large indigenous and Afro-Colombian communities. The Committee also welcomes the information provided by the State party delegation during the oral consideration of the report, including information with respect to Colombia's Roma, Jewish and Lebanese communities.

B. Positive aspects

456. The Committee welcomes in particular the candor with which the State party report recognizes that Afro-Colombian and indigenous communities continue to be the victims of systemic racial discrimination, which has resulted in their marginalization, poverty and vulnerability to violence.

457. The Committee notes with satisfaction that the 1991 Colombian Constitution includes non-discrimination provisions addressing the rights of minority communities, including formal recognition of the rights of indigenous and Afro-Colombian communities to claim title to certain ancestral lands. The Constitution also recognizes and seeks to protect the cultural and ethnic diversity of the nation.

458. The Committee welcomes the initiatives taken by the Government of Colombia, including multi-year development programmes for the support of indigenous and Afro-Colombian communities and the establishment of a new inter-agency human rights commission under the authority of the Vice-President of Colombia to coordinate the State party's policy and plan of action on human rights and international humanitarian law.

459. The Committee notes the important decision on affirmative action by the Constitutional Court in the *Cimmarón* case.

460. The Committee welcomes the announcement by the State party representatives that a number of measures have been undertaken to promote respect for human rights within the military structure and to restrict the competence of military tribunals to hear human rights cases involving the armed forces.

C. Principal subjects of concern

461. While noting that the constitutional framework for prohibiting racial discrimination is firmly in place, the Committee nevertheless expresses concern that the accompanying legislative

framework to give effect to these provisions has not been fully enacted.

462. The Committee expresses concern once again that the State party has not adopted legislation in conformity with article 4 of the Convention, which requires the enactment of specific penal legislation.

463. Concern is expressed at reports indicating that violence in Colombia has been largely concentrated in areas where indigenous and Afro-Colombian communities live; that increasingly these communities have been targeted by armed groups; and that the Government's tactics in fighting the drug trade have led to a further militarization of these regions, creating an atmosphere that is conducive to human rights violations and the destruction of cultural autonomy and identity.

464. Taking note also of indications that a climate of impunity has infected all levels of the judicial sector and that few human rights cases have been successfully prosecuted within civilian courts, the Committee expresses concern that this climate of impunity may severely impact the rights of indigenous and Afro-Colombian communities, as these minority communities are subjected disproportionately to violations of international human rights and humanitarian norms.

465. Serious concern is expressed at reports that more than 500 indigenous leaders have been assassinated in the last 25 years and that leaders of the Afro-Colombian community have come under similar attack. While all parties to the conflict have contributed to this level of violence, the Committee notes that paramilitary groups operating in the country are reportedly responsible for a majority of the abuses.

466. It is noted that indigenous and Afro-Colombian communities are under-represented in State institutions, including in the legislature, the judiciary, government ministries, the military, and the civil and diplomatic services.

467. Emphasizing that the widespread violence which plagues Colombia has led to one of the world's largest populations of internally displaced persons, and that both the Afro-Colombian and indigenous communities have been particularly affected, the Committee expressed concern that measures by the Colombian Government to assist the displaced have been limited and that some internally displaced persons have been forced to return to regions where minimal conditions of safety could not be guaranteed.

468. Recognizing further that within the community of displaced persons women are disproportionately represented, concern is expressed that government programmes are not responsive to the needs of many indigenous and Afro-Colombian women who are subjected to multiple forms of discrimination based on their gender and their race or ethnicity, and their displaced status.

469. Concern is expressed that development and resource exploration programmes on land subject to the property rights of indigenous and Afro-Colombian communities have been pursued without sufficient consultation with the representatives of these communities and without sufficient concern for the environmental and socio-economic impact of these activities.

470. Additional concern is expressed over the media's coverage of minority communities, including the continued popularity of television programmes that promote racial and ethnic stereotypes. The Committee notes that such stereotypes serve to reinforce the cycle of violence and marginalization that has already severely affected the rights of Colombia's historically disadvantaged communities.

471. Grave concern is also expressed at reports of "social cleansing" in urban centres involving the murder of Afro-Colombian prostitutes and street children, some of whom appear to have been targeted on the basis of their race.

472. Concern is expressed that development programmes for the support of indigenous and Afro-Colombian communities have not been and are not expected to be fully implemented owing to financial limitations.

473. The Committee is also concerned that few land titles have been allocated under legislative programmes recognizing the property rights of indigenous and Afro-Colombian communities and that bureaucratic obstacles appear to have complicated the process.

D. Suggestions and recommendations

474. It is recommended that legislation be enacted, at the earliest possible opportunity, that explicitly and comprehensively implements the obligations under articles 2 and 4 of the Convention.

475. Recognizing that many Afro-Colombians live in extreme poverty in urban slum areas, the Committee recommends that the State party take steps to address de facto racial segregation in urban centres. The Committee also requests additional information in the next periodic report on housing patterns in urban areas and on legislation that may address discrimination in the housing sector.

476. The Committee recommends that the State party implement affirmative and effective measures to ensure increased employment opportunities for minority and indigenous communities in both the public and private sectors and to advance the social, political, economic, and educational status of historically marginalized communities.

477. The Committee requests that the State party include in its next report information about the implementation and impact of the measures recently announced to promote respect for human rights within the military, in connection with the implementation of the Convention.

478. The Committee urges the State party to take comprehensive steps to protect the security and promote the well-being of Colombia's large internally displaced population, consisting mainly of persons of the indigenous and Afro-Colombian communities and, as a matter of extreme priority, to guarantee the security of indigenous and Afro-Colombian community leaders and human rights defenders across the country who have sought to protect the rights of those communities.

479. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 during the fourteenth meeting of States parties to the Convention.

480. It is noted that the State party has not made the declaration provided for in article 14 of the Convention, and some of the members of the Committee requested that the possibility of such a declaration be considered.

481. The Committee recommends that the State party's next periodic report be a comprehensive report in accordance with the reporting guidelines of the Committee and address the points raised in these concluding observations.