



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

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Committee on the Elimination of Racial Discrimination

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

**Nineteenth to twenty-first periodic reports of States parties
due in 2010**

Bolivarian Republic of Venezuela*, **

[9 July 2012]

* This document contains the nineteenth, twentieth and twenty-first periodic reports of the Bolivarian Republic of Venezuela due respectively in 2006, 2008 and 2010, submitted in one document. For the fourteenth and eighteenth periodic reports and the summary records of the meetings at which the Committee considered this report, see documents CERD/C/476/14Add.4 and CERD/C/SR.1703 and 1704.

** In accordance with the information transmitted to the States parties regarding the processing of the reports, the present document was not formally edited.

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I. Introduction

1. In accordance with its obligation as a State party to the International Convention on the Elimination of All Forms of Racial Discrimination,¹ and pursuant to article 9 of the Convention, the Bolivarian Republic of Venezuela hereby submits, in a single document, its 19th, 20th and 21st periodic reports. The general recommendations made by the Committee during its consideration of previous reports² have been taken into account in the preparation of this report. Contributions were sought from bodies established by the State for the purpose of giving effect to the provisions of the Convention in Venezuela.

2. The defence of human rights is central to our Constitution, informing a public policy that is developed in programmes and projects and promoted by all branches of Government, which represents a significant step towards the construction of a more democratic, participatory and proactive society. In furtherance of this goal and committed to continuous self-evaluation of the provisions of national legislation and international agreements signed in defence of human rights, the Venezuelan authorities submit the following report.

3. The Preamble to the Constitution of the Bolivarian Republic of Venezuela³ begins by establishing the goal of a multi-ethnic and multicultural society that, through the recognition of human rights, is committed to the consolidation of a just State that ensures equality without discrimination or subordination of any kind, in accordance with the principles of non-intervention and the self-determination of peoples.

4. The Constitution provides that the State must guarantee “to all persons, in accordance with the progressive principle and without discrimination, the enjoyment and exercise of inalienable, indivisible and interdependent human rights” (art. 19) as well as the right to the free development of their personality, subject only to the limitations deriving from the rights of others and public and social order (art. 20). It likewise states that all persons are equal before the law and that: “No discrimination based on race, sex, creed or social standing shall be permitted, nor, in general, any discrimination with the intent or effect of nullifying or encroaching upon the recognition, enjoyment or exercise, on equal terms, of the rights and liberties of every individual...” (art. 21), according to the human condition the dignity it merits. Part III on Duties, Human Rights and Guarantees furthermore includes an open clause on human rights, which stipulates that the “recitation of rights and guarantees contained in this Constitution and in international instruments concerning human rights is not to be understood as negating others inherent to individuals, not expressly mentioned in such recitation. The absence of a law regulating these rights shall not adversely affect the exercise thereof” (art. 22).

5. The Constitution additionally grants constitutional rank to human rights treaties, covenants and conventions signed and ratified by Venezuela (art. 23) and establishes that the international relations of the Republic serve the ends of the State as a function of the exercise of sovereignty and the interests of the people (art. 152). It provides that the Republic shall promote and encourage Latin American and Caribbean integration in the interests of advancing toward the creation of a community of nations, defending the region's economic, social, cultural, political and environmental interests (art. 153).

¹ Adopted by General Assembly resolution 2106 A (XX) of 21 December 1965, which came into force on 4 January 1969.

² General guidelines regarding the form and contents of reports to be submitted by States parties under article 9, paragraph 1, of the Convention (CERD/C/70/Rev.5).

³ Official Gazette No. 36860 of 30 December 1999.

6. The Venezuelan State has formulated public human rights policies, with the emphasis on protecting particularly vulnerable groups: indigenous persons and those of African descent, the elderly, women and children and adolescents, in order to guarantee and protect their rights in areas such as social security, housing, education, nutrition, recreation and culture. It has therefore endeavoured to establish standards for their protection, with the emphasis on a fundamental ethical and moral reform of a social structure that include the population. The aim of the Venezuelan State can thus be seen to transcend the international obligation to submit reports to international bodies and to focus on continuing to strengthen the global human rights agenda by promoting changes within the governmental bodies responsible for guaranteeing and defending those rights, placing special emphasis on citizen's participation in all its forms, as the main means of integrating a concept until recently the preserve of academics and scholars.⁴

7. From the start of the colonization process in Venezuela, discriminatory actions were centred not only on the indigenous population, native to these lands, but also on persons of African origin who were abducted from their own territory and brought to this continent by force to serve with the native population as the slave work force of the Spanish, where their lives and human rights were deemed to be of no value. They were enslaved in cocoa and sugar cane plantations and similar undertakings by the ruling class of the time, consisting of the prosperous owners of productive enterprises, white men who in many cases also held political and legal office within the State.

8. In this historical context, racial discrimination was wielded as an ideological tool, serving as a pretext for excluding increasingly large sections of society. A "powerful" social class in this way constantly disparaged the needy and the poor, as well as indigenous peoples and those of African descent, regarding them as racially inferior and mentally backward, attitudes invariably reflected in an arsenal of ethnically pejorative terms. In areas where the State was rarely present or active, indigenous peoples, Afro-descendant communities and other groups subject to discrimination were left to their fate, deprived of the consideration and rights due to them as Venezuelan citizens, while the State objectively absolved itself of any responsibility for these groups. In Venezuela the abolition of slavery occurred between 1836 and 1876.

9. Vulnerable groups, such as children, women, indigenous people, Afro-descendants, the disabled and persons with chronic or terminal illnesses, were on the whole regarded as second-class citizens; they formed the large mass of men and women excluded from society. There were also those who roamed the streets, who had made the streets their home, the group of forgotten men and women. They had no place in the society of the time.

10. In the last decades of the twentieth century, as a consequence of government policy, a deep-seated social inequality came to the fore, reflected in the polarization between a privileged minority controlling the productive process and a marginalized majority, not so different ethnically from the privileged one, condemned to poverty, unemployment, exclusion and increasing social vulnerability, revealing a social crisis in the Venezuela of the time that could no longer be hidden. The culmination of this crisis was the 1998 elections, when the electorate paved the way for an alternative process representing a break with a shameful past.

11. The outcome of this electoral process was the National Constituent Assembly, endorsed by the Venezuelan people in the referendum held in April 1999. A wide-ranging discussion and consultation process subsequently took place on the drafting of a new Constitution, which was adopted under the Constituent Referendum held on 20 December

⁴ Official information of the Ministry of People's Power for the President's Office.

of the same year. The 1999 Constitution embodies a new model of popular participation and social inclusion.

12. The Constitution contains important safeguards against any situation that harms or discriminates against citizens, with particular reference to population groups that did not previously enjoy protection by the Venezuelan State. The State's aims are essentially directed towards the defence and development of the individual, regarded as a complete human being worthy of respect. Granting power to the people and implementing constitutional provisions for social inclusion conducive to a more equal and fair society necessarily entailed replacing by peaceful electoral means an oligarchic political class responsible for almost two hundred years of indifference, discrimination and neglect of the social rights of the majority of Venezuelans. The results of these measures are already starting to change the face of the nation.

13. Venezuela has decided to combine three reports in one, the previous one having been examined in August 2005 and the following one having been due in January 2008, which left insufficient time to act upon the Committee's concluding observations and undertake an evaluation on the same scale as that contained in the present report. This is the goal we have set ourselves in this document covering the period 2005–2011, one marked by restructuring and the establishment of new national bodies enabling the Committee's observations to be put into effect. In July 2011, in accordance with the Committee's guidelines, our country also submitted the common core document, which forms an integral part of the reports of the Bolivarian Republic of Venezuela and contains general information on the country's territory and population as well as on the overall legal framework for the protection of human rights.

14. The following institutions participated in the preparation of this report:

(a) Executive branch:

- Ministry of People's Power for Indigenous Peoples;
- Ministry of People's Power for Education:
 - Presidential Commission for the Prevention and Elimination of All Forms of Racial Discrimination and Other Distinctions in the Venezuelan Education System.
- Ministry of People's Power for the Interior and Justice:
 - Identification, Migration and Alien Affairs Service.
- Ministry of People's Power for Science and Technology:
 - Strategic Office for the Monitoring and Evaluation of Public Policies.
- Ministry of People's Power for the President's Office:
 - Directorate of Monitoring and Control;
 - National Institute of Statistics.
- Ministry of People's Power for Defence;
- Ministry of People's Power for Prison Services;
- Ministry of People's Power for Public Health;
- Ministry of People's Power for Foreign Affairs;
- Ministry of People's Power for Communication and Information;
- Ministry of People's Power for Women and Gender Equality;

- Ministry of People's Power for Planning and Finances;
 - Office of the Attorney-General of the Republic.
- (b) **Citizen's branch:**
- Office of the Ombudsman
- (c) **Legislative branch:**
- National Assembly. Subcommittee on Afro-descendant Legislation, Participation, Guarantees, Duties and Rights
- (d) **Judicial branch:**
- Supreme Court
 - Public Defender's Office

II. Information on articles 2 to 7 of the Constitution

A. Article 2

1. Special and concrete measures taken to guarantee and protect human rights

15. The Venezuelan State has a duty to investigate, punish and compensate human rights violations through the competent national or international judicial authorities, in accordance with the judicial procedures established in Venezuela's legal order (art. 19). The Constitution provides for the protection of human rights, in strict accordance with the principle of non-discrimination (art. 19).

16. Under article 280 of the Constitution, the Office of the Ombudsman is responsible for promoting, protecting and monitoring the rights and guarantees established in the Constitution and international human rights treaties as well as the legitimate interests, both collective and diffuse, of the citizens protected and defended by this institution, particularly when they have been violated.

17. The commitment of the Venezuelan State to combating racial discrimination was made clear in the presentation of its 18th periodic report to the Committee for the Elimination of Racial Discrimination.⁵ In its evaluation of the report, the Committee highlighted as positive aspects: recognition of the rights and principles contained in the Constitution, especially those relating to the multi-ethnic and multicultural nature of Venezuelan society; article 21 and the chapter establishing the rights of indigenous peoples; federal and State legislation recently adopted by the State; the creation of specialized institutions to combat racial discrimination; representation of the indigenous community in the National Assembly; special courts to settle conflicts in accordance with the traditions and customs of indigenous peoples; ratification of ILO Convention No. 169⁶ concerning Indigenous and Tribal Peoples in Independent Countries (1989); and progress in the interaction between the Government and social organizations representing persons of African origin.

⁵ CERD/C/476/Add.4, containing the combined 14th to 18th periodic reports.

⁶ Act adopting Convention No. 169 concerning Indigenous and Tribal Peoples. Official Gazette, No. 37305 of 17 October 2001.

18. In the period 2005–2010, the policy measures initiated by the Venezuelan State to eliminate racial discrimination in the country were based on:

(a) The forging of citizenship with a social content, based on social rights and express recognition of the subjects of those rights, ensuring that the population as a whole can exercise those rights without any form of discrimination on the basis of age, sex, religion or social, ethnic or any other condition;

(b) The search for equity as the supreme objective of the economic and social order with a view to ensuring the universality of rights and a fair distribution of wealth;

(c) The recovery of the public domain as the context for the exercise of a genuine democracy based on the “participation of all in keeping with the interests of all, ensuring that individuals, families, social groups and communities become the social architects of their own development”;

(d) The subordination of social policy and its embodiment in programmes and projects to the criterion of wholeness, uniting the efforts of the different government sectors to ensure that the various institutions coordinate their actions in the search for solutions to the most pressing social problems;

(e) The search for social inclusiveness to prevent Venezuela from reverting to a nation in which income, resources and opportunities are systematically and disproportionately concentrated in one section of the population.

19. All these objectives are based on the Economic and Social Development Plan for 2001–2007, which established guidelines for the universal and equitable enjoyment of social rights and for improving the distribution of income and wealth and strengthening social participation and decision-making on public issues. These goals were reinforced with the introduction of the Simón Bolívar National Project, the Nation’s First Socialist Plan 2007–2013,⁷ which in its new phase develops and consolidates the affirmative policies promoted by the Venezuelan State.

(a) *Indigenous peoples*

20. Chapter VIII of the Constitution is devoted to the Rights of Indigenous Peoples, including guidelines for the recognition of indigenous peoples and communities, their natural resources, their right to ethnic and cultural identity, comprehensive health care, their own economic practices, ownership of their intellectual property and political participation – rights recognized for the first time in the history of Venezuela.

21. The Constitution recognizes for the first time the existence of the indigenous peoples and communities, with their own forms of social, political and economic organization, their cultures, conventions, customs, languages, religions, habitat and lands, and guarantees their right to bilingual intercultural education, health care and other human rights. To this end, the State has promoted recognition of the ownership of their ancestral lands, the construction of dwellings according to their customs, work credits and comprehensive health-care programmes that include the construction of health centres close to their communities.

22. This is the reason for the emphasis placed on the adoption of legislation favouring those human rights relating to social security, housing, education, culture and protection of the family and vulnerable groups. Venezuela has accordingly signed and ratified regional integration instruments that make full provision for activities designed to realize the social

⁷ See www.cendit.gob.ve/uploaded/pdf/Proyecto_Nacional_Simon_Bolivar.pdf.

and economic rights of the groups in question. The Southern Common Market (Mercosur), the Bolivarian Alliance for the Peoples of Our America (ALBA), the Union of South American Nations (Unasur) and Petrocaribe⁸ are clear demonstrations post-2000 of the concern to incorporate the social dimension and respect for human rights in this integration agenda.⁹

23. The Ministry of People's Power for Indigenous Peoples¹⁰ has lead responsibility for government policies to promote and strengthen the ancestral traditions of the indigenous communities as a way of disseminating policies shaped collectively at the grassroots level in response to the most urgent immediate, short-term and medium-term needs of the native peoples and communities.

24. The habitat of the indigenous populations and communities is dependent for its development on the guidelines issued by the Ministry of People's Power for Indigenous Peoples, which promotes mechanisms for indigenous participation and activities that include: ensuring the coherence, consistency and compatibility of the plans and programmes implemented by its constituent bodies and agencies; fostering and strengthening the various forms of organization of the indigenous peoples; facilitating the training and proactive participation of the indigenous peoples and communities in meeting their collective needs; promoting and ensuring the establishment, development and activation of the indigenous communal councils and social auditing bodies in keeping with their traditions and customs; reinforcing the ancestral practices of the indigenous peoples and communities in harmony with their habitat and lands; maintaining and updating the system for registering the indigenous population and communities; fostering the empowerment of the indigenous peoples and communities through existing institutions; promoting exercise of the right of indigenous people's power and its organizations to be consulted on local or communal issues liable to affect them directly or indirectly; establishing machinery to introduce a system for protecting and enhancing the status of the country's indigenous peoples and communities and their traditional knowledge; cooperating and coordinating with other vice-ministerial offices to implement joint activities for the development and benefit of the communities concerned.¹¹

25. The organizational structure of this Ministry provides for the creation of eight vice-ministries which differ from traditional structures headquartered in Caracas in that their chiefs are located in those places where their responsibilities are exercised, their decisions being submitted for consideration by the responsible Minister. The Vice-Ministries of People's Power for Indigenous Peoples comprise the Vice-Ministry for Urban Areas operating in Caracas, for the Communal Territory of Sierras, Cerros and Ríos de la Selva Amazonica, for the Communal Territory of Caños, Bosques and Raudales del Amazonas, for the Communal Territory of Valles, Sabanas and Tepuyes, for the Communal Territory of Sabanas and Morichales Llaneros, for the Communal Territory of Península, Desierto and de Aguas, for the Communal Territory of the Sierra and Cordillera Andina and for the Communal Territory of Delta, Montañas, Costas and Manglares, all of which support and

⁸ An intergovernmental organization created under the Energy Cooperation Agreement signed by the Governments of Antigua and Barbuda, Bahamas, Belize, Cuba, Dominica, Grenada, Guyana, Jamaica, Dominican Republic, St. Vincent and the Grenadines, St. Lucia, Saint Kitts and Nevis, Suriname and Venezuela on 6 September 2005 at Montego Bay, Jamaica. Web page: www.petrocaribe.org.

⁹ Report by the Bolivarian Republic of Venezuela in the context of the Universal Periodic Review (A/HRC/WG.6/12/VEN/1 and Corr.1), p. 20.

¹⁰ Established by Decree No. 5103 of 28 December 2006, Official Gazette No. 5836 (special number).

¹¹ See www.minpi.gob.ve.

work jointly with the corresponding communal councils for the benefit of the communities concerned.

26. Recognition of indigenous peoples and communities. The Indigenous Peoples and Communities Act is an important advance in being aimed at developing and guaranteeing the rights of indigenous peoples recognized in the Constitution and in the international treaties, agreements and conventions signed by the Republic. It recognizes the indigenous peoples as rights-holders with regard to their habitat and as legal persons; it establishes mechanisms complementary to the Indigenous Peoples Habitat and Lands, Demarcation and Protection Act; it guarantees the right to a safe and healthy environment and to participation in the management, administration and conservation of natural resources within the habitat; it recognizes traditional forms of existence and traditional economies; it establishes a prohibition on the transfer and unjustified relocation of indigenous populations and, when such actions are exceptionally considered necessary, provides that they may only be carried out with the full consent of those concerned.

27. In this connection, article 119 of the Constitution contains three important points with reference to indigenous lands:

(a) The official recognition of a correlation between lands and continuity in the forms of indigenous life;

(b) The need for shared responsibility between Government and the indigenous peoples in the matter of demarcation (direct indigenous participation);

(c) The right of indigenous peoples to collective ownership of their lands, which is inalienable, not subject to the law of limitations or distraint, and non-transferable.¹²

28. In addition to the constitutional provisions and in accordance with international agreements concerning indigenous rights, Venezuela has ratified the aforementioned Act adopting ILO Convention No. 169, which provides that signatory governments must recognize the importance for indigenous cultures of their relationship with the land, and in particular the collective nature of that relationship (arts. 13.1 and 14). The translation of these constitutional provisions into practice rests on two basic concepts: (a) the ancestral heritage, representing the cultural link that by way of the rights of forebears is equivalent to the historical inheritance transferable from generation to generation within indigenous peoples and communities; (b) the traditional heritage, representing the forms and practices of land use and ownership corresponding to the cultural patterns specific to each indigenous people and community, without the requirement of continuity in time and space.¹³

29. The legal framework thus comprises, among other things, the Indigenous Peoples Land Demarcation Act,¹⁴ which was the first legal instrument specifically designed to systematize and regulate the formulation, coordination and implementation of public policies on the demarcation of the country's indigenous habitat and lands and to guarantee the right of indigenous communities to collective ownership.

30. The participation of indigenous communities in matters concerning their habitat became effective with the promulgation of the Indigenous Peoples Land Demarcation Act. This gave rise to the National Commission on the Demarcation of the Habitat and Lands of

¹² "Mid-term review: Second International Decade of the World's Indigenous People 2005–2014", document submitted by the Bolivarian Republic of Venezuela in response to the questionnaire presented to governments, 30 September 2009, p. 56.

¹³ Ibid.

¹⁴ Decree No. 1392, Official Gazette No. 37118 of 12 January 2001.

the Indigenous Peoples and Communities,¹⁵ with its corresponding regional demarcation commissions and technical teams, such as the advisory body responsible for coordinating the demarcation procedure, presided over by the Ministry of People's Power for the Environment and composed of eight representatives, one for each of the following Ministries of People's Powers: the Environment, Petroleum and Mining, Commerce, Culture, Education, Defence, Foreign Affairs, and the Interior and Justice; and a representative of the Simon Bolívar Geographical Institute of Venezuela, attached to the Ministry of the Environment. It also includes eight indigenous representatives of the States in which their communities are located, namely: Anzoátegui (Cumanagoto), Bolívar (Arawak, Macuchu, Pemón, Sanema, Umak or Anitani and Wapishana), Monagas (Chaima), Delta Amacuro (Warao), Sucre (Chaima), Amazonas (Baniva, Bare, Jivi, Kurnipako, Mako, Piapoka, Piaroa, Punave, Yavorana, Saliva, Narekena, Yanomani, Yekuana and Yeral), Apure (Cuibas, Pumé or Yaruro) and Zulia (Añú or Paraujano, Bari, Yukpa, Japrería and Wayúu), belonging to three linguistic families: Arawak, Caribe and Chibcha; and, as permanent invited member, a representative of the Ministry of People's Power for the Interior and Justice.¹⁶

31. As from the end of 2010, the Venezuelan State has granted land to indigenous ethnic groups in the context of policies of inclusion and social equality and of respect for their ethnic traditions and differences. The following ethnic groups have benefited from these collective land titles, namely Kariña (Anzoátegui and Monagas); Pumé, Jivi, Cuiva (Apure); Warao (Delta Amacuro, Monagas and Sucre) and Yukpa (Zulia),¹⁷ corresponding to an area of some 1,000,000 hectares.¹⁸

32. The current demarcation process is taking place in particular among the peoples located in the States of Bolívar, Amazonas and Monagas and among the Yukpa communities (Neremu-Kashmera, Tokuco and Toromo) and the Barí and Japrería ethnic groups, located in the Sierra de Perijá in Zulia State.¹⁹ The exercise is based on article 23 of the Indigenous Peoples and Communities Act: "The State recognizes and guarantees the original right of the indigenous peoples and communities to their habitat and to collective ownership of the lands traditionally occupied by them from ancient times".

33. The Indigenous Peoples and Communities Act recognizes the right of indigenous peoples to participate in the preparation, implementation and monitoring of policies affecting or benefiting them, ensuring their broad and effective participation in all national, regional and local bodies; their conventions and customs will be taken into account in the election of indigenous representatives to the National Assembly and other bodies; a special system is stipulated for issuing identity documents; provision is made for the strengthening of indigenous cultures through the implementation of bilingual intercultural education based on their needs, the promotion of their cultural values and the use of their own names; all Government programmes are required to be adapted to the specific aspects of their culture; space is guaranteed in the mass media to dissemination of their cultural values; and the activity of religious organizations is prohibited without the prior consent and authorization of the indigenous communities concerned.

¹⁵ The establishment of this Commission was published in the Official Gazette No. 37,257 of 19 August 2001.

¹⁶ "Mid-term review" (note 12 above), p. 13.

¹⁷ Report and statement of the Ministry of People's Power for the Environment, 2010, p. 23.

¹⁸ Report of the Ministry of People's Power for the Interior and Justice, p. 291.

¹⁹ See www.minpi.gob.ve.

34. The relaunching in 2007 of the Guaicaipuro Mission,²⁰ under the Ministry of People's Power for Communication and Information, formalized and channelled in institutional terms projects on the demarcation of indigenous lands. To this end, the Presidential Commission for the Guaicaipuro Mission, first established in 2003, intensified its efforts with the help of various state bodies²¹ and the broad participation of the social missions and communal councils. Its achievements have included institutional integration, the restoration of indigenous languages,²² the construction of Bolivarian schools²³ and the establishment of computer centres.²⁴

35. The Guaicaipuro Mission has been strengthened by the provisions of the Indigenous Peoples and Communities Act,²⁵ recognizing the lands traditionally inhabited by the indigenous peoples from ancestral times as well as land-use rights. It also provides for the inclusion of the indigenous peoples and communities in the consultations necessary when drawing up plans and projects concerning those lands. The establishment of indigenous municipalities and the recognition of traditional medicine and intellectual property are other novel aspects of this Act, together with the right to political participation, the use of indigenous languages and collective ownership.

36. Concerning the identification of indigenous persons,²⁶ article 56 of the Constitution expressly recognizes the right of every individual to a personal identity, while article 1 of the Identification Act seeks to "...regulate and guarantee the identification of all Venezuelans living in or outside the country in accordance with the provisions of the Constitution of the Bolivarian Republic of Venezuela". Chapter III of this Act, entitled Identification of Indigenous Persons, is devoted to guaranteeing this right, which under article 11 involves taking into account the sociocultural organization of the different indigenous peoples and communities through a procedure for issuing identity cards characterized by "simplicity, no cost, transparency, equality, rapidity, social responsibility, publicity, non-discrimination and efficiency".

37. Under article 12 of the Identification Act, "indigenous children and adolescents shall be included in the civil register by their parents, their representatives or those responsible for them". However, those not born in hospital can be included in the civil register without the production of a birth certificate issued by a hospital authority. Instead, the registration can take place in the presence of two adult witnesses belonging to the indigenous community concerned, who must state the precise place, hour, day and year of birth as well as any other circumstance relevant to the registration process. This same procedure is followed where an indigenous person of adult age is not included in the civil register and so does not possess an identity document.

38. Article 7 of the Partial Regulation of the Identification of Indigenous Persons Act²⁷ stipulates that, when entering indigenous children and adolescents in the civil register in keeping with the law, the relevant authorities "... shall respect the indigenous family

²⁰ The Guaicaipuro Mission, created in 2003, was amended by Presidential Decree No. 5551, Official Gazette No. 38758 of 30 August 2007, with the purpose of restoring the rights of the indigenous peoples by the Venezuelan State.

²¹ "Mid-term review" (note 12 above), p. 12.

²² With the support of the Ministry of People's Power for Culture

²³ By the Ministry of People's Power for Education.

²⁴ Under the responsibility of the Ministry of People's Power for Science, Technology and Intermediate Industries.

²⁵ Published in the Official Gazette No. 38344 of 27 December 2005.

²⁶ Official Gazette No. 37817 of 13 November 2003. In this paragraph, the Act will serve as a source of information.

²⁷ Official Gazette No. 37817 of 13 November 2003.

names, given names and toponymies and shall in no case modify, alter or change them...”; and where an error of transcription has occurred or where an entry has been altered, the same official who drew up the record must make the correction immediately as expressed by the mother, father or indigenous representative.

39. Article 14, entitled respect for indigenous languages and dress, refers to the fact that both the birth certificate and the identity card or other identity documents of persons belonging to indigenous peoples and communities must be issued in Spanish and in the language of the people or community concerned, respecting the family names and given names specific to their languages. They are not be obliged to be photographed in clothing different from that corresponding to their conventions, customs and traditions.

40. Provision is made in article 15 of the Identification Act for the creation of the Indigenous Identification Service. This stipulates that the Government, through a branch of the Ministry responsible for identifying the Republic’s inhabitants and in coordination with the body responsible for civil affairs, shall establish a permanent identification service to facilitate the collective issuing of identity cards to the communities concerned.

41. In this connection, the Venezuelan State through the Identification, Migration and Alien Affairs Service²⁸ is implementing the National Plan for issuing identity cards to all the country’s indigenous communities through mobile units established jointly with the Venezuelan Air Force and with Ministries and governors and mayors offices concerned with indigenous affairs.²⁹

42. From 2004 to 2010, the Venezuelan State through the Identification, Migration and Alien Affairs Service issued identity cards to a total of 335,105 indigenous persons nationally, including 160,764 women and 174,381 men.³⁰ The Service’s work was boosted by the introduction of the Identity Route for Native Peoples, with important consequences for the exercise of right to identity of the peoples concerned through the issuing of identity cards. The reasons for the importance of the issuing of identity cards for ensuring the human right to identity was explained to the indigenous population, using translators³¹ in the case of persons only speaking their own language.

43. Finally, it should be noted that, in accordance with article 1 of the Identification Act, the identity card constitutes the main form of identification in civil, commercial, administrative and legal proceedings and in all those cases where it is required by law to be shown. It is issued free of charge and its use is personal and non-transferable.

44. Register of Indigenous Peoples and Communities. In 2001, the National Institute of Statistics conducted its thirteenth housing and population census. This included for the first time a census of indigenous communities, which was taken using two methods: the general housing and population census, in which 543,348 people identified themselves as belonging to indigenous peoples; and a census of those who thought of themselves as belonging to distinct ethnic groups, who represented 2.3 per cent of the overall population, grouped in 613 communities. According to the Indigenous Peoples and Communities Act, there are 40 indigenous peoples identified as living in our country.³² The largest geographical concentrations of indigenous peoples are to be found in Venezuela’s border States of Apure, Amazonas, Bolívar and Zulia, and in Delta Amacuro. A smaller number are to be

²⁸ The National Office of Identification and Alien Affairs changed its title to the Identification, Migration and Alien Affairs Service as established in the Official Gazette No. 369623 of 9 June 2009.

²⁹ www.minci.gob.ve.

³⁰ Communication based on official data of the Identification, Migration and Alien Affairs Service.

³¹ *Idem*.

³² Official data of the Identification, Migration and Alien Affairs Service.

found in the States of Sucre, Monagas and Anzoátegui; and there are also small separate indigenous groups in the Republic's capital as a result of domestic migration and migrations from the Andean region. Less numerous indigenous groups are to be found in the States of Sucre, Monagas, Anzoátegui and Trujillo; and there are other small groups of indigenous people in the national capital as a result of internal migration and migration from the Andean region.

(b) *Afro-descendants*

45. Persons of African descent, like indigenous peoples, have been integrating themselves gradually in political, economic, social and cultural life in Venezuela, forming part of a national system free from discrimination, racism or xenophobia.³³ The Presidential Commission for the Prevention and Elimination of All Forms of Racial Discrimination and Other Distinctions in the Education System was established on a permanent basis³⁴ in 2005, and comprises various State institutions and members of Afro-Venezuelan organizations, including: the Ministry of People's Power for Education, which chairs the Commission; the Ministry of People's Power for Culture; the Ministry of People's Power for Communication and Information; the Vice-Ministry for African Affairs of the Ministry of People's Power for Foreign Affairs; the Autonomous Institute of the National Council for Children's and Adolescents' Rights,³⁵ the National Institute for Women, the National Council for Education, Culture and Indigenous Languages, the National Council for the Disabled; the Ombudsman's Office; the Public Prosecution Service and the National Assembly's Subcommittee on Legislation, Participation, Duties and Rights of Peoples of African Descent.

46. In keeping with its mandate, the Presidential Commission prepared an Action Plan structured around various commissions in the fields of culture, education, legal affairs and communications. The main activities pursued since its establishment include: running an office located in the headquarters of the Ministry of People's Power for Education to which people considering themselves the victims of discrimination or excluded can submit complaints; reviewing the curricular structure of the Venezuelan education system; reviewing the Constitution of the Bolivarian Republic of Venezuela, with a view to furthering recognition of the moral, political and social contributions of people of African origin; promoting a register of the socio-economic location and status of people of African origin in the country, with the aim of formulating more clearly defined public policies; demanding on behalf of the community concerned that the Ministry of People's Power for the Interior and Justice establish a new statistical register on the number of Afro-descendant prisoners in Venezuelan jails; organizing among the legislative bodies the proposal to draft the current Racial Discrimination Act,³⁶ and, finally, organizing training sessions with the Department of Intercultural Education of the Ministry of People's Power for Education and promoting the unrestricted inclusion of persons of African descent in all sectors of society. It should be noted that all the benefits and guarantees in the human rights field in Venezuela, with regard to health care, housing, education, social services, nutrition and sanitation, are enjoyed by the population as a whole without exclusions of any kind, which obviously takes in persons of African descent.

47. The Venezuelan State, through the Ministry of People's Power for Culture, has promoted inclusive policies that recognize the indigenous peoples and Afro-descendant communities as a way of reaching out directly to them and fostering interculturality.

³³ Official data of the Office of the Ombudsman.

³⁴ Official Gazette No. 30102 of 9 May 2005, in accordance with Decree No. 3645.

³⁵ Autonomous Institute of the National Council for Children's and Adolescents' Rights.

³⁶ Official Gazette No. 39823 of 19 December 2011.

Article 27 of the Education Act³⁷ provides for the mainstreaming of intercultural education, offering free access to programmes based on the native cultures of indigenous and Afro-descendant peoples and communities.³⁸ Two Offices attached to the Ministry of People's Power for Culture were established for this purpose. The Indigenous Communities Liaison Office was created with the purpose of "proposing and facilitating machinery aimed at integrating the indigenous communities" and establishing the necessary links to coordinate with platforms of the Ministry of People's Power for Culture, educational zones, communal councils, indigenous organizations and regional and local authorities responsible for indigenous affairs.³⁹

48. The Liaison Office for Communities of African Descent is the first government entity in Venezuela whose main aim is to serve as a link between high-level ministerial decision-makers and Afro-descendant communities and collectives. It seeks to safeguard the cultural rights and proactive role of the Afro-descendant population as collective rights-holders in the management of the national cultural development agenda, serving as a link between public and private organizations of African descent and society in general in order to promote the recognition, self-recognition and social visibility of the former. The Liaison Office for Communities of African Descent, together with the National Institute of Statistics, has promoted the Subcommittee on Peoples of African Descent, which provided major support for the Presidential Commission for the Prevention and Elimination of All Forms of Racial Discrimination and Other Distinctions in the Education System in the preparation and submission of the draft curriculum guidelines aimed at preventing and eliminating all forms of racial discrimination and promoting respect for cultural diversity. The Subcommittee responsible for statistics on the Afro-descendant population, forming part of the Presidential Commission, likewise played an active role in the dissemination and incorporation of this variable in the planning of the new National Population and Housing Census.⁴⁰

49. The Liaison Office for Communities of African Descent has established an ongoing dialogue between the communities, culture workers and the authorities to coordinate strategies for strengthening communities of African descent socially and culturally, with the aim of promoting and disseminating on equal terms the traditional expressions, new talents and artistic groups linked to Afro-descendant culture.

50. In 2008, the Subcommittee on Legislation, Participation, Duties and Rights of People of African Descent was established within the Standing Committee on Indigenous Peoples of the National Assembly and contributed to the drafting of the Racial Discrimination Act. Between 2009 and 2010, numerous events were organized with the active participation of 342 social organizations consisting of organized communities, social movements, communal councils and representatives of indigenous and Afro-descendant communities so that all could discuss, analyse and propose elements for inclusion in the Racial Discrimination Act. Other participants included technical teams from the National Assembly, relevant state bodies and representatives of Government and the citizen's, electoral and judicial branches.⁴¹

³⁷ Official Gazette No. 5929 of 15 August 2009.

³⁸ Official information of the Presidential Commission for the Prevention and Elimination of All Forms of Racial Discrimination and Other Distinctions in the Education System.

³⁹ Official information of the Ombudsman's Office.

⁴⁰ Official information of the Presidential Commission for the Prevention and Elimination of All Forms of Racial Discrimination and Other Distinctions in the Education System.

⁴¹ Official information of the National Assembly supplied by Deputy Modesto Ruiz, member of the National Assembly's Standing Committee on Indigenous Peoples and spokesperson of the Afro-descendant Social Movement of Venezuela.

51. Afro-descendant organizations and National Assembly legislators. Representatives of the Afro-Venezuelan network, the legislative body and Government authorities with responsibilities in the field met in 2008 to assess progress in the preparation of proposals on various draft laws essential to the inclusion of the Afro-Venezuelan population and to respect for their rights. This was a very important initiative involving grassroots participation in the cause of combating racial discrimination in all its forms.

52. In 2005 the National Assembly declared 10 May to be National Afro-Venezuelan Day,⁴² and its Standing Committee on the Family, Women and Youth subsequently devoted several sessions to evaluating the People's Power for Youth Act under its mandate concerning the establishment of the National Commission of the People's Power for Youth, set up in August 2010. Participants in these sessions included representatives of indigenous peoples and those of African descent as well as institutions such as the Pan American Health Organization, the Ministry of People's Power for Communes and Social Protection and the National Council of the Disabled, reflecting the interest in the effective involvement of all young people from various State sectors and bodies in the defence of their rights.⁴³

53. With the aim of coordinating the country's youth organizations, the National Institute of People's Power for Youth planned and staged sectoral meetings that included the First National Convention of Indigenous Youth and the First Meeting of Young Afro-descendants, with the help and participation of representatives of 11 States at national level.⁴⁴

54. An international initiative by Venezuela to highlight its public policies on the topic was the event organized by the Bolivarian Alliance for the Americas, namely the Tenth Summit of the Member Countries of the Bolivarian Alliance for the Peoples of Our America – Peoples' Trade Agreement (ALBA-TCP), (ALBA-TCP),⁴⁵ together with the indigenous and Afro-descendant authorities and in the presence of the Heads of State of the ALBA Member Countries,⁴⁶ with the aim of initiating an international dialogue on interculturality and multi-nationality conducive to the generation of initiatives through the exchange of experience.⁴⁷

55. Office of the Ombudsman. This institution made a series of general recommendations to various government bodies stemming from the Durban Programme of Action, in keeping with its constitutional and legal mandate and consistent with its function of making the necessary requests and observations to the relevant bodies for the effective protection of human rights.⁴⁸ It has also promoted activities in support of various aspects of Afro-descendant human rights, including roundtables on sexual and reproductive education with a gender emphasis, organized under the auspices of the Ministry of People's Power for Education in association with UNICEF and with the participation of various State bodies, the school population and social communities. It likewise planned the development of training activities in the area of sexual and reproductive education for teachers in the towns and communities concerned as well as reproducing related contents in the Canaima project. In 2010, the Office of the Ombudsman also promoted the creation of the Offices for the

⁴² Official information of the Presidential Commission for the Prevention and Elimination of All Forms of Racial Discrimination and Other Distinctions in the Education System.

⁴³ Annual Report of the Office of the Ombudsman, 2010, p. 233.

⁴⁴ *Ibid.*, p. 236.

⁴⁵ Held in Otavalo (Ecuador) on 25 June 2010.

⁴⁶ Venezuela, Cuba, Nicaragua, Dominica, Ecuador, Saint Vincent, Antigua and Barbuda.

⁴⁷ See the Otavalo Declaration of the Tenth ALBA-TPC Summit of 25 June 2010.

⁴⁸ Annual Report of the Office of the Ombudsman, 2010, pp. 175 and 176.

Defence of the Educational Rights of Indigenous Persons and Afro-descendants with a cultural emphasis, in association with the Directorate of Intercultural Education of the Ministry of People's Power for Education.⁴⁹

(c) *Children and adolescents*

56. The Constitution establishes the main bases in this regard in Title III, chapter V, article 78 in prescribing the creation of a national umbrella system for the comprehensive protection of children and adolescents. This constitutional mandate finds expression in article 117 of the Child Protection Act, which conceives the national system as a set of organs, entities and services intended to ensure the effective enjoyment of rights and guarantees through the design, coordination, integration, orientation, supervision, evaluation and control of all child-protection policies, programmes and measures of public interest at national, State and municipal levels, as well to monitor compliance with the duties established under this Act.

57. In accordance with article 19 of the Child Protection Act, the State bodies and entities and social organizations constituting this national system are: the Ministry of People's Power with Responsibility for the Comprehensive Protection of Children; the Children's Rights Councils; the Child Protection Councils; the Child Protection Tribunals; Social Appeal Tribunal of the Supreme Court; the Attorney General's Office; the Ombudsman's Office; the Public Defender's Office; offices for the care and defence of children, communal councils and other forms of people's organization;⁵⁰ and the Neighbourhood Mothers Mission established in 2008. The promulgation of the Child Protection Act represents a cornerstone in the safeguarding of children's rights, application of the Act being overseen by the Autonomous Institute of the National Council for Children's and Adolescents' Rights.⁵¹

(d) *Women*

58. Venezuela possesses a gender-focused regulatory framework designed to overcome inequality and discrimination in different areas and forms, with its origin in the relevant constitutional provisions. There has also been a trend towards gender mainstreaming in the country's legal and administrative system, apparent in the Act on Women's Right to a Life Free from Violence,⁵² the amendment to the Child Protection Act,⁵³ the Family and Parenthood Act, the Act amending the Criminal Code, the Equal Opportunities for Women Act, the Act on the Promotion of Breastfeeding, and the Racial Discrimination Act. Article 51 of this Act increases by one third the penalties for racial discrimination where the offence is committed against children, women, the elderly, the sick or the disabled. The Labour Act and the amended Working Safeguards, Conditions and Environment Act likewise constitute legal and administrative guarantees by the Venezuelan State that equality before the law with regard to women's rights will be real and effective, the provisions in question having entailed a range of specific protective measures too numerous to describe here.

59. The Venezuelan State has implemented policies and measures to safeguard the human rights of women as a vulnerable group, subject on racial or ethnic grounds to multiple forms of discrimination, with a view to promoting their empowerment. The

⁴⁹ Ibid, p. 307.

⁵⁰ Official information of the Ministry of People's Power for Women and Gender Equality.

⁵¹ A/HRC/WG.6/12/VEN/1 and Corr.1, p. 17.

⁵² Official information of the Ministry of People's Power for Women and Gender Equality.

⁵³ Official Gazette No. 5859 of 10 December 2007. The last reform was promulgated in 1998.

establishment in 2009 of the Ministry of People's Power for Women and Gender Equality⁵⁴ represented a turning point in the strengthening of the national mechanism for advancing the cause of women, serving as the focal point for gender policy in our country. It oversees the National Institute for Women and its regional branches, the National Office for the Defence of Women's Rights,⁵⁵ the Women's Development Bank and the "Josefa Joaquina Sánchez" Neighbourhood Mothers Mission Foundation, and provides support at State and municipal level for women and women's shelters.⁵⁶ The National Institute for Women has been the vehicle for implementing advisory policies and the ongoing promotion of women's rights aimed at fostering a culture of equality and non-discrimination towards women and children while promoting the empowerment of women of indigenous and African origin through training in self-recognition.

60. The Women's Development Bank, a micro-financing institution providing impoverished women with non-financial and financial services, has promoted policies favouring women of indigenous and African origin, who have been given preferential support for developing their productive projects such as the Warao Handicraft Productive Project in the Pedernales and Tucupita municipalities in Delta Amacuro State.⁵⁷ The Neighbourhood Mothers Mission, a body promoting the inclusion of women living in extreme poverty, included among its financial beneficiaries in 2010 a total of 98,373 women, 1028 of whom were indigenous mothers granted inclusive care.⁵⁸

61. Policies guaranteeing women's rights are to be found in women's prisons, which since 2000 have adapted their infrastructures to enable detainees to enjoy sexual rights or intimate visits, which abolishes the discrimination that previously existed with respect to male detainees.⁵⁹

(e) *Immigrants and foreigners*

62. The Venezuelan State emphasizes that its territory is open to all foreigners and that they enjoy the same civil rights as all Venezuelans. Rules on their admission and expulsion, and the corresponding restrictions and limitations, are governed by the Aliens and Immigration Act,⁶⁰ drafted with a gender focus, and its regulations;⁶¹ the significance of this provision is that it replaces the outdated and unconstitutional Aliens Act of 1937 by treating foreigners appropriately, in accordance with the Refugees and Asylum Seekers Act.⁶² The Special Regulation on the Border Security Zones governing frontier movement permits, and the Regulation on the Regularization and Naturalization of Aliens residing in the country,⁶³ have enabled some 1 million people to become naturalized and reflect the priority given to the well-being of the individual in the design and implementation of State policies. The Ministry of People's Power for Labour and Social Security contributes to the

⁵⁴ Decree No. 6663, Official Gazette No. 391156 of 13 April 2009.

⁵⁵ In 2010, the National Office for the Defence of Women's Rights attended to a large number of users, supplying them free of charge with legal assistance, drafting of legal documents and psychological help.

⁵⁶ Used for housing women for whom remaining in the home involves an immediate threat to their safety.

⁵⁷ "Mid-term review" (note 12 above), p. 26.

⁵⁸ Official information of the Ministry of People's Power for Women and Gender Equality.

⁵⁹ Official information of the Ministry for the Prison Services.

⁶⁰ Official Gazette No. 37944 of 24 June 2004.

⁶¹ Regulation of the Refugees and Asylum Seekers Act. Decree No. 2491 of 4 July 2003. Official Gazette No. 37740 of 28 July 2003.

⁶² Official Gazette No. 37296 of 3 October 2001.

⁶³ Decree No. 2823. Official Gazette No. 37871 of 3 February 2004.

implementation of the provisions in question, in keeping with the requirements of dignity, fair and equitable treatment, no cost, timely and adequate response and transparency and rapidity in the processing of regularization or naturalization requests.⁶⁴

63. The Aliens and Immigration Act also establishes equality with nationals in the exercise of rights, safeguarding the existing legal and constitutional restrictions but placing the emphasis on protection of the alien's right to effective judicial oversight, thereby guaranteeing his or her human rights.⁶⁵ It is to be noted that the Act is consistent with the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, who are given the same standing in the exercise of their rights as any national.⁶⁶ The Organized Crime Act categorizes crimes such as human trafficking and the illicit traffic in migrants, offences often associated with refugee requests.⁶⁷

(f) *Asylum seekers and refugees*

64. On 19 September 1986, the Venezuelan State deposited with the United Nations the instrument of ratification of the Protocol relating to the Status of Refugees, which authorized the establishment in Caracas of an Office of the United Nations High Commissioner for Refugees (UNHCR). Given that this Protocol partially amends the content of the Convention concerning the Status of Refugees, Venezuela automatically became a party to the Convention; in 2001 it consequently promulgated the Refugees and Asylum-Seekers Act, whose precepts are to be interpreted in accordance with the Universal Declaration of Human Rights, the Protocol concerning the Status of Refugees, the American Convention on Human Rights, the Convention on Territorial Asylum, the Caracas Convention on Diplomatic Asylum and other provisions contained in related international instruments ratified by the Republic, ensuring that in case of doubt the interpretation and application of any provision will favour the enjoyment or exercise of the rights of the person seeking refuge or asylum.⁶⁸

65. Through the Refugees and Asylum-Seekers Act, the National Commission for Refugees was established with the aim of providing better protection for its users, and three strategic units were installed at the Venezuelan frontier, namely the Apure, Táchira and Zulia Offices, so that persons entering the country through these border areas could have speedy access to refugee request facilities. The National Commission for Refugees has also promoted the creation of regional technical secretariats in the States liable to receive refugee requests and these work in close cooperation with the Identification, Migration and Alien Affairs Service and the Office of the United Nations High Commissioner for Refugees to respond promptly to the cases submitted.⁶⁹ Article 22 of the Refugees and Asylum-Seekers Act also states that: "Refugees shall enjoy in the territory of the Bolivarian Republic of Venezuela the same rights as foreigners, subject to the restrictions stipulated in the Constitution and other laws of the Republic".

(g) *Disabled persons*⁷⁰

66. Article 81 of the Constitution of the Bolivarian Republic of Venezuela states: "All persons with disabilities or special needs have the right to the full and autonomous exercise

⁶⁴ Information supplied by the National Commission for Refugees.

⁶⁵ *Idem.*

⁶⁶ *Idem.*

⁶⁷ *Idem.*

⁶⁸ *Idem.*

⁶⁹ *Idem.*

⁷⁰ Disabled Persons Act. Official Gazette No. 38598 of 5 January 2007.

of their capacities and to integration within their family and the community. The State, with the mutually supportive participation of families and society, shall ensure respect for their human dignity, equal opportunities and satisfactory working conditions, and shall promote their training, education and access to employment appropriate to their condition, in accordance with the law. The right of the deaf and speech-impaired to express themselves and communicate through sign language is recognized". The allocation of State resources is the responsibility of the National Council for the Disabled, which is in charge of authorizing or re-authorizing help and technical assistance.

67. Disabled people have the right to education, through properly equipped institutions or in specialized schools, staffed by an adequate number of trained personnel, providing cultural and sporting activities and vocational training. Other benefits granted by this Act include the right to housing, easy access to buildings, land, port and airport terminals and public transport, travel discounts, and special vehicle plates. The duty-free import of technical equipment, apparatus, utensils, instruments, materials and any useful and necessary technological product or resource conducive to personal, family or social integration are further possible benefits granted by the Venezuelan State to disabled persons, who also have the right to free entry in the public register.

(h) *Persons with HIV/AIDS*⁷¹

68. The goal of halting and reversing the incidence of HIV/AIDS has been achieved in Venezuela under the National HIV/AIDS Strategic Plan⁷² through a steady increase in the budget for the National STI/AIDS Programme, which has made it possible to extend the coverage of comprehensive treatment for people with HIV.⁷³ In addition to the financing of projects, preventive education, communication and information activities have been carried out, aimed at young schoolchildren, the sexually exploited and the homosexual population. Efforts are also being made in the areas of AIDS prevention, diagnosis and treatment, the prevention of mother-to-child transmission, universal precautions and post-exposure prophylaxis through information campaigns on topics such as delaying the start of sexual relations, promoting the use of contraceptives, practising safe sex, combating violence against women, preventing mother-to-child transmission and educating school children and adolescents.⁷⁴

69. Care for persons infected with HIV-AIDS has been extended through, among other things, universal free access to anti-viral medicines to combat opportunistic infections and other sexually transmitted infections, laboratory testing reagents, birth kits and nutritional supplements. The National Blood Bank Programme is responsible for ensuring that proper analysis takes place of the blood units reaching the Blood Banks.⁷⁵

70. This free treatment extends to prisons, where the population receives similar benefits and where efforts are also made to prevent mother-to-child infection through rapid tests carried out routinely during the first three months of pregnancy.⁷⁶ In its sustained effort to guarantee human rights and in accordance with article 502 of the Code of Criminal

⁷¹ Information supplied by the National Commission for Refugees.

⁷² MPPS/ONUSIDA, 2003.

⁷³ Bolivarian Republic of Venezuela, *Cumpliendo las Metas del Milenio 2010*. Caracas, September 2010.

⁷⁴ Ibid.

⁷⁵ A/HRC/WG.6/12/VEN/and Corr.1, p. 13.

⁷⁶ Official information of the Ministry of People's Power for Prison Services.

Procedure, the Venezuelan State is open to the possibility of granting immediate procedural benefits to detainees with symptoms of HIV/AIDS infection.⁷⁷

2. Social development programmes

71. Social inclusion strategies form part of the construction of a participatory and proactive democracy, guided by the principles of social justice, equality, solidarity, social responsibility and, in general, the observance of human rights. In Venezuela the solid results in the social sphere are based on a series of changes that have been taking place over the last decade, linked to structural and institutional reforms involving the implementation of social policies from a human rights perspective. The adoption of this human rights perspective in the design and implementation of government policies in the social sphere has called for the construction of a coherent system of public institutions guaranteeing the full and effective enjoyment of human rights, as well as a statutory national human rights framework.

72. The State has accordingly developed the so-called Social Missions,⁷⁸ whose general aim is to implement social development programmes aimed in particular at the populations most in need. In the educational field, they include the *Robinson I and II* missions, the *Ribas* and *Ribas Técnica* missions, the *Sucre* mission and the *Alma Mater* mission. The right to health is covered by the *Barrio Adentro I, II, III and IV* missions; the *Sonrisa* mission caters for the oral health of the public, while the *Milagros* mission is concerned with ophthalmological health; sport is the concern of the Barrio Adentro Deportivo; the right to culture is the province of the Culture Mission; the right to food is the concern of the Food Mission, while child protection is covered by the Neighbourhood Children Mission ; protection and support for the disabled are provided by the José Gregorio Hernández Mission; and the Negra Hipólita Mission is responsible for caring for people living in the street or in other deprived circumstances, victims of exclusion. Through these and other missions, the Venezuelan State safeguards the human rights of the entire Venezuelan population, particularly those who were long excluded.

(a) Education

73. The Education Act is geared to recognizing in law not simply the general education of indigenous peoples and Afro-descendant communities but also their bilingual intercultural education, as well as to strengthening and revitalizing their languages and cultures through an education based on the guiding principle of interculturality operational at all levels and in all sectors of the Venezuelan education system, which presupposes the inclusion of all indigenous and Afro-Venezuelan peoples without prejudice to their specific characteristics.

74. The Indigenous Languages Act⁷⁹ was promulgated with the aim of safeguarding the linguistic cultural heritage through the implementation of language policies by the State. The Ministry of People's Power for Education coordinates the translation of educational and legislative texts into the different indigenous languages in discharge of the

⁷⁷ *Idem.*

⁷⁸ The Social Missions came into being as entities responsible for implementing public policies designed to guarantee the population's basic rights, such as education, health, food, identity, work and culture, with the emphasis on historically excluded sectors but not overlooking the already included ones. These policies received special funding under the national budget, were subject to inter-institutional and inter-ministerial coordination, and the active and proactive participation of the organized communities was a key element in their creation and implementation.

⁷⁹ Official Gazette No. 38981 of 28 July 2008.

constitutional mandate for bilingual intercultural education. Printed and audio-visual educational materials, in the pupils' own languages at the first and second stages of basic education, are distributed among the ethnic groups concerned, together with translations of the Constitution of the Bolivarian Republic of Venezuela into those same languages as well as the language of the Wayuunaiki of Zulia State, in cooperation with the United Nations Development Programme.⁸⁰ The Regional Councils for Education, Culture and Languages promote the use of indigenous languages through school texts and other national and international public documents relevant to the topic of indigenous peoples, which the State has a duty to translate and for which purpose it has a team of indigenous translators trained to carry out this work.⁸¹ The State also guarantees the presence of interpreters at official ceremonies in States and municipalities with an indigenous population.⁸²

75. In the school year 2009/10, six hundred and sixty-six indigenous schools providing initial, primary and middle-school education were registered in the geographical areas where indigenous peoples live. The States concerned are Amazonas, Anzoátegui, Apure, Bolívar, Delta Amacuro, Mérida, Monagas, Sucre and Zulia. The number of indigenous pupils enrolled in the school year in question was 68,520.⁸³ Outside the geographical area of the indigenous peoples, a total of 42,331 pupils were enrolled nationally in 604 establishments. Indigenous pupils in the basic education subsystem currently number 110,851.⁸⁴

76. Up to 2010, a total of 68,495 indigenous people were taught to read and write through the *Robinson* Mission. They belonged to the following ethnic groups: Wuayuu, Piaroa, Yanomami, Warao, Piapoco, Wuarequena, Barí, Arawaco, Pemón, Maquiritare, Yukpa, Pumé, Yekuana and Jivi, including 55 per cent women and 45 per cent men. Educational materials based on the "Yo Si Puedo" method were also translated into the following native languages: Jivi, Yekuana, Kariña and Warao. The *Robinson I* mission currently caters for 32,880 indigenous students.⁸⁵

77. As part of this coordinated effort to ensure access to education by the Venezuelan people, the National Technological Literacy Programme geared to the democratization and assimilation of knowledge was created on the initiative of the Ministry of People's Power for Science, Technology and Intermediate Industries. Between 2006 and 2010 a total of 1,097,430 persons were taught to read and write under the Programme, including 7,623 literacy trainees from our country's various indigenous communities. In 2010, UNESCO's King Hamad Bin Isa Al Khalifa Prize for the Use of Information and Communication Technologies in Education was awarded to the Fundación Infocentro, the body responsible for implementing the Programme on behalf of the Bolivarian Government, in recognition of its Technological Literacy Programme for Adults and the Elderly.

78. The National Assembly meeting in plenary agreed unanimously in 2009 to celebrate the International Day of Indigenous Peoples on 9 August annually. It was agreed at the same meeting to promote and support public policies serving to reaffirm the original,

⁸⁰ "Mid-term review" (note 12 above), p. 9.

⁸¹ *Ibid.*, p. 31.

⁸² *Ibid.*

⁸³ "Venezuela: the world's largest classroom", voluntary presentation by the Bolivarian Republic of Venezuela to the Economic and Social Council, p. 24.

⁸⁴ *Ibid.*

⁸⁵ *Ibid.*, p. 19.

historical and specific rights of the indigenous peoples and communities in keeping with the Constitution.⁸⁶

79. On 28 October 2005, UNESCO declared Venezuela to be “an illiteracy-free territory”, a total of 1,484,543 people having become literate, thereby reducing the rate of illiteracy to below 1 per cent.⁸⁷ The number of people having been taught to read and write currently stands at 1,706,145.⁸⁸

80. Integration in university education. The *Alma Mater* mission is at the heart of the policy to universalize university education, which is promoted by the Ministry of People’s Power for University Education and forms part of the National Economic and Social Development Plan 2000–2007 and the Simón Bolívar National Project, First Socialist Plan of the Nation 2007–2013. Its aim is to bring about the transformation of university education, promote its extension nationwide, consolidate people’s power and construct a mutually supportive, participatory and socially just society. It guarantees the right of all, without distinction of class or social status, to a quality university education.⁸⁹

81. The University Education For All Programme is implemented by the Ministry of People’s Power for University Education through the Directorate of Student Performance and includes initiatives in the following universities in the areas indicated: the Simón Rodríguez National Experimental University (UNESR) and the Apure Complex; the Bolivarian University of Venezuela (UBV) in Ciudad Bolívar; the Ezequiel Zamora National Experimental University of the Western Plains (UNELLEZ), the Francisco de Miranda National Experimental University (UNEFM) and the Libertador Experimental Teaching University (UPEL).⁹⁰ Worth noting also is the establishment of the Argelia Laya Experimental Polytechnic University, one of whose aims is to promote the ethnic vision of the Afro-descendant racial group.⁹¹

82. The Simón Rodríguez National Experimental University has developed draft programmes in productive areas in each of the indigenous regions through local agreements, initiating a training process aimed at indigenous students in the educational field. Its initial graduates are working to promote bilingual intercultural education and are designing a postgraduate specialization process. It has also signed an agreement on strategic, academic and research cooperation with the Ministry of People’s Power for Indigenous Peoples.⁹²

83. The Bolivarian University of Venezuela has given priority to the inclusion of indigenous peoples, as in the case of the Aldea Universitaria de Pendare which favours communities belonging to the Pemón ethnic group from a forest area in Bolívar State. The programmes registering greatest advances are the training programmes in education, agro-ecology, environmental management and social development, which are taught on a part-time basis in the community of Kavanayén. There is also a high percentage of indigenous students from the Pemón ethnic group among enrolments at the Aldea Universitaria Gran Sabana, the first such institution to be created in the country, situated in Santa Elena de

⁸⁶ “Mid-term review” (note 12 above), p. 38.

⁸⁷ *Ibid.*, p. 22.

⁸⁸ “Venezuela: the world’s largest classroom” (note 83 above), p. 3.

⁸⁹ “Mid-term review” (note 12 above), p. 23.

⁹⁰ *Ibid.*

⁹¹ Official data of the Presidential Commission for the Prevention and Elimination of All Forms of Racial Discrimination and Other Distinctions in the Education System.

⁹² *Ibid.*

Uairén in Bolívar State.⁹³ The *Sucre* Mission registered 10,047 enrolments by students belonging to the indigenous population.⁹⁴

84. The National Experimental University of the Armed Forces (UNEFA), breaking with a past characterized by exclusion, is organizing special programmes for the indigenous populations by way of a contribution to and involvement in local communities and those in greatest need.⁹⁵

85. The Venezuelan State is moving towards the mass enrolment of secondary-school leavers in university education. In 2002, enrolments increased with the admission of 128,382 candidates through the unified national university entrance system, including 1,217 persons with disabilities and 2,702 indigenous students.⁹⁶

86. Among the Venezuelan State's achievements in university education, mention should be made of the recognition by UNESCO of Venezuela as ranking fifth among the countries of the world, and second in Latin America and the Caribbean, with the highest gross university enrolment rate, at 85 per cent.

(b) *Health*

87. The Ministry of People's Power for Public Health, in close cooperation with people's power in the form of health committees, communal councils and other community organizations, has been working to improve access to health care through inclusive structural programmes representing a rapid and massive extension of health services based on comprehensive community care and an investment unprecedented in the history of Venezuela, thus highlighting the commitment to comply with constitutional precept.

88. Articles 21, 83, 84 and 86 of the Constitution contain provisions prohibiting any form of discrimination and affirming equality in the enjoyment or exercise of the rights and freedoms of every person; the document recognizes health care as a fundamental social right which the State must guarantee as part of the right to life and for which purpose it must establish and oversee a national public health system. It also provides that every individual has the right to social security as a not-for-profit public service.

89. Further progress in this direction has been achieved through the *Barrio Adentro* missions I, II, III and IV, which are intended to guarantee full access to comprehensive, quality health services providing four levels of care, ranging from primary health-care centres to specialized hospitals. As a result, there is now between 90 and 100 per cent coverage in municipalities with the highest levels of exclusion, including free provision of essential medicines.

90. The *Barrio Adentro* mission IV, initiated in 2006, is concerned with the creation of specialized health centres, such as the "Dr. Gilberto Rodríguez Ochoa" Latin American Children's Heart Hospital Foundation.⁹⁷ In this way, the indigenous child population is protected in various States by the 18 regional cardiovascular centres⁹⁸ constituting the Regional Cardiovascular Centres Network,⁹⁹ including the Hospital Universitario Ruiz y

⁹³ Ibid.

⁹⁴ "Venezuela: the world's largest classroom" (note 83 above), p. 25.

⁹⁵ Official data of the Presidential Commission for the Prevention and Elimination of All Forms of Racial Discrimination and Other Distinctions in the Education System.

⁹⁶ "Venezuela: the world's largest classroom" (note 83 above), p. 25.

⁹⁷ "Mid-term review" (note 12 above), p. 289.

⁹⁸ Source: www.ovsalud.org.ve.

⁹⁹ Source: www.cardiologicoinfantil.gob.ve.

Páez in Bolívar State and the Hospital Manuel Núñez Tovar in Monagas State, both States in which indigenous peoples live.

91. The *Barrio Adentro* mission I was responsible for organizing 241 Comprehensive Medical Assistance Days, providing care to 166,500 persons in 737 communities, delivering a total of 129,217 units of medical supplies for various ailments and benefiting 34 indigenous peoples.¹⁰⁰ This highlights the commitment of the Venezuelan Government and the policies it has adopted to prioritize the protection of human rights in our country as well as its attachment to the prime objective of social inclusion, which is reflected in the genuine opportunities extended to the nation's unprotected majorities.¹⁰¹ Through this mission, the Ministry of People's Power for Public Health has recruited 403 indigenous persons nationally as health advocates, responsible for "health promotion and prevention activities, epidemiological monitoring, support activities and mediation between health teams and the community".¹⁰²

92. The establishment of the Indigenous Health Directorate within the Ministry of People's Power for Public Health is consistent with the objective of promoting the rights of indigenous peoples and communities, in keeping with the guidelines laid down in the Constitution and the Indigenous Peoples and Communities Act. The measures taken by the Directorate have guaranteed the right to health of the 40 indigenous peoples existing in the country,¹⁰³ its activities having been reinforced by the training of indigenous doctors providing comprehensive community care under the Cuba-Venezuela Agreement. In this context, scholarships have been awarded to students from various ethnic groups for undergraduate and postgraduate studies at the Latin American School of Medicine in Havana. Over 21 professionals from the Wayuu, Pemón, Kariña, Barí, Warao, Añú, Yeral and Yekuana ethnic groups have graduated from the School, returning home to serve their communities, while 53 professionals have completed postgraduate studies. In addition, 1,583 members of indigenous communities have been recruited to the public health system since 2007 as primary health-care community agents, 310 as indigenous health advocates, 85 as vaccination personnel and 96 as cultural paramedics.¹⁰⁴

93. An example of the integration of indigenous health-care policies is to be found in the design and implementation of the Inter-ministerial Delta Plan, aimed at providing a comprehensive response to the health needs of the indigenous population of Delta Amacuro. This plan involves the development of six projects designed to provide the Warao population with comprehensive health care in order to ensure its inclusion and overcome geographical, economic, social, ethnic, cultural and linguistic barriers. These projects include: the construction of an intercultural accommodation and care facility for Warao patients and their families, together with a medical dispensary; an intercultural nutritional recuperation unit; 12 traditional Warao medicine centres in the municipality of Antonio Díaz in Delta Amacuro State; and comprehensive indigenous community care centres offering applied courses for training as comprehensive indigenous community care agents. Also worth noting is the recovery of the consultation facilities for indigenous peoples to preserve the infrastructure of the primary healthcare facilities in Delta Amacuro State, as well as the implementation of the Indigenous Care and Counselling Service (SAOI).¹⁰⁵

¹⁰⁰ Report of the Ministry of People's Power for Indigenous Peoples, p. 63.

¹⁰¹ *Idem*.

¹⁰² Official data of the Ministry of People's Power for Public Health.

¹⁰³ "Mid-term review" (note 12 above), p. 39.

¹⁰⁴ Official data of the Ministry of People's Power for Public Health.

¹⁰⁵ "Mid-term review" (note 12 above), p. 94.

94. The National Programme of Health Care for the Disabled attached to the Ministry of People's Power for Public Health is designed to stimulate shared community responsibility for preventing disability through the habilitation or rehabilitation of disabled persons, providing them with new opportunities and promoting their integration in society.¹⁰⁶ It also possesses rehabilitation centres with high-technology equipment and specialized services nationwide, including in the States of Amazonas, Delta Amacuro, Apure, Bolívar, Monagas and Zulia. These are regions where there is a high density of indigenous communities that will benefit from the service, which is free of charge and comes with the necessary support.¹⁰⁷

95. The body in charge has cared for indigenous persons with disabilities since 2007 through house-to-house visits providing consultations, medical diagnoses and necessary equipment such as sticks, wheelchairs, clinical beds, walking frames, cushions, anti-bedsores mattresses, crutches, medical supplies and hearing aids. This experimental service is provided by the José Gregorio Hernández Mission and circulates among the indigenous communities in Apure State.¹⁰⁸

96. An example of this work is the session organized jointly in October 2009 by the Barrio Adentro mission, the Frente Francisco de Miranda and the communal councils of municipal districts in Zulia State which, in association with the José Gregorio Hernández mission, benefited persons from indigenous communities with hearing difficulties, who received hearing aids adapted to their symptoms.¹⁰⁹ Up to 2010, a total of 7,154 people with hearing, visual, motor and cognitive difficulties had received health treatment.¹¹⁰

97. In those hospitals most adapted to indigenous patients, the Ministry of People's Power for Public Health has installed offices to provide "personalized care, counselling, assessment and assistance to the indigenous patient, offering quality, efficiency and cultural and linguistic relevance in the form of multi-ethnic and multidisciplinary teams whose key component is their bilingual intercultural facilitators".¹¹¹ The offices also promote training and awareness activities for the health teams as well as activities to foster cultural mixing, such as the incorporation of 120 indigenous persons as intercultural facilitators in the National Health System.¹¹²

98. The Indigenous Health Directorate currently has 32 such offices distributed in 11 States, which treated 240,385 indigenous patients between 2005 and 2010 and implemented the Yanomami Health Plan, the Apure Health Plan and the Cacique Nigale project, which are explained below.¹¹³

99. The Yanomami Health Plan is aimed at a population situated between Venezuela and Brazil. This plan is based on three lines of action, namely: (a) consolidation of the health district and existing health networks through the regularization of medical staff, provision of equipment, maintenance of infrastructure, supply of medicines and provision of medical accommodation; (b) expansion of the health system, using mobile health teams to cater for the *shabonos*;¹¹⁴ (c) training of local health personnel, enabling young people from remote indigenous communities to be trained as Yanomami primary healthcare

¹⁰⁶ <http://pasdis.mpps.gob.ve>.

¹⁰⁷ *Idem*.

¹⁰⁸ Report of the Ministry of People's Power for Indigenous Peoples, 2010, p. 137.

¹⁰⁹ <http://www.inces.gob.ve>.

¹¹⁰ A/HRC/WG.6/12/VEN/1 and Corr.1, p. 19.

¹¹¹ Official data of the Ministry of People's Power for Public Health.

¹¹² "Mid-term review" (note 12 above), p. 94 and 96.

¹¹³ Official data of the Ministry of People's Power for Public Health.

¹¹⁴ Huts used by the Yanomami ethnic group.

community agents, malarial entomology assistants and microscopists, who with the support of the Bolivarian National Armed Forces were retrained in 2010, while the second cohort began to train other new Yanomami. Health coverage in the known Yanomami communities was 92 per cent, vaccination coverage 96.1 per cent, malaria coverage 93.7 per cent and onchocerciasis coverage 97.5 per cent, with 44,000 patients in all being treated.¹¹⁵

100. In 2010, the Ministry of People's Power for Public Health undertook activities in Bolívar State including: the application of specified doses of the BCG, polio, haemophilia, MMR, hepatitis, tetanus toxoid, antimalarial, pentavalent, triple viral and rotavirus vaccines; medical consultations and nursing for various endemic pathologies; dental consultations; and treatment of patients for malaria and parasitosis. Under the anti-malaria campaign, house-by-house inspections were made in the search for malaria and to administer throat sprays to individuals and insecticide treatments to homes.¹¹⁶

101. Medical and vaccination coverage attained levels close to 97 per cent and was accompanied by the transfer from Harusi to Puerto Ayacucho of patients showing symptoms of illnesses such as malaria and river blindness in the vicinity of Doshamoshatheri, on the River Siapa, close to the frontier with Brazil. This is an area previously totally excluded from the health system, where new ethnic groups continue to be found and where Portuguese is spoken in addition to the Yanomami language while Spanish is not spoken at all.¹¹⁷ At the same time, seven type II rural health posts were reinforced in 2008 in the Alto Orinoco municipality (La Esmeralda, Ocamo, Mavaca, Platanal, Parima, Koyowe and Mavaquita).¹¹⁸

102. Established in 2005, the Apure Health Care Plan treated 44,559 patients up to 2010. To strengthen the Primary Healthcare Network Plan, it not only rehabilitated infrastructures but also provided and equipped 21 clinics located in indigenous communities in Apure State. It has also trained indigenous personnel as community primary health-care agents and provided comprehensive care to isolated communities through mobile health teams. In this way, it has organized socioculturally adapted sessions in 57 indigenous communities, 41 of them located in remote border areas.¹¹⁹

103. The Cacique Nigale Health Care Plan, an initiative undertaken by the Ministry of People's Power for Public Health through the Indigenous Health Directorate and with the support of the Rómulo Gallegos National University of the Central Plains, has enabled 200 indigenous young people from 28 indigenous towns located in eight States (78 women and 122 men) to pursue medical studies on the understanding that they will return to their communities to lend their professional services once their studies are over.

104. These Plans, like the consolidation of the Yanomami and Apure Health Care Plans and the Cacique Nigale Project, are aimed at providing level-1 health-care training to members of the communities concerned to serve as community medicine agents.¹²⁰ These programmes have been based on induction courses for doctors in indigenous communities at the Latin American School of Medicine under the programme to develop and strengthen human capacities and skills in intercultural health care.¹²¹

¹¹⁵ "Mid-term review" (note 12 above), p. 29.

¹¹⁶ Report of the Ministry of People's Power for Indigenous Peoples, 2010, p. 289.

¹¹⁷ "Mid-term review" (note 12 above), p. 29.

¹¹⁸ *Ibid.*, p. 14.

¹¹⁹ Official data of the Ministry of People's Power for Public Health.

¹²⁰ Annual Report of the Ombudsman, 2010, p. 81.

¹²¹ Official data of the Ministry of People's Power for Public Health.

105. The Waraos communities in Delta Amacuro and Monagas States have likewise been receiving medicines and treatment through the Janoko Flotante,¹²² a floating clinic providing permanent medical care on its regular trips down the Orinoco and along the channels of the Delta, which is managed by the Guaicaipuro mission in association with a Cuban medical mission offering immediate treatment to the indigenous communities. In this way, 36,002 persons in 89 Warao communities in Delta Amacuro and one sector of Monagas benefited in 2010 in the following specialities: general medicine and gynaecology (9,966), dentistry (4,970), ophthalmology (5,188), epidemiology (6,272), and bio-analysis (9,606).¹²³ The programme in support of the Warao communities in the Delta of the River Orinoco, which is managed by the Ministry of People's Power for Public Health and the International Fund for Agricultural Development (IFAD), is designed to stimulate self-management in order to improve life in the communities and is benefiting a population of 15,000 in 260 indigenous communities in the municipality of Antonio Díaz.¹²⁴

106. Ancestral indigenous customs must be respected and the national health system is therefore making adjustments in some hospitals for the convenience of patients, as well as changes to menus to take account of dietary habits.¹²⁵ Ancestral knowledge allows indigenous shamans, *piaches* and midwives to provide primary care within their communities, such as treating patients with muscular tensions, strains and sprains and attending childbirths – traditional methods now being complemented by scientific medicine in cases where indigenous healers cannot cope and patients are handed over to others for treatment.¹²⁶

107. Based on the Simón Bolívar satellite, the Telemedical Project is designed to provide health care in remote communities and is overseen by the Ministry of People's Power for Public Health and the Ministry of People's Power for Science and Technology and Intermediate Industries. With the support of the National Technologies Centre, 17 satellite antennae and an equal number of health posts have been installed in the States of Delta Amacuro, Bolívar and Amazonas, where the population is predominantly indigenous.¹²⁷

(c) *Culture*

108. The National Assembly through the Standing Commission on Indigenous Peoples adopted the Act on the Cultural Heritage of the Indigenous Peoples and Communities, article 7 of which provides that property forming part of the collective cultural heritage of the indigenous peoples and communities – such as conventions, practices, customs, traditions, expressions, traditional knowledge, technologies and innovations, knowledge associated with genetic resources and biodiversity and other traditional knowledge forming part of the collective cultural heritage of indigenous peoples and communities – cannot be registered in the same way as intellectual property. It can only be registered by the Institute of Cultural Heritage in agreement with the indigenous peoples and communities concerned, who will retain collective intellectual ownership of such property.

109. Article 103 of the same Act safeguards the legal right of the indigenous peoples and communities to preserve their living environments including their practices, their conventions and customs, their cultural, artistic, spiritual, technological and scientific heritage, their knowledge of animal and plant life and all the designs, traditional procedures

¹²² Report of the Ministry of People's Power for Indigenous Peoples, 2010, pp. 63 and 64.

¹²³ Official data of the Ministry of People's Power for Indigenous Peoples

¹²⁴ Report of the Ministry of People's Power for Indigenous Peoples, 2010, pp. 63 and 64.

¹²⁵ *Ibid.*, p. 61

¹²⁶ *Ibid.*

¹²⁷ www.asambleanacional.gov.ve.

and, in particular, all the ancestral knowledge relating to indigenous peoples and communities. The right of indigenous artisans to protection is also recognized under the Indigenous Artisans Act.¹²⁸

110. Other specific measures in the cultural field include:

(a) The organization of discussion groups with the indigenous peoples with the aim of formulating public policies in the cultural field deriving from the communities themselves;

(b) The promotion and dissemination of the different cultural and historical manifestations of the indigenous peoples of Venezuela through the circulation of 35 documentaries in the *Somos* series focusing on the Akawayo, Amorúa, Añú, Arawak, Baniva, Baré, Bari, Chaima, Cuiva, Cumanagoto, Jivi, Japreria, Kariña, Kurripaco, Mako, Mapoyo, Yeral, Panare, Pemón, Piapoco, Piaroa, Puinave, Pumé, Sáliva, Sanema, Sapé, Shirian, Timotes, Warao, Warekena, Wayúu, Yanomami, Yavarana, Yekuana and Yukpa peoples;

(c) The production of a series of books on the history of each indigenous people. To date, six books have been produced, on the history of the Wayúu, Warao, Pemón, Kariña and Bari peoples together with a book on indigenous dress;

(d) The creation of an information system on the cultures of the indigenous peoples of Venezuela, with the aim of generating and disseminating knowledge on the nature of Venezuelan indigenous culture and supporting among other things the design of policies and strategies – a facility that has benefited 43,223 individuals.¹²⁹

111. Since 2003, the Cultural Heritage Institute¹³⁰ has been pursuing the task of conducting a census of the Venezuelan cultural heritage involving the recognition and registering of all those cultural expressions that are meaningful for the Venezuelan people. The census has been undertaken from a multicultural and multi-ethnic standpoint so as to recognize the cultural values and contributions that are meaningful for the Venezuelan people, including indigenous and Afro-descendant peoples.

112. In addition, 204 catalogues of the heritage have to date been published in municipalities of the country with an indigenous population, recording tangible cultural property in its various forms – constructions, modifications of the landscape, objects, appliances and works of art – as well as intangible elements such as rites, ceremonies, languages, literary forms, oral traditions, music, dances and beliefs. The visions of the indigenous peoples and Afro-descendants expressed in handicrafts, food and spiritual or curative practices are also recorded and protected by this innovative heritage tool. Work is also proceeding on the production of the Atlas of the Venezuelan Cultural Heritage, which will contain 1700 maps situating each of the cultural expressions recorded in the catalogues.¹³¹

113. The Cultural Heritage Institute has identified as bearers of the heritage those men and women whose knowledge and practices, developed within a specific area, form part of our cultural heritage as the legacy and living embodiment of a national community or

¹²⁸ Official Gazette No. 39,338 of 4 January 2010.

¹²⁹ Ministry of People's Power for Foreign Affairs: Questionnaire on people's property rights, Inter-American Commission on Human Rights, 2009, p. 41.

¹³⁰ Attached to the Ministry of People's Power for Culture.

¹³¹ www.ministeriodelacultura.gob.ve.

collective. They include various indigenous men and women belonging to eight States with a native population, regarded as custodians of the ancestral heritage of their peoples.¹³²

114. The Culture Mission is a foundation attached to the Ministry of People's Power for Culture and promotes a degree course in education that has produced 39,560 promoters of cultural activities, of whom 753 are indigenous. It possesses 11 facilitators or educators, also indigenous, who speak the native languages. The curriculum has at its core activities and topics of special interest to indigenous people, such as: the Indigenous Peoples of Venezuela, the History of the Indigenous Cultures of Venezuela and Latin America, the Indigenous Peoples and their Cultural Traditions, and the Citizen Power of the Indigenous Peoples.¹³³ The Ministry has also given the review *Así Somos* a wide distribution, while the National History Centre is distributing another review entitled *Memorias de Venezuela*, both of which spotlight the indigenous and Afro-descendant populations.¹³⁴

115. Through the Ministry of People's Power for Education, the Bicentenary Book Collection has been distributed free of charge and, in conjunction with the Ministry of People's Power for Science and Technology, 379,403 "Canaima" portable computers have been distributed to boys and girls attending basic primary school, including members of the indigenous and Afro-descendant populations. In addition, various audio-visual materials have been produced on topics relating to indigenous and Afro-descendant communities to serve as background material for discussions in classrooms nationwide.¹³⁵

(d) *Nutrition*

116. The Food Mission has distributed food supplements to various indigenous peoples and communities, with the support of the Strategic Foods Programme Foundation. In 2008 it distributed 170,152 food packages to vulnerable families from 33 indigenous communities comprising 404,951 individuals in the States of Amazonas, Apure, Bolívar, Zulia, Delta Amacuro, Sucre and Monagas as well as in urban areas.¹³⁶ While in 2009, by agreement with the Ministry of People's Power for Indigenous Peoples and the Strategic Foods Programme Foundation, 199,809 food supplement packages were distributed to 2,093 remote and highly vulnerable indigenous communities, comprising 102,337 families and 511,687 individuals.¹³⁷ Six hundred and forty-eight indigenous communities in the States of Apure, Zulia and Delta Amacuro are currently considered a priority.¹³⁸

117. Concerning access to food and its distribution, our country has implemented nationwide policies enabling it fulfil the first of the Millennium Development Goals, namely to reduce by half between 1990 and 2015 the proportion of people living in extreme poverty.¹³⁹ The Food and Agriculture Organization of the United Nations (FAO) has ranked Venezuela tenth among the best nourished countries in the world,¹⁴⁰ and fifth among those explicitly recognizing the right to food in their national legislation.¹⁴¹ In its 2010 report,

¹³² Ibid.

¹³³ Ibid.

¹³⁴ Official information communicated by the Presidential Commission for the Prevention and Elimination of All Forms of Racial Discrimination and Other Distinctions in the Venezuelan Education System.

¹³⁵ Official information of the Ministry of People's Power for Science and Technology.

¹³⁶ Report of the Ministry of People's Power for Science and Technology, 2009, p. 44.

¹³⁷ Ibid., p. 65.

¹³⁸ "Mid-term review" (note 12 above), p. 16.

¹³⁹ A/HRC/WG.6/12/VEN/1 and Corr.1, p. 5.

¹⁴⁰ Ibid., p. 5.

¹⁴¹ Ibid., p. 9.

FAO included Venezuelan in the second category of countries with the highest level of food security.¹⁴²

118. The publication and mass distribution by the National Nutrition Institute of a spinning top providing nutritional information to indigenous communities is a valuable initiative, graphically combining colours and content to highlight the values that must be taken into account to achieve a rational and healthy diet.¹⁴³

119. The development of agro-ecological classrooms under the Cuba-Venezuelan Cooperation Agreement to train the indigenous population in the subject has resulted in the establishment of 42 such classrooms as well as the funding of socio-productive projects for sustainable development, three socialist production units (two in Apure State and one in Amazonas), organic fruit and vegetable farms, worm production units and organic fertilizer processing units, thereby improving production processes and increasing the quantity of food available for the communities concerned.

(e) *Recreation*

120. Under article 111 of the Constitution, the State assumes responsibility for sports and recreation as a matter of educational and public health policy, guaranteeing the resources for their promotion. All persons have a right to sports and recreation as activities beneficial to the individual and collective quality of life. Instruction in these subjects is obligatory at all levels of public and private education, and the State also guarantees comprehensive provision in this regard, without discrimination of any kind. The Ministry of People's Power for Tourism has implemented this constitutional provision with the promulgation in 2008 of the Decree with Force of Law on Tourism, article 57.1 of which defines social tourism as "a State policy designed to ensure that persons living in the country can exercise the right to rest, recreation and leisure in adequate conditions of safety and comfort", priority being given to low-income families, workers, children and adolescents, the elderly, and persons with disabilities or special needs.

121. Under this recreation promotion policy, the Venezuelan State has made provision through the Ministry of People's Power for Communes and Social Protection for holidays for children and adolescents, aimed particularly at low-income families lacking access to services of this kind. The school vacations in August and September 2010 marked the introduction of the Second Community Vacation Plan (for children aged 5 to 12) and the First Youth Community Challenge (young people aged 13 to 17), organized by the Neighbourhood Children Mission¹⁴⁴ attached to the Ministry of People's Power for Communes and Social Protection and run by the Autonomous Institute of the National Council for Children's and Adolescents' Rights, in association with various Venezuelan State institutions, governors offices and local authorities, providing support to Venezuelan children and adolescents, including indigenous and Afro-descendant youngsters.¹⁴⁵

¹⁴² Ibid., p. 10.

¹⁴³ Source: www.inn.gob.ve.

¹⁴⁴ Established in July 2008 to provide comprehensive protection to children and adolescents in situations of vulnerability and social risk.

¹⁴⁵ <http://www.mpcomunas.gob.ve>.

B. Article 3
Legislative measures to condemn racial segregation and apartheid

122. There have been no identifiable advances or changes to those indicated in the previous report.

C. Article 4
Adoption with immediate and positive effect of legislative, judicial and administrative measures designed to eradicate all incitement to, or acts of, racial discrimination

1. To declare as an offence punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, acts of violence or incitement to such acts and any assistance to racist activities

123. It is not possible in this paragraph to provide an exhaustive list of legislation on this question, and what follows is merely a sample of the most important legal instruments.

(a) *Constitution of the Bolivarian Republic of Venezuelan*¹⁴⁶

124. It constitutes a guarantee of non-discrimination, full enjoyment of human rights and equality of all persons before the law without discrimination of any kind. Article 89 establishes that work is a social fact and enjoys the protection of the State; it prohibits any kind of discrimination on grounds of politics, age, race, sex, creed or any other attribute. Article 332 states: "...Organs of civilian security are civil in nature and shall respect human dignity and rights, without discrimination of any kind".

(b) *Education Act*¹⁴⁷

125. **Guiding principles and values of education.** Article 3: "The present Act establishes as educational principles: participatory and proactive democracy, social responsibility, equality of all citizens without discrimination of any kind [...] It likewise establishes that education shall be public and social, compulsory, free, of good quality, secular, comprehensive, permanent, socially relevant, creative, artistic, innovative, critical, multicultural, multi-ethnic, intercultural and multilingual".

126. **Prohibition of incitement to hatred.** Article 10: It is prohibited in all educational institutions and schools in the country to publish and disseminate programmes, messages, advertising, propaganda and promotions of any kind, through print, audio-visual or other media, that incite to hatred, violence, insecurity, intolerance or the deformation of language detrimental to values, peace, morality, ethics, good customs, health, human co-existence, human rights and respect for the rights of indigenous and Afro-descendant peoples and communities, and that promote terror, discrimination of any kind, environmental damage and disregard for democratic principles, national sovereignty and national, regional and local identity.

127. **Aims of education.** Article 15: "Education, in accordance with the principles and values of the Constitution of the Republic and the present Act, has as its goals: (...) 4. To promote respect for the dignity of the individual and mainstream the development of the ethical values of tolerance, justice, solidarity, peace, respect for human rights and non-

¹⁴⁶ Constitution of the Bolivarian Republic of Venezuela, 1999.

¹⁴⁷ Official Gazette No. 5929 of 5 August 2009.

discrimination [...] 7. To further Latin American and Caribbean integration [...] by combating exclusion, racism and any form of discrimination”.

(c) *Act on Social Responsibility in Radio, Television and Electronic Media*¹⁴⁸

128. Article 3: “General Objectives. The general objectives of this Act are: (...) 2. To guarantee respect for freedom of expression and information, without censorship, within the proper limits of a democratic and social state based on the rule of law and justice (...) in accordance with the Constitution, international treaties ratified by the Bolivarian Republic of Venezuela and the law. 3. To promote the enjoyment and observance of human rights [...] 4. To ensure the dissemination of information and material of social and cultural importance to children and adolescents, with a view to furthering [...] respect for human rights, [...] for their cultural identity, for civilizations other than their own, to assuming a free and responsible existence and to developing a proper awareness of human and social understanding, peace, tolerance, equality of the sexes and friendship among peoples, ethnic groups and persons of indigenous origin [...] 8. To provide the facilities to enable persons with hearing difficulties to benefit to a greater extent from the broadcasting of messages”.

2. To declare illegal and prohibit organizations, as well as propaganda activities, which promote discrimination, and to recognize participation in such organizations or activities as an offence

(a) *Sanctions under the Education Act*

129. Chapter VII, “Transitional Provisions”, Part 1 (...) “2. In order to safeguard the principles established in the Constitution of the Republic and the present Act, the Ministry of People’s Power for Education may close or require the reorganization of private educational institutions that infringe those principles. The owners, directors and educators responsible for such infringements shall be disqualified for up to 10 years from exercising teaching or administrative functions in any type of school, during which time they shall not found or direct, either personally or through the intermediary of other persons, any educational establishment. 3. The owners or directors of private schools, as the case may be, are guilty of an offence: (...) 4(a) by administering corporal punishment or insulting the pupils. 4(c) by behaving in a manner contrary to professional ethics, morality, good customs or the principles laid down in the Constitution of the Republic and other laws. (...) 7. Serious offences shall be punished by the Ministry of People’s Power for Education, with dismissal from the post for a period of one to three years according to the seriousness of the offence. (...) 13. The repeated commission of serious offences shall be punished by dismissal and disqualification from service in teaching or administrative posts for a period of three to five years (...)”.

130. Minor offences are covered by paragraph 8: “Minor offences of which members of the teaching staff are guilty may be sanctioned by a written warning, or by temporary separation from the post for a period of up to nine months. (...) 9. The period for which a sanction lasts shall not be remunerated or regarded as a period of service”.

131. Paragraph 12 provides: “Media directors have an obligation to cooperate in the educational enterprise and adjust their programmes for the attainment of the ends and aims embodied in the Constitution of the Republic and in this Act. The publication and dissemination of printed matter or other forms of communication that terrorize children and adolescents, incite hatred, aggression or indiscipline, deform language, are detrimental to the healthy values of the Venezuelan people, morality and good custom and the mental and

¹⁴⁸ Official Gazette No. 39,579 of 23 December 2010.

physical health of the population are prohibited. In the case of any infringement of this provision, the educational authorities shall request the body responsible to suspend the activities or publications in question immediately, without prejudice to the application of the sanctions prescribed in the Venezuelan legal code. 13. Repeated commission of any of the offences referred to in the preceding paragraphs shall be punished with a fine equivalent to double the prescribed fine”.

(b) *Act on Social Responsibility in Radio, Television and Electronic Media*¹⁴⁹

132. Art. 29: “Sanctions. Without prejudice to civil and criminal responsibilities, sanctions may be imposed in the form of cession of airtime for the broadcasting of cultural and educational messages, fines or the suspension or cancellation of licences and permits. 1. The provider of radio, television or subscription broadcasting services shall be sanctioned, where applicable, through the cession of airtime for the broadcasting of cultural and educational messages when he or she fails to comply with one of the following obligations: (a) to incorporate measures ensuring the integration of persons with hearing disabilities, in accordance with article 4 of this Act. (b) to broadcast messages in Spanish or indigenous languages, in accordance with provisions of article 4 of this Act”.

133. Again, according to paragraph 3, “The provider of radio, television or subscription broadcasting services shall be sanctioned, where applicable, with a fine of between 3 and 4 per cent of the gross revenue in the fiscal year immediately prior to the one in which the offence was committed, when (...) (h) he or she broadcasts advertising that uses religion, worship or related beliefs for commercial ends, in accordance with article 9 of this Act (...) (l) He or she fails to comply with the obligation to broadcast programmes specifically aimed at children and adolescents, in accordance with the provisions of article 15 of this Act. (...) 4. The provider of radio, television or subscription broadcasting services shall be sanctioned, where applicable, with a fine of between 3 and 4 per cent of the gross revenue in the fiscal year immediately prior to the one in which the offence was committed when: (...) (u) he or she broadcasts discriminatory messages, especially those in which children and adolescents are the object of jibes, ridicule or scorn. (...) When the provider of radio, television or subscription broadcasting services repeats the offence concerned the fines shall be increased by fifty per cent.

134. Suspension and cancellation. “Persons covered by this Act, where applicable, shall be sanctioned: (1) with a fine of up to 10 per cent of the gross revenue for the financial year immediately preceding that in which the offence was committed, and/or suspension for up to 72 continuous hours of broadcasting, when they disseminate messages that: (...) (c) incite or promote hatred or intolerance on the grounds of religion, politics, gender difference, racism or xenophobia; (d) promote discrimination. (...) The persons concerned shall also be sanctioned with the cancellation of their licence or permit when there is a repetition of the offence sanctioned in paragraph 1 of this article, involving suspension for up to 72 continuous hours”.

(c) *Racial Discrimination Act*

135. Article 1 of this Act establishes mechanisms to prevent, address, eliminate, eradicate and penalize racial discrimination, regarded as a punishable offence, so that everyone can enjoy and exercise their human rights in accordance with domestic legislation and the relevant international treaties, conventions and agreements. The principles underlying this legal provision are set out in article 4, being bound up firstly with respect for human dignity and subsequently with social justice, proactive participation, gender equality,

¹⁴⁹ Ibid.

multiculturalism, multi-ethnicity, cultural interaction, multilingualism, solidarity, tolerance, equality, equity, free and rapid processing, legality, progressivity, collaboration between authorities and the protection of future generations in the construction of a socialist society. Freedom of association for lawful purposes being guaranteed to all under Article 7, the following article provides for the banning of organizations that promote or incite racial discrimination in all its forms, denying them validation or registration in the nation's offices that exist for this purpose.

136. Article 5 makes it obligatory for the State to take protective measures, through plans, programmes and ongoing projects consistent with the principles of national security, to favour vulnerable persons or groups in order to eliminate and eradicate racial discrimination and at the same time to ensure their overall well-being, enjoyment of their rights and respect for their dignity and integrity. These plans and programmes should be backed by the transmission and dissemination of relevant messages in association with the various public and private stakeholders, whether persons or legal entities.

137. Article 9 prohibits the establishment of phenotypic or racial profiles that foster racial discrimination towards any person or groups of persons in the context of a police or criminal investigation. This fills a gap since the phenotypic element was in the past an inducement to the police in this country to prosecute and incriminate for criminal acts persons with certain physical traits. This Act also prohibits the use of any scientific examination, such as that relating to the human genome, for the purpose of promoting racism and racial discrimination.

138. Chapter 1 of Part II of the same Act contains a wide range of positive safeguards to regulate the mechanisms required to link the State with the different institutions in order to ensure and reinforce the practical implementation of public policies designed to eradicate and eliminate discrimination in all its forms.

139. The Act concerned also provides for the establishment of the National Institute against Racial Discrimination attached to the Ministry of People's Power for the Interior and Justice. The Institute's purpose is the implementation of public policies aimed at preventing, eliminating and eradicating all kinds of racial discrimination through the wide powers conferred upon it. It is made up of a General Council with an organizational structure consisting of a Presidency, Vice-Presidency and Secretariat, and it also has an Executive Board comprising 11 members nominated by their respective bodies in the fields of education, culture, communication and information, health and work, by the Prosecutor-General's and Ombudsman's Offices and by spokespersons of the indigenous and Afro-descendant communities, the communal councils and social movements committed to the elimination and eradication of racial discrimination.

140. Part IV of the Racial Discrimination Act sets out the offences of which people can be guilty with regard to racial discrimination. It begins by guaranteeing access to justice for anyone who has been the victim of discrimination or whose individual or collective rights have been infringed, granting them free assistance from all the organs of State. The following are regarded as offences of racial discrimination against a person or group of persons and are punishable under this Act: a distinction or exclusion on ethnic or racial grounds; the use of national origin or phenotypic traits to impair or nullify, directly or indirectly, the enjoyment or exercise of a right; offences related to exposure to rejection, jibes, public contempt for honour, dignity, morality or reputation; the refusal to hire a person for a vacant job for which he or she is suited; failure to offer the same contractual terms, work, training opportunities and promotion as those enjoyed by other persons in the same circumstances and having the same qualifications; dismissal on grounds not applicable to other people; prohibitions on the free choice of employment or restriction of the opportunities for job access, retention and promotion; establishment of differences in remuneration, benefits and working conditions for equal work; imposition of a working day

longer than that established by law; inhuman and degrading treatment; restricted access to professional and other training programmes; and any other policy of a racially discriminatory nature.

141. Provision is also made for this kind of offence in the fields of education, housing, provision of goods and services, health, science, political and civil rights, and enjoyment of family and communication rights. Article 50 of the Racial Discrimination Act provides for penalties to be applied to those guilty of the offences of racial discrimination in any of its forms. The penalty laid down is from one to three years' imprisonment, with an additional penalty of 100 hours of community work, depending on the offence committed, the sentence being increased where there are aggravating circumstances.

142. Article 55 also establishes the penalty for failing to display the contents of article 21 of the Constitution, referring to recreation facilities, entertainment halls, etc., which will be a fine of between 50 to 100 taxation units and, in the case of repeat offences, the temporary closure of the establishment for up to 24 continuous working hours. These measures and those that may be taken in future testify to the State's commitment to outlaw acts by persons or organizations that constitute an incitement to racial discrimination as well as all acts of violence directed against any race or group of persons of another colour or ethnic origin.

D. Article 5 Programmes, plans and projects to eradicate racial discrimination with guarantees of equality in the enjoyment of human rights

143. The Venezuelan State is implementing various programmes, plans and projects to eradicate and eliminate racial discrimination in all its forms. The development of the Simón Bolívar National Project, the Nation's First Socialist Plan 2007–2013 (General Outline of the National Social and Economic Development Plan 2007–2013) has among its aims that of social inclusion and the development of individuals, communities and their respective organizations through democratic practices based on responsibility and self-management on the part of all involved. This is the way in which the implementation of the development model centered on the human being and promoting the principles and ethical values of the constitution is to be pursued.

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

144. Article 26 of the Constitution provides that all persons have the right of access to organs for the administration of justice in order to assert their rights and interests and to obtain a prompt decision concerning them. The right of access to agencies for the administration of justice is established as a fundamental right, since it gives a legal basis to a democratic and social State based on the rule of law and justice and also serves as a legal underpinning for the political and legal system, in that it enables citizens' rights and interests to be protected when an attempt is made to interfere with the free interaction of social forces, or State activity to be controlled when it exceeds its competence. In this regard, article 5 of the Racial Discrimination Act stipulates that: "Any person or group of persons who have been subject to racial discrimination or marginalization or whose individual or collective rights have been violated shall benefit from the protection of this Act on the basis of equality. The responsible organs of Government have a duty to assist them and all their actions shall be free of charge and rapid".

145. Article 254 in turn states: "The Judiciary is not authorized to establish any charges or tariffs, nor to demand any payment for its services". In this way, persons with scant

resources have a better chance of gaining equal access to the justice system, thereby strengthening equality before the law and preserving their right of defence, all this with the aim of building a just and peace-loving society.

146. With regard to the administration of justice, article 130 of the Racial Discrimination Act recognizes the authority of indigenous peoples to administer courts based on their ancestral traditions, within their habitat, and in matters that only concern its members and are not contrary to the Constitution. This involves recognizing their institutions and procedures for regulating, resolving and punishing any transgression of their laws, in accordance with article 216 of the Constitution. The majority of these indigenous systems are essentially based on reparation, on dialogue, mediation, compensation and reparation of damage; they are not restricted to trying the individual in isolation, but involve both the offender's and the victim's family and community. The Racial Discrimination Act also protects the rights not only of persons of African origin but all vulnerable populations with the aim of eradicating all forms of discrimination, which are considered an offence and punished under this Act.

147. The training of officials responsible for applying laws under the national system of justice is an essential element for combating racial discrimination in all its forms. Training takes place mainly through educational institutions such as the Universidad Nacional Experimental de la Seguridad,¹⁵⁰ the Escuela Nacional de Fiscales del Ministerio Público,¹⁵¹ the Cátedra Permanente de Derechos Humanos, the Escuela Nacional de la Magistratura (TSJ)¹⁵² and the Escuela de Derechos Humanos de la Defensoría del Pueblo.¹⁵³

2. The right to protection by the State

148. The Constitution establishes a genuine system of protection for indigenous peoples and Afro-Venezuelans by strengthening their sense of national belonging and evaluating their contribution to the forging of our identity and the recognition of their specific constitutional rights as original peoples, lending a multi-ethnic, multicultural and multilingual character to a democratic society.¹⁵⁴ Article 55 of the Constitution recognizes the right of persons to protection by the State through organs protecting citizens "...from situations involving a threat and risk to the physical integrity of individuals, their properties, the enjoyment of rights or the fulfilment of duties". Those rights have been reaffirmed with the promulgation of a body of laws relating to the topics touched upon in this report and whose contents concern the quest for justice, equality and the protection of fundamental rights and compliance with the provisions of the Constitution of the Bolivarian Republic of Venezuela and the obligations deriving from international agreements and covenants.¹⁵⁵

149. Major efforts have been made to ensure the establishment of legislative and administrative standards for the protection of human rights, such as the Act on the Protection of Victims, Witnesses and Other Parties to Proceedings, the Supreme Court Act, the Office of the Ombudsman Act and the Code of Criminal Procedure. The achievements of the latter include a transition from an inquisitorial justice system to an accusatory model offering greater guarantees by placing the emphasis on respect for the fundamental rights of the victim and the accused.

¹⁵⁰ www.unes.edu.ve.

¹⁵¹ www.ministeriopublico.gob.ve.

¹⁵² www.tsj.gob.ve.

¹⁵³ www.defensoria.gob.ve.

¹⁵⁴ A/HRC/WG.6/12/VEN/1 and Corr.1, p. 17.

¹⁵⁵ *Ibid.*, p. 18.

150. The Supreme Court has been developing a judicial policy of inclusion that enables the public to meet with their judges. It has interpreted article 26 of the Constitution not in strictly procedural terms but as involving a necessary refocusing on the creation and establishment of new powers attaching to a social tribunal that comprises 164 juvenile courts, 38 concerned with women and issues of gender equality, 21 with agrarian law and 335 with the strengthening of labour law,¹⁵⁶ with a modern emphasis on conciliation conceived less as a technique than as a principle of peace. Another notable feature is the application of the principles of oral and immediate proceedings and the defence and protection of collective or broad interests.¹⁵⁷

151. The Office of the Public Prosecutor has also established 59 special prosecutors' offices countrywide dealing with violence against women and specialized technical units providing comprehensive care for victims, mothers and children, as well as a victim care unit in each federal entity.¹⁵⁸ The Office of the Public Prosecutor also includes a Department for the Comprehensive Protection of the Family, whose prosecutors are responsible for dealing with offences related to gender violence, including psychological, sexual and workplace violence, and offences against children and adolescents as well as prosecuting cases involving criminal responsibility on their part.¹⁵⁹

3. Political rights

152. Participative and proactive democracy as a constitutional principle seeks to bring government structures within the reach of the public with the aim of democratizing the exercise of power and involving citizens in the political life of the country; it is also intended to avoid the formation of closed groups or elites governing in isolation on the basis of interests that do not correspond to those of the majority of the population, overlooking the basic needs of society and truncating the development of the Nation. The State is pursuing a policy of eradicating all types of discrimination through the adoption of a new approach in which parity between all citizens in the exercise of political power and equal participation in the organs of government and the framing of public policies minimizes such differences as may exist between individuals, thereby ensuring the preservation of a democratic and social State based on the rule of law and justice that guarantees human rights and promotes individual and collective development, as prescribed in the Constitution.

153. By empowering and raising the profile of women and by mainstreaming them in the Constitution, the State has been able to integrate women in the different spheres of national government, reflected in the election of deputies to the National Assembly in the period 2005–2010, which saw an increase in the representation of women. Significant in this regard is Venezuelan women's active involvement in ministerial functions, as well as in the various branches of government.¹⁶⁰

154. The article of the Constitution that favours indigenous peoples and communities by giving them the right of political participation and special representation in the National Assembly and in State and local deliberative bodies where there is an indigenous population merits special emphasis. As stipulated in article 125 of the Constitution of the Bolivarian Republic of Venezuela, indigenous people are guaranteed participation in the

¹⁵⁶ Ibid., p. 9.

¹⁵⁷ Official information of the Supreme Court.

¹⁵⁸ Official information of the Office of the Public Prosecutor.

¹⁵⁹ Official information of the Supreme Court.

¹⁶⁰ Official information of the Ministry of People's Power for Women and Gender Equality.

Government's legislative bodies, and are incorporated into these bodies on an equal footing with a view to ensuring that all sectors of the Venezuelan nation are represented in them

155. Indigenous deputies: In accordance with National Electoral Council guidelines, the country is divided into electoral constituencies, which consist of municipal, parish and neighbouring communes defined according to population density so as to ensure political diversity. Indigenous representatives now sit as members of the National Assembly and of State and municipal deliberative bodies.¹⁶¹

4. The right to nationality

156. Chapter II of the Constitution lays down the rules governing nationality and citizenship in our country. Article 32 refers to Venezuelans by birth, and article 33 to Venezuelans by naturalization; Venezuelan nationality is not forfeited by persons opting for or acquiring another nationality (art. 34); Venezuelans by birth cannot be deprived of their nationality (art. 35); Venezuelan nationality may be renounced (art. 36). The Constitution provides that the State will promote the concluding of international treaties with regard to nationality, in particular with neighbouring countries and those mentioned in article 33.1 of the Constitution (art. 37). Finally, article 38 states that, pursuant to the above provisions, the law will establish substantive and procedural regulations relating to the acquisition, choice, renunciation and re-acquisition of Venezuelan nationality, and the revocation and annulment of naturalization.

157. The National Identity Programme "Yo Soy", coming under the Ministry of People's Power for Public Health, marks an advance in the right to social inclusion. Forming part of the Economic and Social Development Plan 2001–2007, subsequently reinforced under the National Economic and Social Development Plan 2007–2013, it serves to guarantee social rights and provides for the registration of children and adolescents in civil register units installed in health facilities with obstetrics services, through which birth certificates are issued effectively, expeditiously and without charge to new-born children.

158. Special emphasis is placed on equal rights for children and adolescents, referred to in article 36 of the Protection of Children and Adolescents Act, which stipulates that all children and adolescents have the right to enjoy their own cultural life, to profess and practise their own religion and beliefs, and to use their own language, particularly those belonging to ethnic, religious, linguistic or indigenous minorities.

5. The right to justice

159. A social and democratic State based on the rule of law and justice is the Constitution's maxim, justice being one of the supreme values of the Venezuelan legal system. Justice in Venezuela, in accordance with constitutional provisions, is free, accessible, impartial, appropriate, transparent, autonomous, independent, responsible, fair and expeditious, without undue delays, formalities or unnecessary repetitions.

160. The State is constitutionally obliged to guarantee the necessary legal and administrative conditions and to penalize any abuses in that regard. All persons therefore have the right to the protection of the courts and can invoke the concept of protection (*amparo*) when their rights are violated, in which case the court's response must be timely since the prosecution must be brought within the specified time limits.

161. According to article 253 of the Constitution, "The organs of the Judiciary are responsible for dealing with all cases and matters within their competence through such

¹⁶¹ A/HRC/WG.6/12/VEN/1 and Corr.1, p. 18.

procedures as may be determined by the laws and with executing their judgements". The Venezuelan justice system is constituted by the Supreme Court and other courts established by law, the Public Prosecution Service, the Office of the Ombudsman, criminal investigation bodies and court officers and officials as well as by the prison service, alternative means of justice prescribed by the law, and lawyers authorized to practise.

162. The Public Defender's Office is a body forming part of the justice system whose basic aim is to ensure effective judicial protection of the constitutional right to defence in its various spheres of competence. It is a service that operates completely free of charge and excludes nobody. Its main functions are to guide, advise, assist and represent all those requesting its help, especially in the field of ordinary criminal law and with regard to the criminal responsibility of adolescents.

163. Article 38 of the Ombudsman Act provides for the establishment of Special Delegate Offices for Indigenous Communities in those States where this social group predominates. The Special Ombudsman's Offices with national responsibility for the indigenous peoples in this way serve as an advisory organ responsible for defending and monitoring the constitutional rights and guarantees of the country's indigenous peoples and communities as well as ensuring observance of the relevant human rights embodied in the international treaties, conventions and agreements signed and ratified by the Republic.¹⁶² The Public Prosecution Service for its part is responsible for ordering and directing criminal proceedings, for ensuring respect for constitutional rights and guarantees and for the promptness and smooth functioning of the administration of justice.

6. Right to freedom of thought, conscience and religion

164. Freedom of worship and religion are guaranteed by the Venezuelan State under article 9 of the Constitution, which states that all persons have the right to profess their religious faith and forms of worship and to express their beliefs in private or in public, by teaching and other practices, provided such beliefs do not offend morality, good custom and public order.

165. The Constitution also provides for the recognition of indigenous peoples and communities, their social, political and economic organization, their cultures, practices and customs, languages and religions. It provides that indigenous peoples also have the right to maintain and develop their distinctive features such as ethnic and cultural identity, cosmovision, values, spirituality, sacred places and forms of worship. These cultural manifestations will be valued, fostered and publicized by the Venezuelan State.

7. Economic rights

166. Chapter VII of the Constitution provides that all persons may devote themselves freely to the economic activity of their choice, subject only to constitutionally prescribed limitations. Private initiative is promoted, monopolies are not permitted and economic crime, speculation, hoarding, usury, the formation of cartels and other related offenses are severely punishable by law. At the same time, the right to property is guaranteed and the confiscation of property is not allowed except in the cases provided for in the Constitution. All persons have the right to property ownership, quality services, adequate information on the services they consume, freedom of choice and fair and dignified treatment. Finally, the right of workers and the community to develop associations of a social and participative nature, such as cooperatives, savings funds, mutual funds and other forms of association, is recognized and protected by the State.

¹⁶² www.defensoria.gob.ve.

167. The economic rights of indigenous peoples are spelt out in article 123 of the Constitution, which establishes their right not only to maintain but also to promote their own economic practices and traditional productive activities, which according to their traditional customs are based on reciprocity, solidarity and interchange. The indigenous peoples have the constitutional right to receive professional training services and to participate in the preparation, implementation and management of specific training programmes. Furthermore, their work activities are also guaranteed by the State.

8. The right to work

168. The Venezuelan State has given men and women workers the status of active participants in the world of work, making it the subject of various rights in both the Constitution and legislative texts. The right to work is enshrined in article 87 of the Constitution of the Republic as an inalienable right of all human beings. Work is also said to be both a right and duty of all persons, within the limits of their abilities and potential, any discrimination based on age, sex, race, civil status, religious beliefs, political allegiances or social circumstances being prohibited. These provisions are designed to exclude any discrimination in working conditions, which are themselves stipulated in article 26 of the Labour Act.

169. The right to equal remuneration, including benefits, and to equal treatment with respect to work of equal value, as well as equality of treatment in the assessment of the quality of work, is developed in article 91 of the Constitution, which states: “The payment of equal salary for equal work is guaranteed” (ILO Convention No. 111, ratified by the Bolivarian Republic of Venezuelan on 3 January 1971), and article 135 of the Labour Act likewise stipulates: “equal work performed in the same place and involving the same working hours and the same conditions shall receive equal remuneration”.

170. Chapter III of the Disabled Persons Act¹⁶³ sets out in article 26 the employment policies applicable to the disabled: “The Employment Ministry (...) shall formulate policies on work training, employment, entry and re-entry into the labour market, professional retraining and work reorientation for the disabled, and on the services responsible for the promotion of employment opportunities and employment placement and retention for the disabled”. Article 27 provides that the State will establish “permanent programmes, courses and workshops for the participation of the disabled following adaptation of its teaching methods to the type of disability involved”. Employment for the disabled is also covered in article 26, which provides that 5 per cent of the permanently disabled should be incorporated in the total workforce of institutions, and that, in accordance with article 29, they should be integrated in keeping with their abilities and the tasks they have to perform.

171. The integration and participation of women on the national stage has its origins in the Constitution, which affirms the equality of all before the law and in article 88 recognizes work at home as an economic activity that creates added value and generates social wealth and well-being. Their integration is taken up in other statutory instruments such as the Equal Opportunities for Women Act, which establishes the rights and guarantees required to ensure equality of rights between women and men; the Labour Act, articles 379 to 395 and 632 of which establish the scope of the labour protection of mothers and the family against discrimination on grounds of marriage or motherhood; and the Working Safeguards, Conditions and Environment Act, which deals with the protection of mothers and health and safety at work.

¹⁶³ Official Gazette No. 38,598 of 5 March 2007.

172. The Act on the Promotion of Breastfeeding promotes the right of mothers to breastfeed their children with the support and help of their fathers, the State and the backing of their communities; article 27 of the Act on the Employments Benefits System provides that the Government will promote the integration of groups with special difficulties in productive work and socially useful activities, including unqualified women, female heads of household and victims of domestic violence; and the Family and Parenthood Act provides for State protection of families as a whole, without any discrimination as to their members. There are also relevant provisions in legislation such as the Act on the Rights of Women to a Life Free from Violence, the amended Child and Adolescent Protection Act and the Act amending the Criminal Code, which together with the efficient, effective and egalitarian policies developed by the Venezuelan State guarantee women the right to work and seek to eliminate long-standing prohibitions as well as possible acts of discrimination.¹⁶⁴

173. Through the acquisition of tools to foster their human and productive capacities, the Venezuelan State has integrated women in its social, political, cultural and economic development with the aim of improving their well-being in the quest to establish and consolidate a society without discrimination. To this end, it is promoting women's empowerment, strengthening grassroots organizations and women's networks and favouring women's participation in the framing of public policies. The main measures for integrating women in the production process are accompanied by a series of training programmes aimed at progressively eliminating educational disparities and extreme poverty rates, providing permanent counselling, facilitating the allocation of financial and non-financial resources and protecting and safeguarding women's rights, having special regard to the plans developed by the Ministry of People's Power for Women and Gender Equality through the National Institute for Women, the Women's Development Bank and the *Josefa Joaquina Sánchez* Neighbourhood Mothers Mission.

174. The active participation of women has provided a platform for the inclusion of indigenous and Afro-descendant women with the establishment of the Ministry of People's Power for Women and Gender Equality, which is mainly responsible for overseeing government policies, plans, programmes and projects for furthering women's participation in people's power and ensuring the exercise of their rights and gender equality, as prescribed by the Constitution and the legal system as a whole.¹⁶⁵ Venezuelan women are today academically prepared and continue to make progress with the benefit of access to education at all levels.

175. Up to January 2009, a total of 25,643 meeting points with National Institute for Women had been set up, aimed among other things at encouraging community economic projects, women being a key to their development. They also serve to promote learning dynamics and tools for strengthening the consciousness of gender, nation, class and ethnicity, thereby fostering the capacity of women and men to spread information while promoting women's empowerment. The Ana María Campos School of Socialist Training for Gender Equality is a dependency of the Ministry of People's Power for Women and Gender Equality, responsible for creating opportunities for the development of a critical awareness among Venezuelan women and men, actors in the public sector and the population at large of ways of bringing about changes leading to a society without gender discrimination, in keeping with the Simón Bolívar National Plan 2007–2013.¹⁶⁶

¹⁶⁴ A/HRC/WG.6/12/VEN/1 and Corr.1, p. 16.

¹⁶⁵ www.inamujer.gob.ve.

¹⁶⁶ Official information of the Ministry of People's Power for Women and Gender Equality.

176. The Communal Mobile Cabinets (*Gabinetes Móviles Comunes*) are a means whereby the President of the Republic, or anyone designated for that purpose, can make direct transfers of financial resources to organized communities prepared to draw up and implement social investment projects, the aim being to encourage communities to assume their proactive role. Indigenous and Afro-descendant women benefited from the fifth and sixth Mobile Cabinets in carrying out their projects.¹⁶⁷

177. With regard to the right of foreigners to work and the question of non-discrimination, a relevant provision is contained in article 13 of the Aliens and Migration Act,¹⁶⁸ which stipulates: “Aliens in the territory of the Republic shall have the same rights as nationals, the only restrictions being those established in the Constitution and laws of the Bolivarian Republic of Venezuela”.

178. The Regulations on the Regularization and Naturalization of Aliens in the National Territory¹⁶⁹ are also significant in this regard, reflecting as they do the prime importance given to the welfare of the individual in the formulation and implementation of the State’s policies. They concern the Ministry of People’s Power for Labour and Social Security as the body jointly responsible for implementing their provisions, establishing as a matter of principle the State’s obligation to protect and guarantee the observance of human rights, dignity, fair and equitable treatment, cost-free status, timely and adequate processing, and transparency and rapidity in the formalities of regularization or naturalization, as regards both the principles involved and their objectives.

9. The right to housing

179. Article 82 of the Constitution states: “Every person has the right to adequate, safe, comfortable and hygienic housing, with essential basic services, including a habitat tending to humanize relationships within the family, neighbourhood and community...”, priority being given to families with limited resources by ensuring that they have access to social policies and credit facilities for the construction, purchase or enlargement of their homes.

180. The Housing and Habitat Benefits Act¹⁷⁰ was adopted to address the major housing problem faced by the Venezuelan population. The high levels of inflation experienced by the country had made it virtually impossible for many Venezuelan families to acquire housing, which was reserved for the privileged classes.

181. The indigenous population have benefited from this measure, especially through self-built housing which under the communal councils has been carried out in keeping with their ancestral customs and forms part of the policy of training indigenous communities to tackle their own local urban development. In this connection, there are plans to develop community micro-enterprises to provide basic services and associated maintenance for the provision of drinking water, wastewater disposal and treatment, electricity supplies and solid waste disposal, which in the short and medium term will ensure the availability of adequate housing and services that help to improve the quality of life and preserve the environment.

182. In August 2009, the State also promoted the *Barrio Nuevo, Barrio Tricolor* Plan, which is responsible for renovating housing, beginning by replacing roofs, applying paint, repairing internal structures (including plumbing, electricity, floors, water supply, sewage pipes, drainage systems, culverts, paths and stairways) and finally remodelling facades and

¹⁶⁷ Report of the Ministry of People’s Power for Women and Gender Equality.

¹⁶⁸ Official Gazette No. 37,944 of 24 May 2004.

¹⁶⁹ Official Gazette No. 37,871. Decree No. 2823 of 9 February 2004.

¹⁷⁰ Official Gazette No. 38,204 of 8 June 2005.

roads. This plan represents a further step towards restoring the dignity of low-income Venezuelan families.

183. Since 2010 a start has been made on the Great Venezuelan Housing Mission planned for the years ahead, which is a huge effort by the Venezuelan State to respond in a structural and conclusive manner to the nation's housing deficit.

10. The right to public health care, medical treatment and social security

184. The right to health care is established in articles 21, 83, 84 and 86 of the Constitution, setting out the State's policy to guarantee this fundamental human right through the National Public Health System. The indigenous population enjoys these rights equally, with additional benefits as described below.

185. The Indigenous Health Directorate, attached to the Ministry of People's Power for Public Health, and the Indigenous Peoples and Communities Act safeguard the health of the country's indigenous populations and communities. This protection has been reinforced with the launching of the multifaceted *Barrio Adentro* mission and with the signing of the Cuba-Venezuela Agreement and the Agreement with Romulo Gallegos National Experimental University, which provide for the training of indigenous professionals in the medical field. The Ministry's initiatives on preventive health care, mother-and-child monitoring, medical and dental consultations, vaccination treatment, workshops, talks, publications and discussion groups complete the list of public policies pursued among the indigenous communities.

186. The *Barrio Adentro* Mission has comprehensive rehabilitation centres to treat persons with disabilities or at risk of disability and a rehabilitation component is included in primary health-care facilities (peoples' clinics). The *José Gregorio Hernández* Mission also treats people suffering from some form of disability through medical assistance and equipment provided under the National Health Programme for the Disabled attached to the Ministry of People's Power for Public Health, which through rehabilitation facilities in various States caters for the disabled population and trains the carers. This important service is available in States with the highest density of indigenous communities and has included the training of health workers.¹⁷¹

187. The health policies promoted by the Bolivarian Republic of Venezuela to ensure the observance, protection and full enjoyment of the human rights of persons living with HIV/AIDS, which also embody a firm commitment to comply with the Millennium Development Goals, in particular Goal No. 6, are being developed through measures designed to ensure effective prevention, treatment, diagnosis and care in the face of this global pandemic.¹⁷²

188. The reform of the Working Safeguards, Conditions and Environment Act has given health and safety at work an obvious boost by broadening the legal regulations in this domain; the National Institute of Prevention, Health and Safety at Work has also been revitalized by giving it new functions such as ensuring the active role of workers in the management of health and safety at work and in the social aspect of the workplace as well as establishing penalties in cases of work-related ailments, including criminal sanctions in the case of serious accidents in the workplace.

189. The National Institute of Prevention, Health and Safety at Work has produced a technical guide based on the experience and knowledge of women belonging to the Piaroa

¹⁷¹ Pasdis.mpps.gob.ve/pasdis/.

¹⁷² Ibid.

and Jivi ethnic groups in Amazonas State with the aim of informing housewives about health and safety in the home.¹⁷³ The Institute held meetings with groups of these women to learn about their experiences and about the risks and dangerous processes with which these women have to contend as indigenous farm workers and mothers. A similar meeting had already taken place in the States of Guárico, Carabobo and the Distrito Capital and provided the basis for the preparation of the module for indigenous women.¹⁷⁴ Over 30 indigenous mothers and workers took part in this gathering and described in their language and in Spanish their activities in the home, on their smallholdings and in their farming and handicraft activities. They also described the risks they ran, which was fundamental for the creation of modules on health and safety in the home for indigenous mothers.¹⁷⁵

190. Social security as an inalienable human right is also promoted by the Venezuelan State through the granting of pensions and benefits covering various contingencies such as old age, incapacity, invalidity or the status of surviving spouse. Social security cover has been extended to groups traditionally excluded such as non-subscribers to the social security system, the fishing community, rural farmers and indigenous and Afro-descendant peoples, thus benefiting a large number of people living in precarious circumstances.¹⁷⁶

11. The right to education and training

191. Article 102 of the Constitution establishes that education is a human right and a fundamental social duty; it is moreover democratic, free of charge and obligatory. These provisions are developed and spelt out in the Education Act through the different levels and types of education and the policies designed to achieve these objectives. An alternative model is presented by the Education Missions, which make an undeniable contribution to the training of the population as a whole and which in 2010 recorded very high attendance at all levels.

192. The indigenous population is also assisted by the Indigenous Peoples Education and Language Use Act promulgated in May 2008, which recognizes and promotes the traditional education of indigenous peoples and lays down the guidelines and bases for bilingual intercultural education, regulates the functioning of the services relating to this system of education and sets out the general provisions governing the institutional use, preservation, defence and encouragement of indigenous languages. The Act is based on the principles enshrined in the Constitution on the right of indigenous peoples to their own education and to an education system in keeping with their specific cultural features, principles and values, as well as their right to the official use of their languages, and to their protection and dissemination as the cultural heritage of the nation and of humanity.

193. Guarantees concerning rights in the realm of education and professional training depend on the support of institutions and laws such as the Indigenous Languages Act, the translation of texts and laws into indigenous languages, software for native languages, educational missions and the establishment of university villages, the bilingual intercultural education programme, the creation of indigenous universities, support for the university education provided by institutions such as the Bolivarian University of Venezuela, the National Experimental University of the Bolivarian Armed Forces and the Simón Rodríguez University, and the scholarship programme of the *Gran Mariscal de Ayacucho* Foundation.

¹⁷³ “Mid-tern review” (note 12 above), p. 87.

¹⁷⁴ Ibid.

¹⁷⁵ Ibid.

¹⁷⁶ A/HRC/WG.6/12/VEN/1 and Corr.1, p. 14.

194. Through the *Robinson Mission*, persons with Down's syndrome and other learning difficulties were taught to read and write, as were 992 prison detainees and the 2,050 students who followed the various educational courses provided by the Educational Missions. At the same time, enrolments in special education rose by 257 per cent in 2010, increasing from 67,883 to 207,265, the students being trained in 956 specialized institutes and 3,130 classrooms integrated in regular schools.¹⁷⁷

12. Cultural rights

195. Under article 101 of the Constitution, the State undertakes to ensure the broadcasting, reception and circulation of cultural information, and the media have a corresponding duty to disseminate the values of folk traditions and the work of artists, writers, composers, film directors, scientists and other creators of culture in the country.

196. With regard to the social rights of the different cultures, the Indigenous Peoples and Communities Act guarantees respect for the different types of indigenous families, born of their own systems of relationships and marriages, and validates marriages and adoptions based on these customs, which have the same effects as in civil law; provides for the incorporation of traditional medicine into the national health system; guarantees the right of indigenous shamans and healers to use their knowledge and procedures for preventive and curative purposes; stipulates that all health programmes and services must be planned with the direct participation of the indigenous peoples; and embodies a series of articles on labour protection for indigenous citizens, who are to enjoy all the benefits for which existing laws provide.

197. In 2010, the Science, Technology and Innovation Act was amended, paving the way for further progress in the consolidation of a democratic, inclusive and participative form of science, technology and innovation, based on the permanent recognition of all the agents, forms of organization and dynamics, traditional and non-traditional, involved in the generation of scientific, cultural and innovative knowledge. Under the Science, Technology and Innovation Act and other policies promoted by the Bolivarian Government through the Ministry of People's Power for Science, Technology and Intermediate Industries, our grassroots technologists and innovators were recognized for the first time in the history of Venezuela as protagonists in the National System of Science, Technology and Innovation.

E. Article 6 Measures taken to assure to everyone effective protection and remedies, through the competent national tribunals, against any acts which violate his rights

1. Persons within the jurisdiction of the State

Effective remedies regarding the rights of the prison population

198. The Venezuelan State has a duty to ensure that there are sufficient and adequate judicial and extrajudicial remedies, accessible to all natural persons and collective entities, to safeguard and protect the human rights of all citizens. It must also guarantee the existence of adequate machinery, in the form of effective and efficient remedies, to ensure that the corresponding obligations are met.

¹⁷⁷ Ibid., p. 19.

199. Article 27 of the Constitution is explicit in stating that every citizen of this Nation must be aided and assisted by the justice system in its entirety: “Everyone has the right to be protected by the courts in the enjoyment and exercise of constitutional rights and guarantees, including even those inherent individual rights not expressly mentioned in this Constitution or in international instruments concerning human rights”.

200. Effective remedies are in practice of two kinds: legal protection coming under the judiciary; and the protection afforded by any other competent body of a non-judicial nature that safeguards all rights in general and can determine the obligations of the respective bodies in their relations with the persons subject to their administrative actions.

201. The justice system in Venezuelan consists of the Supreme Court with its 1,179 courts nationwide, the Public Prosecution Service with 1,852 prosecutors in its branch offices, the Public Defence Service comprising 873 public defenders, criminal investigation bodies with their auxiliaries and staff officials, the prison system, alternative means of justice, organized grassroots participation, and lawyers authorized to practise.¹⁷⁸

202. The Higher Council for Prisons,¹⁷⁹ established with the aim of humanizing and modernizing the prison system so as to achieve a healthy cohabitation through respect for the prison population reflected in the forms of classification and organization, prison work, prison food, education, hygienic surroundings, personal toilet facilities, civility in the public domain, and the provision of medical assistance, preparing inmates in this way for their subsequent integration in society.¹⁸⁰

203. The Public Prosecution Service has created prosecutors specialized in different fields, including those responsible for the prison system, who have the task of ensuring compliance with the relevant regulations and also monitoring prisons to ensure respect for the human rights of detainees. In 2009 the Public Prosecution Service also created prosecutors with responsibility for acting at the intermediary and judicial stages with the aim of accelerating cases at the junctures concerned so as to avoid procedural delays.¹⁸¹

204. Article 48 of the Public Prosecution Service Act provides for the establishment of prosecutor’s offices responsible for indigenous affairs, which must be staffed by prosecutors with sufficient knowledge of indigenous matters and be of indigenous origin. Their functions are focused on “exercising the corresponding measures or remedies where the constitutional rights and guarantees of members of the indigenous peoples and communities have been violated in the course of administrative, civil or labour proceedings”.¹⁸²

205. Another achievement of the Venezuelan State has been the introduction of the Plan to Humanize the Prison System. This strategic plan covering the period 2006–2011 is being developed by the Government through the Ministry of People’s Power for the Interior and Justice and other institutions concerned with the subject. The aim of this Plan and others in the pipeline is to avoid self-discrimination on the part of this group, which is a key factor in the social reintegration process.

206. Article 15, paragraph 7, of the Office of the Ombudsman Act¹⁸³ includes among the incumbent’s responsibilities “To safeguard the rights of indigenous peoples and take the necessary measures to guarantee and protect them effectively”. Article 38 provides for the

¹⁷⁸ Ibid, p. 8.

¹⁷⁹ Decree No. 6553, Official Gazette No. 39,080 of 15 December 2008.

¹⁸⁰ <http://www.csp.gob.ve>.

¹⁸¹ www.ministeriopublico.gob.ve.

¹⁸² Public Prosecution Service Act. Official Gazette No. 38,647 of 19 March 2007.

¹⁸³ Office of the Ombudsman Act. Official Gazette No. 37,995 of 3 August 2004.

creation of delegate indigenous Ombudsman's offices, to be headed by an indigenous man or woman responsible for "promoting, monitoring and defending the rights of indigenous peoples as laid down in the Constitution and international conventions and treaties and other laws governing the subject". Under article 39, the indigenous ombudsman will be nominated by the indigenous peoples meeting in assembly according to their conventions and customs.

207. With specific reference to the right to non-discrimination, the Venezuelan State has taken a major legislative step with the recent adoption of the Racial Discrimination Act, promoting equality of rights and freedoms

F. Article 7

Effective measures taken in the field of education, teaching, culture and information to combat prejudices which lead to racial discrimination

1. Teaching and education

(a) Legislative measures to combat racial prejudice

208. The legal framework for combating racial prejudice is rooted in the Constitution, as demonstrated throughout this report. The force of these constitutional provisions is reflected in laws that embody these principles. The Racial Discrimination Act already analysed fills an existing gap with regard to all forms of racial discrimination by clearly establishing the relevant acts in this regard and the corresponding penalties.

209. In Venezuela racial discrimination is expressly forbidden, provision being made for further progress in that regard through the promotion of training and civic awareness conducive to the recognition and appreciation of cultural diversity, which is the precondition of a society enriched by the contributions of all its citizens.

210. In this regard, article 3 of the 2009 Education Act includes among the guiding principles and values of Venezuelan education "respect for the diversity characteristic of the different human groups". It also stipulates that education is public and social in character, compulsory, free, of good quality, secular, comprehensive, continuing, socially relevant, creative, artistic, innovative, critical, multicultural, multi-ethnic, intercultural and multilingual. Article 6, referring to the responsibilities of the educator State, guarantees the official and equal use of indigenous languages in the context of bilingual, indigenous and intercultural education, thereby reinforcing the identity of the Latin American, Caribbean, indigenous and Afro-descendant peoples. Article 27 also makes the provision of bilingual intercultural education compulsory and irrevocable, stipulating that it must be established in schools in all regions with an indigenous population and be governed by a law prescribing the curriculum, timetable, teaching materials and training and suitability of the teachers in this branch of education.

211. Article 15 of the Education Act, in keeping with the principles and values embodied in the Constitution, defines the goals of education as: "A. To develop the creative potential of each human being for the full exercise of their personality and citizenship, in a democratic society based on the ethical and social value of work as a liberating activity and on an active, conscious, responsible and mutually supportive participation committed to the processes of social transformation and wedded to the principles of the sovereignty and self-determination of peoples, the values of local, regional and national identity and a vision at once indigenous, Afro-descendant, Latin American, Caribbean and universal. B. To train citizens on the basis of a geo-historical approach embodying an awareness of nationality and sovereignty, an attachment to patriotic values and an appreciation of the land and

traditions, popular and ancestral knowledge, handicrafts and cultural characteristics of the different regions of the country...”.

(b) *Education system*

212. In accordance with the goal of training citizens on the basis of the principles and values embodied in the Constitution, and in keeping with the Education Act,¹⁸⁴ the Venezuelan education system is organized as follows. The basic education subsystem comprises the initial education phase consisting of two levels: the first or infant school level is for children aged 0 to 3 and is taught by unconventional teachers, who begin their work with expectant mothers, stimulating the foetus with appropriate exercises, and continuing the stimulation after the child is born until his or her entry to the next level. The preschool level covers the period from 3 to 6 years. Primary education comprises six grades and caters for children aged 6 to 12. Secondary education involves two options: general middle-school education consisting of grades 1 to 5; and technical middle-school education comprising grades 1 to 6. The university education subsystem consists of undergraduate and postgraduate studies.

213. Article 26 of the Education Act provides for various types of education geared to the training of individuals who because of their special developmental, cultural, ethnic, linguistic and other characteristics require modified curricula. In Venezuela the following types of education exist: special education, juvenile and adult education, rural education, arts education, military education, bilingual intercultural education, and other types determined by regulation or statute.¹⁸⁵

(c) *Training of professionals*

214. The 1999 Constitution provided the template for a multi-ethnic and multicultural society. The Venezuelan State has been making significant progress in that regard in the form of government policies highlighting the existence of indigenous peoples and communities, recognized for the first time in our present Constitution, which also acknowledges their distinctive forms of social, political and economic organization together with their cultures, conventions, customs, languages, religions, habitat and lands and which guarantees them the right to education, health care and other human rights.

215. In September 2007, the Ministry of People’s Power for Education submitted for the country’s consideration the National Bolivarian Curriculum, a large-scale project formulating the historical, pedagogical, social and cultural bases of the policies currently being developed to train our country’s children, young people and adults within the various subsystems for which the Ministry of People’s Power for Education is responsible.

216. A significant initiative in the training of indigenous professionals has been introduction of the master’s degree in educational supervision, which has seen the graduation of an initial batch of 232 students with a second 300 expected to follow.¹⁸⁶ The indigenous peoples have benefited from these educational policies through the establishment of the Amazonas State University, the Indigenous Peoples’ University, the Indigenous University of Tauca and the university villages of the Pemón tribe in Pendare in the Gran Sabana, in Bolívar State.¹⁸⁷ Programmes are also operating in the villages situated within municipalities with high percentages of indigenous peoples. In addition, the Gran Mariscal de Ayacucho Foundation went from being an institution that commercialized

¹⁸⁴ Education Act. Official Gazette No. 5929 of 15 August 2009.

¹⁸⁵ Ibid.

¹⁸⁶ “Mid-term review” (note 12 above), p. 81.

¹⁸⁷ A/HRC/WG.6/12/VEN/1 and Corr.1, p. 18.

access to education by granting loans for undergraduate and postgraduate training to an institution serving the needs of the Venezuelan people by furthering access to professional education through the awarding of study grants, priority being given to the inclusion of previously excluded students from indigenous backgrounds.

2. Culture

217. Article 100 of the Constitution provides that the folk cultures constituting the national identity of Venezuela are to enjoy special attention, based on the recognition and appreciation of intercultural relations predicated upon the equality of cultures. Provision is also made for incentives and inducements for persons, institutions and communities that promote, support, develop or finance cultural plans, programmes and activities within Venezuela as well as Venezuelan culture abroad.

218. The establishment of the Ministry of People's Power for Culture¹⁸⁸ marks a new stage in focusing on culture as the expression of a collective identity and as an instrument of growth and liberation. Inclusive policies encompassing the tangible and intangible heritage have helped to prevent and protect against racism, racial discrimination, xenophobia and related forms of intolerance. These policies have found expression in the cinema and audio-visual media platforms and workshops related to immigrants, indigenous peoples and Afro-descendants, the implementation of community cinemas by the National Cinema Archive, the staging of the First Festival of African Cinema in Venezuela and the "Three Continents" Festival devoted to the Asian, African and Latin American Documentary, and the dramatic and musical arts platform with the National Dance Company, the University Dance Institute and the University Musical Studies Institute highlighting folk and ethnic dances.¹⁸⁹

219. Other events have included the book and reading platform bringing together institutions responsible for book production, printing, promotion and distribution, which have produced mass editions distributed in many cases free to an interested public.¹⁹⁰ Finally, the heritage platform with the programme entitled "Orinoco, Focus of Cultural Diversity" included a strong cultural programme involving the promotion of research, studies and talent training, debates on the identity of each region and its cultural diversity, the influence of the Orinoco River on the activities concerned, workshops on indigenous and Afro-descendant expressions, photographic exhibitions on cultural events, and sessions on cultural diversity.¹⁹¹ Culture was also at the base of the creation of 24 regional printing presses including 1 devoted to culture, the opening of 52 Librerías del Sur, 44 art shops, the Villa del Cine, 113 community cinemas, 16 regional cinemas and 115 associated cinema bodies, 3 archaeological parks and 11 cultural diversity centres.¹⁹²

a) *International and intercultural cooperation*¹⁹³

220. Venezuela's international cooperation in the educational field has as its strategic priority relations with Latin America and the Caribbean. Given the broad scope of this cooperation, we confine ourselves to indicating some of its main focuses, in the bilateral sphere (Argentina, Brazil, Bolivia, Cuba, Dominica, Ecuador, Haiti, Jamaica, Nicaragua, Uruguay, Dominican Republic) and the multilateral sphere (ALBA, MERCOSUR and

¹⁸⁸ Established on 10 February 2005 according to the Official Gazette.

¹⁸⁹ "Venezuela: the world's largest classroom" (note 83 above).

¹⁹⁰ Ibid.

¹⁹¹ Ibid.

¹⁹² A/HRC/WG.6/12/VEN/1 and Corr.1, pp. 31 and 32.

¹⁹³ "Venezuela: the world's largest classroom" (note 83 above), pp. 30 et seq.

UNASUR). Priority is also given to South-South relations with Africa (Algeria, Angola, Cape Verde, Ethiopia, Gambia, Ghana, Guinea-Bissau, Kenya, Libya, Mozambique, Namibia, Nigeria, Sao Tomé and Príncipe, Senegal, Seychelles and Sierra Leone, and the Sahrawi Arab Democratic Republic), to Asia and the Middle East (China, Islamic Republic of Iran, Syria, Vietnam and Palestine) and to strategic countries of Europe (Russia, France, Belarus, Italy and Ukraine). Education is foremost among the international cooperation ventures.

221. **Cuba-Venezuela Comprehensive Cooperation Agreement.** In the framework of university cooperation with Cuba, conceiving public health as a basic human right and a civic entitlement and drawing inspiration from the Bolivarian Alliance for the Peoples of Our America (ALBA), the “Dr. Alejandro Próspero Reverend” Latin American School of Medicine was established to provide international students from the South-South sphere of integration with training in basic health care, protection and promotion, linking up in turn with the National Programme of Comprehensive Community Medicine and the *Barrio Adentro* Mission, under which professionals are trained to form part of the National Public Health System.

222. **Agreement between the Republic of Portugal and the Bolivarian Republic of Venezuela.** As a result of the cooperation agreement between the Governments of Portugal and Venezuela, pupils and teachers in the first to the fourth year of basic education received a total of 379,403 portable computers between 2009 and 2010 under the Canaima Education Project.¹⁹⁴

223. **Cooperation agreement between the People’s Republic of China and the Bolivarian Republic of Venezuelan.** With the support of the People’s Republic of China, Venezuela developed the Simón Bolívar VENESAT-1 project, under which the first Venezuelan satellite was placed in orbit in 2008 enabling the country to expand its satellite network and provide telecommunication services to remote areas, priority being given to the education sector. Currently 43 rural health centres, 145 education centres and 544 socio-technological centres are connected to the Simón Bolívar satellite.¹⁹⁵

224. **Grandnational Project ALBA-Education.** This project involves the design of common undergraduate and postgraduate training programmes for the ALBA countries, known as Grandnational Training Programmes, operating in the areas of hydrocarbon geopolitics, comprehensive community medicine, tourism and food sovereignty. The ALBA countries have also signed and ratified a treaty on the mutual recognition of degrees and diplomas, which provides for the mobility of students and the recognition of studies in their countries of origin.

225. **International Scholarships Programme.** Initiated in 2005, it forms part of Venezuela’s South-South cooperation programme and has benefited over 2,800 students from 42 countries of Latin America and the Caribbean and Africa, who have attended 106 different courses at 38 university institutions. The fields of study of the international students vary depending on the courses deemed strategically important by their countries of origin from the standpoint of the socio-productive development of their nations, and include the social sciences, medicine, agricultural sciences, engineering, educational sciences and areas of computer science.

226. **Agreements on the Recognition of University Degrees.** In the framework of the new geopolitics of the South (Latin America and the Caribbean, Africa, Asia and the Middle East), work is proceeding on agreements on the recognition of university degrees in

¹⁹⁴ Information supplied by the Ministry of People’s Power for Science and Technology.

¹⁹⁵ *Idem.*

association with a variety of fraternal countries that have a presence in various university institutions in Venezuela, based on the principles of equality and social relevance and clearly directed towards the strengthening, credibility and strategic positioning of the Bolivarian revolution in the international arena.

227. **Cooperation with Africa.** In the sphere of university education, a total of 271 undergraduate scholarships have been awarded to young Africans from 16 African countries: Cape Verde, Ethiopia, Ghana, Guinea-Bissau, Kenya, Libya, Namibia, Nigeria, Sahrawi, Sao Tomé and Príncipe, Senegal, Seychelles, Sierra Leone, Angola, Mozambique and Gambia. They are firmly aimed at facilitating training in areas of strategic importance for their nations, thereby enabling the young people to return at the end of their studies and contribute by their knowledge to the transformation of their country. Four agreements on university education have also been signed with African countries – Gambia, Guinea – Bissau, Libya and Namibia; and an agreement on the recognition of degrees has been signed with Gambia, representing an important step towards ensuring the effectiveness of cooperation.

228. **Robinson Internacional mission.** This mission was established on 19 March 2006 in the framework of ALBA with the aim of cooperating and exchanging experience in the educational and sporting field with countries of Latin America and the rest of the world requiring literacy and holistic education programmes. Venezuelans are currently working as brigade members of this mission in the Republics of Bolivia and Nicaragua.

229. Other international and intercultural activities include: the First Colombian-Venezuelan Binational Encounter of Indigenous Peoples held in 2008 at the University of Zulia, an institution that through its API-Indígena programme caters for indigenous students in the western part of the country; programmes for indigenous students implemented by institutions such as the “Francisco de Miranda” University, the “Ezequiel Zamora” University of the Western Plains and the Oriente University; the higher national meeting of the indigenous peoples of Venezuela at the University of Zulia (LUZ), with the participation of UNESCO, the National Indian Council of Venezuela and the Association of Indigenous Students of the University of Zulia; and an agreement with the “Dr. Arnoldo Gabaldón” Institute of Higher Studies in Public Health for the mainstreaming of interculturality in postgraduate courses in epidemiology, public health and occupational health.¹⁹⁶

230. Mention should be made of: the First Course for Health Promoters, with the participation of 63 members of the Yukpas community from the Sierra de Perijá in Zulia State; the First Training Course on Hospital Emergencies for Intercultural Paramedics, in which 100 persons from 23 indigenous villages in eight States participated;¹⁹⁷ and the extension of the bilingual intercultural education programme run by the Libertador Experimental Teacher-Training University, in keeping with the priorities of the indigenous peoples and movements and the Department of Indigenous Education.

231. An important intercultural initiative was the implementation of intercultural health training programmes for National Health Service Staff involving the design of instructional programmes on the organization of health workshops and consisting of four modules on indigenous legislation, intercultural relations, health-care services and counselling for indigenous women, and strategic projects of the Indigenous Health Directorate.¹⁹⁸

¹⁹⁶ “Venezuela: the world’s largest classroom” (note 83 above), p. 29.

¹⁹⁷ *Ibid.*, p. 27.

¹⁹⁸ Official information of the Ministry of People’s Power for Public Health.

232. Mention should also be made of the first meeting of Directors of Culture of Afro-descendant Municipalities in Venezuela (2007). Since 2004 the State has also organized the International Festival of Afro-American Traditions with the aim of strengthening the identity and roots of persons of African origin. Relevant too in this regard is the Comprehensive Programme of Traditional Dance, which works with communities of African descent to highlight the country's historical expressions and traditions and cultural identity.¹⁹⁹

(b) *Tolerance and friendship among nations*

233. The Bolivarian Republic of Venezuelan has established international cooperation with various countries involving productive exchanges for their peoples. The institutions concerned include the Banco del Alba, the South-South Fund, the Banco del Sur, the Alba-Petrocaribe Fund and various binational funds; and, in the area of social cooperation, the *Milagro*, *Robinson* and *Energética internacional* missions. Through the Vice-Ministry for Africa, established in 2005 and attached to the Ministry of People's Power for Foreign Affairs, relations have been maintained with 54 nations in the African continent.²⁰⁰

3. Information

234. The right to information is enshrined in the Constitution. Article 58 establishes that communications are free and plural, but also entail legally prescribed duties and responsibilities. Everyone has the right to truthful, timely and uncensored information, in accordance with the principles laid down in the Constitution, as well as the right of reply and correction when directly affected by inaccurate or offensive information.

(a) *The media*

235. Article 108 of the Constitution provides that media, both public and private, must contribute to civic education and that the State should therefore guarantee public radio and television, library and computer networks with a view to ensuring universal access to information

236. In accordance with article 2 of the Act on Social Responsibility in Radio and Television, the radio spectrum constitutes a public good and the principles governing its application are to be based on "the free expression of ideas, opinions and thoughts; free and plural communication; the prohibition of prior censorship; subsequent responsibility; democratization; participation; solidarity and social responsibility; sovereignty; security of the nation and free competition". Article 4, paragraph 5, establishes that radio or television broadcasts intended for indigenous peoples and communities must use indigenous languages, and article 29, paragraph 2(b), that failure to comply with this provision is punishable by fines of between 1 and 2 per cent of gross income for the fiscal year immediately prior to that in which the offence is committed.

237. The Act also stipulates, among other things, that at least 50 per cent of the Venezuelan musical works broadcast must involve traditional Venezuelan music and must feature the use of Spanish or the official indigenous languages as well as the expressions and values of national culture (art. 14).

¹⁹⁹ Official information of the Ombudsman's Office.

²⁰⁰ In fulfilment of the Millennium Development Goals (note 73 above).

(b) *Dissemination of information to promote respect for human rights and to eliminate all forms of discrimination*

238. Article 14 of the Act in question makes it compulsory for the providers of radio and television services to broadcast a minimum of three hours daily of programmes of a cultural, educational, informative, opinion-related or recreational nature with an educational and quality format, which should be directed in particular at children and adolescents and contribute to their rounded development.

239. The democratization of not-for-profit community radio and television services is prescribed in article 16, which stipulates that broadcasts should serve to promote: development, education, community problem-solving, conservation, maintenance and preservation of the environment, the right to free and pluralistic media, solidarity, humanitarian assistance and community-based social responsibility.

240. The free software project is part of the development of media use by the indigenous communities, to date centred on the establishment of indigenous national radio stations in the States of Amazonas, Apure, Bolívar and Zulia. This project aims to promote media creation including newspapers, a news agency and Internet and television portals.

241. Recent advances have included the use of the Venezuelan National Radio Circuit²⁰¹ to broadcast information on indigenous topics in the daily programme “Indigenous News”. The Latin American coordinator of indigenous cinema and communication has also promoted “the training of young people and, in cooperation with the National Library, has created a database containing 2000 recordings of films and videos on indigenous peoples”. The channel transmitting the service of the National Assembly Television Foundation broadcasts the programme entitled “Indigenous Presence”, presenting various aspects of indigenous life.²⁰²

242. Since 2007, the *Infocentro* Project has promoted the assimilation of information and communication technologies by the general public, using socio-technological community centres as a common platform for collective knowledge building and transfer. Between 2007 and 2010 a total of 738 info-centres were established nationally.

243. The nationalization of the Venezuelan National Telephone Company by the Venezuelan State in 2007 marked the beginning of a strengthening of the telecommunications service aimed at ensuring access by the Venezuelan public. Between 2007 and 2010 access to the fixed telephone service increased by 69 per cent, and to the mobile telephone service by 77 per cent, adding up to a total of 6,045,391 fixed telephone subscribers and 14,734,306 mobile subscribers nationally. Access to the Internet service similarly increased by 125 per cent between 2007 and 2010, making a total of 1,528,658 subscribers nationally in 2010.

244. As a result of these policies, 34 per cent of Venezuelan homes had access to the Internet by the end of 2010 and 88 per cent to a fixed telephone service. The Venezuelan State thus made progress with regard to its commitment to ensure access to telecommunications and information technologies by the population as a whole without discrimination of any kind and with particular emphasis on vulnerable and traditionally excluded sectors.²⁰³

²⁰¹ www.rnv.gov.ve.

²⁰² www.antv.gob.ve.

²⁰³ Official information of the Ministry of People’s Power for Communication and Information.

III. Replies by the Venezuelan State to the observations of the Committee

245. The Venezuelan State, in compliance with its obligation as a State party to the International Convention on the Elimination of All Forms of Racial Discrimination, and in accordance with article 9 of the said Convention, herewith replies to the concluding observations of the Committee on the Elimination of Racial Discrimination, contained in section C entitled “Concerns and recommendations”, concerning the fourteenth to eighteenth periodic reports (CERD/C/VEN/CO/18) of the Bolivarian Republic of Venezuela.

246. In order to respond to the Committee’s observations and recommendations, assistance was sought from the bodies created by the State with the aim of giving effect to the provisions of the Convention in Venezuela.

A. Follow-up to paragraph 14 of the concluding observations

247. Further to the Durban Declaration and Programme of Action reflecting the studies and debates prior to and during the Third World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, held in the city of Durban (South Africa) from 31 August to 8 September 2001, the Venezuelan State took a number of measures in accordance with the following articles:

- 92. Urges States to collect, compile, analyse, disseminate and publish reliable statistical data at the national and local levels and undertake all other related measures which are necessary to assess regularly the situation of individuals and groups of individuals who are victims of racism, racial discrimination, xenophobia and related intolerance.
- 100. Urges States to establish, on the basis of statistical information, national programmes, including affirmative or positive measures, to promote the access of individuals and groups of individuals who are or may be victims of racial discrimination to basic social services, including primary education, basic health care and adequate housing.

248. The articles concern the importance of obtaining statistics on victims and groups subject to particular discrimination. In this connection, the Venezuelan State has already taken a series of measures to follow up this topic, as described below.

Fourteenth Population and Housing Census 2011²⁰⁴

249. Conscious of the lack of statistical data on the Afro-descendant population, the Venezuelan State arranged through the National Institute of Statistics to include a question identifying Afro-descendants in the register, with the aim of obtaining accurate figures on this population group.

²⁰⁴ The 2011 Census is designed to provide the Venezuelan State with updated information on the size of the population, its socio-economic and demographic characteristics, its spatial distribution and the number and nature of its dwellings. The information obtained will enable all concerned nationally, down to communal level, to have at their disposal quality statistical information that will assist in measuring structural changes and constructing future scenarios for highly socially sensitive groups with specific priority needs with regard to the design of public policies. Official page: <http://www.ine.gob.ve/CENSO2011/index.htm>.

250. The inclusion of a question on ethno-racial origin made it possible to obtain a geographically disaggregated sampling frame highlighting the Afro-descendant population and to carry out studies and implement public policies in that regard. Various pilot studies were undertaken to test the effectiveness of the question and answers, while at the same time sensitizing the general public, including Afro-descendants who after so many years of exclusion tend to be ashamed of their status and might not wish to identify themselves. The contribution of previous work by government bodies in expediting the census process should be noted.

251. The Presidential Commission for the Prevention and Elimination of All Forms of Racial Discrimination and Other Distinctions in the Education System, established in 2005, comprises various State institutions and members of Afro-Venezuelan organizations, including: the Ministry of People's Power for Education, which serves as President of the Commission; the Ministry of People's Power for Culture; the Ministry of People's Power for Communication and Information; the Ombudsman's Office; the Vice-Ministry of African Affairs attached to the Ministry of People's Power for Foreign Affairs; the Autonomous Institute of the National Council for Children's and Adolescents' Rights,²⁰⁵ the Public Prosecution Service; the National Institute for Women and the Subcommission on Legislation, Participation, Duties and Rights of Afro-descendants.²⁰⁶

252. The first Latin American Workshop on Census Experiences and Afro-descendant Studies, organized by the Ministry of People's Power for Culture in June 2007, was centred on identifying methodological and impact-related questions concerning the preparation of studies on Afro-descendant populations in other countries with similar sociocultural backgrounds to those of Venezuela so that the experiences could contribute to comparable operations in Venezuela. In joint meetings, the above-mentioned institutions analysed the methodology for formulating the question to be included in the 2011 Population Census, including issues relating to definition of the question, experimental testing, definition of the plan of action, and the participation and sensitizing of the organizations involved.

253. Technical meetings were held on the operational definition of the concept of Afro-descendant. The main focus of these meetings was: to construct indicators enabling the target population to be identified without recourse to qualifiers explicitly and/or implicitly suggestive of racial discrimination; to help ensure that questions were worded so that interviewees would recognize themselves as Afro-descendants; and to determine the scope and coverage necessary for the gathering of information. The participants included representatives of relevant public bodies and independent experts from the country's main universities.

254. In October 2007, the Subcommittee on Afro-descendants was set up with the participation of a multidisciplinary, inter-institutional team that set out to study this population group with the following aims in mind.²⁰⁷

- (a) To arrive at an agreed definition of self-recognition by Afro-descendants;
- (b) To include this population category in censuses, enquiries and studies carried out by the National Institute of Statistics and other bodies forming part of the national statistical system;
- (c) To promote coordination and cooperation between public and private producers or users of the official statistics to be compiled on the Afro-descendant/Afro-Venezuelan population;

²⁰⁵ Autonomous Institute of the National Council for Children's and Adolescents' Rights,

²⁰⁶ "Mid-term review" (note 12 above).

²⁰⁷ Ibid.

(d) To identify the need for information, updating, integration, harmonization and standardization with regard to the statistics generated in each of the bodies producing statistics on this population group.

255. A pilot study was carried out to determine the capacity of this population group for self-recognition, on the basis of various questions included in a specially designed questionnaire whose qualitative results were refined by the National Institute of Statistics, with a view to identifying the Afro-descendant population on the basis of the 2011 Population and Housing Census.

256. The Subcommittee set out to establish inter-institutional contacts and relations with regard to the topic, which proved very important for the preparation of data to serve as an input for the Census. Support was also forthcoming from the Afro-descendant Communities Liaison Office attached to the Ministry of People's Power for Culture, which organized the first Latin American meeting on census experiences and Afro-descendant studies

257. The Network of Afro-Venezuelan Organizations and the Afro-descendant communities furthered and contributed to the above process, ensuring respect for the Constitution, by promoting important events on the topic, in particular fairs, workshops, meetings, talks, information programmes and the creation of organizations and networks, which provided support for the population census process. The Network of Afro-Venezuelan Organizations and the Subcommittee on Legislation, Participation, Duties and Rights Relating to Persons of African Origin (Standing Committee on Indigenous Peoples of the National Assembly) conducted a series of public consultations in 17 States of the country, in which 94.44 per cent of those consulted said they agreed on the need to legislate concerning racial discrimination. The consultation was also extended to include the Government, the judiciary, the electoral authority, the citizen's branch of government (*poder ciudadano*) and the legislature by way of the Standing Committees, the Indigenous Parliament of America, the Latin American Parliament and all the State legislative councils for the purpose of drafting the Racial Discrimination Act, promulgated on 19 December 2011.²⁰⁸

B. Follow-up to paragraph 15 of the concluding observations

258. The Venezuelan State through the Identification, Migration and Alien Affairs Service is pursuing the national plan of issuing identity cards to all the country's indigenous communities through mobile facilities established jointly with the Venezuelan Air Force and with Ministries and the offices of governors and mayors concerned with indigenous affairs. In this way, the mission of highlighting the indigenous population will be achieved and with institutional support it will be possible to reach the most remote and inaccessible towns and communities.²⁰⁹

259. From 2004 to 2010, the Venezuelan State through the Identification, Migration and Alien Affairs Service successfully issued identity cards to a total of 335,105 indigenous persons nationwide, including 160,764 women and 174,381 men.

260. Another significant measure was the Service's creation of the Identity Route for original peoples, with important consequences for this population's exercise of the right to identity. The identity document will enable indigenous persons to retain their name in their

²⁰⁸ Official Gazette No. 39,823 of 19 December 2011.

²⁰⁹ Press release of the Ministry of People's Power for Communication and Information: "National Plan to issue identity cards to the indigenous population begins this month", 1 February 2007. http://minci2.minci.gob.ve/noticias/misiones/1/12011/comienzo_este_mes.html.

language and to use the clothes and accessories typical of their customs and cultures at the ceremony where their document is issued. With the help of highly specialized technology and trained personnel, the main aim of registering the ethnic groups in such a way as to give them a sense of belonging to a more participative society while guaranteeing the human right to identification has been successfully achieved.

Partial Regulations of the Act on the Identification of Indigenous Persons²¹⁰

261. Analysis of this aspect of the identification of the indigenous population calls for examination of the above-mentioned regulations, one of whose basic provisions is that indigenous persons have the right to identification simply by presenting some means of certifying their birth, issued by a competent body. In keeping with their ancestral and traditional customs, which must be respected, they are in this way assisted in the right to maintain their ethnic and cultural identity and their individual and collective self-identification by the indigenous people or community to which they belong, understood to represent the consciousness of a person or group. The right of entering one's name in the civil register and obtaining public documents attesting to one's ethnic identity in accordance with the law is also acquired by the indigenous population through this legal provision.

262. The law stipulates that all citizens and the authorities should show due respect for the indigenous person's right of self-identification and establishes the principles that officials should observe in implementing the procedures for issuing identity documents, which must be free of charge, transparent, equitable, rapid, socially responsible, public, non-discriminatory, efficient and timely.

263. Children's right to identity is also covered in these Regulations, which prescribe that their parents or guardians must enter them in the civil register of the municipality to which they belong. For the purposes of registration they must display their birth certificate issued by the person in charge of the public body corresponding to the place of their birth. The procedure to be followed is that prescribed in article 19 of the Child Protection Act, which refers specifically to the topic in question.

264. The Venezuelan State has facilitated the task of indigenous persons in obtaining an identity document by prescribing that the Ministry of People's Power for the Interior and Justice shall establish a special office for indigenous identification, responsible for paying particularly close attention to indigenous persons requiring identification, and also for drawing up special operational plans for issuing identity documents in indigenous towns and communities.

265. Article 7 of the Regulations establishes that when entering indigenous children and adolescents in the civil register, in accordance with the law, the authorities "should respect the indigenous names, surnames and place names and should in no case modify, alter or change them"; and that where a mistake is made in transcribing the names or where any alteration is made in the entry, the same official who drew up the original entry should make the correction immediately in accordance with the statement of the indigenous mother, father or representative.

266. The identity document issued to indigenous persons should be large enough to accommodate all the necessary information.

²¹⁰ Official Gazette No. 37817 of 13 November 2003. This paragraph will examine various articles of this Act and will be the source of information.

267. As in the case of all Venezuelans, the identity card of indigenous persons, which is issued of free of charge, constitutes the bearer's essential identity document "for all civil procedures and exercise of the rights conferred upon him or her as a Venezuelan citizen".

C. Follow-up to article 16 of the concluding observations

268. Our Constitution provides for the right to equality and non-discrimination. This provision involves the prohibition of racial discrimination and the duty of the State to adopt the necessary positive measures in favour of vulnerable persons or groups, traditionally termed positive discrimination. In the same way, discrimination is expressly prohibited in legislation adopted since 1999, including in the labour, trades union and education fields.

269. Acts of racial discrimination, it may be noted, do not constitute an offence under our Criminal Code. However, article 1 of the recently promulgated Racial Discrimination Act establishes mechanisms designed to prevent, address, eliminate, eradicate and penalize racial discrimination, regarded as a punishable offence, so that all persons can enjoy and exercise their human rights in accordance with domestic legislation and the relevant international treaties, conventions and agreements

270. The Racial Discrimination Act contains positive measures, deriving from the Constitution, to protect and promote equality without discrimination of any kind by recognizing the cultural and intercultural diversity constituting Venezuelan society. The Government is responsible, through the Ministry of People's Power for the Interior and Justice for framing the policies to promote, foster and defend human rights and for coordinating with all relevant bodies the State's strategies to prevent, eliminate and eradicate all manifestations of racial discrimination. (Part III, Chapter I, art. 24).

271. Articles 37 and 38 of Part IV, Chapter 1, of the Racial Discrimination Act (Offence of Racial Discrimination) set out the constitutional principles relating to human rights, especially the provisions of article 21 of the Constitution which expressly forbid discrimination and enjoin the legislator to review current legislation, which does not classify this act as an offence, creating a large gap in the criminal law; and, on the basis of article 3 of the Constitution, to make provision for strengthening education and training designed to prevent, eliminate and eradicate discriminatory acts and punish those responsible, complying in this way with the principles of legality and equality by classifying racial discrimination as an offence and confirming equality before the law. Provision is also made for a series of hypothetical acts incurring the same penalty yet different in involving aggravating circumstances or a combination of offences, establishing the victim's right to lodge claims in the case of damage or prejudice.

272. Given the recent promulgation of the legal instrument concerned (19 December 2011), no disaggregated statistical information is available on cases involving racial discrimination and on the penalties imposed. The statistics will be compiled by the National Institute against Racial Discrimination, which is currently in the process of organization.

D. Follow-up to paragraph 17 of the concluding observations

273. The Bolivarian Republic of Venezuelan has developed a comprehensive public policy in the indigenous communities in areas such as health, education, economic development, habitat, land demarcation and cultural identity. In general terms, the efforts may be said to include: creating mechanisms to promote multilingual training and instruction; establishing ethical standards based on respect, care and social equality in the conduct of scientific, health-related, medical, social, economic and environmental research and practices in indigenous lands and communities; promoting the effective right of

indigenous people's power to be consulted on matters potentially affecting the groups concerned; ensuring the provision of food, education, school equipment and the wherewithal for proper educational development, together with the construction of decent housing and schools,

274. Regarding the economic and social disparities affecting indigenous peoples, who were effectively sidelined for a long time, these disparities have been reduced through a series of laws favouring this population group, laws aimed at the population as a whole but which had a direct impact on the most excluded populations, thereby giving effect to the provisions of the Constitution.

275. One of the most significant advances by the Venezuelan State in the promotion and protection of human rights has been the adjustment of its legal frameworks to comply with international standards. This is evident from the constitutional rank accorded to human rights treaties, agreements and conventions signed and ratified by the Venezuelan State (art. 23). The Constitution grants recognition to the indigenous peoples and communities by restoring to them their ancestral rights and integrating them in the production apparatus of Venezuelan society.

276. Since 1999, the Venezuelan State has promulgated and reformed a series of legal instruments designed to protect vulnerable groups or regulate special protection measures for the improved development of a society in constant change. In the education and social sphere in particular, a series of key measures have been taken that demonstrate the commitment of the Venezuelan State in support of the different indigenous peoples and their representative bodies.

277. The Guacaipuro Mission, relaunched in 2007, is boosted by the Indigenous Peoples and Communities Act, which provides for recognition of the lands traditionally inhabited by the indigenous populations as well as the rights to use of those lands. It also provides for the consultation of the indigenous peoples and communities when plans and projects concerning those lands are drawn up. The creation of indigenous municipalities and the recognition of traditional medicine and intellectual property rights are another novel aspect of this Act as well as the right to political participation, the use of indigenous languages and collective property ownership.

278. This Mission has involved the broad participation of the social missions and the communal councils; the bodies collaborating include the Ministries of People's Power for Food, Health, Education, Agriculture and Land, Communes and Social Protection, Petroleum and Mining, Housing and the Environment, and Defence. The objectives of the Guacaipuro Mission include the coordination and implementation with other organizations of programmes and policies in support of the indigenous population; it has also furthered the preservation of languages with the support of the Culture Mission, the construction of Bolivarian schools by the Ministry of Education and the creation of a telematics centre in association with the Ministry of Science and Technology.

279. The rights of indigenous craftsmen are also recognized and protected under the Indigenous Craftsmen Act.²¹¹ The Indigenous Handicrafts Fair was held in Caracas²¹² on Mother's Day from 10 May to 4 June 2010, with the participation of the Jivi, Curripaco, Wayuu, Piaroa and Yanomami peoples. A national handicrafts register has been compiled with a view to establishing a database; the register is being administered by the Cultural Heritage Institute.²¹³

²¹¹ Published in Official Gazette No. 5929 of 15 August 2009.

²¹² Report of the Ministry of People's Power for Indigenous Peoples, 2010, p. 229.

²¹³ Report of the Ministry of People's Power for Indigenous Peoples, 2010, p. 113.

1. Health

280. The main political foundations on which the management of health care rests derive essentially from articles 21, 83, 84 and 86 of the Constitution, which contain guidelines excluding all forms of discrimination and affirming the equality of all in the enjoyment or exercise of their rights and freedoms; it recognizes health care as a fundamental social right, which the State must guarantee as part of the right to life and for which it must create and administer a national public health service. It is also stipulated that everyone has the right to social security as a public non-profit-making service.²¹⁴

281. The main aims of the Indigenous Health Directorate forming part of the Ministry of People's Power for Public Health include working for the rights of the indigenous peoples and communities in accordance with constitutional guidelines and with the Indigenous Peoples and Communities Act. The Directorate's activities have served to ensure the right to health care of the 40 indigenous peoples living in the country.²¹⁵ This right has been reinforced with the training of indigenous community doctors under the Cuba-Venezuela Agreement. Grants have been awarded to indigenous students for undergraduate and postgraduate studies at the Latin American School of Medicine in Havana, which has already produced more than 21 graduates from the Wayuu, Pemón, Kariña and Barí, Warao, Añu, Yekwuana and Yeral ethnic groups, who subsequently return to their communities to provide a highly important service. Since 2007, a total of 1,583 indigenous community workers in primary health care, 310 indigenous health advocates, 48 vaccination personnel and 95 cultural paramedics have joined the national health system.²¹⁶

282. The Inter-ministerial Delta Plan is designed to respond in a comprehensive manner to the health needs of the indigenous population of the Delta Amacuro. Six projects are being carried out under this Plan for providing comprehensive health care to the Warao population, ensuring its inclusion and overcoming geographical, economic, social, ethnic, cultural and linguistic barriers. The projects include the construction of an intercultural accommodation and care facility for Warao patients and their families, together with a medical dispensary; an intercultural nutritional recuperation unit; and 12 Warao traditional medicine centres in the Antonio Díaz municipality in Delta Amacuro State; and comprehensive indigenous community health centres, providing training for indigenous community health workers through applied courses. Steps have also been taken to rehabilitate the indigenous people's dispensaries in order to safeguard primary health-care infrastructures in Delta Amacuro State, and to implement indigenous care and guidance services.²¹⁷

283. The National Programme of Health Care for the Disabled, attached to the Ministry of People's Power for Public Health, is aimed at promoting shared community responsibility for the care and prevention of disability, providing new opportunities for the disabled and promoting their integration in society. It has rehabilitation facilities in the States of Amazonas Delta Amacuro, Apure, Bolívar, Monagas and Zulia, which are regions with a high-density indigenous population that benefit from this service offering cost-free and dignified treatment.

284. Since 2010, the José Gregorio Hernández Mission has assisted 7,154 indigenous persons through home visits providing consultations, medical diagnoses and the subsequent

²¹⁴ Official information supplied by the Ministry of People's Power for Public Health.

²¹⁵ "Mid-term review" (note 12 above), p. 39.

²¹⁶ A/HRC/WG.6/12/VEN/1 and Corr.1, p. 19.

²¹⁷ "Mid-term review" (note 12 above), p. 94.

provision of necessary equipment such as sticks, wheelchairs, clinical beds, walking frames, cushions, anti-bedsores mattresses, crutches, medical supplies and hearing aids.²¹⁸

285. The Ministry of People's Power for Public Health has installed special units in hospitals most suited to indigenous patients offering "personalized care, counselling, assessment and support for indigenous patients, through an efficient and culturally and linguistically adapted service staffed by multi-ethnic and multidisciplinary teams, including the key component of bilingual intercultural facilitators."²¹⁹ The service also promotes training and awareness activities for health teams as well as measures to foster interculturality such as the inclusion of 120 indigenous intercultural facilitators in the care and counselling service.²²⁰ The Indigenous Health Directorate currently has 32 such services located in 11 States, which over the period 2005–2010 have assisted 240,835 indigenous persons and implemented the following health plans.²²¹

286. The Yanomami Health Plan, set up in 2006, is aimed at a population located between Venezuela and Brazil. It has three main objectives:

(a) Consolidation of the existing health districts and health networks through the regularization of medical staff, provision of equipment, maintenance of infrastructures, supply of medicines and provision of medical residences;

(b) Expansion of the health system, using mobile health teams to cater for the *shabonos*;²²²

(c) Training of local health personnel consisting of young members of remote indigenous communities to serve as Yanomami Primary Healthcare Community Agents, Malarial Entomology Assistants and Microscopists, with the support of the National Armed Forces.

287. The vaccinations campaign being carried out in the indigenous communities by the Ministry of People's Power for Public Health involves the BCG, polio, haemophilia, three-in-one, hepatitis, tetanus, malaria, five-in-one, triple-bacterial and rotavirus vaccines; medical consultations; hospital treatment for various endemic pathologies; dental treatment; treatment of patients with malaria and parasitosis; and home visits under the antimalarial campaign to administer nebulizations for people and insecticide sprays in homes.²²³

288. In 2010, medical and vaccination campaigns achieved close to 97 per cent coverage, with over 44,000 indigenous patients being treated. To these must be added a number of cases brought from Harusi to Puerto Ayacucho with symptoms of malaria or onchocerciasis originating in the locality of Doshamoshatheri on the River Siapa, close to the border with Brazil. This is an area totally outside the health system, where Portuguese is spoken in addition to Yanomami but not Spanish.²²⁴ In 2008, seven type-II rural health posts were strengthened in the municipality of Alto Orinoco (La Esmeralda, Ocamo, Mavaca, Platanal, Parima, Koyowe and Mavaquita).

289. The Apure Health Plan was initiated in 2005 and by 2010 had treated 44,559 patients. To strengthen the primary health-care network, infrastructures have been rehabilitated and 21 dispensaries located in indigenous communities in Apure State have

²¹⁸ A/HRC/WG.6/12/VEN/1 and Corr.1, p. 19.

²¹⁹ Information provided by the Ministry of People's Power for Public Health.

²²⁰ "Mid-term review" (note 12 above), p. 94.

²²¹ Information provided by the Ministry of People's Power for Public Health.

²²² Circular communal dwellings constructed with palms

²²³ Report by the by the Ministry of People's Power for Public Health, 2010, p. 289.

²²⁴ "Mid-term review" (note 12 above), p. 28.

been acquired and equipped. Indigenous personnel have also been trained as primary health-care agents to form part of mobile health teams and tour the communities providing comprehensive care. In this way, it has been possible to make socio-culturally relevant visits to 57 indigenous communities, 41 of them in remote frontier areas.

290. The Cacique Nigale Health Plan is an initiative of the Ministry of People's Power for Public Health. In 2010, through the Indigenous Health Directorate and with the support of the Rómulo Gallegos National University of the Central Plains, 200 young people from 28 indigenous villages located in eight States (78 women and 122 men) were recruited to study medicine, on the understanding that they would return home on completion of their studies to give their communities the benefit of their professional services.

291. The plans to strengthen the Yanomami and Apure Health Plans are aimed at providing level-1 health-care training to members of the communities to serve as community medical agents.²²⁵ These programmes have been based on the introductory medical training course developed by the Latin American School of Medicine under the programme to develop and strengthen human capacities and skills in the area of intercultural health in indigenous communities.²²⁶

292. The supply of medicines and treatment to the Warao communities in the States of Amacuro and Monagas is provided by the Janoko Flotante,²²⁷ a river dispensary offering permanent medical care in its regular journeys down the Orinoco and along the channels of the Delta. It is run by the Guaicaipuro Mission, which together with the Cuban Medical Mission is responsible for providing direct assistance to the indigenous communities. In this way, it has benefited 89 Warao communities in the States of Delta Amacuro and part of Monagas, where a total of 36,002 persons were treated in 2010 in the specialities of general medicine and gynaecology (9,966), dentistry (4,970) ophthalmology (5,188), epidemiology (6,272) and bio-analysis (9,606).²²⁸ In 2009, eighty-two communities in Delta Amacuro State benefitted in similar fashion.²²⁹

293. The programme in support of the Warao Populations in the Orinoco Delta is managed by the Ministry of People's Power for Public Health and the International Fund for Agricultural Development (IFAD). It is aimed at promoting self-management to improve life in the communities and serves a population of 15,000 people from 260 indigenous communities belonging to this ethnic group in the municipality of Antonio Díaz.²³⁰

294. In deference to traditional indigenous custom, the National Public Health System has made adaptations to some hospitals by placing *chinchorros*²³¹ at the disposal of patients, as well as making certain changes to menus out of consideration for their eating habits.²³² Primary care traditionally provided by indigenous shamans, *piaches* and midwives within their own communities, such as treating muscular tensions, strains and sprains and attending childbirths, is now backed up by scientific medical treatment, received by patients in cases that are beyond the scope of traditional healers and have to be referred to health centres.²³³

²²⁵ Annual report of the Ombudsman's Office, 2010, p. 81.

²²⁶ Information provided by the Ministry of People's Power for Public Health.

²²⁷ Report of the Ministry of People's Power for Indigenous Peoples, 2010, pp. 63 and 64.

²²⁸ Information supplied by the Ministry of People's Power for Indigenous Peoples.

²²⁹ Report of the Ministry of People's Power for Indigenous Peoples, 2009, pp. 37 and 38.

²³⁰ Information supplied by the Ministry of People's Power for Public Health.

²³¹ Variety of indigenous hammock.

²³² Report of the Ministry of People's Power for Indigenous Peoples, 2009, p. 61.

²³³ Ibid.

295. Based on the Simón Bolívar satellite, the Telemedicine Project is designed to provide health care in remote communities and is run by the Ministry of People's Power for Public Health and the Ministry of People's Power for Science and Technology. Seventeen satellite antennas have been installed in an equal number of mobile facilities located in the States of Delta Amacuro, Bolívar and Amazonas where the population is predominantly indigenous.²³⁴

296. The *Barrio Adentro* mission organized 241 Comprehensive Medical Assistance Days, providing care to 166,500 individuals in 737 communities, delivering a total of 129,217 units of medicines for treating various ailments and benefiting 34 indigenous peoples.²³⁵ Under this Mission, the Ministry of People's Power for Public Health has recruited 403 indigenous persons nationally to serve as health advocates through promotion and prevention activities.²³⁶

297. The *Barrio Adentro IV* mission set up in 2006 is concerned with the creation of specialized health centres such as the "Dr. Gilberto Rodríguez Ochoa" Latin American Children's Heart Hospital,²³⁷ which treats indigenous children with symptoms of heart disease in the 18 regional cardiovascular centres that make up the national child cardiology network.²³⁸

298. The Autonomous Pharmaceutical Processing Service's Programme for the Distribution of Medicines to Indigenous Communities benefited indigenous communities in the municipalities of Rómulo Gallegos and Achaguas, twenty-two of which continue to receive their medicines periodically free of charge.²³⁹

299. The "Rosario Vera Zurita" Hospital in Santa Elena de Uairén²⁴⁰ in Bolívar State was modernized and provides high-quality health services to municipalities in the southern part of Bolívar where 36,000 indigenous people live and, especially, to the communities situated on the border with Brazil. The hospital was equipped with 54 medical beds for adults and five paediatric beds as well as high-technology equipment for the provision of radiology, pathology, gyno-obstetrics, paediatrics, traumatology and internal medicine services.

2. Education

300. The Constitution, representing the supreme authority, provides from the outset in its Preamble for the protection of vulnerable groups, including the indigenous population, which enjoy the protection of their fundamental rights and the guarantee of honourable, dignified and equal social treatment with regard to the active pursuit of policies for their comprehensive human development.

301. In this regard, the Education Act²⁴¹ provides for the recognition in law of bilingual intercultural education for indigenous peoples, together with the reinforcement and revitalization of indigenous languages and cultures, through an education based on the guiding principle of interculturality operational at all levels and in all sectors of the Venezuelan education system, presupposing the inclusion of all indigenous and Afro-Venezuelan peoples without prejudice to their specific characteristics.

²³⁴ www.asambleanacional.gov.ve.

²³⁵ Report of the Ministry of People's Power for Indigenous Peoples, 2010, p. 63.

²³⁶ Information supplied by the Ministry of People's Power for Public Health.

²³⁷ Report of the Ministry of People's Power for Public Health, p. 289

²³⁸ Report of the Ministry of People's Power for Public Health, p. 200.

²³⁹ "Mid-term review" (note 12 above), p. 27.

²⁴⁰ Ministry of People's Power for Communication and Information. <http://minci.gob.ve>.

²⁴¹ Official Gazette No. 5929 of 15 August 2009.

302. In 2009, the plenary meeting of the National Assembly unanimously approved the celebration of the International Day of Indigenous Peoples on 9 August annually. It agreed to promote and support public policies reaffirming the original, historic and specific rights of indigenous peoples and communities in accordance with the provisions of the Constitution.²⁴²

303. On 28 October 2005, Venezuela was declared an “illiteracy-free territory” by UNESCO, some one and a half million people having been taught to read and write, thereby reducing the illiteracy rate to less than 1 per cent. The number of newly literate people has currently risen to 1,706,145 nationwide.²⁴³

304. Special mention should be made of the *Robinson* mission, which as of 2010 had taught 68,495 people from the following ethnic groups to read and write: Kari’ Ña, Wuayuu, Piaroa, Yanomami, Warao, Piapoco, Warekena, Barí, Arawako, Pemón, Maquiritare, Yukpa, Pumé, Yekuana and Jivi, including 55 per cent women and 45 per cent men. In addition, educational materials forming part of the “Yo sí Puedo” method were translated into the Jivi, Ye’kwana, Kariña and Warao languages. A total of 32,880 indigenous persons are currently participating in the *Robinson I* mission.²⁴⁴

305. In the school year 2009/10, 656 schools were registered in the geographical area of the indigenous peoples, offering preschool, primary and lower-secondary education. They were located in the States of Anzoátegui, Apure, Bolívar, Delta Amacuro, Mérida, Monagas, Sucre and Zulia, and the number of indigenous pupils enrolled that year totalled 68,520.²⁴⁵ Outside the indigenous geographical area, the enrolment figure nationally was 42,331, the pupils being taught in 604 classrooms nationwide. The total indigenous student population within the basic education subsystem currently stands at 110,851.²⁴⁶

306. Through the regional councils on indigenous education, cultures and languages, the Ministry of People’s Power for Education has translated educational and legislative texts into the different indigenous languages in accordance with the constitutional mandate concerning bilingual intercultural education. Printed and audio-visual materials corresponding to the first and second stages of basic education have been distributed in their own languages among the Barí, Pumé, Kari’ Ña, Chaima, Kurripaco, Baniva, Warekena, Baré, Warao, Pemón, Jivi and Wayuu ethnic groups. The Constitution of the Bolivarian Republic of Venezuela has also been translated into these same languages, as well as into the Wayuunaiki language spoken in the State of Zulia, in cooperation with the United Nations Development Programme (UNDP).²⁴⁷ The Indigenous Languages Act²⁴⁸ was also promulgated with the aim of preserving the linguistic cultural heritage through the implementation of language policies by the State.

307. In a coordinated effort to ensure access to education by the Venezuelan people, the Ministry of People’s Power for Science and Technology promoted the creation of the National Programme for Technological Literacy, aimed at the democratization and appropriation of knowledge through the training of the population in the use and handling of information technologies within a free software environment. Between 2006 and 2010,

²⁴² “Mid-term review” (note 12 above), p. 38.

²⁴³ “Venezuela: the world’s largest classroom” (note 83 above), p. 3.

²⁴⁴ *Ibid.*, p. 19.

²⁴⁵ *Ibid.*, p. 24.

²⁴⁶ *Ibid.*, p. 24.

²⁴⁷ *Ibid.*, p. 24.

²⁴⁸ “Mid-term review” (note 12 above), p. 19.

the number of newly literate indigenous persons benefiting from the National Programme for Technological Literacy totalled 7623.²⁴⁹

308. In addition, through the Venezuelan National Network of Indigenous Community Spokespersons, indigenous specialists developed free software²⁵⁰ to generate their own designs in the languages of the indigenous peoples. The development of this software continues to promote and strengthen the social, cultural and geographical context in which the different indigenous peoples live, enabling information to be generated nationally and the different events related to their lives, experiences and needs to become generally known. Other activities include promotion of the creation of newspapers, a news agency and Internet and television portals.

309. The educational missions have strengthened educational provision for the indigenous population and their results are apparent in the progress made by this population in recent years. The *Robinson III* mission, created in September 2006, promotes study and work circles that reinforce and update knowledge on political, economic, social and cultural topics and stimulate participation in productive activities, involvement in work and the spread of reading.²⁵¹ The indigenous population already at the level of basic primary education also takes part in these study and work circles to consolidate the experience and knowledge already acquired. The *Ribas* mission has extended the scope of its activities through the *Ribas Productiva* mission, offering training programmes that include the Socialist Production Brigades and the *Ribas Técnica* mission.

310. The *Sucre* mission has furthered the creation of university-level training programmes in municipalities with an indigenous population in the Bolivarian Republic of Venezuela. As part of the process of strengthening the *Sucre* mission nationwide (at least one university village in each of the Republic's 335 municipalities), the aim is the full municipalization of university education. Degree-level training programmes have been made available in States and municipalities, and there is a large enrolment by the indigenous population.

311. In 2010, a total of 10,047 indigenous students were enrolled in the *Sucre* mission.²⁵² In addition, under the 24 programmes implemented in villages located in the municipalities with large numbers of indigenous communities, 62 bilingual intercultural schools have been created nationally. At the same time, a series of activities has been undertaken to implement and develop bilingual intercultural education for the indigenous populations,²⁵³ and its coverage has been broadened to include indigenous schools in the States of Apure, Amazonas, Anzoátegui, Bolívar, Delta Amacuro, Sucre, Monagas, Mérida, Trujillo and Zulia.

312. In keeping with the priorities of the indigenous peoples and movements and the Department of Indigenous Education, extension of the bilingual intercultural education programme administered by the Libertador Experimental Teacher-Training University has guided the approach of the Ministry of People's Power for Education to the training of indigenous teachers, employing a pyramid methodology extending from coordinators down to the classroom teacher.

313. Notable features include: the promotion of participation by the indigenous peoples in discussions on the curriculum, including the collective framing of the national curriculum at

²⁴⁹ Information supplied by the Ministry of People's Power for Science and Technology.

²⁵⁰ "Mid-term review" (note 12 above), p. 77.

²⁵¹ See www.misionrobinson.me.gob.ve.

²⁵² "Venezuela: the world's largest classroom" (note 83 above) p. 27.

²⁵³ "Mid-term review" (note 12 above), p. 21.

grassroots level; preparation of the educational blueprint by indigenous peoples; the organization of training workshops on interculturality, indigenous education and bilingual intercultural education for classroom teachers, school heads, supervisors, coordinators and indigenous leaders at national and regional level; and workshops involving technical consultations with indigenous teachers, researchers in linguistics and specialists in indigenous languages to identify an approach to adequate planning of the subject.

314. Noteworthy also are: the establishment of the National Commission on Indigenous Linguistics and the Advisory Council on Indigenous and Bilingual Intercultural Education attached to the Department of Indigenous Education; participation of the Department of Indigenous Education in the Bolivarian Educational Congresses organized in various parts of the country on the topics of self-education, bilingual intercultural education and the intercultural approach of the Venezuelan education system; and the holding of the National Higher Education Meeting of the Indigenous Peoples of Venezuela at the University of Zulia (with the participation of UNESCO, the National Indian Council of Venezuela, and the Association of Indigenous Students of the University of Zulia) on the topic of “Interculturality: experience and training strategies for approaching and promoting the university education of indigenous peoples”.

315. The Ministry of People’s Power for University Education²⁵⁴ is implementing a programme on the inclusion of the indigenous population in university education, with particular reference to policies on student intake into the national system of university education,²⁵⁵ with the aim of prioritizing historically excluded groups (the impoverished, the disabled and the indigenous population). The Alma Mater Mission²⁵⁶ is central to the policy of universalizing university education, promoted by the Ministry of People’s Power for University Education under the National Economic and Social Development Plans for 2001–2007 and the National “Simón Bolívar” Project’s First Socialist Plan 2007–2013. Its aim is to bring about the transformation of university education, to promote its coordination institutionally and nationally, to consolidate people’s power and to build a mutually supportive, participatory and socially just society as well as guarantee the right of all, without distinction of class or social status, to high- quality university education.

316. This Mission provides for the creation of *universidades territoriales*, specialized universities and the conversion of university institutes of technology and university colleges into experimental polytechnic universities, with the participation of the Ministry of People’s Power for University Education and the Ministry of People’s Power for Infrastructure. A notable achievement of the Alma Mater Mission is the establishment of the University of the Indigenous Peoples, located in the town of Picatonal in Puerto Ayacucho, in the State of Amazonas, where joint work with the communities has secured the participation of the indigenous peoples not only in the construction of the university but also in the design of their own curricula, the aim being to make a positive impact so that the indigenous communities do not sacrifice their identity or their basic values.²⁵⁷ Another achievement is the establishment of the “Argelia Laya” Experimental Polytechnic University, whose aims include promoting the ethnic and racial vision of the Afro-

²⁵⁴ Ministry of People’s Power for Higher Education changes its title to Ministry of People’s Power for University Educations, Official Gazette No. 39394, Decree No. 7333 of 25 March 2010.

²⁵⁵ “The Bolivarian Revolution in Higher Education: 10 Years of Achievement”. Information updated to June 2009. Compiled by the Office of Prospective Statistics and Analysis, p. 23.

²⁵⁶ Established by Decree No. 6650 of 24 March 2009. Official Gazette No. 39148 of 27 March 2009.

²⁵⁷ “Mid-term review” (note 12 above), p. 24.

descendant population,²⁵⁸ as well as the university villages of the Gran Sabana and of Santa Elena de Guairén in Bolívar State.²⁵⁹

317. The Higher Education For All Programme is being developed by the Ministry of People's Power for University Education through the Directorate of Student Performance with the aim of ensuring access to university education for the disabled, indigenous people and detainees. It is supported by the Bolivarian University of Venezuela, the "Simón Rodríguez" National Experimental University, the "Ezequiel Zamora" University of the Western Plains, the Oriente University, the "Francisco de Miranda" University, the Libertador Experimental Teacher-Training University, the National Experimental Polytechnic University of the National Armed Forces and the Ezequiel Zamora University.²⁶⁰

318. The Venezuelan State is thus moving towards the mass enrolment of school-leavers in university education, as evidenced in 2010 by the admission of 128,308 candidates, including 2,072 indigenous students, through the unified national university entrance system.²⁶¹ Venezuela's achievements in university education include recognition by UNESCO, which ranks Venezuela fifth among the countries with the highest gross rates of university enrolment, namely 85 per cent, and the second highest in Latin America and the Caribbean.

319. The *Gran Mariscal de Ayacucho* Foundation awards study grants and gives priority to the inclusion of students of indigenous origin, who had been excluded ever since its foundation in 1965. Selection takes place through a system that takes account of socio-economic factors.

3. Culture

320. The National Assembly through the Standing Committee on Indigenous Peoples adopted the Act on the Cultural Heritage of the Indigenous Peoples and Communities,²⁶² article 7 of which provides that the forms of registration of intellectual property are not applicable to property forming part of the collective cultural heritage of the indigenous peoples and communities, such as the conventions, practices, customs, traditions, expressions, traditional knowledge, technologies, innovations and knowledge associated with genetic resources and biodiversity and other traditional knowledge forming part of the collective cultural heritage of the indigenous peoples and communities.

321. The Act safeguards the legal right of indigenous peoples and communities to maintain their living environment as it relates to their practices, their conventions and customs, their cultural, artistic, spiritual, technological and scientific heritage, their knowledge of animal and plant life, their designs, their traditional procedures and, in particular, all their traditional knowledge. A set of laws upholds the provisions of the Constitution in this regard and embodies practical measures that include those described below.

322. The Act adopting the Convention on the Protection and Promotion of the Diversity of Cultural Expressions,²⁶³ the Land Demarcation Act,²⁶⁴ which provides for sites forming

²⁵⁸ Information provided by the Presidential Commission for the Prevention and Elimination of All Forms of Racial Discrimination and Other Distinctions in the Venezuelan Education System.

²⁵⁹ *Idem*.

²⁶⁰ "The Bolivarian Revolution in Higher Education", op. cit. (note 255 above).

²⁶¹ "Venezuela: the largest classroom in the world" (note 83 above), p. 25.

²⁶² Official Gazette No. 39115 of 6 February 2009.

²⁶³ Official Gazette No. 38598 of 5 January 2007.

part of the historical, cultural and archaeological heritage to be declared areas subject to a special system of administration, enabling areas forming part of the indigenous cultural heritage to be protected; and the Act adopting the Cartagena Biosafety Protocol to the Convention on Biodiversity.²⁶⁵

323. The Act partially amending the Decree on the Science, Technology and Innovation Act,²⁶⁶ article 9 of which provides that the Ministry of People's Power for Science and Technology will support the relevant bodies in safeguarding the collective intellectual property rights attaching to the traditional knowledge, technologies and innovations of the indigenous peoples and communities through the Autonomous Intellectual Property Service and the Decree on Tourism with the Authority of Law,²⁶⁷ article 9 of which includes among its powers: "Participating with the competent authorities in protecting and preserving the archaeological remains, glyphs and petroglyphs, protected areas, indigenous peoples and communities and other sites regarded as areas of tourist potential and environmentally, culturally and socially vulnerable, in keeping with the prescribed tourist policies".

324. Other specific measures in the cultural sphere have included: the promotion and dissemination of the different cultural and historical manifestations of the indigenous peoples of Venezuelan through the distribution of 35 documentaries in the series "Somos de los Pueblos", concerning the Akawayo, Amorua, Añú, Arawako, Baniva, Baré, Barí, Chaima, Kuiva, Cumanagoto, Jivi, Japréria, Kari'ña, Kurripaco, Mako, Mapoyo, Ñengatú, Panare, Pemón, Piapoco, Piaroa, Puinave, Pumé, Sáliva, Sanemá, Sapé, Shirian, Timotes, Warao, Warekena, Wayuu, Yanomami, Yabarana, Yekuana and Yukpa peoples.²⁶⁸

325. Informative books have been produced on the history of each indigenous people, which include the reproduction of data already published in anthropological and historical texts, archive documentary materials and the oral memory of the ancients in each group. To date six books have been produced, on the Wayuu, Warao, Pemón, Kari' Ña and Barí peoples and on indigenous clothing.²⁶⁹

326. An information system on the cultures of the indigenous peoples of Venezuela has been established with the aim of generating and spreading knowledge on the cultural life of the indigenous people of Venezuela and supporting the formulation of policies and strategies that have to date benefited 43,223 persons.²⁷⁰

327. An International Day on Cultural Diversity and Rights in the Socialism of the 21st Century has been celebrated in the State of Mérida in the presence of international guests from Colombia, Bolivia, Mexico, Guatemala and Ecuador and with the participation of indigenous representatives from various parts of the country. The Venezuelan State has implemented book and cinema policies to ensure full enjoyment by the indigenous peoples of their human rights in the cultural field. Through its institutions and other bodies, it is providing opportunities for growth and development in the following ways.

328. The year 2007 saw the reactivation of the National Library's Indigenous Studies Department, which possesses a bibliography on indigenous topics and public library services whose programmes for indigenous communities includes mobile library services such as the *Bibliongo* and the *Bibliofalcas* – river boats that visit the most remote parts of

²⁶⁴ Official Gazette No. 3238 of 11 August 1983.

²⁶⁵ Official Gazette No. 37355 of 2 January 2002.

²⁶⁶ Official Gazette No. 37291 of 25 September 2001.

²⁶⁷ Decree No. 5999, Official Gazette No. 5.889, Extraordinary, of 27 August 2009.

²⁶⁸ Questionnaire on the rights of peoples, ICHR, 2009, p. 41.

²⁶⁹ Ministry of People's Power for Foreign Affairs: Questionnaire on the rights of peoples, ICHR.

²⁷⁰ *Idem*.

the State of Amazonas and benefit the Piaroa, Jivi, Baniva and Curripaco peoples. The service is based in Puerto Samariapo or Puerto Venado, and its field of operation is the banks of the rivers Orinoco, Sipapo, Ocamo, Atabapo, Casiquiare, Manapiare and Río Negro, close to the frontier with Brazil and Colombia.

329. The Fundación Editorial “El Perro y la Rana” has published 12 titles on indigenous topics as part of the collection of indigenous literature entitled “Taima-Taima”,²⁷¹ while the National Cinema Foundation, attached to the Ministry of People’s Power for Culture, has established community cinemas in States with an indigenous majority or with an indigenous community presence and possesses audio-visual equipment for mobile projections since indigenous and rural communities do not have the necessary infrastructure for establishing permanent cinema facilities.

330. The Culture Mission is a foundation attached to the Ministry of People’s Power for Culture and promotes a degree in education that has produced 39,560 cultural activators of whom 753 are indigenous persons. It has 11 facilitators or educators, also indigenous, who speak the native languages. The curriculum has at its core activities and topics of special interest to indigenous people, such as Indigenous Peoples of Venezuela, History of the Indigenous Cultures of Venezuela and Latin America, Indigenous Peoples and Their Cultural Traditions, and the Citizen Power of the Indigenous Peoples.²⁷²

331. With the aim of analysing and drawing attention to the topic of racial discrimination, the Venezuelan State has organized various encounters, meetings, roundtables, theatre shows, musical performances and programmes nationwide to highlight cultural expressions of African origin, with the support of the Venezuelan Network of Afro-descendants and the Network of Afro-Venezuelan Organizations. Since 2004, it has also organized the annual International Festival of Afro-American Traditions with the aim of strengthening the sense of identity and roots of the Afro-descendant peoples, and in 2007 it held the First Encounter of Directors of Culture of Afro-descendant Municipalities of Venezuela. It also organized the First Festival of African Cinema and the Three Continents Festival of the Asian, African and Latin American Documentary. With the aim of furthering a dialogue between academic and popular knowledge, the Comprehensive Traditional Dance Training Programme is implemented in collaboration with Afro-descendant communities in the States of Aragua, Mérida, Barinas and Falcón.²⁷³

4. Nutrition

332. Venezuela has been recognized by the FAO as the fifth country in the world to acknowledge in its legislation the right to nutrition. In this connection, measures are being taken, such as the promulgation in 2008 of the Decree with Force of Law on Food Security and Sovereignty,²⁷⁴ to guarantee the health and nutritional security of the population on the basis of a precise and appropriate blueprint and to ensure compliance with legislation on the subject by all food-processing chains.²⁷⁵

333. The petrol sabotage that took place in Venezuela between 2002 and 2003 caused the people to suffer from lack of food, which highlighted the country’s economic and social failings. This political situation led the Venezuelan State to take measures in 2003 to strengthen food security by establishing the Food Market System (MERCAL) and the Food

²⁷¹ “Mid-term review” (note 12 above), p. 43.

²⁷² Presidential Commission for the Prevention and Elimination of All Forms of Racial Discrimination and Other Distinctions in the Venezuelan Education System.

²⁷³ Information supplied by the Ombudsman’s Office.

²⁷⁴ Official Gazette No. 5889, Extraordinary, of 31 July 2008.

²⁷⁵ Fulfilling the Millennium Development Goals (note 73 above), p. 32.

Mission, aimed at marketing basic food products at a low cost while maintaining quality and ease of access so as to ensure the supply of food to the Venezuelan population, especially persons of limited means. This service has the backing of *Petróleos de Venezuela (PDVSA)* through the Venezuelan Food Production and Distribution Service (PDVAL) created in 2008, which underwrites the Food Sovereignty Plan nationally with the support of the Strategic Food Programme Foundation, MERCAL and the Agricultural Supply and Services Corporation.

334. In 2008, the Food Mission distributed food supplements in the form of 170,152 food packages to families belonging to 33 indigenous peoples comprising 404,951 individuals in the States of Amazonas, Apure, Bolívar, Zulia, Delta Amacuro, Sucre, Monagas as well as in urban areas,²⁷⁶ and in 2009, the Ministry of People's Power for Indigenous Peoples and the Strategic Food Programme Foundation distributed 199,809 food packages to 2,093 highly vulnerable and inaccessible indigenous communities, including 102,337 families and 511,687 individuals.²⁷⁷ Through its national policies on food access and distribution, Venezuela has been able not only to meet the relevant Millennium Development Goal but also to pursue its efforts to reduce the indicator in question to zero.

335. The publicizing and mass distribution by the National Nutrition Institute of a spinning top providing nutritional information to indigenous communities is a contribution graphically combining colours and contents to highlight the values that must be taken into account to achieve a rational and healthy diet.²⁷⁸

336. The establishment of agro-ecological classrooms under the Cuba-Venezuelan Cooperation Agreement to train the indigenous population has resulted in the establishment of 42 such classrooms as well as the financing of socio-productive projects for sustainable development; the establishment of three socialist production units (two in Apure State and one in Amazonas); organic fruit and vegetable farms; worm production units; and organic fertilizer processing units, providing indigenous communities with the necessary tools to improve their living standards.²⁷⁹

337. Other food and nutrition programmes aimed at the indigenous population have included: the Secano-Verano Siembra Plan, which in agreement with the Ministry of People's Power for the Environment has resulted in the sowing of 3,400 hectares of indigenous lands and the distribution of 85 tons of seeds including maize, kidney beans, tomatoes, coriander, pepper and pumpkin. In addition, financing for the sowing of food crops and the implementation of socio-productive projects has been granted to the Yukpa and Bari indigenous communities and to indigenous producers in the State of Anzoátegui.²⁸⁰ Fishing and agricultural equipment has also been supplied in the Upper Orinoco, Manapiare (Amazonas), Apure, Machiques, Delta Amacuro, Monagas, Zulia (Península), Machiques de Perijá and Sur del Lago, Bolívar, Sucre and urban areas, benefiting 149 indigenous communities comprising 13,936 individuals.²⁸¹

338. In Amazonas, Sucre, Monagas, Zulia, Apure and urban areas, 19 soup kitchens have been opened, supplying 2,850 indigenous persons with daily access to food until the weekend. Drinking water, infrastructure and socio-productive projects have been financed

²⁷⁶ Report of the Ministry of People's Power for Indigenous Peoples, 2009, p. 44.

²⁷⁷ Report of the Ministry of People's Power for Indigenous Peoples, 2009, p. 64.

²⁷⁸ "Mid-term review" (note 12 above), p. 16.

²⁷⁹ Report of the Ministry of People's Power for Indigenous Peoples, 2009, p. 44.

²⁸⁰ Agricultural Development Fund (Fondas) www.fondas.gob.ve.

²⁸¹ Report of the Ministry of People's Power for Indigenous Peoples, 2010, p. 71.

through 75 indigenous communal councils, benefiting 456 families comprising 1,720 individuals.²⁸²

339. The National Institute of Nutrition organized the First Indigenous Meeting of People's Power for Nutritional Policy: "Nutrition of the Indigenous Peoples and Communities – an Intercultural Vision", which was attended by 18 ethnic groups from 11 States with an indigenous population, in order to acquire training and develop their nutritional policies.²⁸³

5. Housing and habitat

340. The Preamble to the Constitution recognizes the existence of the indigenous peoples and communities, their forms of social and political organization, their cultures, customs, languages and religion, as well as their habitat and rights over the lands they ancestrally occupy.

341. In this respect, article 119 highlights three important aspects:

a) The official recognition of a correlation between lands and the continuity of the forms of indigenous life;

b) The need for joint responsibility by the Government and the indigenous peoples for land demarcation (direct indigenous participation);

c) The fact that indigenous lands are owned collectively by the peoples concerned, a condition that is not modifiable, being characterized as inalienable, not subject to the law of limitations or distraint, and non-transferable.

342. Besides the constitutional provisions and in accordance with international agreements concerning indigenous rights, the Venezuelan State in 1991 ratified ILO Convention No. 169 by means of the Act adopting Convention No. 169 on Indigenous and Tribal Peoples,²⁸⁴ which provides that governments subscribing to it should respect the importance for indigenous cultures of their relationship with the land and particularly the collective aspect of that relationship (arts 13.1 and 14).

343. The Ministry of People's Power for Indigenous Peoples is responsible for overseeing government policies concerning indigenous peoples and for helping to strengthen the ancestral customs of their communities. It is the means to disseminating policies created collectively at the grassroots and responding in the immediate, short and medium term to the most pressing needs of the native peoples and communities.²⁸⁵

344. As part of the policy to train the indigenous communities to manage the development of their own communities, communal councils have been organized and community micro-enterprises set up to ensure basic services and the corresponding maintenance work in such areas as drinking water, wastewater disposal and treatment, electricity supplies and solid waste disposal, which will enable those concerned to enjoy adequate housing and services in the short and medium term.

345. The Indigenous Peoples Habitat and Lands Demarcation and Protection Act²⁸⁶ was the first legal instrument created with the aim of systematizing and regulating the formulation, coordination and implementation of public policies relating to the demarcation

²⁸² Report of the Ministry of People's Power for Indigenous Peoples, 2010.

²⁸³ "Mid-term review" (note 12 above), p. 27.

²⁸⁴ Official Gazette No. 37305 of 17 October 2001.

²⁸⁵ Published in the Official Gazette No. 5836 of 8 March 2007.

²⁸⁶ Decree No. 1392. Official Gazette No. 37118 of 12 January 2001.

of the habitat and lands of indigenous peoples and guaranteeing the right to collective ownership.

346. The Act provides for the establishment of the National Commission on the Demarcation of the Habitat and Lands of Indigenous Peoples and Communities,²⁸⁷ with its respective Regional Demarcation Committees and technical teams, as the body responsible for overseeing and coordinating the demarcation procedure presided over by the Ministry of People's Power for Food. Its membership comprises one representative from each of the following Ministries of People's Power: the Environment, Energy and Petroleum, Trade, Culture, Education, Defence, Foreign Relations and the Interior and Justice; and one representative of the Simon Bolívar Geographical Institute of the Ministry of the Environment. It also includes eight indigenous representatives of the States in which their communities are located, namely: Anzoátegui (Cumanagoto), Bolívar (Arawako, Macuchu, Pemón, Sanemá, Uruak or Arutani and Wapishana), Monagas (Chaima), Delta Amacuro (Warao), Sucre (Chaima), Amazonas (Baniva, Baré, Jivi, Kurripako, Mako, Piapoco, Piaroa, Puinave, Yabarana, Sáliva, Warekena, Yanomani, Yekuana and Yeral), Apure (Kuiba, Pumé or Yaruro) and Zulia (Añú or Paraujano, Barí, Yukpa, Japrería and Wayuu), belonging to 3 language families: Arawako, Caribe and Chibcha; and, as permanent invited member, a representative of the Ministry of People's Power for Indigenous Peoples.

347. The provision of decent housing, along with pavements, kerbstones, drinking water, water treatment plants, electrical supplies and streets for the indigenous population, is a positive step towards the integration of socialist communities in the States of Amazonas, Bolívar, Apure, Delta Amacuro and Zulia. Surveys of sewer and aqueduct systems and self-construction or house refurbishment with the support of indigenous communal councils have helped to secure decent living conditions for the communities concerned.²⁸⁸ In 2009, the number of self-built houses totalled 122, while the figure for metal-framed housing was 240.²⁸⁹ In this way, a State-financed socialist construction enterprise comprising three indirect units was created in the indigenous sectors of Cacurí, Waramo and La Esmeralda. The financing of housing through 39 socialist communes was another important way in which 7,694 indigenous families comprising 93,352 individuals benefited in 2009.²⁹⁰

348. Under the policies of inclusion and social equality and respect for the traditions and ethnic differences of the persons concerned, by the end of 2010 the Venezuelan State had granted and approved collective land titles corresponding to an area of approximately 1,000,000 hectares²⁹¹ to the Kari'ña (Anzoátegui y Monagas); Pumé, Jivi, Kuiva (Apure); Warao (Delta Amacuro, Monagas and Sucre) and Yukpa (Zulia) ethnic groups.

6. Population of African descent

349. The population of African descent like the indigenous population has been integrated in Venezuelan political, economic, social and cultural life under a national system free from discrimination, racism or xenophobia. The Presidential Commission for the Prevention and Elimination of All Forms of Racial Discrimination and Other Distinctions in the Venezuelan Education System²⁹² was set up on a permanent basis and, in

²⁸⁷ The establishment of this Commission was published in the Official Gazette No. 37257 of 19 August 2001.

²⁸⁸ "Mid-term review" (note 12 above), p. 46.

²⁸⁹ Report of the Ministry of People's Power for Indigenous Peoples, 2010, p. 46.

²⁹⁰ *Ibid.*, p. 53.

²⁹¹ *Ibid.*, p. 291.

²⁹² Decree No. 3645, Official Gazette No. 38182 of 9 May 2005.

discharge of its responsibilities, prepared an action plan structured around various commissions on culture, education, legal affairs and communications.

350. The activities of this Commission include: maintaining an office at the headquarters of the Ministry of People's Power for Education where people who feel themselves the victims of discrimination and exclusion can submit their complaints; reviewing the structure of the curriculum in the Venezuelan education system; reviewing the Constitution in the sense of proposing recognition of the moral, political and social contributions of Afro-descendants; furthering an effort to register the location and socio-economic situation of Afro-descendants in the country with the aim of drafting more specific public policies; urging the Ministry of People's Power for the Interior and Justice, on behalf of the community concerned, to compile an updated statistical register of the number of Afro-descendant prisoners in Venezuelan jails; and finally to organize training courses with the Directorate of Intercultural Education and promote the unconditional inclusion of persons of African descent in all sectors of society.

351. The National Assembly in 2005 declared 10 May to be National Afro-Venezuelan Day²⁹³ and subsequently, through the Standing Commission on the Family, Women and Youth, examined over several days the People's Power for Youth Act in order to discharge its mandate concerning the establishment of the National Commission on the People's Power for Youth, created in August 2010. Participants in these deliberations included indigenous and Afro-descendant representatives as well as institutions such as the Pan American Health Organization (PAHO), the Ministry of People's Power for Communes and Social Protection and the National Council for the Disabled, which reflects the interest in the effective involvement of all young people from different sectors and State bodies in the safeguarding of their rights.²⁹⁴

352. The Venezuelan State, through the Ministry of People's Power for Culture, has also promoted inclusive policies for recognizing indigenous peoples and those of African descent as a way of coming into direct contact with the communities concerned and furthering intercultural relations. In this connection, article 27 of the Education Act²⁹⁵ provides for the mainstreaming of intercultural education in the education system, offering free access to programmes based on the native cultures of indigenous and Afro-descendant peoples and communities.²⁹⁶

353. In this connection, two offices have been set up within the Ministry of People's Power for Culture: the Indigenous Communities Liaison Office, aimed at "proposing and facilitating ways of including the indigenous communities" and establishing the necessary links to coordinate with the Ministry of People's Power for Culture, educational districts, communal councils, indigenous organizations and regional and local authorities on indigenous topics;²⁹⁷ and the Afro- Descendant Communities Liaison Office, the first public body in Venezuela designed to link ministerial decision-making bodies with Afro-descendant communities and collectives in order to guarantee their cultural rights and proactive integration as collectives with rights relating to the management of the national cultural development agenda and serving as a link between public and private Afro-

²⁹³ Information provided by the Presidential Commission for the Prevention and Elimination of All Forms of Racial Discrimination and Other Distinctions in the Venezuelan Education System.

²⁹⁴ Annual Report of the Ombudsman's Office, 2010, p. 233.

²⁹⁵ Official Gazette No. 5929 of 15 August 2009.

²⁹⁶ Information provided by the Presidential Commission for the Prevention and Elimination of All Forms of Racial Discrimination and Other Distinctions in the Venezuelan Education System.

²⁹⁷ Information provided by the Ombudsman's Office.

descendant organizations and society in general for the purpose of furthering their recognition, self-recognition and social visibility.²⁹⁸

354. The Afro-Descendant Communities Liaison Office has established a permanent dialogue between the communities, culture workers and authorities on the coordination of strategies in favour of the sociocultural strengthening of the Afro-descendant communities, with the aim of promoting and disseminating on equal terms traditional expressions, new talents and artistic groups representing Afro-descendant culture.

355. In 2008, the Subcommittee on Afro-descendant Legislation, Participation, Guarantees, Duties and Rights was set up within the Standing Commission of Indigenous Peoples of the National Assembly and cooperated in the drafting of the Racial Discrimination Act. The cooperation between Afro-descendant organizations and National Assembly legislators represented an opportunity for popular participation in furthering non-discrimination in all its forms. Representatives of the Network of Afro-Venezuelan Organizations met with legislators and relevant government bodies in 2008 to assess progress in the drafting of proposals on the various bills essential for the inclusion of the Afro-Venezuelan population and respect for their rights.

356. With the aim of defining in a systematic manner the country's youth organizations, the National Institute of People's Power for Youth planned and implemented sectoral meetings that included the First National Indigenous Youth Convention and the First Meeting of Young Afro-descendants with the help and participation of representatives of 11 States nationally.²⁹⁹

357. In 2010, the Tenth Summit of the Member States of the Bolivarian Alliance for the Peoples of Our America-Commercial Treaty of the Peoples (ALBA-TCP)³⁰⁰ was held with the participation of indigenous and Afro-descendant authorities and the Heads of State of the ALBA countries,³⁰¹ with the aim of initiating an international dialogue on interculturality and multinationality conducive to the exchange of experience and generation of initiatives.³⁰²

358. In 2005, a Vice-Ministry for Africa was established within the Ministry of People's Power for Foreign Affairs, which has to date established diplomatic relations with 54 nations on the African continent, making it the first country in the world to have diplomatic relations with all the nations of this continent.³⁰³

E. Follow-up to paragraph 18 of the concluding observations

359. The Venezuelan State has redoubled its efforts to obtain information and follow up the cases indicated. The Public Prosecution Service has commissioned a team of 18 regional prosecutors and seven prosecutors with nationwide responsibilities for that purpose.³⁰⁴

360. The results of the enquiries have led to legal proceedings, 58 cases having been detected involving 69 presumed victims, 34 of whom were identified as victims of private

²⁹⁸ Information provided by the Presidential Commission for the Prevention and Elimination of All Forms of Racial Discrimination and Other Distinctions in the Venezuelan Education System.

²⁹⁹ Annual Report of the Ombudsman's Office, 2010, p. 236.

³⁰⁰ See note 45 above.

³⁰¹ Venezuela, Cuba, Nicaragua, Dominica, Ecuador, Saint Vincent, Antigua and Barbuda.

³⁰² See note 47 above.

³⁰³ Fulfilling the Millennium Goals (note 73 above).

³⁰⁴ Annual Report of the Public Prosecutor's Office, 2007, pp. 374 to 376.

armed groups in the context of land disputes and 35 as victims of manslaughter.³⁰⁵ As a result of these enquiries, 26 detention orders were made, 19 arrest warrants were issued by various courts in the country and there was an announcement of three guilty verdicts. In the cases investigated involving land disputes and private armed groups, two of the victims were Afro-descendant and three indigenous in origin, their cases currently being pending before the relevant courts. However, there is no information pointing to racially motivated deaths.³⁰⁶

361. The Venezuelan State, through its various agencies, in particular the Public Prosecution Service and the Office of the Ombudsman, have launched an enquiry into this type of situation. In 2006, the Office of the Ombudsman drew up a report entitled “Violence in the Countryside”, which took stock of the situation in the peasant community where people have been the victims of land disputes. This report was based mainly on inputs from the following sources: a list of victims drawn up by the National Assembly through the Special Commission to Investigate Peasant and Indigenous Victims of Aggression and Assassination; an inventory of peasant victims established by the Public Prosecution Service; a report drawn up by the “Ezequiel Zamora” National Agricultural Coordinator; newspaper sources; and complaints lodged by victims and family members with public defender bodies and investigations still in progress.³⁰⁷

F. Follow-up to paragraph 19 of the concluding observations

362. The investigations being carried out by the relevant authorities concerning the indigenous peoples of the Upper Orinoco and the Casiquiare and Guainia-Río Negro basins have revealed, following a meeting with the neighbours of these communities, that the problems of which the indigenous population is complaining include the absence of electrical power, the abandonment of their languages by children and adolescents in favour of Spanish and the fact that gold mining centres are in the hands of foreigners.³⁰⁸

363. In the latter case, the enquiries identified the responsible individuals to be 20 persons working in illegal mines, four of them Colombian adolescents. The alleged offences were categorized as Degradation of Soil Quality and Damage to the Habitat, Activities in Special Areas or Natural Ecosystems, coming under articles 43 and 58 relating to article 10 of the Environment Act. The adults were detained while the adolescents, because of their status, were covered by the Child Protection Act and on those grounds alone were prohibited from returning to any of the national parks within the State of Amazonas for the purpose of extracting gold or similar minerals and were ordered to comply with article 256.9 of the Code of Criminal Procedure obliging them to pursue their studies. In meetings with the communities it was also agreed that the municipal councils concerned with rights in the municipalities affected would draw up a comprehensive report on the situation of children and families living in the indigenous towns and communities in the municipal entities concerned.³⁰⁹

364. As a signatory to many international agreements and treaties on the protection of children through the National Council on Children’s Rights and the Intersectoral Commission on the Sexual Abuse and the Commercial Sexual Exploitation of Children and Adolescents and in the context of the National Plan of Action against the Sexual Abuse and

³⁰⁵ Ibid., p. 13.

³⁰⁶ Ibid., pp. 72 and 73.

³⁰⁷ www.defensoriadelpueblo.gob.ve.

³⁰⁸ Annual Report of the Public Prosecutor's Office, 2008, pp. 185 to 186.

³⁰⁹ Ibid.

Commercial Sexual Exploitation drawn up in 2006 with the participation of government officials and community organizations, the Venezuelan State considers sexual abuse and exploitation to be public health problems as well as a violation of human rights and an obstacle to development. The Child Protection Act guarantees children the right of protection against sexual abuse and exploitation (art. 33) and the right to be informed about sexual health and related topics (arts 43 and 50) and about prostitution among other discriminatory phenomena or conduct contrary to the Constitution, placing the emphasis on constitutional safeguards and human rights and penalizing, including by imprisonment, any transgression in that regard (arts 258, 259, 260, 352).³¹⁰

365. In this way, situations involving the violation of children's rights, such as those described where indigenous children and adolescents are found to have been subject to exploitation in the workplace and to worse forms of child labour, such as slavery and child prostitution, have been progressively eradicated through policies and programmes such as the Comprehensive Childcare Programme, coming under the Autonomous National Service for the Comprehensive Care of Children and the Family, which extends to the most remote indigenous villages, helping to reinforce the customs, songs and languages of children from indigenous households. Agreements have been signed for the co-management of these programmes, entrusting the indigenous communities themselves with responsibility for their administration. The Comprehensive Childcare Programme caters for the Añú, Arawako, Barí, Baniva, Eñepá, Guajiros, Kari' Ña, Panare, Pijiguao, Pemón, Piapoco, Warao, Wayuu, Yabarana, Yekuana, Yanomami, Yukpa, Japrería, Jivi and Arawako ethnic groups situated in the States of Amazonas, Bolívar, Delta Amacuro, Monagas and Zulia.

366. With regard to the trafficking and sale of children, article 54 of the Venezuelan Convention specifically that: "No person shall be subjected to slavery or servitude. The trafficking of persons, in particular women, children and adolescents, in any form, shall be subject to the penalties prescribed by law", a prohibition reflected in Venezuela's domestic laws under which the trafficking in persons is an offence. Venezuela is also respectful of the international conventions and treaties signed to that effect, particularly the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime,³¹¹ and the Optional Protocol to the Convention on the Rights of the Child concerning the sale of children, child prostitution and the use of children in pornography, ratified in May 2002. Prior to the completion of this report, no accurate information had been available on the trafficking and sale of children on Venezuelan territory.

G. Follow-up to paragraph 20 of the concluding observations

367. The Venezuelan State manifests its commitment to the defence of the indigenous peoples by promoting in all its actions the principles of a democratic, participatory, proactive, multi-ethnic, multicultural and multilingual society. These principles embodied in the Constitution have been incorporated in the current legal system by implementing the rights of indigenous peoples and communities and by recognising the laws, conventions, pacts and treaties validly signed and ratified by the Republic.

368. The indigenous communities constituting the native populations of Venezuela survived for centuries with their histories and distinctive customs and have led a subsequent struggle to make social justice prevail. In August 2008, violence arose between estate owners and members of the Yukpa community in the Sierra de Perijá, situated in the State

³¹⁰ Information provided by the Ombudsman's Office.

³¹¹ Instrument of ratification submitted in 2002.

of Zulia, leading to a series of measures by various State authorities to safeguard the rights of the community concerned.³¹²

369. As the result of local needs and the demand for the demarcation of indigenous lands, violent confrontations arose between certain indigenous peasant representatives and other ethnic groups (Wayuu) and cattle breeders, who affirmed their supposed rights within the demarcation area claimed by the Yukpa people; a situation that gave rise to delays and difficulties when it came to recognizing the rights of the population in general and the indigenous peoples in particular.³¹³

370. The Venezuelan State, through the relevant bodies, initiated an enquiry into the complaints concerning the presence of private armed groups in the area. The National Assembly, through the Subcommittee on Participation, Guarantees, Duties and Rights relating to Persons of African Origin together with representatives of the Office of the Ombudsman, the Ministry of People's Power for Indigenous Peoples and the Ministry of People's Power for Food, held several meetings with representatives of the Yukpa ethnic group and with property owners in the area to discuss the issue.³¹⁴

371. The Venezuelan State has made progress in the process of land demarcation, principally in the Sierra de Perijá in Zulia State, through censuses, investigations by hectares and working groups, while the Demarcation Commission has held information workshops to inform the indigenous inhabitants about the demarcation process. At the same time, an attempt has been made to identify points of agreement with a view to ending the conflict in the area, where the indigenous population was requesting that the demarcation of their ancestral lands should take place by revoking the coal-mining concessions operating there and that payment should be offered for the improvements the stock-raisers had made to the ranches used by the Barí for their hunting and other activities.³¹⁵

372. Significant in this regard are the studies made for the drafting of the Management and Use Regulations Plan Concerning the Soil, Forest and Water Protection Areas in the Guasare, Socuy and Cachiri River Basins in Zulia State. The rivers in question rise in the Sierra de Perijá, where indigenous communities and numerous archaeological and paleontological remains exist along the river banks. Under this draft Plan, drawn up on the basis of Government guidelines, coal mining will be restricted to the two concessions currently operating (Paso Diablo and Mina Norte) with the aim of avoiding environmental conflicts in view of the strategic importance of the basins as a source of water for the city of Maracaibo and its surrounding area. In the course of ongoing consultations with all interested parties, the Ministry of People's Power for Food announced through the Vice-Ministry of Land Management the suspension of coal mining concessions in the Sierra de Perijá in Zulia State as from March 2007.³¹⁶

373. The Demarcation Commission consisting of the Ministries of People's Power for Food, Energy and Petroleum, the Interior and Justice, Agriculture and Land, and Education, together with the National Indian Council of Venezuela and eight representatives of a similar number of native communities is accelerating the demarcation process in the Sierra de Perijá in Zulia State with the result that property titles have already been granted to three of the six pilot centres established, each of them composed of different Yukpa communities. The land demarcation exercise has been strengthened by the inclusion of

³¹² Report of the Ministry of People's Power for Indigenous Peoples, 2010, pp. 320 et seq.

³¹³ Ibid.

³¹⁴ Ibid.

³¹⁵ Ibid.

³¹⁶ "Mid-term review" (note 12 above), p. 54.

officials from the Office of the Ministry of People's Power for Indigenous Peoples and of a group of students from the Indigenous University of Venezuela.³¹⁷

374. The Venezuelan State, through the Ministry of People's Power for Defence, has since November 2008 been implementing the Comprehensive Plan for the Defence, Development and Consolidation of the Frontier Towns of Machiques de Perijá, Rosario de Perijá and Jesús María Semprúm in Zulia State,³¹⁸ which is directly concerned with the Yukpa communities since they are part of Venezuela's historical and cultural heritage and have served as vigilant defenders of the southern frontier zone, bordering the Republic of Colombia

H. Follow-up to paragraph 21 of the concluding observations

375. The measures adopted by the Venezuelan State to combat racial discrimination, as well as the principal actions taken to implement the Durban Plan of Action in our country, have been highlighted throughout this report. Notable in this respect are the plans and programmes developed from the standpoint of social inclusion and human rights, which underpin the specific measures taken.

376. The Constitution promotes the construction of a nation founded on the values of liberty, equality, solidarity, democracy, social responsibility and, in general, the primacy of human rights, ethics and political pluralism. In this regard, the Venezuelan State through the National Economic and Social Development Plan 2001–2007 and the National Economic and Social Development Plan, First Socialist Plan 2007–2013 has provided a template for the reconstitution of a Venezuelan nation firmly rooted in those progressive values and principles that come together in the humanistic currents of socialism.

377. The Constitution takes as one of its guiding principles the goal of “supreme social happiness”, arguing that it is possible through the creation of an inclusive social structure to arrive at a new social, humanistic and endogenous model of production; it embodies the commitment that has as its point of departure the construction over the long term of an influential structure whose goal is the forging of a socialist model of production enabling all Venezuelans to live decently. Against this background, there emerges a focus on biological, age-related, ethnic and gender diversity, which has been overlaid historically with social inequalities and which requires that public policies be geared to eliminating the restrictions thereby imposed in many sectors.

378. Another guiding principle is that of a proactive democracy, which relies on its inherent strength to restore to politics its public, participative, ethical and mutually supportive character and which has as its main goal the constitution of a citizenry, areas of civility, institutions and a democratic political culture based on a high degree of social awareness and an active sense of civic participation.

379. The Venezuelan State, in defining itself as a democratic and social state based on the rule of law and justice so as to guarantee compliance with the whole body of legal standards surrounding this principle and the observance of human rights as a prime value, has established that all its constituent institutions shall respect every agreement, treaty, convention, law or regulation that essentially protects human rights. This is why, through the establishment of the diverse Missions as a matter of public policy, it has instituted a regime of inclusion in the belief that all the citizens of this country require to be treated without discrimination of any kind and to have access to living conditions enabling them to

³¹⁷ Report of the Ministry of People's Power for Indigenous Peoples, 2010, op. cit, pp. 320 et seq.

³¹⁸ Decree No. 6469. Official Gazette No. 39046, of 28 October 2008.

develop as whole and integrated persons, enjoying health, good food, education and recreation among the other factors vital for their rounded development as individuals.

I. Follow-up to paragraph 23 of the concluding observations

380. The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families was signed by Venezuela on 4 October 2011. In the context of the Common Market of the South (Mercosur), the Venezuelan State has also adhered to the Framework Agreement on Regional Security Cooperation among the Member States of Mercosur, which commits them to adopting standards and procedures that guarantee human rights and employment opportunities for workers and their families.

J. Follow-up to paragraph 24 of the concluding observations

381. The links between State institutions and Afro-descendant and indigenous social organizations has made it possible to circulate the Committee's observations effectively and to work on the replies to the recommendations, highlighting joint efforts to combat racial discrimination and any distinction in the educational, judicial, cultural and social systems. Evidence of this is to be found in the coordination of various activities between organizations and bodies representing the State, as pointed out in this report.

382. Finally, the Venezuelan State through the entities designated for this purpose, including institutions such as the Ombudsman's Office and the National Assembly, have demonstrated their commitment to combating racial discrimination in the social, educational and political system through the implementation of public policies geared to social inclusion. Indigenous and Afro-descendant peoples and communities, as particularly vulnerable populations, have seen these efforts reflected in access to the various social programmes.

383. The measures recommended by the Committee in 2005 are comprehensively reflected in the actions taken by the Venezuelan State in keeping with the strategic lines of the Economic and Social Development Plan 2001–2007 and the "Simón Bolívar" National Plan, First Socialist Plan 2007–2013, which are directly focused on the inclusion of all sectors of the country, particularly those who were for decades excluded from social and economic development.
