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The Indigenous Resguardos of Colombia

The Indigenous *Resguardos* of Colombia:

their contribution to conservation
and sustainable forest use



Maria Clara
van der
Hammen

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INITIATIVE

The Indigenous *Resguardos* of Colombia:
their contribution to conservation
and sustainable forest use

Maria Clara van der Hammen

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GLOSSARY

cabildos – traditional indigenous authorities

cacique – traditional indigenous leaders

chagras – small forest agricultural plots

encomendero – landholder

encomienda – a system whereby native peoples had to work and pay tributes to the landholder

gobernadores – indigenous authorities

haciendas – ranches or country estates

la violencia – the redefinition of property and power through violent means

maloca – indigenous roundhouse

ordenamiento territorial – territorial ordering or territorial management

Parque Nacional Natural – National Natural Parks

resguardos – a collective property title of the land, as a legal form that protects both the territory as their cultural and political autonomy

transferencias – budget allocations from the central State towards the territorial entities

FOREWORD

By

Dr. Manuel Rodríguez-Becerra

The larger part of the Guiana Shield region, one of the most important ecoregions in the world, is inhabited by indigenous communities. These communities have been living there since ancient times and have developed a profound vision, unique knowledge and sophisticated skills in relation to the ecology of the Guiana Shield. Their continuous involvement in managing the ecology of the region and safeguarding its globally significant functions in the fields of biological diversity, hydrology and climate, is therefore indispensable.

From the perspective of the Guiana Shield Initiative (GSI) as an international collaborative arrangement, one of the priorities is to develop mechanisms that not only acknowledge the vital contribution of the indigenous communities to conserve and use in a sustainable way their territories but also provide adequate compensation for the environmental services resulting from that ecological protection.

“Adequate” is the key word here, since the form of the compensation would have to be determined in the first place by the needs and cultures of the various communities of the Shield. These will differ depending on whether they live close to the non-indigenous society or whether they live in isolation. In the first instance monetary elements may be part of the compensation, in the second the main element would have to be related to recognition of territorial rights and protection against invasion by outsiders or against illegal occupation. But I should stress that there are many alternatives and mechanisms for granting this compensation and that the final answers should be built through joint work with the indigenous communities.

Of course a pre-condition for the indigenous communities to play their role in the management of the Guiana Shield is the full recognition in law of their territorial rights and of their cultural autonomy. This differs across the six countries of the region (Brazil, French Guiana, Suriname, Guyana, Venezuela and Colombia) and it is an important feature of the GSI to exchange experiences in this field and to benefit from the lessons learnt in the various countries.

I am very proud, however, of the situation in Colombia, where the constitution recognises the *resguardos* as major areas where the indigenous communities have inalienable ownership and management rights and which now have produced a

considerable body of management experience from which other parts of the Shield can profit enormously. It was for me a privilege as First Minister for the Environment in Colombia to contribute to the integration of the role of the *resguardos* in the environmental legislation, which was my task to propose. I am happy to be on the board of the COAMA programme assisting the further consolidation of the *resguardo* system.

It is therefore my great pleasure to present to the reader herewith the report “The Indigenous *Resguardos* of Colombia: their contribution to conservation and sustainable forest use” by Dr. Clara van der Hammen. Dr. van der Hammen is an anthropologist with extensive field experience, especially in the Caquetá region, and is extremely well-qualified to write on the principles, conditions and modalities by which the communities of the *resguardos* can be effectively and equitably involved in the management of the Guiana Shield ecoregion. The insights and recommendations of this report will be of great value for the further development of the Guiana Shield Initiative in all of the six countries of the region.

Dr. Manuel Rodríguez-Becerra

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and the Environment, 1990-1993.

INTRODUCTION

In Colombia the indigenous population has been estimated at approximately 700,000 people belonging to 81 different ethnic groups (see Box 1). The indigenous population is in the minority, making up around 2% of the total population. Despite being a minority, their territorial rights have been recognised and today they hold almost 25% of the national territory; a major part of the forest areas (more than 80%) are owned and administrated by the ethnic minorities. This is a unique case in the world that deserves to be analysed, especially for the consequences for nature conservation.

Colombia's policy on the indigenous people includes recognising their rights relating to political and administrative autonomy, land tenure, education and health. This policy can be considered very progressive at the global level. The policy has been carried out by the establishment of the indigenous reserves called *resguardos* in Spanish, which is a collective property title of the land in a legal form that protects both the territory as well as the indigenous cultural and political autonomy.

The establishment of *resguardos* has great relevance because it recognises the role of the traditional indigenous management systems for the conservation of the environment. This is especially true in the tropical rainforests of the Colombian Amazon region where this policy has most impact. In the Amazon region, more than 20 million hectares are declared *Resguardo Indígena*.

The *resguardo* is born out of an historical mechanism that came into existence during colonial times whereby pieces of land were allocated to the indigenous people. This legal form of land tenure has been noticeably transformed, gaining major significance now that the Colombian State has created the possibility to convert the *resguardo* into a new form: the indigenous territorial entity. This makes up part of the new territorial ordering of the Nation and is part of a general policy of political administrative decentralization, with the political and administrative implications that this brings with it.

Despite the fact that the Colombian law of territorial ordering has been operating for some five years, to date the indigenous territorial entities have not yet been created. This is a result of the many prejudices that still exist in the Colombian society against the indigenous population, and a lack of political willingness in the higher political spheres of the Colombian State.

The indigenous territories, despite their political future as territorial entities, face at present a series of threats in view of the armed conflict that is currently taking

place within Colombia, the expansion of the agricultural frontier, the enormous expansion of illegal crops and associated drugs trafficking, as well as the lack of State presence in many regions.

With its policy of *resguardos* however, Colombia does offer a model of recognition of indigenous rights and, with it, a proposal for nature conservancy in view of the contribution made by the indigenous people to conservation of the environment. The advances made regarding the recognition of the political and administrative autonomy include the participation of the *resguardos* in the current spending of the national budget through a budget allocation. This budget is intended to allow the indigenous community to develop their own projects in the fields of health, education, infrastructure, production and institutional strengthening. The budget allocation has been proposed as a model of support of the indigenous people.

After approximately ten years of participation in the State funding mechanism, there have been many positive experiences. Therefore, it is possible to consider the creation of financial support mechanisms to compensate the indigenous peoples' contribution to conservation, and the supply of environmental services. These mechanisms should be developed in a context that supports the process of cultural recuperation and reinforcement of traditional indigenous management systems, as well as the generation of sustainable alternatives that allow the indigen-



Emberá children near Utría, Chocó. Photo: W. Ferwerda

ous people to generate an income and perpetuate their contribution to conservation of the Amazon region.

The aim of this document is to present pertinent information on each of the aspects that define the actual situation of the indigenous territories including the problems and potential of this system of land tenure in relation to the conservation of tropical rainforest, with special reference to the Colombian Amazon region as part of the Guiana Shield eco-region.

The first chapter contains an outline of the history of the creation of the *resguardos*, followed by a presentation of the Colombian policy towards the indigenous people in the fields of territorial rights, education, health, political autonomy and representation (chapter 2). In this context, various conflicting aspects of the *resguardo* system are discussed. The third chapter covers the traditional management system of the forest, as well as what one could call the indigenous criteria and indicators of sustainability. The most important factors that have an impact and unchain processes of transformation in the indigenous communities are discussed also in the third chapter. In chapter four the State funding policy, *i.e.* the budget allocation to the *resguardos*, is discussed. The cultural and ecological principles of traditional forest management are presented, as well as some mechanisms that have been developed to deal with the current situation are discussed in the fifth chapter. Chapter six ends with a proposal for the implementation of a financial mechanism to support reinforcement of the *resguardos* in light of their contribution to conservation of tropical rainforest, as well as environmental incentives that are integrated in the framework of territorial management plans, life plans and natural resource management plans of the indigenous territories.

Box 1: The Indigenous Peoples of Colombia

Ethnic group	Estimated Population	% of Total Indigenous Population
Achagua (ajagua, axagua)	280	0.03
Amoroua (wipiwe)	165	0.02
Andoke	518	0.07
Arhuaco (Ijka, bintukua, ika, aruaco)	14,301	2.04
Awa (cuaiker, cuaiquer, kuaiker)	12,936	1.84
Bara	96	0.01
Barazana (barazano, hanera yae y oka)	1,891	0.27
Barí (barira, motilón, dobocubí, cunausaya)	3,536	0.50
Betoye (jirarre)	745	0.11
Bora	646	0.09
Cabiyarí	277	0.04
Carapana	412	0.06
Carijona	287	0.04
Cocama	767	0.11
Coconuco	6,141	0.87
Cofán (kofán)	1,457	0.21
Coyaima-natagaima (pijao)	21,507	3.06
Cubeo (paniwa, kubeo, cobewa, hipnwa, kaniwa)	6,035	0.86
Cuiba (wamone, chiricoa, maiben, masiguare)	2,274	0.32
Curripaco (incluye baniva, kurripaco)	7,066	1.01
Chimila (simiza, simza, shimiza)	900	0.13
Chiricoa	173	0.02
Desano (wira, kotedia, winá)	2,136	0.30
Dujos	96	0.01
Embera (incluye catío, chemí, epera o emperá)	71,412	10.17
Guambiano (misag, huamimehab, silviano)	20,782	2.96
Guanaca	723	0.10
Guayabero (mitua, guayavero, cunimia)	1,061	0.15
Hitnu (macaguane, jitnu, magaguán, hutnun)	542	0.08
Indígenas de Caldas	24,298	3.46
Indígenas residentes en Bogotá	1,300	0.19
Inga (ingano)	17,855	2.54
Kamsá (kamentxá, kamtsá, camtsá, sibundoy-cache)	4,022	0.57
Kogui (kággaba, cogui, kogi, koggian, koghi)	9,765	1.39
Koreguaje (korebahu, coreguaje, koreguaxe)	2,106	0.30
Letuama (lituana, detuama)	650	0.09
Macú (makú, nukak, cacua, judpa, yujupde, wacará)	1,163	0.17
Macuna (sara, ide masa, buhagana, siroa, tsoloa)	922	0.13
Makaguaje (macaguaje, makaguaxe)	50	< 0.01
Masiguare	387	0.06
Matapí (jupichiya)	203	0.03
Miraña (mirnha, miraya)	660	0.09
Muisca	1,859	0.26

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Muinane (muinane-bora)	547	0.08
Nonuya (nunuya)	199	0.03
Ocaina (okaina, orebe, diokaya)	126	0.02
Páez (paez, nasa, nasa yuwe)	118,845	16.93
Pasto (quillacinga)	55,379	7.89
Piapoco (cuipaco, dzase, piapoko, wenéwika)	4,466	0.64
Piaroa (dearuwa, wo'tiheh,maco)	797	0.11
Piratapuyo (parata-puya, wai kana, uaikama, waikana)	630	0.09
Pisamira (papiwa, pisatapuyo, wasona, wasina)	54	<0.01
Puinave (puninabe, uaipi, guaipunare, wantyinht)	5,381	0.77
Sáliba	1,304	0.19
Sikuani (guahibo, guajibo)	20,544	2.93
Siona, (ganteyabain, ganteya, ceona, zeona, koka kanú)	700	0.10
Siriano (sura masa, ciruga, chiranga, si-ra)	715	0.10
Siripu (tsiripu)	152	0.02
Taiwano (eduria, taiunano)	19	<0.01
Taninuca (ufaina, tanimuka, tanimboka, ohañara, opaima)	1,149	0.16
Tariano (tariana)	332	0.05
Tatuyo (juna maja, pamoá, tatutapuyo, sina, sura)	294	0.04
Ticuna (tikuna, tukuna)	6,585	0.94
Totoró	3,654	0.52
Tucano (dasea, tukano, yepa masa)	6,837	0.97
Tule (cuna, tulemala, bayano, yule, caribe-cuna)	1,166	0.17
Tuyuca (dojkapuara)	570	0.08
Uwa (tunebo, u'wa)	7,013	1.00
Wanano (guanano)	1,172	0.17
Wayuu (gujiro, wayú, uáira, waiu)	144,003	20.52
Witoto (uitoto, huitoto, murui, muinane, mi-ka, mi-pode)	6,245	0.89
Wiwua (arzario, guamacá, malayo, sanjá, dumuna)	1,850	0.26
Wounaan (waunana, noanamá, waunmeu)	7,962	1.13
Yagua (ñihamwo, mishara)	294	0.04
Yanacona (mitimae)	19,623	2.80
Yauna (kamejeya)	95	0.01
Yucuna (jukuna, camejeya, yukuna-matapi)	507	0.07
Yuko (yuco, yukpa)	3,529	0.50
Yuri (carabayo)	200	0.03
Yurutí (wai jiara masa, wadyana, wadzana, totsoca, waikana)	610	0.09
Zenú	33,910	4.83
TOTAL Indigenous Population	701,860	100.00

Source: DNP/UDT, 1997

I

THE ORIGIN AND HISTORY OF
THE RESGUARDOS IN COLOMBIA

At the time of the Spanish conquest at the beginning of the 16th century, Colombia was inhabited by a great variety of societies with different cultures, speaking different languages, showing different levels of social and political organisation, each with its own particular relationship with the environment. Although these societies were interrelated through extensive commercial networks, they were not part of a state, such as that found by that time in Mexico and Peru. Nevertheless, in the Sierra Nevada de Santa Marta and the Andean high plateau, more complex political units or chiefdoms had emerged. The Tairona, for example, had built a complex network of paved roads and settlements in the mountains of the Sierra Nevada using stones. They cultivated the land and were known for their goldsmith work. Priests were important and managed the different temples and rituals. The Muisca of the Andes were organised in major and lesser chiefdoms. They used the different ecosystems at the various altitudes and cultivated different crops: fruits, maize and cassava in the lower regions and potatoes, maize and various roots in the higher zones. More to the south, in the Cauca Valley and in Nariño, chiefdoms existed that also participated in different trade networks.

Along the Caribbean coast, large villages existed that were ruled by nobles and chiefs. They built complex drainage systems that allowed the cultivation of many crops, but also developed fisheries as an important element of their production system. In the lowlands scattered villages and hunter-gatherer societies occupied the territory.

The Spanish branded the indigenous people as cannibals and therefore considered them inferior. The Spanish crown decreed that all native people that opposed them would be enslaved. The Spanish first occupied the Caribbean coast, where the people were forced to pay tributes in gold or suffer punishment, burning of settlements or, in the worst case, death. Soon after, they started to conquer the interior. In very little time the Spanish had dominated the land and its people. The native people were distributed among the Spanish and later they were assigned, along with their land, to individual Spaniards in the '*encomienda*' system. They had to work and pay tributes to the '*encomendero*' or landholder. Many people were forced to work in the mines. With colonisation, an intensive process of conversion to Christianity was also initiated. From the very first moment, the church played an important role in shaping the colonialists' relationship with the indigenous population.

In Mexico in 1535, Vasco de Quiroga proposed isolating the indigenous people in 'protected villages'. His idea was implemented by establishing indigenous villages, with a central square and church, each with enough land to cater for the needs of its inhabitants. These were the '*fundos legales*' or '*resguardos*', a way of protecting but also controlling the indigenous people. At the same time, forms of political representation were established called '*cabildos*' or indigenous councils. These *cabildos* distributed land, fixed quotas for unpaid labour, and mediated in conflicts about taxes. This system spread from Mexico to other colonial regions. In this way, many *resguardos* were created in what is now Colombia. The indigenous people were located in the more isolated areas, such as the slopes of the Andes, leaving the fertile valleys for the conquerors.

Despite resistance offered by different indigenous people, most of them were very quickly subjugated. Epidemics, bad treatment and warfare had a great impact, resulting in an enormous decline of the indigenous population. The breakdown of their own social and political systems, due to the introduction of new production systems, the conversion to Christianity and the introduction of goods, brought profound changes. Despite this, many groups struggled to maintain their identity and their relationship with the territory. Many cultural elements like their language and oral history survived.

As the colonial society developed, a group with differing interests from that of Spain and the Crown emerged. This new colonial society promoted the idea of a political independence from Spain; this movement was inspired by many liberal ideas. The indigenous people did not participate directly in the struggle for independence as they viewed this as a problem amongst the whites. They viewed the whole process as a change of patron and did not see it as changing their position as a dominated and subjugated people.

In 1810 independence from Spain was obtained. In the beginning, the new Republic used the indigenous identity in order to stress opposition to Spain. However, the idealised image of the indigenous people created during this period soon faded away, and a new philosophy emerged which strove to create unity by assimilating the indigenous people. Although Bolivar issued a decree in 1820 that ratified the collective ownership of the *resguardos*, in 1821 a law was issued by Congress establishing equity before the law, thereby making the indigenous population subject to common law – as well as abolishing the tributes that the indigenous had to pay. Communal ownership of the land changed into private ownership by distributing the land among the Indians. In many ways the dissolution of *resguardos* was encouraged; it also became possible for local authorities to award communal land to other non-indigenous people and to keep part of it as a way of financing the municipality. Within a relatively short time span the *resguardos* were broken up; the indigenous population became peasants and landless

workers on large farms known as '*haciendas*'. As a result, many of them were forced to migrate to new regions and many disappeared as a distinct ethnic group.

In the Andean region, some indigenous people resisted the division of their *resguardos* and dissolution of *cabildos*. In 1890 a new law was issued that tried to make the whole process of dissolution of *resguardos* and *cabildos* less drastic and reaffirmed the civilising and tutorial role of the religious missions. Nevertheless, in many parts of the country at the end of the 19th century, the *resguardos* had disappeared.

The lowland region to the east, beside some sporadic incursions, had not been affected much by colonisation. The State had left these areas and indigenous people lived there under tutorial supervision of the missions, but at the end of the 19th century the eastern lowland region gained economic importance. Natural resources found in the area, such as quinine and rubber, became important products on the international market. The indigenous population was forced into hard labour and genocide took place. This genocide was due to the introduction of diseases like measles and influenza, against which the indigenous people had no resistance due to their previous relative isolation. In some indigenous territories oil was found and the indigenous people were as a consequence driven away from their land – such was the case for the Bari Indians.

The 1920s and 1930s saw the agrarian structure of the country change as export products like coffee gained importance. However, during that time the indigenous resistance against the *hacienda* system and the colonisation of their lands continued and the emergence of an indigenous movement was closely related to the discussion of a land reform. Territorial demands were, and remain, at the core of their struggle. The indigenous movement was part of the peasant movement.

During the 1940s and 1950s, the country suffered a period known as '*la violencia*', the redefinition of property and power through violent means. The concentration of land was then in the hands of a few and the migration of peasants to the urban centres and the lowland tropical forests started on a large scale. This migration affected the indigenous territories of the lowlands – which at that time were not legally recognised. Moreover, these areas were considered empty; areas where only some 'savages' dwelled.

The first flow of migrants could be integrated to the emerging industries, but later the urban migration caused the growth of slums. This process of migration and urbanisation led to the need to create some kind of alleviation for the increasingly over-populated cities. Land reform was accepted in 1961 and a new institution was created called the INCORA or Colombian Land Reform Institute. The indigenous people fought against dissolution of their *resguardos* and for political emancipation. Despite their struggle for autonomy, the National Government signed

an agreement with the Catholic Church by which a great part of the country (the most isolated outer regions) inhabited by indigenous people were put under the control of missions.

The land reform law of 1961 became an important instrument for the peasant and indigenous movement to claim their territorial rights. At that moment some 70 *resguardos* of the Colonial and Republican era still existed and covered almost 500,000 hectares. At that time the indigenous people became the focus of numerous studies on the significance of their culture, their history and struggle. The indigenous plight started to receive support from different sectors of the population.

In the mid 1980s a change of rural policy took place, less emphasis was put on land tenure and distribution and more on credit and technical assistance. At the same time, the peasant movement lost its momentum. By that time however, the indigenous movement had received a new impetus with the ratification of the International Labour Organisation (ILO) convention in 1967. From that moment on, the indigenous movement became independent from the peasant movement. First some regional organisations like *Consejo Regional de Indigenas del Cauca* (CRIC) and *Consejo Regional de Indigenas del Vaupés* (CRIVA) were formed, and by 1982 the National Organisation of Indigenous People of Colombia (ONIC) organised its first national congress. At present most communities are organised as captainships, *cabildos*, or other forms of local power. Many sub-regional and regional organisations have been created that channel and bundle forces, making it possible to stimulate many legal dispositions and create space for indigenous political participation.

The indigenous movement was very successful and within a relatively short time during the 1970s and 1980s, more than 300 indigenous territories were legally recognised covering more than 27 million hectares. Most of the new *resguardos* were created in the lowlands of the Amazon, Orinoco and the Pacific regions. Some of these *resguardos* are very small and are located along the colonisation frontier region. They therefore have to deal with problems of over-population. Other more isolated *resguardos* could count on large extensions with fewer threats to their preservation (see Box 2 and 3).

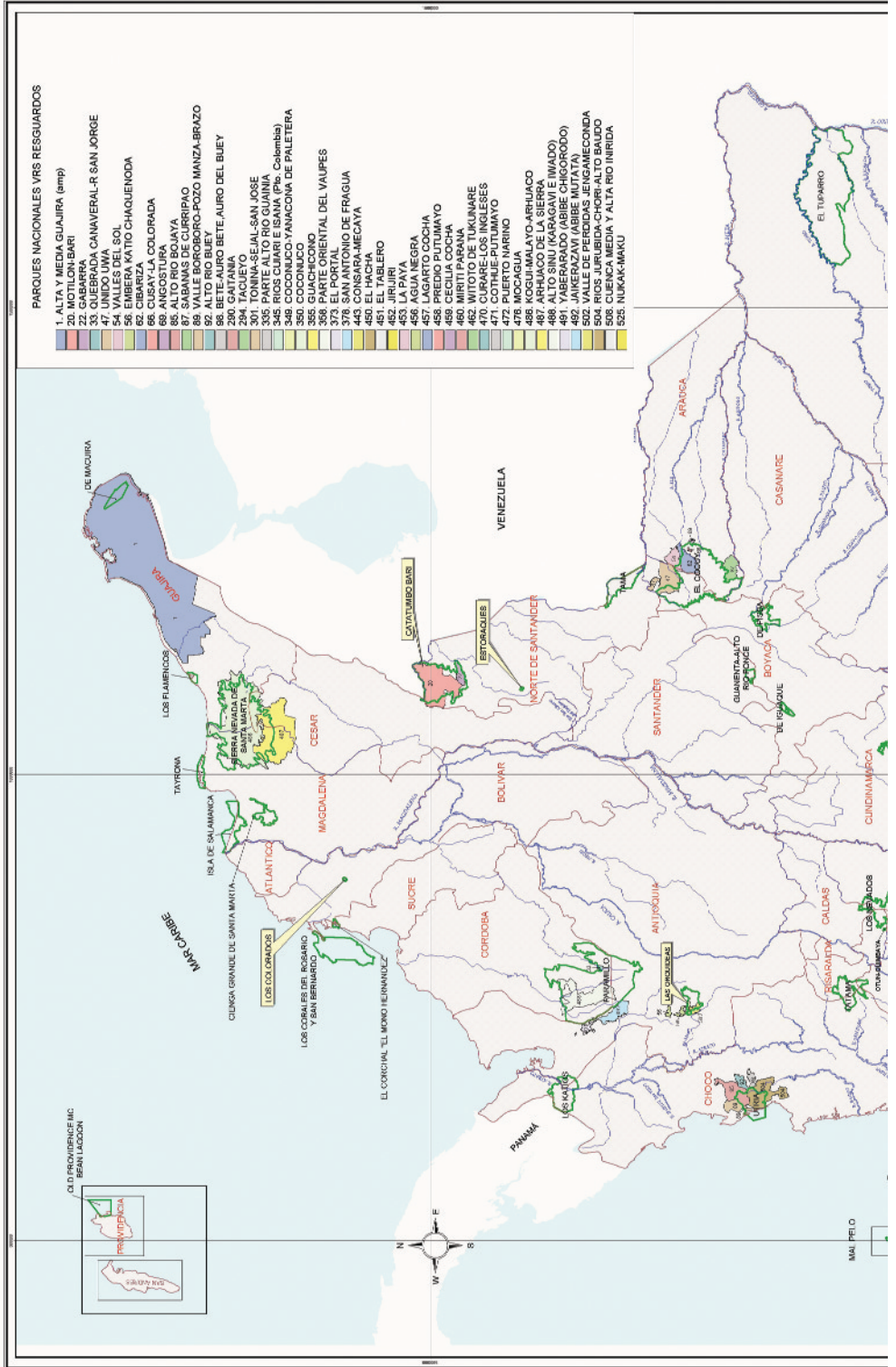
Box 2: Estimated Indigenous Population and Extent of Their Territories per Department in Colombia

DEPARTMENT	AREA OF DEPARTMENT Km ²	INDIGENOUS TERRITORY IN Km ²	% AREA OF THE DEPARTMENT	POPULATION OF THE DEPARTMENT	INDIGENOUS POPULATION	% INDIGENOUS POPULATION DEPARTMENT	% NATIONAL INDIGENOUS POPULATION	NUMBER OF ETHNIC GROUPS	NUMBER OF RESGUARDOS AND RESERVES
AMAZONAS	109,665	84,020	76.6	56,399	18,984	31.5	2.7	25	21
ANTIOQUIA	63,612	2,553	4.0	4,919,619	14,903	0.3	2.1	4	25
ARAUCA	23,818	607	2.5	185,882	3,137	1.5	0.4	6	18
ATLANTICO	3,388	0	0.0	1,837,468	449	0.0	0.1	0	0
BOLIVAR	25,978	0	0.0	1,702,188	328	0.0	0.0	0	0
BOYACA	23,189	692	3.0	1,315,579	4,885	0.4	0.7	1	2
CALDAS	7,888	308	3.9	1,030,062	34,573	3.2	4.9	2	3
CAQUETA	88,965	6,490	7.3	367,898	6,315	1.6	0.9	10	35
CASANARE	44,640	1,459	3.3	211,329	4,508	2.0	0.6	7	10
CAUCA	29,308	5,272	18.0	1,127,678	166,883	13.9	23.8	8	63
CESAR	22,905	1,472	6.4	827,219	17,135	2.0	2.4	4	5
CHOCO	46,530	10,834	23.3	106,199	36,173	8.8	5.2	4	79
CORDOBA	25,020	2,230	9.3	1,275,623	24,012	1.8	3.4	2	5
CUNDINAMARCA	22,623	5	0.0	1,875,337	1,859	0.1	0.3	1	1
GUANIA	72,238	69,905	96.8	28,478	12,774	41.0	1.8	8	26
LA GUAJIRA	20,848	12,633	60.6	433,361	150,189	32.7	21.4	4	11
GUAVIARE	42,327	7,876	18.6	97,602	4,415	4.0	0.6	4	12
HUILA	19,890	21	0.1	843,798	1,068	0.1	0.2	1	5
MAGDALENA	23,188	2,840	12.2	1,127,691	6,470	0.5	0.9	4	2
META	85,635	6,134	7.2	618,427	7,056	1.1	1.0	4	16
NARIÑO	33,268	2,621	7.9	1,443,671	69,694	4.5	9.9	4	39
NORTE DE SANTANDER	21,658	1,222	5.6	1,162,474	4,036	0.3	0.6	2	2
PUTUMAYO	24,885	1,236	5.0	264,291	23,333	8.5	3.3	9	26
QUINDIO	1,845	0	0.0	495,212	99	0.0	0.0	0	0

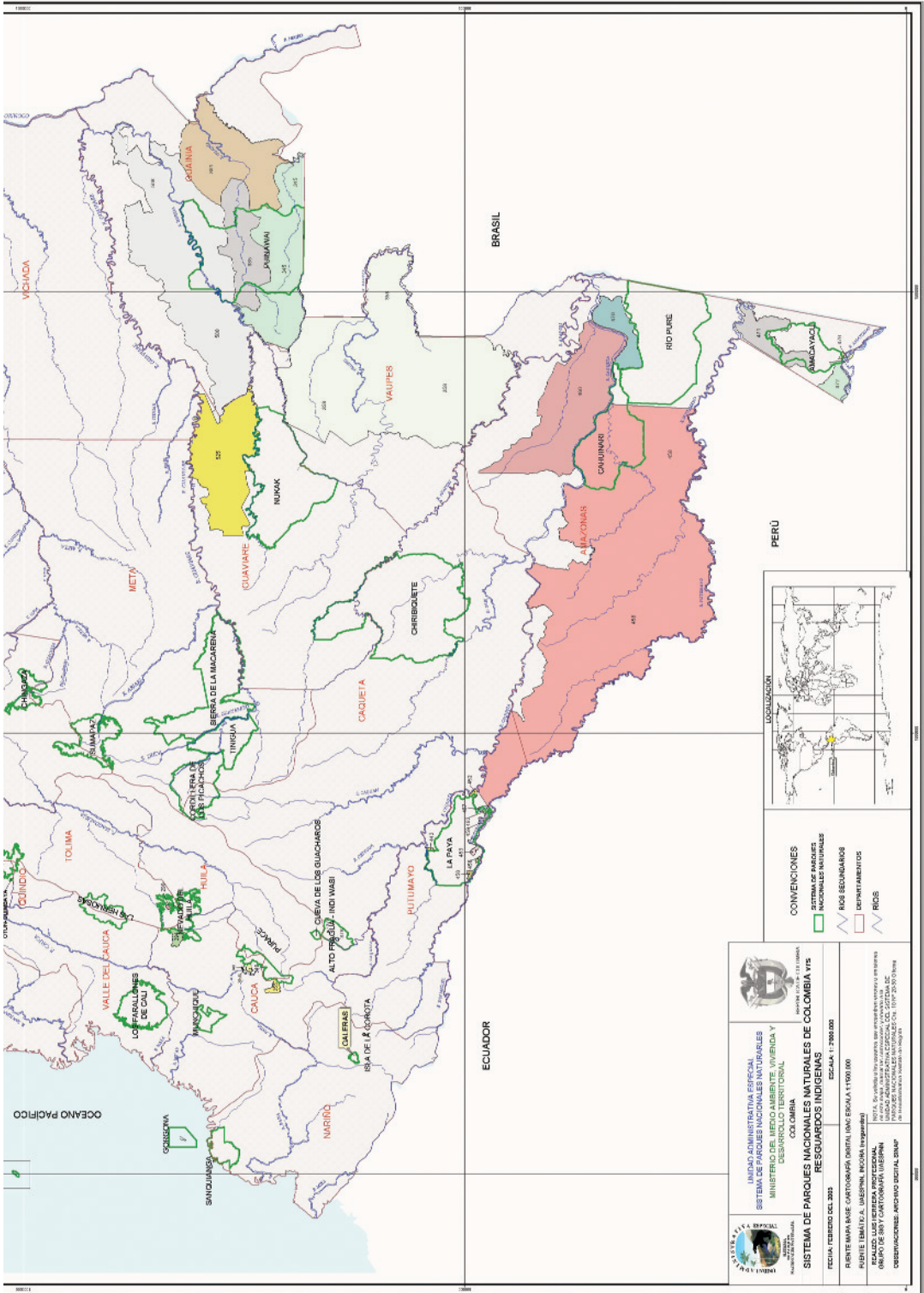
DEPARTMENT	AREA OF DEPARTMENT Km ²	INDIGENOUS TERRITORY IN Km ²	% AREA OF THE DEPARTMENT	POPULATION OF THE DEPARTMENT	INDIGENOUS POPULATION	% INDIGENOUS POPULATION DEPARTMENT	% NATIONAL INDIGENOUS POPULATION	NUMBER OF ETHNIC GROUPS	NUMBER OF RESGUARDOS AND RESERVES
RISARALDA	4,140	254	6.1	844,184	7,821	0.9	1.1	1	1
SANTAFE DE BOGOTA	1,587	0	0.0	5,484,244	1,300	0.0	0.2	0	0
SANTANDER	30,537	0	0.0	1,811,741	419	0.0	0.1	1	0
SUCRE	10,917	0	0.0	701,105	11,115	1.5	1.6	1	0
SAN ANDRES Y PROVIDENCIA	44	0	0.0	61,040	21	0.0	0.0	0	0
TOLIMA	23,562	151	0.6	1,286,078	22,450	1.7	3.2	2	9
VALLE DEL CAUCA	22,140	338	1.5	3,736,090	7,490	0.2	1.1	3	11
VAUPES	65,268	36,189	55.4	24,671	20,044	74.6	2.9	19	2
VICHADA	100,242	22,096	22.0	62,073	17,932	26.9	2.6	8	40
TOTAL	1,141,748	279,548	24.5	37,664,711	701,860	1.7	100.0		469

Source: DNP/UDI, 1997

Box 3: Map of Colombian Indigenous Territories and National Natural Parks



THE ORIGIN AND HISTORY



INSTITUCIÓN NACIONAL DE ESTUDIOS Y DESENVOLLO TERRITORIAL
CONSEJO NACIONAL DE TERRITORIO
SISTEMA DE PARQUES NACIONALES NATURALES DE COLOMBIA VTS
 FECHA: FEBRERO DEL 2003
 ESCALA: 1: 200 000

INSTITUCIÓN NACIONAL DE ESTUDIOS Y DESENVOLLO TERRITORIAL
 MINISTERIO DEL MEDIO AMBIENTE, VIVIENDA Y DESARROLLO TERRITORIAL
CONSEJO NACIONAL DE TERRITORIO
SISTEMA DE PARQUES NACIONALES NATURALES DE COLOMBIA VTS
 FECHA: FEBRERO DEL 2003
 ESCALA: 1: 200 000

PROYECTO: MAPA BASE CARTOGRAFICO (SERIAL) LINEA ESCALA 1: 100 000
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- CONVENCIONES**
- SISTEMA DE PARQUES NACIONALES NATURALES
 - RIOS SECUNDARIOS
 - DEPARTAMENTOS
 - RIOS

II

INDIGENOUS *RESGUARDOS* IN COLOMBIA:
TOWARDS AUTONOMY AND
POLITICAL DECENTRALISATION

The modern Colombian State was (and in some cases still is) conceived as a liberal, united mono-cultural State, based on the principle of equal rights for everyone. This vision did not leave any room for other rights systems and authorities; all traditional or local systems had to be eliminated or assimilated in the name of modernisation.

Nevertheless, there has been a change in vision at the global level. It is now recognised that there is a need to promote the participation of all sectors of the society. Many countries accept a reform of the state in order to transfer budget and rights to the society on different levels: communities, municipalities and districts or departments. Not only to create a more efficient administration, but also to create a plural state that recognises the existence of different social groups on the basis of equity among the groups.

There have been several factors that influenced this change of vision. First, as we have seen, local social movements like the indigenous peoples movement gained in reputation and became an important political force. Second, the national policies and programmes inspired in a centralised homogenous state had failed in many cases, showing the need to recognise local particularities and local institutions. A good example is the failure of land reform policies that were meant to create major security of land tenure for the peasants and the possibility to invest capital to modernise the agrarian production but instead resulted in many cases in loss of land, indebtedness and disintegration of local communities. Third, the global preoccupation with climate change and degradation of the environment showed failure of central policies and contributed to the idea that it is important to involve local communities in the management of resources. Today, even institutions like the World Bank demand participation of local populations in projects relating to resource management.

In Colombia this process of transformation also took place. In search of a solution for the long-standing internal conflict, a national constitutional assembly was installed that designed a new political constitution that became operational in 1991. This new political card was meant to create a more tolerant society able to integrate the different conflicting sectors and factions of the population by opening up new spaces of political participation. Indigenous representatives had a place in this assembly and they received support from many sectors. They could introduce many of their political aspirations and contribute to discussions with

their experiences in search of their own space and tolerance towards their cultures.

As far as the ethnic minorities are concerned, the Colombian constitution can be considered among the most progressive in Latin America and in the world. It includes by its very formulation the multi-ethnic and multi-cultural character of the country and develops a whole body of basic articles, as well as many related articles regarding social, economic and cultural rights. The constitution also sets a series of articles with respect to the special regime that strengthens the *resguardos* as a form of land tenure and indigenous representation (see Box 4).



An Emberá-community asks for reform long before the 1991 constitution (1985, Chocó).

Photo: W. Ferwerda

Box 4: Political Constitution of Colombia, 1991**Articles relating to indigenous peoples****Title I: *Basic principles***

Article 7: The state recognises and protects the ethnic and cultural diversity of the Colombian nation.

Article 10: Spanish (*castellano*) is the official language of Colombia. The languages and dialects of ethnic groups are also official in their territories. In communities with their own linguistic traditions, teaching will be bilingual.

Chap. II: *Social, Economic and Cultural Rights*

Article 58: Private property is guaranteed, along with other rights acquired in agreement with civil laws, and these cannot be ignored nor affected by previous laws.

When a law is applied, which has been issued for public utility or social interest, and there is conflict between the rights of individuals and the needs for which it was issued, then public or social interest should take precedence over private interest.

Property is a social function that implies certain obligations. As such, it inherently has an ecological function.

The state will protect and promote joint and common forms of property.

Article 63: Property for public use, natural parks, communal lands of ethnic groups, *resguardo* lands, the archaeological heritage of the nation, and other property as determined by law, are inalienable, imprescriptible and non-seizable.

Article 68: Individuals can found educational establishments. The Law will establish the conditions for their creation and management.

Members of ethnic groups will have the right to a formation that respects and develops their cultural identity.

Title VI: *Legislative branch***Chap. IV: *The Senate***

Article 171: The Senate of the Republic will be composed of 100 elected members from the national constituency.

There will be an additional two senators elected from a special national constituency by indigenous communities.

Colombian citizens who are situated or live outside of the country will be able to vote in the elections for the Senate of the Republic.

The special constituency for the election of senators by indigenous communities will be governed by the electoral system.

Representatives of indigenous communities who aspire to form part of the Senate of the Republic should have held a position of traditional authority in their respective community, or have been leader of an indigenous organisation, and their quality will be vouched for through the certification of the respective organisation, approved by the Ministry of the Government.

Title XI: Territorial Ordering

Chap. I: *General dispositions*

Article 286: Territorial entities are departments, districts, municipalities and indigenous territories (...)

Article 287: Territorial entities have autonomy in the management of their interests, within the limits of the Constitution and the law. They will have the following rights:

1. "To be governed by their own authorities."
2. "To exercise competencies that correspond to them."
3. "To administrate resources and establish taxes necessary for the fulfilment of their functions."
4. "To participate in national income."

Article 288: The Organic Law of Territorial Ordering will establish the distribution of competences between the Nation and the territorial entities (...)

Chap. IV: *Special regime*

Article 329: The setting up of Indigenous Territorial Entities (*Entidades Territoriales Indigenas*) will take place in accordance with the Organic Law of Territorial Ordering, and their demarcation will be carried out by the National Government with the participation of representatives from the indigenous communities, and on the basis of recommendations from the Commission for Territorial Ordering.

Resguardos are collective property and inalienable.

The law will define the relationship and the coordination of these entities with those of which it forms a part.

Paragraph: In the case of an indigenous territory that includes the territory of two or more departments, its administration will be carried out by the indigenous councils in coordination with the governors of the respective departments. In the event that this territory decides to constitute itself as a territorial entity, this will be done through the fulfilment of the requirements established in the first instance of this Article.

Article 330: In accordance with the constitution and laws, indigenous territories will be governed by councils formed by and regulated according to the customs of their communities, and will carry out the following functions:

1. "Ensure the application of legal norms for land use and population of their territories."
2. "Design policies, plans and programmes for economic and social development within their territory, in harmony with the National Development Plan."
3. "Promote public investment in their territories and ensure their rightful use."
4. "Receive and distribute their resources."
5. "Ensure the preservation of natural resources."
6. "Coordinate programmes and projects promoted by the different communities in their territories."
7. "Collaborate with maintaining public order within their territory, in accordance with the instructions and arrangements of the National Government."
8. "Represent their territories before the National Government and other entities of which they form a part."
9. "Those identified by the constitution and the law."

Paragraph: The exploitation of natural resources in indigenous territories will be done without affecting the cultural, social and economic integrity of the indigenous communities. In the case of arrangements that are adopted with regards to such exploitation, the Government will enable the participation of representatives of the respective communities.

The constitution has served as a basis for the development of extensive legislation on each of the themes mentioned, besides the necessary governmental adjustments as far as the structural organisation of the State is concerned and the fulfilment of its public function. The following sections will deal with the themes related to collective territorial rights, the basic health service and education as outstanding aspects of the indigenous policy as has been developed in Colombia.

Collective territorial rights

As said before, the political constitution reconfirmed the inalienable, imprescriptible and non-seizable character of the *resguardos* (article 63). The recognition of territorial rights has been the basis of the development of all other rights. Besides the recognition of property that is conferred in virtue of the importance of the territory for the physical and cultural survival of the indigenous people, the *resguardos* constitute a manner of organisation, representation and political practice. The *resguardos* are also a means of strengthening of the autonomy as it is expressed specially in the articles 171, 287 (4) and 330. The constitution defines that the State will protect and promote common and joint forms of property (article 58), which opens up the possibility for a recognition of collective territorial rights for others besides the indigenous people.

The Afro-Colombian communities that live in tropical forest, organised as traditional communities, form a total population of some 2 million people. They obtained the right to claim their territories through the Law 70 of 1993. This collective occupation of a territory has been defined as, “the historical and ancestral settlement of black communities that constitute their habitat and on which they develop at present their traditional production practices”. In order to obtain the collective title they have to present a management plan. In this way, different areas have been legally recognised as the territory of black communities, especially in the Pacific region where today more than 1 million hectares have been adjudged as collective property of the black communities. Much of what can be said of the *resguardos* and their contribution to conservation is to a great extent also valid for the territories of Afro-Colombian communities.

Health and education: the recognition of cultural diversity

During Spanish domination, colonisation occurred hand-in-hand with a process of evangelisation and imposition of the Spanish language. In practice, however, it became important to integrate the indigenous population and the activities directed towards their cultural transformation were reinforced. The system therefore allowed a certain degree of maintenance of a different cultural identity by permitting the use of the indigenous language and the acceptance of some of the indigenous institutions as part of the new imposed order. With the creation of an Independent Republic in 1819, there was a need to unify further the different political factions and the variety of regional interests.

As part of the policy of integration and ‘whitening’ of the indigenous people, they were forced to participate in an educational system that denied their own culture and language and were offered medical assistance that ignored their own traditional medicine. An example of this policy was the concordat of 1887 celebrated

between the Colombian State and the Catholic Church by which the Church became responsible for the education in indigenous communities. In 1973, the State signed a new concordat in which the Church continued to administer a great part of the education in the so-called 'national territories' (the former *intendencias* and *comisarias*). Under the concordat the Church had to share the budget defined for education with the Secretaries of Education, with the State playing a major role in the supervision of the educational programmes developed in indigenous territories. During this period, some of the missionaries reconsidered their vision of the indigenous cultures and languages, and started to develop a new approach to the role of education in indigenous communities.

In 1978 the Ministry of Education issued the decree 1142 that incorporated the ethno-education as part of the State policy. It established the alphabetisation of the indigenous language in order to allow a gradual learning of the national language without affecting the maternal language. Based on this decree, different programmes of ethno-education were developed.

With the new political constitution, the State recognises and protects its multicultural and ethnic character and the right to a structure that respects and develops indigenous cultural identity (articles 10 and 68); this means, each ethnic group has the right to create their own schools, and to develop their own curriculum and to offer a bilingual education.

Indigenous people have gained the autonomy to determine their education system within their territories. The following case is very illustrative of this process. For some fifty years the State had delegated through concordat education in the so-called '*territorios nacionales*' (that is the most isolated outer regions of the country) to the Catholic Church. A sentence of the State Council on the 21st of October, 1999 answered a demand of the traditional authorities of one *resguardo*, ratifying the right of the indigenous people to contract the educational service directly with the State in virtue of the already existing legislation (see Box 5).

Box 5: Indigenous Educational Rights in Practice: Sentence of the State Court on the 21st of October, 1999

Law 115 of Education in article 63:

“Whenever it will be necessary to establish a contract for the offering of educational services in the communities of the ethnic groups, these contracts should adjust to the processes, principles and aims of the ethno-education and its realisation will be concerted with the authorities of the indigenous territorial entities and the ethnic groups.” ...

The Decree 804 of 1995 (in article 22) defines:

“Whenever it will be necessary to establish a contract for the offering of educational services in communities of the ethnic groups, preferably the contract will be with their communities or organisations that have educational experience.”

The Sentence from the Constitutional Court of the State Council, 21st of October, 1999 ordered the following:

“It is ordered that the Government of the Department of Amazon has to initiate immediately the pertinent conversations with the Episcopal Conference of Colombia, in order to concert the termination of the contract on the Administration of the State education service that at present is carried out by the Episcopal conference of Colombia [...] in order to contract it with the demanding communities that have demonstrated to fulfil the requirements demanded by the already mentioned legal norms.”

This Sentence recognises and supports the processes and advances made in the development of indigenous peoples’ own education system in some indigenous communities and offers a framework for autonomy. The indigenous people of the Amazon have designated a great percentage of their transfers to educational projects, as a way of consolidating ideas on their education and cultural reinforcement and autonomy as will be presented further in the following chapter.

In many indigenous territories the health service offered by the State has been deficient. In most cases it was limited to the urban centres. For a long time, the only access to non-indigenous medicine was through the missionaries and traders. When the regional health services finally started to attend to indigenous people, it was very sporadic and with an approach that neither acknowledged the existence of an indigenous medicine system, nor paid attention to prevention.

Through the political constitution, the Colombian State guarantees access to health services to the whole population. With respect to the health service for indigenous communities, it has been established that it must be an efficient service with indigenous communal participation and with a progressive involvement of local personnel.

Decree 181 offered the possibility of effective participation of the communities in adapting the programmes to their necessities and specifies those that are responsible for coordination with the communities. It assures the free service, as well as the selection, formation and control of the indigenous community health workers.

In 1993, Law 100 concerning the general system of social security and health was promulgated. This Law includes some norms that benefit indigenous people. It opens up new possibilities to deliver a health service taking into account the local indigenous authorities. It includes the obligation to concert and consult with them and to explore the possibilities to incorporate procedures, diagnosis and therapies that respect the traditional medical system.

In 2001, Law 691 was issued through which the participation of the indigenous people in the general social security system is regulated. It guarantees the right to have access to health services in dignified circumstances, respecting the cultural diversity and the political constitution, the international treaties and laws related to the indigenous people and their territories.

The institutions in charge of the health service are trying to develop and apply models according to the conditions of the indigenous people taking into account the legal framework. Some interesting cases of contracts and services developed together with the indigenous communities and their authorities are now being applied (see Box 6).



Indigenous Roundhouse or *Maloca* in Caquetá. Photo: Tropenbos International, Colombia

Box 6: Contracts with the State: Gaining Autonomy and Respect for an Indigenous Medical System

In the Vaupés region, a model has been constructed called “Operational Model for the delivery of integrated intercultural health services in the communities of the Vaupés”. This model is the product of more than twenty years of field experience, during which the process of active participation of the community has been fundamental, as well as the contributions of many professionals and the advice of many important health experts of the world. This model has found ample acceptance among the communities of the department.

The overall objective of this model is the consolidation of methods for delivering a health service according to the local circumstances, that offers an opportune and accessible health service of quality to the associations of traditional indigenous authorities, as well as strengthening the institutional and administrative capacity in order to stimulate autonomous management of this theme at the local level. It is based on the social perception of health, its problems and solutions, whilst emphasising the intercultural exchange between traditional indigenous medicine systems and the “occidental” system, according to legal norms and as part of the ‘life plans’ of the different regional organisations.

Source: Carreno Marta *et al.* *Modelo operativo para la prestación de Servicios de salud integrales e interculturales en las comunidades del Vaupés*. Unpublished report, 1992.

The political constitution is an excellent and coherent framework for the recognition of indigenous rights. The different laws promulgated afterward reinforced this framework, making the situation of the indigenous people as distinct social group, one of the most favourable ones in Colombia as far as the recognition of rights and the opportunities of participation go. This new situation includes participation in the State economy as presented in the next chapter.

III

PARTICIPATION OF *RESGUARDOS* IN THE CURRENT ECONOMY OF THE STATE: TOWARDS ADMINISTRATIVE DECENTRALISATION

The Political Constitution contains a whole range of principles and articles that are oriented towards the reinforcement of the cultural diversity and autonomy (see Box 4), which are in the process of further development through the laws that regulate these rights in detail. In this way the Law 388 of 1997 designating the new territorial ordering of the State was promulgated. It is oriented towards the strengthening of the indigenous *resguardos*, through the, still to be created, indigenous territorial entities as part of the new vision of political and administrative decentralisation. Due to this administrative decentralisation, the *resguardos* participate in the economy of the State through the system locally called ‘*transferencias*’, a budget allocation from the central State to the territorial entities.

The indigenous territorial entities (ETI) were therefore included in the overall territorial structure of departments and municipalities (see Box 4 Articles 286, 329, 330). As this legal figure of ETI does not exist yet, the Political Constitution has assimilated the *resguardos* as municipalities in the meanwhile in order to make it possible for the indigenous people to receive part of the current income of the Nation.

This policy of territorial budget allocation contains a variety of administrative, juridical, economic, socio-cultural and organisational aspects relevant for consideration as they constitute a complete vision of the interaction between whites and Indians with associated positive and negative implications.

Economic aspects

The Nation has determined by Law the total amount of territorial transfers. Each *resguardo* receives according to its population in relation to the total indigenous population of the country based on reports of the Colombian Institute of Land Reform (INCORA). Between 1994 and 2001, the indigenous *resguardos* received a total amount of some 23 million US dollars by this mechanism.

Juridical and administrative aspects

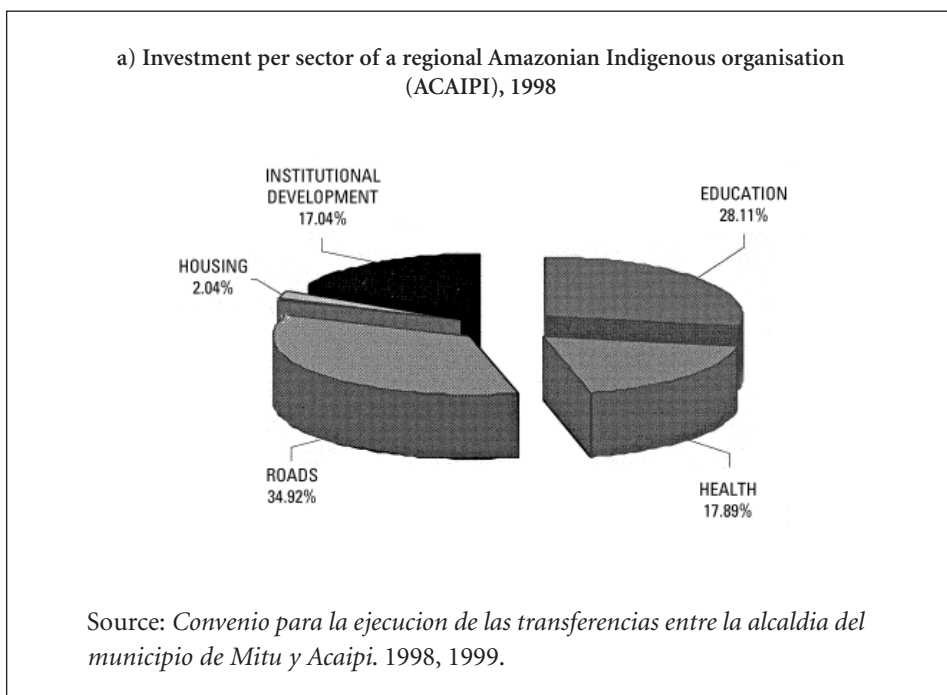
On the basis of article 357 of the political constitution, in which the possibility to receive economic resources from the current budget of the Nation, a special legislation was developed and Law 60 of 1993 was adopted. This Law has since been

superseded by the Law 715 of 2001. Both laws ordered the distribution, follow-up and evaluation of the resources allocated to the municipalities and *resguardos* to the National Department of Planning.

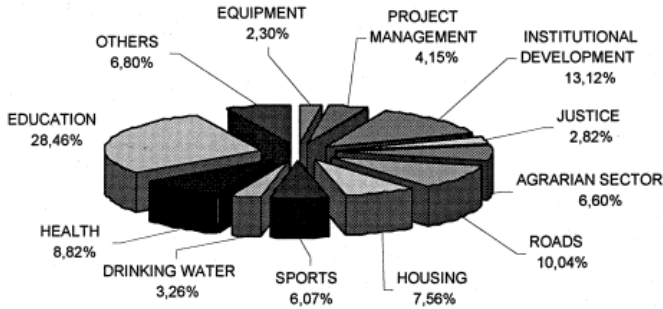
Currently, the funds are administrated by the municipality in which the *resguardo* is located. Therefore, an agreement between the municipality and the indigenous authorities of the *resguardo* regarding the spending of these funds is required before the end of each year. The areas of investment can change each year; in general terms this money is usually spent on rapid expenditures and are used for the acquisition of materials and payment of labour or personal contracts delegated amongst the indigenous organisations. All the contracts are sent to the Ministry of Interior. The indigenous authorities, generally the *gobernadores* or *cabildos* or their delegates, are in charge of receiving the budget for which they have to travel to the administrative centre of the municipality or in some cases to the Departmental Government.

The Indigenous *resguardos* define their programmes and projects for which they want to use the budget allocated. The law limits the destination of this budget to projects related to education, health, drinking water, housing and agricultural development (see Box 7).

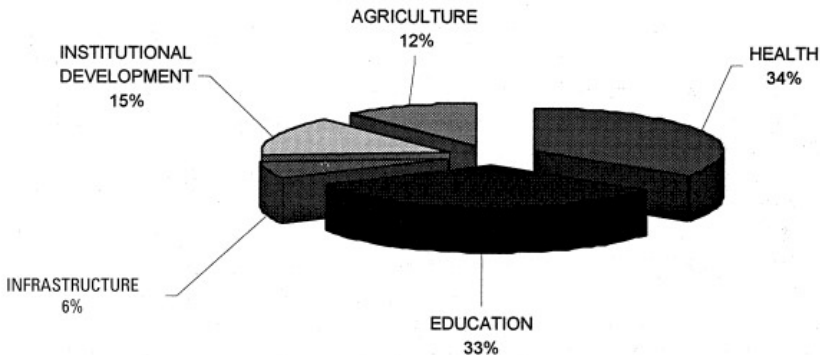
Box 7: Investments per Sector of the State Funding by Resguardos of the Amazon, 1998-1999



b) Investments per sector of all the resguardos of the Amazon region, 1999



c) Investments per sector of a regional Amazonian Indigenous organisation (CAIPI), 1999



Source: *Seguimiento y evaluación de la participación de los resguardos indígenas en los ingresos corrientes de la nación para el periodo 1998-1999*. Documento para el desarrollo territorial No. 54 DNP, Bogotá. 1999

The *resguardos* should receive technical assistance and training from the National Planning Department in order to improve the capacity of planning and execution of the resources.

Organisational and socio-cultural aspects

This policy of budget allocation has given a major impulse to the role of the representative authorities, their organisational forms and the participation of the communities in the indigenous *resguardos*. Although the *cabildo* had its own functions before, with the management of these financial resources it has been revitalised. The aim of this administrative action was to contribute to the autonomy of the indigenous people, while consolidating the policy of recognition of indigenous rights and the administrative decentralisation of the State, as part of a new territorial ordering of the country.

The indigenous communities were confronted with the new challenge of directly administering and managing economic resources; while some communities had had a long tradition in managing resources, for many it was a completely new experience. The management of these resources in general terms was, and sometimes still is, used as an element of political patron/client relationships and management is not always transparent. These aspects still require evaluation, because in many cases, especially during the first years of operation these resources did not fulfil the aims and were affected by open or hidden corruption. A long administrative chain with gaps, such as the lack of criteria for the formulation of projects, the way of contracting and even the implementation and evaluation of projects, made it possible to misuse the resources. During the first years of operation, part of the resources never made it to their destination – disappearing at various stages, at the level of the department, the municipality and even in hands of the indigenous people themselves, as some of their leaders never acknowledged the resources received.

Despite these initial difficulties, after almost a decade of experience the allocation of budget seems a successful mechanism of direct support of the Nation to the *resguardos*, which can contribute to the consolidation of a new territorial and administrative ordering of the country. However, it will be necessary to reconsider and to adjust the actual process of intermediation, contracting and execution and also to improve the mechanisms of control in order to watch over the real administrative consolidation of the *resguardos* and indigenous territorial entities.

Budget allocation, autonomy and cultural strengthening

The discussions at the core of the indigenous communities about the potential use of the resources are of cultural importance. In many cases, they are not yet fully analysed or described in detail. The allocation of resources was defined in terms of cultural reinforcement. This occurs through the support of indigenous peoples' own education and health programmes through the support of the recovery of ways of transmitting traditional medicine, and some income generat-

ing projects that are meant to reinforce the community. A very significant case has been the use of these resources for the acquisition of land in order to recover traditional territory. Although there was some opposition to this use of the resources, they alleged that the territory is the basis of their well-being, their education and health. Another interesting case occurred in the Vaupés region where some communities decided to spend the funds in the acquisition of basic goods to which they had no access such as salt, batteries, cloth, medicine and tools.

There is a tendency towards spending these resources in search of an alternative way of interacting with global society from the perspective of cultural reinforcement. The allocation of resources to the different sectors in percentages at the level of the whole Amazonian region and on the level of an individual indigenous organisation can be seen in Box 7.

Recently there have been some changes in legislation that are restricting the use of these resources for framing the development plans approved at the municipality and department levels. This can be seen as a constraint on the autonomy of the indigenous peoples to define their own alternative development.



Emberá community in resguardo making handicrafts to sell to local tourists in Bahía Solano and El Valle (Chocó). *Photo: W. Ferwerda*

IV

PROBLEMS AND CHALLENGES OF THE POLICY OF *RESGUARDOS*

In a very short time the indigenous people obtained many advances in the recognition of their rights and have an excellent opportunity to work towards autonomous development with respect for their values, based on their culture. Although most of their fundamental rights are recognised, there are still some ambiguous situations in which it is not quite clear for everybody what the scope of these rights is. In this chapter, two examples are presented; the first concerns the issue of overlap between *resguardos* and National Natural Parks (or *Parque Nacional Natural*), and the second is the issue of ownership of the subsoil and its resources.

Besides these legal issues, the indigenous territories have to deal with many threats. For a long time, these territories were considered empty and, therefore, were adjudged to landless peasants that had established themselves in these areas. Although the Government has recognised the territories, it does not mean that all the individual colonists do. The agricultural frontier is still expanding and affecting their territories. Propagation of illegal crops such as coca are an important driving force behind this expansion. The impact is not limited to the felling of the forest, since the chemicals used for the production of cocaine contaminate the environment. Fumigations to exterminate the plantations are contaminating the soil, water and many other crops. The impact on health of the forest and the human population is still to be studied. For the moment, fumigations cause the occupation of new areas and are accelerating the conversion of forests. Furthermore, the coca economy has destabilised many indigenous communities, resulting in abandoned food crops and other traditional activities, alcohol and drug abuse, violence and health problems.

Although the indigenous people have stated many times that they do not want to get involved in the internal conflict of Colombia (see Box 8), the different guerrilla and paramilitary movements are still operating in the indigenous territories. In most cases they do not respect the autonomy of the indigenous people and recruit indigenous young people for their own purposes.

These problems can only be solved with the solidarity of other sectors.

Box 8: Struggling to Maintain Autonomy Amidst War

Interview with Marcos Yule, Paez indigenous authority of Toribio

Q. What is the position of the indigenous community when you say you will remain autonomous?

M.Y. In defending the process of the communities of developing their dreams as a life plan, and not going hand in hand with one of the actors; denouncing all the acts that go against integrity, against life, against human rights, whoever commits them, the army, the paramilitary and also the guerrillas. We defend also dialogue as a possibility to talk and to ask for respect. And ask them to be consequent with their own ideals.

Q. How do you propose to defend this autonomy?

M.Y. Denunciating, dialoguing, asking respect. That is our point. On one occasion we walked from Santiago de Quilichao to Cali, some 40,000 people, Indians, peasants and people from the black communities in order to reject the situation. The different actors try to involve us, paramilitaries and guerrilla taking young people and children with them.

Q. What has been your standpoint in these cases?

M.Y. We have said that those who go with any actor, we will not recognise them as part of the community anymore.

Source: an interview with Marcos Yule, Paez indigenous authority of Toribio. *El Espectador* 4th of August, 2002.

Land tenure: The overlap between resguardos and National Natural Parks

Legally it is possible to declare a National Natural Park on indigenous territory and, in fact, this has occurred in many cases. This is not surprising as indigenous territories are often the best-conserved areas. At least 19 of the 50 parks overlap, either wholly or to a great extent with the *resguardos* and indigenous territories (see Box 3: Map). In some cases, a whole *resguardo* lies within a National Natural Park. In other cases a whole National Natural Park may be within a *resguardo*. This situation will only increase as some *resguardos*, within or bordering on the parks, need to be territorially expanded because the current area is not big enough to support a growing population.

Although it has been stated (Decree 622 of 1977) that the establishment of a National Natural Park is not incompatible with the prior or later establishment of an indigenous reserve, it is not always clear how to interpret the laws and competing regimes. In the first place, the indigenous reserve is a category of lesser

implications than the *resguardo*, and has lost its application as most of these reserves have been transformed into *resguardos*. This Decree also states that in order to create a National Natural Park it is necessary to carry out a study that has to be approved by the Colombian Academy of Science. In the case that the National Natural Park is to be created on indigenous territory, the study has to be carried out together with INCORA and the Colombian Institute of Anthropology (ICAN), in order to establish a special regime that benefits the indigenous population and that will respect their permanence and rights to use the natural renewable resources. The history of the creation of many National Natural Parks and the set up of the Park's administration nevertheless shows the absence of clarity of the status of these territories with two competing regimes acting at the same time. In some cases, the indigenous population was forced to leave while, in other cases, restrictions on the use of the resources were imposed.

The indigenous people and their organisations have also been opposed to the creation of National Natural Parks in their territories. Often they were never approached, listened to, and were only informed once the parks were already created. It is also not always straightforward as to how to deal with this situation; the creation of National Natural Parks has led in practice to the imposition of all kinds of restrictions on the indigenous communities by the personnel managing the Parks. Many environmentalists have been sceptical regarding the capacity and willingness of the indigenous people to conserve their territories and have been, as a result, opposing the recognition of indigenous rights in those areas declared National Natural Parks.

Box 9: Differences Between *Resguardos* and National Natural Parks

Indigenous <i>Resguardos</i>	National Natural Parks
- Created during colonial period by Spanish Law.	- Of recent creation, copied from Anglo-Saxon Law.
- Regulates the right to use the resources.	- Allows only use for conservation, research and recreation, and does not permit inhabitants or the use the natural resources.
- Aims to make possible the physical, cultural, social, economic and political survival of indigenous societies and its members, as well as the improvement of their living conditions.	- Aims to conserve the physical space and its natural resources and serves a general interest, but it is not related to fundamental rights of persons or groups.
- Responds to a constitutional obligation to attend the territorial rights of the indigenous people.	- Although possible by law to create parks, there is no obligation to create them in certain places.

<p>- Territory is collectively owned by a group of people who share a common identity, organisation and therefore share a common future.</p>	<p>- There is no restriction or indication of what kind of patrimonial ownership is required for a National Natural Park.</p>
<p>- It is an institution ‘<i>sui generis</i>’ for which decrees of indigenous customary law, of public and private law are operational.</p>	<p>- As a public institution it is regulated completely by public law.</p>

Based on: Roldan, R. *Resguardo Indígenas y Parques Naturales en Colombia: una reflexión sobre un mismo espacio territorial. Documento de Trabajo 8. Fundación Gaia. Bogotá, 2001*

When comparing the two regimes there are some similarities and many differences. As far as the similarities are concerned both serve the aim of preserving the environment and the natural resources within the territories that have been defined as a National Natural Park or *resguardo*. Both structures are defined as inviolable, imprescriptible and inalienable. Although it is not quite clear what the implications are in the case of National Natural Parks, it does mean that in both cases that a space has been put aside outside commerce and is land not open for negotiation. However, there are also many differences between the two regimes that have to be considered (see Box 9).

It seems clear that although there is a formal compatibility between these two legal structures, there is a need to create clarity, as it is not possible that two authorities act upon a same territory without establishing a hierarchy and a system of cooperation and coordination.

Although most National Natural Parks were created without considering a special regime that could benefit the indigenous population of those territories, which resulted in many conflicts for many years; in recent years the Ministry of Environment has shown a change in policy and tried to involve the local population, especially the indigenous people, in the management of the National Natural Parks. So far one agreement has been signed between the Ministry of Environment and the authorities of a *resguardo* to develop a system for cooperation for the administration of a protected area (see Box 10).

Box 10: Inter-administrative Agreement for the Coordination of the Public Function of the Conservation and Management of the National Natural Park of Cahuinari, between the Ministry for the Environment and the Miraña Public Authority. June 2001

“This Agreement defines the goodwill of both the Miraña people and the Ministry for the Environment, to cooperate for conservation, as is their obligation.”

“The Ministry for the Environment recognises the rights of the Miraña people to their territory and the public character of their authorities, and as such the need to constitute a special management regime, exceptional to the general regime of the general system, and which attends to the cultural and biological characteristics of the area.”

“This Agreement aims at coordination of Park management from an inter-cultural perspective, through the construction of rules and petitions that contribute to the strengthening of the traditional culture and the protection of biodiversity.”

“For this reason, a Directive body was created, formed by traditional Miraña authority and a committee from the Ministry for the Environment, to advise on the issue of inter-cultural coordination.”

“The Agreement will be developed in two phases: a first phase to decide upon the inter-cultural principles and norms, to design a plan of action and to create an operational body; also to adapt national norms for the management of National Natural Parks.”

“In the second phase, the plan of action and the organisational body will be implemented, and there will be periodic evaluations.”

The development of this kind of agreement will give clarity to the management situation of these territories with a double status and explore the possibility of considering a new category of protected indigenous territory and to elaborate the role of traditional indigenous authorities as environmental authorities. Recently a new kind of proposal has been developed that combines the conservancy efforts of some *resguardos* in collaboration with other governmental and non-governmental institutions that undoubtedly will contribute to the development of a new category of protected area (see Box 11).

Box 11: Parks, *Resguardos* and Autonomous Administration

The proposal that at present has been promoted by organisations of community health workers is the one of constituting a new *resguardo* in the unprotected central zone of the Selva de Matavén. This *resguardo* would be owned by the 16 *cabildos* of the *resguardos* that surround this area, in order to dedicate it principally to nature conservation. At the institutional level, a group of supporting institutions has been formed that will support the legal protection of this area, including the Ministry of Environment, the Regional Corporation of Orinoco, the Government of Vichada Department, the Commission of Indigenous Affairs of Vichada, the Programme of Alternative Development of the Presidency of the Republic, and the Etnollano Foundation. The 1,280,000 hectares of the central zone of the Matavén forest will be managed as an area of environmental management, through agreements on the use and management between the surrounding *resguardos*. This is an interesting proposal that may lead to the constitution of the first natural indigenous park of the country, overlapping with the new *resguardo* and administered by the communities.

Source: Lobo-Guerrero, M. *et al.* Matavén, selva corazón de la selva. *Panamericana Formas e Impresos*. Bogotá; 2000: 42.

Mining and the ownership of the subsoil

The growth of the exploration and exploitation of products like oil, coal and gold during the last decades have had a considerable impact on the indigenous communities, as many of these resources are found in their territories. According to a study carried out on this subject¹, some 22 different indigenous groups are affected by mining activities in their territories.

Although the oldest Spanish laws attributed ownership of the mines to those who owned the land on which it was located, this was changed in colonial times and was reaffirmed with the Independence. The political constitution reconfirmed this policy, as it establishes that the resources of the subsoil and of the non-renewable resources in general are owned by the State. Nevertheless, the mining code accords some rights to the indigenous communities to control the exploitation of minerals in their territories such as the claiming of preferential use or exploitation rights.

Another important legal instrument has been obtained through the decree 1397 of 1996 that creates the National Commission of Indigenous Territories and reg-

¹ Roldan, R., Sanchez, E. and Castano, S. 1999. Explotacion de petroleo, gas natural y carbo en los territorios indigenas de Colombia. *Mineria en territorios Indigenas de Colombia, Peru y Venezuela*. Disloque editores. Bogotá.

ulates that no activities of exploration and exploitation will take place on a indigenous territory without the previous consent of the indigenous authorities, the communities and its organisations. The Political Constitution also indicates that the exploitation of natural resources in indigenous territories must be carried out without affecting the cultural, social and economic integrity of the communities.

The ILO convention defines, moreover, that in those cases where the resources of the subsoil are owned by the State, the Government should establish and maintain procedures in order to consult the indigenous people involved, in order to determine if their interests are harmed.

The people involved should always participate in the benefits and receive an indemnification for any damage that they may suffer from these activities.

The experience of indigenous people with oil exploitation has been dramatic. One of the most ancient concessions known as the Mares Concession located in the Magdalena River valley near Barrancabermeja was exploited by an International Petroleum company of Toronto, Canada. Reports of the first explorations mention the presence of 'hostile undernourished and ill natives', qualified also as 'unfriendly head-hunters'. These people lost their lands and in a few decades disappeared probably as a result of the loss of access to their resources, the introduction of diseases and perhaps persecution. In the case of another famous concession, the Barco concession on Motilon Bari territory, the people resisted for a long time the colonisation of their territory resulting in hostilities between settlers and indigenous people.

Mining activities brought along the construction of roads which opened up indigenous territories, leading to a migration of non-indigenous population in and near indigenous territories, the destruction of sacred sites and the contamination and destruction of the natural environment. The influx of non-indigenous people has also brought health problems and social disintegration; in some cases even the physical elimination of ethnic groups. It is not surprising then that there are many examples of confrontation between companies and general economic interests on one side and the indigenous people on the other (see Box 12).

Box 12: The Uwa People

The struggle of the Uwa people in defence of their territory received a lot of international attention and solidarity. The Uwa live on the slopes of the oriental cordillera of the Andes. Their territory covered at the time of the Spanish conquest approximately 1,400,000 ha. Today they live on small fragments of this traditional territory, partially recognised as *resguardo*, but many of their sacred areas are, however, not included and the development of their annual ritual cycle is obstructed. Their territory still covers different altitudes and ecosystems that go from the Andean cloud forests to the tropical lowlands on the foot of the Andes. It is in these lowlands that oil has been found. The Uwa are claiming a continuous and unified territory, but the Government has not been very eager in recognising this territory as there are many colonists living in the area, and because of the economic importance of the resources found in the subsoil. They consider the earth to be sacred – a living being, a mother of which the oil is her blood. The oil reservoirs are considered the mother of all sacred lakes, which should be left untouched as they secure the well being of all the living creatures. The Uwa have been opposing the exploration of oil in their territories, as they consider that this will only bring destruction of flora and fauna, the introduction of illness and the collapse of their culture.

In 1993, Occidental of Colombia, a oil company affiliated to Occidental Petroleum Corporation, signed a contract for the exploration in the north-eastern part of Colombia, 25% of this area coincided with the Uwa territory. The company applied for an environmental license in order to explore in Uwa territory. A meeting was held with the some members of the community and the Government accepted this as a consultation with the indigenous people, a consultation process is obliged by law, and granted the environmental license. The Uwa did not consider this meeting a real consultation as their spiritual leaders and representatives had not been present. The Uwa appealed this decision, and a long process of debates and court hearings took place. The Uwa declared they did not agree with the exploration in their territory and, based on their conviction that as a people they belong to their territory, a harmonious relationship with the territory must be the basis for a dignified life. In this context, they made public their decision to commit collective suicide if their territory would be violated.

During this process their *resguardo* was extended considerably and the exploration license was given for an area outside their territory. It's paradoxical that in the end no important oil reservoirs were found and the company reduced their activities in the area.

Based on information presented in Roldan, R. E. Sanchez, and S. Castano, 1999. Explotacion de petroleo, gas natural y carbo en los territorios indigenas de Colombia. *Mineria en territorios Indigenas de Colombia, Peru y Venezuela*. Disloque editores. Bogotá.

The case of the Uwa shows that it was not enough to accept a consultation as a mechanism to assure the participation of the indigenous people and that it is necessary to define what the scope of a consultation is. It is important to specify the internal mechanisms of representation of the indigenous people and their mechanisms of decision making as these are important elements for the regulation of the consultation as required for all exploitation of resources in their territory (see Article 330 of the Political Constitution, Box 4).

The resources of the subsoil are of great importance for the Colombian economy and as many of these resources are located in indigenous territory, it is clear that the pressure on these territories will continue. The experiences have not been very positive and the indigenous people will have to negotiate favourable conditions. This requires technical information, negotiation skills and above all a good organisational basis that controls and supports their leaders in charge of these negotiations.

V

RECOGNITION OF THE ROLE OF INDIGENOUS PEOPLE
IN NATURE CONSERVATION

The recognition of indigenous *resguardos* implies recognition of nature conservation. This is especially important given that the indigenous peoples have established, within their traditional models of management, a relationship with the humid tropical forest, through which the continuation of vegetation and the good state of biodiversity is looked after. In this chapter, the traditional indigenous model of managing their environment is briefly described.

Cultural and ecological principles of forest management: from a traditional vision to the present day situation.

In general terms, the indigenous people have developed a holistic vision on the environment; they see themselves as intrinsic part of their territory which is perceived in many cases as a sacred living organism that deserves respect. Most Amazonian peoples have developed models of forest management that have allowed its persistence without transforming radically the vegetation cover. Their relationship with nature is mediated by a series of symbolic concepts that order the practice of resource use, share ecological and cultural principles that guide their practice following a basic scheme of non-accumulation of energy. In this paragraph these principles as defined by the Yukuna Indians of the Mirití river will be presented as an example of this indigenous world view.

Firstly, the world has been created by the gods, which gave it a sacred connotation and therefore deserves respect. Secondly, they consider that the world functions with a limited amount of energy that has to flow between all beings. This implies that not a single being or place should accumulate energy.

A fundamental aspect of the notions of nature is that everything in this world has an 'owner', and in order to use it, it is necessary to ask for permission or to negotiate its use by offering coca and tobacco. The spiritual owner controls the use and punishes abuse by sending illness or causing an accident.

A specific group of spiritual owners participated in the mythical origin of each ethnic group, and therefore each group is related in its own specific way to certain owners and certain resources. This relationship leads to a series of food restrictions and to the definition of what is considered proper food for each ethnic group. The result is a differentiated use of the resources in the area.

On the other hand, it is possible to think of the forest as a “humanised” space and of other beings as human beings. All beings (humans, plants and animals) have a very close origin and in the mythology they speak of a period in which all these beings could not be differentiated and shared a same language. This common history makes it possible to think of all living things as people and to apply notions of the social organisation to them. In this way, it is possible to speak of plant-people and of animal-people, men and women that have also chiefs, shamans and that live in roundhouses, just as the indigenous people do.

Finally, they consider that flora and fauna have a similar origin as human beings and particularly as the various ethnic groups, and that a set of spiritual owners participated in their origin as well. The places of origin of all plants and animal species as well as those the different ethnic groups are considered sacred places that deserve respect.

Each ethnic group has its specific ritual task and an own set of rituals, these are moments in which the world’s energy is brought into balance and excessively accumulated energy is returned to its owners. Rituals are also times in which social relations, that is alliances with other ethnic groups, are reinforced as these groups are invited to participate.

Each group has, thus, precedence on the use of a certain territory recognised as its mythical birth place, but has also a detailed knowledge of the species that can be found there and the relations between different species. Their knowledge is not limited to this place, but encloses a much greater space that has nevertheless clear boundaries, what they call ‘edges of the world’ that is shared by different groups (humans and non-humans). This macro-territory is mentally visited by the shaman in order to establish the origin of an illness or accident and to re-establish the energy flows. In this territory sacred and other respected places are recognised such as lakes, rapids, salt-licks (areas where animals come for salt), headwaters, associated in most cases with mythical birthplaces of animals and plants or the dwelling of a spiritual owner. Many of these places can be used, but it is necessary to negotiate a special permission with its owner and to follow certain rules. For example, not cutting the forest, or not staying in those places for a long time, not consuming certain species, or not entering during certain periods of the year. These restrictions are in place to protect these places and/or important points of the reproduction cycle or important feeding places for certain animals.

The shaman is in charge of the establishment of a good relationship with the spiritual world, of the negotiation with the owners and he keeps accounts of the use of the environment and may give indications of the restrictions and rules to be followed.

Each ethnic group has its own internal social organisation based on kinship.

Some are divided into clans and others are composed of lineages. The majority of groups are exogamic and patrilineal, and the birth order is important for the internal hierarchy. On the other hand, each group has its own 'brothers-in-law' or groups with whom to marry and groups with whom it is strictly forbidden to establish this kind of relationship. Each ethnic group is organised around one or various roundhouses or community houses. Various families can live together in one roundhouse under leadership of the owner or captain.

Division of labour is mostly based on gender. Women are in charge of gardens, the children and the preparation of food, as well as ceramics; men of fishing and hunting, housing and basketry.



Woman with child in Emberá resguardo (Chocó). Photo: W. Ferwerda

Some specialist tasks are ascribed, as defined by birth order. In this way, the eldest son will be chief of the '*maloca*', the second eldest, will be prepared to inherit ritual knowledge, and the following sons will learn to become offensive and defensive shamans. Besides there are some minor ritual tasks such as coca, tobacco or beer specialist; those persons will be in charge of its preparation and distribution during rituals.

There is a ritual cycle according to the ecological calendar; rituals are organised according to the supply of fruits in the forest and in the gardens. In the socio-political sphere the rituals are carried out in order to invite the brothers-in-law and to establish or reinforce the relationship with them, and the internal cohesion of the '*maloca*'. All these relations are based on reciprocity.



Close up of Andoke indigenous resource map (Caquetá).
 Drawing: Levy Andoke

In the sphere of shamanism the rituals are carried out to re-establish the energy balance and to reinforce reciprocity relations with the spiritual world.

A shaman uses a complex set of indicators to judge the state of the environment. These indicators are related to the annual cycle and the rhythms of nature. Most of these indicators are related to the fructification and blooming of trees, the behaviour of insects, frogs and birds and of course the rainfall and water level of the rivers. Each shaman uses the indicators he has learned from his father and these are specific for each territory. There are other indicators used both by the people of a community and by the shaman in order to measure the well being of the community as well as the relationship with the environment (see Box 16).

This set of principles works as part of a traditional framework, but the situation of cultural change imposes new challenges to sustainable forest use in the present day conditions. The demographic decrease, the change in settlement patterns as well as the integration into the market economy and the attraction of the cities has brought many changes. In many cases there has been a loss of control on the use of resources and the younger generations do not comply with the traditional rules. The mechanisms of transfer of knowledge between generations have been

disrupted, and part of the traditional knowledge seems to be doomed to disappear. In many cases part of the rituals, so important for the maintenance of the energetic balance of the ecosystem, are not carried out any more. Under these conditions, it is not surprising that many leaders and elders of the indigenous communities want to promote a process of cultural strengthening and recovery.

Mechanisms of forest management for the present conditions

Given the strong changes in population and the resettlement of many indigenous people and greater integration with the market economy, relations with nature have been transformed and pressure on some resources has increased, as well as transformations in land use.

Faced by new challenges in their relationship with nature, indigenous communities, within the framework of Colombian legislation, have been formulating plans for territorial management (or territorial ordering – “*ordenamiento territorial*”) and, within these, their plans for managing natural resources. In this process of diagnosis and design of plans for territorial management, there exists a continuous reference to ancestral territory and to the traditional guidelines for management. This has led them to consider alternatives for cultural recuperation and the creation of new mechanisms for control over the use of their territory and its resources.

With regards to the traditions, the elders and ‘wise men’ play an important role, but limitations are observed given that the context and conditions are very different than half a century ago. However, the process of re-creating traditional reference points has served as a basis for thinking of new models for land use that, although they are not completely based on tradition, take into account some basic principles.

A task that communities have carried out with some success has been the reconstruction of traditional maps of their ancestral territories. These have served as a cartographic base and for analysis of the regulations for use and control of resources.

The diagnosis of the current use of natural resources presents a series of limitations for indigenous people, given that at present it is difficult to measure and even more difficult to control use. This is due to the loss of authority of the shamans and *caciques* (traditional indigenous leaders), as well as the loss of social and cultural structure in general. Furthermore, the study itself of the use of resources requires the development of methodologies that enable the follow-up and monitoring at a regional level and over long periods of time, which presents a challenge as much for the indigenous peoples as for western science.

Through a series of work experiences with indigenous communities, and as support to the development of plans for territorial management by communities in the Middle Caquetá region, Tropenbos International Colombia (a NGO that aims to contribute to the conservation of tropical forests) has been using a strategy of participatory research (within the framework of research into indigenous environmental management) to develop a methodological approach towards the issue of natural resource use. It is based on the generation of daily registers of consumption, at the level of family units. The registers are organised, discussed and carried out according to the needs of the communities and their own objectives for cultural recuperation, support for educational projects, the formulation of management plans, and proposals for income-generating projects, deriving from local initiatives or their own perspectives. The process of analysis is given in the terms of structure: a permanent observatory to analyse the status of natural resources in indigenous territories.

Follow-up of daily consumption

The daily register of consumption, at the level of family units, constitutes the quantitative basis for determining the magnitude of natural resource use. The greater the number of family units involved, the easier it is to make projections and extrapolate information through which it is then possible to have a regional image of the current and future situation.

Basic information is obtained through simple formats, using specific columns for data concerning social, economic and biological information relating to the resource. In general, the formats include a register of the following information on fishing and hunting activities (see Box 13).

With regards to information about agricultural activities there is an even simpler format, in which a lesser quantity of data is required, although, depending on the interests of each family unit, it can be increased to include detailed information on agricultural parameters.

These registers are carried out by each family unit, under the coordination of the *cacique* of the community, the person responsible for ensuring the balanced use of nature. Once the formats are complete, they are entered into a database and an information system, from which the necessary reports are produced for spatial analysis, as well as socio-economic, socio-cultural or purely cultural analysis.

Box 13: Basic format for registers of daily consumption, by family units

DATE	NAME FISHERMAN HUNTER	PREY SPANISH LANGUAGE	SIZE CMS	WEIGHT Kg	SEX	AREA OF CAPTURE	TECHNIQUE OF CAPTURE	TIME OF DEPARTURE	TIME OF ARRIVAL	DESTINATION CONSUMPTION SALE	OBSERVATIONS

Permanent observatory of the status of natural resources

The taking of daily registers is an activity that demands great precision, which leads to a constant improvement in the quality of data that is obtained and introduced into the database. In this sense, the formats constitute an important reference for re-thinking the relationship with nature; for example, with regards to traditional and educational references, the column for names of the species and the areas of extraction of the resources can be highlighted.

Firstly, use of the correct name is of great importance for indigenous people and, for this reason, recording the correct animal and plant names is imperative. With the passing of time, the young people have lost their language and now do not call animals by their true names. Since the taking of registers started, writing names in the local language became a challenge; in many cases the names had been forgotten. The recuperation of the names in local language is therefore a constant task that has widespread repercussions at the cultural and educational level. But thanks to the taking of registers, the young people and children now have a wider lexicon with regards to fish and wild animals.

With regards to areas of extraction, places of fishing or hunting have special meanings related to traditional topography and the knowledge linked to the territory and its management. Hence the recuperation and analysis of these aspects has been fundamental for the reconstruction of traditional knowledge and reflection about territory and its care. In this way, each item that is taken into account in the registers provides references associated as much with traditional knowledge, as with cultural recuperation, and supports educational projects.

The analysis of registers through community workshops feeds the need for information for the formulation of management plans. As such these meetings consti-

tute a permanent observatory, in which the status of each resource, the threats and potentials, are discussed. From these meetings and workshops, aside from communal analysis of information, the basis is established for the establishment of advisory groups and management committees for natural resources, in accordance with the organisational norms of each community.

Once a mechanism for representation is consolidated, with regards to natural resource use, it enables the formulation of management plans.

Follow-up on land use

Activities of hunting, fishing, agriculture and harvesting forest products, take place in specific areas and cause certain environmental impacts. Core settlement areas have produced a change in land use and wide transformation in the traditional patterns of use. The opening up of *chagras* (small forest agricultural plots) in settlement areas has led to heavy pressure on the remaining available space, driven by the needs of inhabitants for space where they can alternate periods of forest recuperation and enable the many following phases and regrowth. This situation is the cause of conflicts about access to suitable land, which makes it absolutely necessary to reach agreement on management plans for land use.



Drawing of area used by the Andoke community (Caquetá) by Levy Andoke.

Within the strategies of participatory research, some studies have been carried out on the location of areas for agriculture, regrowth and forest, and their transformation over time, using both social mapping as well as methodologies derived from landscape ecology, and the use of satellite images, radar and aerial photography. The detailed study of land use and a good cartographic base constitute the reference point for defining these transformations, and at the same time provide support for ongoing monitoring of land use and its implications for forest conservation.

Support mechanisms for territorial ordering and natural resource management plans in indigenous resguardos

The Life Plans and Plans for Territorial Ordering that the indigenous peoples have been developing, involve a series of activities of which some are purely cultural-traditional in character, while others are more formal in character, in the sense of being administrative, legal or procedural (see Box 15).

The indigenous territories have their own forms of organisation and representation, which in most cases is through the *cabildos*. At the regional level, they have established mechanisms of representation based on regional indigenous committees, organised in a way that is more characteristic of the western world, with a President and Steering Committee, secretary, treasurer, spokesperson, legal representative, *etc.* This scheme has demonstrated serious operational limitations, and is being replaced by other, more traditional forms. The ‘councils of elders’ continues to be an important figure, although in many cases they are more symbolic than anything else, and in some cases they function as a support and control group.

The very fact that territorial ordering plans have been developed, has led to a new type of organisation and representation. For example, the ‘planning councils’ have the power to accept a plan for territorial ordering and, to a certain extent, ensure that it is fulfilled. Also, among the regional indigenous organisation, advisory figures for territorial ordering are being created, in which elders and ‘wise men’ have their place.

The plans for territorial ordering include aspects relating to the biophysical base and define the management norms and guidelines that lead to a sustainable use of resources. With regard to the physical-geographical aspects of indigenous territories, there has been a whole series of projects for the recuperation of knowledge associated with territory. These include the reconstruction of traditional maps, replete with symbolic and shamanistic context, where every place, river, stream, lake, hill, savannah, *etc.*, and each type of forest has its place within the mythology of origin. According to this mythology, each area of the landscape has

its own rules and norms for use, including widespread reference to sacred sites or sites of power, which are important for the balanced management of the resources, in accordance with the ecological and cultural principles already mentioned.

The dynamic of developing the plan of territorial ordering, which is generally dealt with by the regional indigenous organisation, implies the designation of a secretary for territorial ordering, who should work jointly with other Secretaries, such as those for Education, Health and Natural Resources. Also, given the advances in reflection about territory, there should be ongoing permanent support and direction from the Committee of Elders and the Council for Territorial Ordering.

Box 14: Operational Structure of Two Regional Organisations of the Colombian Amazon Region

INDIGENOUS ORGANISATIONS

CRIMA (*Consejo Regional de Indígenas del Medio Amazonas*)

- *Consejo de Ancianos* COUNCIL OF ELDERS
- *Consejo directivo* DIRECTORY BOARD (Governors of each community)
- *Consejo de ordenamiento Territorial* COUNCIL OF PLANNING
- *Comité Ejecutivo* EXECUTIVE COMMITTEE (President, Treasurer, Attorney, Secretary of Education, Secretary of Health, Secretary of Natural Resources, Secretary of Territorial Ordering)

ACIMA (*Asociación de capitanes indígenas del Mirití-Amazonas*)

- *Consejo de capitanes* COUNCIL OF CAPTAINS
- *Comité ejecutivo* EXECUTIVE COMMITTEE (President, Vice President, Secretary of Health, Secretary of Education, Secretary of Territorial Ordering)

Box 15: Activities Developed Within an Indigenous Plan of Territorial Ordering

- Reconstruction of traditional map
- Definition of areas for management and control
- Recuperation and/or reconstruction of management guidelines
- Definition of action, by clans and ethnic groups

Traditional management

- Definition of conflicts over use
- Decision on current settlement zones
 - Location of the population
 - Land use
- Settlements
- Agricultural use
 - Forest use
- Hunting areas
- Fishing areas
- Forest products
 - Timber
 - Non-timber
- Decision-making and projections for future use of land and resources
- Proposals for alternative uses, and linkage with the market economy
- Proposals for management and control
- Productive projects
- Proposals for management of education
- Proposals for management of health
- Projects for sustainable use
- Proposal for strengthening self-administration and autonomy

All these activities have been advanced, to a greater or lesser extent, by the indigenous communities and regional organisations. It is, however, evident that there are substantial limitations with regards to financial and technical-academic support, to taking forward these tasks to a greater level of depth and impact.

Cartographic support

The making of maps is an essential support for the development of plans for territorial ordering. The simple reconstruction of traditional maps involves a large number of actors, including elders and ‘wise men’ from the different communities. Some of the elders and those with shamanistic knowledge can make a mental journey through the territory, naming the entire topography of the area of the

particular ethnic group. However, the overall process of socialisation and physical recognition of the territory by members of an ethnic group remains slow and costly. Still, it is one that gives extraordinary results in terms of cultural recuperation. There have been some successful experiences in the construction of traditional maps in the Medio and Bajo Caquetá rivers, and the Mirití and Apaporis rivers, specially within projects supported by *Fundación Gaia Amazona* (a NGO that aims to contribute to the reinforcement of indigenous communities).



Making a traditional map (Caquetá). Photo: Tropenbos International, Colombia

On the other hand, cartography that is generated through academic studies of information systems and geography, of landscape ecology and land use (such as those developed within projects) has been a fundamental reference point for knowledge about the types of forest and for quantifying the magnitude and dynamics of transformation in land use over the last 15 years. Likewise, scientific studies of indigenous systems of agricultural production, both from the social sciences perspective and from ecology, agronomy and forest science, have been fundamental for understanding the transformations over the last decades. They are also important for proposing alternatives to aid the cultural recuperation and develop their own alternative productive projects from the indigenous perspective.

In the same way, basic scientific studies on the structure, composition and dynamics of the different Amazon ecosystems have been extremely useful for generating local processes in co-research and self-research about the forest and its

processes. Indigenous communities have participated directly and/or indirectly in the development of these studies.

With regards to use of natural resources, the methodologies developed during the last 10 years within the framework of the Tropenbos International Colombia programme show considerable progress and practical application, as already mentioned in the section on establishing a permanent observatory for monitoring the status of natural resources.

Likewise, the formulation of indigenous proposals for productive projects has advanced greatly in the Medio Caquetá River, as a result of academic accompaniment, frequent workshops for discussion and the direct participation of communities in the process of formulating and implementing their own proposals, based on traditional knowledge and their wide autonomy with regards to materials and external inputs.

Before a project can be considered for support, a long process of discussion has taken place. The projects are analysed together with the community. During these discussions results of previous experiences are crucial. A whole series of social, cultural, economic and ecological criteria are analysed, that in most cases refer to the formulation of principles, criteria and indicators of sustainability (see Box 16). These criteria are based on the ecological and cultural principles and that will vary from one case to the other. The definition of these criteria is therefore of importance.

Box 16: Indigenous Criteria and Indicators of Sustainability

The following principles are guidelines to ‘live well’, an indigenous concept that comes close to sustainability. Although their worldview is a holistic one, it has been possible to deduce three main criteria and some indicators that most people mention when judging if they are ‘living well’. These criteria may be presented in the following way, taking into account that a Shaman has a much more fine-tuned system of indicators to judge the state of the surroundings and the beings that are part of it:

Criteria: Sufficient food and other resources are available

Indicators:

- hunters bring in sufficient (not too much) animal protein
- production of gardens is sufficient to organise community rituals
- important resources (e.g. ‘pui’ palm used for the roof) can be found nearby the settlement
- Shaman negotiates with spiritual owners
- sacred places are protected

Criteria: Social cohesion is assured

Indicators:

- conflicts between members of the settlement are minimal or settled
- conflicts with other settlements are minimal or settled
- all members carry out in time their specific tasks in ritual and production
- indications of shaman and roundhouse-owner are followed by the members of the community
- community rituals are carried out

Criteria: Community members are in good health

Indicators:

- low number of people with fever
- infant mortality is low
- low rate of accidents in the forest
- low number of snake bites
- community rituals are carried out
- shaman negotiates with spiritual owner

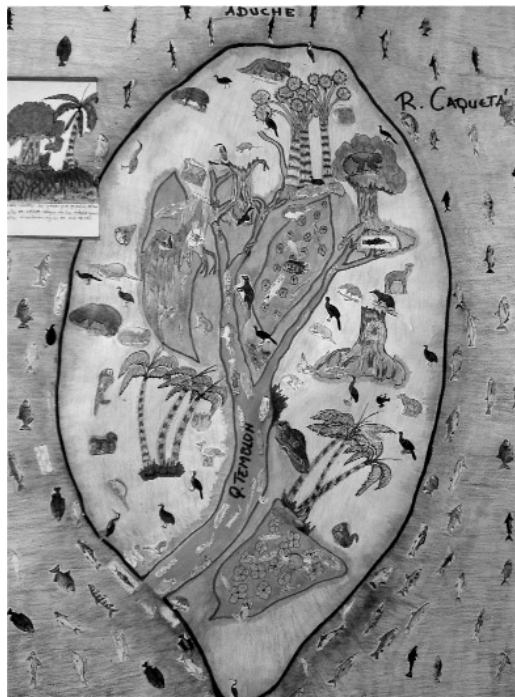
Based on the results of community workshops realised within the project ‘Indigenous Management of the Forest’ by Tropenbos International Colombia.

VI

ENVIRONMENTAL TRANSFERS: A PERMANENT SUPPORT MECHANISM FOR THE DEVELOPMENT AND IMPLEMENTATION OF PLANS FOR TERRITORIAL ORDERING

Transferencias (State funding) direct from the Nation are intended to support sectors such as education, health, infrastructure improvements and housing, productive projects for agriculture and fisheries, and institutional strengthening, amongst others. The environmental sector remains, in one way or another, outside this; at least there is no explicit inclusion of it within the sectors where these resources from the National budget are used. Given the importance of the plans for territorial ordering and, within these plans, the focus on developing natural resource management plans, there is a need for technical and financial support mechanisms to ensure the functioning of the indigenous model of managing the humid tropical forest and the perpetuation of their support to nature conservation.

The magnitude of environmental transfers can be defined through the experiences of developing management plans. These include a series of budgets to cover the costs of specialised personnel, meetings, workshops and congresses, as well as



Map of high water on the Caquetá River.

Drawing: Levy Andoke

the production of educational materials such as maps, reports, posters, leaflets, courses, and a series of traditional activities, such as travel by elders, meetings of elders, rituals, *etc.*

In addition, environmental transfers could cover the operational phase of the plans, or in other words their implementation, especially with regard to the costs of personnel and setting-up alternative income-generating projects through proposals for sustainable use. One of the main aspects to cover is the training of local people. Also, the development of a long-term strategy for technical and academic support based on successful experiences that link the Universities, research institutes and NGOs to the process of accompanying indigenous communities in the management of their territory and resources.

Compensations and subsidies to indigenous management for environmental services and nature conservation

Within the funding mechanisms for the environmental sector, it is necessary to develop alternatives in compensation, support and subsidies for environmental services derived from the indigenous model of forest management such as: water regulation and provision, climate regulation, carbon sinks and the preservation of biodiversity. The definition of such funding mechanisms also implies consideration of a series of cultural, social, political and organisational aspects, to avoid generating undesired impacts among the indigenous communities and the socio-cultural processes they are carrying out. The suggestion of alternatives, such as environmental incentives and compensations, based on the mechanism already developed by the Colombian State, could be a good option. However, there should be special care taken over the strict use of financial resources in the process of territorial ordering, both in the phases of developing these plans, and in their implementation.

Direct support for the training, accompaniment and development of actions with regards to the management of territory and the development of management plans for land, fauna and flora resources, will be a priority. Likewise, the generation of a great long-term strategy for technical and academic support will be a challenge for the range of institutions relating to sustainable development and the environmental theme.

Financial resources should promote, first of all, the recuperation and cultural reinforcement of the indigenous peoples, so that continued development of the management models that have allowed the balanced use of nature and continuity in the humid tropical forest canopy, can be enabled; along with all the contributions that this model brings with it for the conservation of cultural and biological diversity.

APPENDIX
THE *RESGUARDOS* AND THE ECOSYSTEM APPROACH

A detailed analysis of the policy of *resguardos* and the processes taking place in some indigenous communities of the Colombian Amazon region show a similarity with the ecosystem approach proposed by the Conference of the Parties to the Convention on Biological Diversity (CBD) at its fifth meeting in May 2000. In this section, the 12 principles of this approach (see Box 17) will be analysed in the context of this *resguardo* policy and its developments.

Box 17: Principles of the Ecosystem Approach as Defined by the Conference of the Parties to the Convention on Biological Diversity. Nairobi, May, 2000

Principle 1: The objectives of management of land, water and living resources are a matter of societal choice.

Principle 2: Management should be decentralised to the lowest appropriate level.

Principle 3: Ecosystem managers should consider effects (actual or potential) of their activities on adjacent and other ecosystems.

Principle 4: Recognising potential gains from management, there is usually a need to understand and manage the ecosystem in an economic context. Any such ecosystem management programme should:

- a) Reduce those market distortions that adversely affect biological diversity.
- b) Align incentives to promote biodiversity conservation and sustainable use.
- c) Internalise costs and benefits in the given ecosystem to the extent feasible.

Principle 5: Conservation of ecosystem structure and functioning, in order to maintain ecosystem services, should be a priority target of the ecosystem approach.

Principle 6: Ecosystems must be managed within the limits of their functioning.

Principle 7: The ecosystem approach should be undertaken at the appropriate spatial and temporal scales.

Principle 8: Recognising the varying temporal scales and lag-effects that characterise ecosystem processes, objectives for ecosystem management should be set for the long term.

Principle 9: Management must recognise that change is inevitable.

Principle 10: The ecosystem approach should seek the appropriate balance between, and integration of, conservation and use of biological diversity.

Principle 11: The ecosystem approach should consider all forms of relevant information, including scientific and indigenous and local knowledge, innovations and practices.

Principle 12: The ecosystem approach should involve all relevant sectors of society and scientific disciplines.

Principle 1

The fact that the property of the territory and its resources are put in hands of the indigenous people is recognition of the contribution of the indigenous models of forest use to nature conservation. The option offered to formulate own management plans for their territories and natural resources as part of a local vision puts the indigenous societies on the foreground in perfect concordance with this principle, although the threats mentioned in this document like those related with the subsoil and mega projects are opposed to it; a situation that requires a substantial improvement.

Principle 2

The recognition of the *resguardos* as public entities of special character and having assigned public functions, as well as the recognition of the *resguardos'* autonomy and administration of State funds, puts decentralisation into practice.

Principle 3

The indigenous *resguardos* are bound to the conservation of nature and some areas have been confronted with mega-projects in adjacent areas. These require ample consultation with the indigenous people, as well as serious studies of the environmental impact in order to obtain environmental licenses. Therefore the impact on adjacent areas has been a central preoccupation of the indigenous peoples movement.

Principle 4

The indigenous proposals on economic alternatives are based on the improvement of life conditions and the projects that do not affect nature according to the principles, criteria and indicators mentioned in the text. The alternatives must be based on sustainable proposals from the environmental point of view, as well as the socio-cultural and economic ones.

Principle 5

The ecological principles of the indigenous models show clearly their contribution to conservation and especially through the environmental services. A situation that acquires special status when considering the more than 20 million continuous hectares, which assures an extensive area of conservation, climate

regulation and supply of water, generally speaking well conserved fauna and a high potential as a carbon sink.

Principle 6

Besides the external threats, the traditional indigenous management of the tropical forest assures a permanent vegetation cover with a low impact use that allows the normal functioning of the ecosystem.

Principle 7

One of the major contributions to the conservation through the policy of *resguardos* has been the recognition of extensive continuous areas, more than 20 million hectares and the development of the legal figure that defines these territories as inalienable and imprescriptible, that is they are forever. These two conditions together completely fulfil this principle.

Principle 8

This principle is related to Principle 7. The fact that these areas are inalienable and imprescriptible assures that they will remain as *resguardos* in the long term. In this sense, it is desirable to assure that the activities in these territories remain sustainable.

Principle 9

The indigenous people have developed a series of mechanisms of resistance in order to persist as a culture, while accepting change and adapting to the new challenges of cultural and socio-economic change. It is therefore necessary to respond to innovative mechanisms, based on a dialogue between the two knowledge systems.

As far as the change of the ecosystems is concerned, it is noteworthy that the indigenous people perceive climate change to the point that they say, “the climate does not want to obey anymore”. These preoccupations require a reaction in the same way that the cultural changes do, offering the information of the best quality possible including all the scientific advances in order to facilitate the decision making from the level of the community to the global level.

Principle 10

From the point of view of the indigenous models, it is necessary to maintain a balance in terms of the ecological and cultural principles. This perspective implies a dynamic equilibrium in the use of the resources that permits the maintenance of the forest in an acceptable condition of conservation according to the traditional indicators. In the present situation of social and cultural destabilisation, it seems necessary to generate a new balance between use and conservation, based also on the intercultural dialogue.

Principle 11

With consideration of other sources of knowledge, the policy of *resguardos* contains ample recognition of the capacity of the indigenous people to manage with great autonomy their territories based on their extensive body of knowledge. The extent of this knowledge is only partially known and requires the development of a strategy of ample process of recognition on broad scale. The role of Universities, Governmental Institutions and NGOs is required in this process.

As far as the formulation of management plans for the territories, the traditional knowledge has been the guideline for indigenous organisations. The State has recognised this situation and has shown great advances with, for instance, the establishment of indigenous councils for planning as local entities that can approve directly the territorial ordering plans.

Principle 12

As part of the actions to strengthen the *resguardos*, there exist some successful experiences with interaction between institutions and Universities on one side, and indigenous communities on the other through the development of problem oriented, demand driven research and participatory research. Such is the case in the Middle Caquetá region where a whole research programme has been developed in this collaborative manner with the support of Tropenbos International Colombia.

In the light of the Colombian experience with the *resguardos*, this revision of the principles of the ecosystem approach demonstrates that although the latter was not developed in order to fulfil these requirements, there is a strong foundation to consider the *resguardo* system as a good example of the ecosystem approach.

