Colombia

Department of La Guajira

La Guajira Water and Sanitation Infrastructure
and Service Management Project

Indigenous Peoples Planning Framework\(^1\)

January 2007

\(^1\) This Framework is based on the different studies undertaken in the subject by specialized consultants during Project preparation. These independent reports are available in Project Files.
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1. Introduction

La Guajira Water and Sanitation Infrastructure and Service Management Project (the Program) will support the sector investment and reform program planned by the Departmental Government of La Guajira, Colombia, with the support of the National Government. The objective of this program is to improve the supply of water and sanitation in the Department in a sustainable and efficient fashion through the strengthening of the institutional framework and investments in infrastructure, addressing current water and sanitation supply deficiencies in the urban (in a first phase) and rural (in a second phase) areas. It will be financed through an *Adaptable Program Loan (APL)* which first phase (APL1, the Project) will be comprised of three components:

i. **Component A:** Urban Center Investment and Service Management Projects for Water and Sanitation;

ii. **Component B:** Rural Area Investment and Service Management Pilot Projects for Water and Sanitation;

iii. **Component C:** Technical Support, Project Management and Monitoring and Evaluation

Component A will finance investments in the Department’s main urban capitals, including Riohacha, Maicao, Southern Municipalities and eventually, Uribia and Manaure. Component B will finance pilot interventions in the rural and indigenous areas that will feed into the preparation of the second phase of the program (supported by APL2). The second phase will support investments in rural and indigenous areas once the preparation and consultation activities described in this Framework document have been carried out. The pilot interventions will be carried out in various rural locations to be selected during Project’s implementation in order to incorporate the experiences and lessons learned from these pilot projects into the design of the APL2.

During Project preparation, various studies aimed at analyzing the Project’s social impacts have been undertaken in order to evaluate the main risks in terms of achieving its development objectives. Among these are an urban area social analysis, a methodological framework for defining rural pilot projects, an analysis regarding the political and social climate in La Guajira and the present Indigenous People Planning Framework to be used for any Project intervention in indigenous areas, including all of the pilot subprojects financed under component B. This document has been prepared in accordance with the guidelines and scope of World Bank’s Policy for Indigenous Peoples OP 4.10, Annex C, and contains:

③ **Chapter 2:** A description of the main social impacts in the indigenous population expected under the Project

② **Chapter 3:** Action Plan to mitigate the Project’s possible negative impacts

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2 The Department is expected to adopt the present Framework as a reference for investments in Indigenous areas in other sectors beyond the Water and Sanitation Sector.
Chapter 4: Institutional arrangements incorporated under the Project and methodology for preparing Indigenous Peoples Plans (IPPs)

Chapter 5: Types of sub-projects to be financed by the Project

Chapter 6: Terms of Reference (TORs) for carrying out the social assessment and stakeholder consultations in connection with preparing the IPPs.

Chapter 8: Evaluation and Monitoring Solutions

Chapter 9: Dissemination

During Project preparation, some rural localities that meet the criteria defined in this Framework have been preliminarily identified as possible candidates for Pilot Projects. The framework has been shared with six of these localities (in Uribia and Manaure) to receive comments, suggestions and reactions. Based on the comments received, the Framework has been revised to incorporate appropriate changes.3 The Draft Framework is being translated into Wayunaiki, the most prevalent indigenous language in the project area, and posted on the website of the Gobernación. Hard copies will be available in both Spanish and Wayunaiki at offices of the Department of La Guajira. Prior to the financing of any intervention in indigenous areas or which affects indigenous communities, the implementation authority will follow the Framework, ensuring that free, prior and informed consultation takes place. The Framework would also apply equally for urban areas where project investment (under Component A), would affect indigenous populations (for example, in wastewater disposal and treatment in Maicao and Riohacha).

This Project is designed to ensure that Indigenous Peoples receive social and economic benefits that are culturally appropriate and gender and intergenerationally inclusive. Based on extensive consultation with diverse stakeholders, the idea of “culturally appropriate benefits” refers to project activities that: (1) are generally supported by beneficiaries and that do not disrupt or contradict the traditional knowledge and world view of the community that is affected/benefiting; (2) introduce appropriate water and sanitation technologies that fit with existing practices (see also 2.3 on Diversidad Tecnológica, pg. 4-5; in the methodological framework for defining rural pilot projects); (3) are integrated in approach to respect the Wayúu concept of a “healthy home” to include water, sanitation and improved hygiene, as well as productive projects, technology transfer, training, educational activities to reduce health risk factors, and general livelihood improvements; and (4) are sustainable.

Annex I contains a very brief description of the main cultural characteristics of the Wayúu and the current legal framework applicable to the Indigenous People in Colombia.

2. Summary of impacts

Several studies have been carried during Project preparation out with the objective of analyzing the potential social impact of the Project in the population of La Guajira. Given

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3 See email from Jose Berardinelli in Project file, describing the IPPF consultations in Uribia and Manaure.
4 Formulación del Programa Piloto Rural.
that the Project is largely focused on urban areas, a social analysis was undertaken to evaluate the impact of the Project in the population of the participating municipalities. The study is based in a number of interviews with different institutions, community leaders, customers and other stakeholders. Although the analysis is centered on the social dynamics in the urban areas of La Guajira, it also identifies potential impacts on the indigenous groups of La Guajira, both the Wayúu and the Koqui-Wiwa. Other studies completed as part of preparatory activities which analyze potential social impacts of the Project both in the Indigenous and non indigenous populations are the following: i) Environmental Assessment; ii) report on the Department’s political economy; iii) Independent assessment of the performance of existing operators; iv) Departmental Development Plan; v) Information generated during Project preparatory activities and missions and discussions with the borrower, existing operators and other relevant stakeholders and institutions; vi) the present Indigenous People Planning Framework and the relevant studies and activities in which it is based. These reports are available in Project Files.

This chapter is a summary of the main negative impacts and risks identified in the above studies more directly related with the indigenous population, as well as the recommendations and activities that will be implemented during Project implementation to ensure its social development objectives are met. Section C.5 of the Project Appraisal Document contains a summary of the main implementation risks identified with respect to the overall Project.

2.1 General context

The Department of La Guajira is one of the most important departments in terms of the country’s ethno cultural diversity. It has the second largest indigenous population in the country (19% of the nation’s total) and the third largest indigenous population with respect to total departmental population. Out of the department’s 459,326 inhabitants, 32%\(^5\) are indigenous (156,046). The largest ethnic group is the Wayúu with 149,273 inhabitants, followed by the Kogui with 5,757, the Arhuacos with 936 and the Wiwas with 80.

The lands of 87.44% of the department’s indigenous population are legally recognized. The Wayúu population is located within 16 indigenous reserves distributed in 10 of the 15 municipalities. The Kogui, Arhuaca and Wiwa populations are located on the Kogui-Arsario reserve, extending from the Department of Magdalena to the foothills of Sierra Nevada de Santa Marta in the Municipalities of Dibulla and San Juan del Cesar. The remaining 13% of the indigenous Wayúu population is located on the Carraipía indigenous reserve, on uncultivated lands property of the Nation or on individual properties or estates.

\(^5\) According to other sources (please see Social Evaluation for the urban component of La Guajira Water and Sanitation Infrastructure and Service Management Project, Hernán Darío Correa) the Wayúu would represent 38% of the Department’s population, whilst Kogui-wiwa would represent 2% of the total)
La Guajira has one of the largest indigenous reserves in the country, Upper and Middle Guajira. Belonging to the Wayúu ethnic group, it spans 1,067,505 hectares and has a population of 121,469 inhabitants. It entails the entire municipalities of Uribia and Manuare as well as part of the Riohacha and Maicao municipalities.

Colombia has a broad legal framework that recognizes the rights of the indigenous peoples. This includes land property rights through the constitution of indigenous reserves and territorial entities, the use of natural resources within their territory, the right to a development process according to their uses, customs, needs and aspirations; to have their own education system; to adopt health systems in accordance with their cultural characteristics, to be governed by their own authorities and to be consulted whenever any interventions are anticipated within their territories.

The indigenous Wayúu mainly inhabit mainly the department’s rural areas, characterized by a warm, dry and inhospitable climate. It has climatic seasons marked by brief rainy periods and long drought periods. There are insufficient water supply systems while the existing ones are inadequate.

The Government of Colombia recognizes the Traditional Indigenous Authorities’ political authority to legislate and make decisions that affect their communities within their territories. This is expressed, among other ways, in what has been called “Planes de Vida” (Life Plans) that encourage indigenous communities to produce development plans or territorial ordering plans. Additionally, the Nation annually sends resources to the reserves to be invested in health, education, drinking water, basic sanitation and agricultural development in accordance with previously approved plans. These sums are established according to the number of inhabitants per reserve and are carried out directly by the traditional authorities registered before the Directorship of Ethnic Groups and the Ministry of the Interior and Justice.

2.2 **Main characteristics of the water supply in the Wayúu area**

The indigenous areas have insufficient and deficient water supply systems. Since the fifties, different governments and public entities have advanced various water supply programs for the indigenous population of Upper and Middle Guajira through the construction and broadening of *jagüeyes* (wells for collecting rainwater), windmills, wells, tankers and dams. During the Dictatorship of General Rojas Pinilla, the first 50 *jagüeyes* were built and in the last fifty years, more than 1,500 mills have been installed among IFI Concesión Salinas/Proaguas, Corpoguajira (400), the Municipalities (300) and Carbocol (100). The *Corporación para el Desarrollo* (the Development Corporation) - Cordes@ in agreement with Corpoguajira, has built 10 dams and has another 20 planned. Institutions such as SENA and INCODER have also developed programs. As for the indigenous people, they have built *jagüeyes* and *casimbas* (dams in the riverbeds). However, there is no existing evaluation of the impact these interventions have had on the living situation of the indigenous Wayúu from Upper and Middle Guajira. Even though it is publicly known that water is one of the communities’ most deeply felt needs, there is no up-to-date, sub-regionalized analysis of the water needs of the different rural settlements, the existence of water resources or the current condition of the various water supply systems.
In 1996, the University of La Guajira, with the support of Findeter, La Red de Solidaridad Social (Social Solidarity Network) and the Department of La Guajira carried out a project for the “Institutional Formation of Administrative and Operational Non-Conventional Water System Associations for the Wayúu Community.” The said study contains an inventory of wells per Department area, indicating their state of repair, and identifies an institutional proposal for administering the water supply with the participation of the indigenous Wayúu authorities as well as representatives from the national, departmental and municipal governments.

The analysis carried out by the above study emphasizes some of the social and cultural aspects of the Wayúu, which influence the supply of water to the communities. Among them, the following should be mentioned:

③ Lack of social work to accompany the installation of systems and inform communities regarding the Projects’ characteristics.
③ Individual appropriation of water sources by family groups or individuals impeding access to the water source to other members of the community. This is partly because water is a highly valued resource found within family territories. Group members with land rights for a specific territory will always have priority access. Access by other people should however be allowed for human consumption, with restricted use for animal consumption.
③ Abandonment of water sources due to migrations or drowning deaths of people in wells.

However, ethnographic studies show that traditionally, families allow the access of other families to water sources in accordance with kinship or marriage relationships (Friedemann and Arocha, 1982:325). Within the proposed analysis, it is important to include the identification of traditional conditions and mechanisms of water system access and use by other families as well as discussing and agreeing upon procedures with the communities to be incorporated within the Project guidelines.

Field visits carried out during Project preparation revealed additional problems related to water and sanitation services in Indigenous communities:

③ As stated in the 1996 study by the University of La Guajira, some of the existing non-conventional water supply systems on the ground had responded to individual requests from members of rural settlements or the traditional authorities’ legal representatives. These systems have been supplied to each rural settlement individually and the use of water is highly restricted. There is no generation of cooperative areas with neighboring indigenous settlements or communities (“Rancherias”) in order to agree upon mechanisms and procedures for collective water system access.
③ Some systems in the past have been installed with no coordination or proper consultation with the community regarding their operation and maintenance. The affected communities expected the entity that installed them to be responsible for the repair and maintenance and a lot of the existing infrastructure is in a state of disrepair.
Community training and capacity building for the operation and maintenance of the systems has been insufficient.

Departmental authorities and entities expressed their concern regarding the lack of financial capacity of the Wayúu, which would enable them to hire third parties for water supply system maintenance if this was decided as a suitable option.

There are no adequate systems or arrangements for the protection and proper maintenance of water sources, which leads to high levels of contamination. This is expressed in high rates of morbidity among the Wayúu people, such as acute diarrhea diseases (ADDs) and acute respiratory infections (ARIs).

According to information from the University of La Guajira, water supply systems tend to be concentrated in easy access areas considering their proximity to urban centers or communication channels. Remote communities such as those located in the area bordering Venezuela or the middle of the Department of Uribia do not have sufficient water systems to supply the Wayúu living in those areas.

2.3 Social, cultural and environmental impacts

La Guajira is a socially, environmentally and economically complex region and any impact and risk assessment must be understood in the context of this reality. The underlying social context of acute poverty and historic exclusion of the indigenous Wayúu must also be kept in mind in understanding the potential impact of the Project on them, as these – lack of sufficient social ownership and legitimization for the Project – form the core of the main risks affecting the achievement of the Project development objectives. La Guajira is characterized by a diverse population with a history of social exclusion, inequality and poverty in a region of political instability and, until very recently, a deeply rooted underground economy, in the midst of unanswered claims from civil society and NGOs of corruption cases and rights violation issues, where there is little credibility of politicians and citizenship trust in Government’s plans.

Existing social tensions – potentially exacerbated by further investments – could erode the Project’s ultimate development goals. In particular, the risk of opposition specifically to the Project by affected (or not) indigenous communities, as a reaction to current wastewater treatment and disposal solution in Maicao and other cities, or by lack of sufficient consultation and consensus and/or agreement as to the appropriateness of the Project’s phasing and investment prioritization, is substantial. As regional and international experience demonstrates, water is a highly politically charged and socially sensitive sector, and more so in an area as dry as La Guajira where the rural Wayúu people most suffer the consequences of impoverishment and lack of access to safe water sources.

Communication and outreach activities, as well as a broad consultation process with the Wayúu population has been and will continue to be undertaken to raise awareness about, gain consensus on and promote local ownership and legitimacy of the Project.

The following table summarizes the main Project risks that could represent a negative impact on the Indigenous People of La Guajira.
1. Increased inequality and/or perception of social injustice

The Project is structured around a two-phase APL, with Phase I focused on urban and peri-urban areas and Phase II focused on supporting rural water and sanitation solutions in the indigenous areas. Although this structure reflects the different complexity levels in terms of the necessary preparatory work in the two areas, as well as the readiness for implementation of the investments, it also signifies a delay in addressing the needs of the poorest and most vulnerable and historically neglected people in La Guajira, where social exclusion and marginalization levels are most acute.

The Wayúu people have been generally left behind in the many years of failed efforts to bring sustainable development to La Guajira and are conscious of the wealth generated by extractive industries in the department. There are historic demands and long standing complaints from the Wayúu on issues related to human rights violation, social exclusion and discrimination from the regional authorities - including supposed forced displacements to allow the expansion of mining activities and the lack of compliance with promises to provide them with access to basic services. The Wayúu people have suffered further displacements and attacks from armed groups as recently as the year 2006. In this charged political environment, any major investment initiative to be undertaken at a departmental level is bound to be questioned from the population that feel historically excluded, especially if there is insufficient consultation and communication of objectives. In particular, the prioritization of investment in the urban areas over the rural could exacerbate the inequality and increase the existing social tensions and overall feeling of

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<th>Risk</th>
<th>Description of Risk</th>
<th>Risk management measure</th>
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| 1. Increased inequality and/or perception of social injustice | The Project is structured around a two-phase APL, with Phase I focused on urban and peri-urban areas and Phase II focused on supporting rural water and sanitation solutions in the indigenous areas. Although this structure reflects the different complexity levels in terms of the necessary preparatory work in the two areas, as well as the readiness for implementation of the investments, it also signifies a delay in addressing the needs of the poorest and most vulnerable and historically neglected people in La Guajira, where social exclusion and marginalization levels are most acute. | The need for a phased approach needs to be properly and explicitly explained by the Departmental authorities to the population of La Guajira, in particular the rural Wayúu communities. A communication and outreach campaign will to be designed and put in place during the first year of the Project - along with measures to improve the publicity, transparency and regularity of information sharing with the public in the future, especially the Wayúu. During Phase I, as well as the pilot projects, Bank support would be utilized to consolidate a departmental vision for rural solutions as well as a wide consultation process with the Wayúu communities to ensure the participation of the Wayúu in the development process. Triggers for the advance towards Phase II of the APL would be linked to the readiness of the Department in addressing the rural water supply and sanitation agenda in a manner consistent with sustainable service provision and in the context of the Department’s highly dispersed indigenous population. Preliminary triggers have been identified as:
- Launching of a communication and public information campaign to share with the community information about the Project structure, phasing and objectives;
- The completion of a detailed technical assessment of rural and indigenous needs;
- Social Assessment and Consultation process with the indigenous population to ensure cultural appropriateness of the interventions, and other relevant aspects of the program, following guidelines given in the present Framework;
- The finalization and publication of a departmental rural water supply strategy that takes into consideration the result of the technical assessment, the Social Assessment and the consultation process. |

6 These actions are all part of the Action Plan to mitigate adverse impacts outlined in Chapter 3 of the IPPF
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<th>Risk</th>
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<tr>
<td>2. Negative environmental and health impacts and social conflict within the Wayúu deriving from municipal wastewater treatment and disposal in rural and peri-urban areas</td>
<td>The environmental degradation and social conflicts related to the management and disposal of wastewater is a problem in most of La Guajira’s municipalities. In particular, in the Municipality of Maicao, the current solution includes final disposal of the municipal wastewater generated in the urban center to lagoons located in the nearby rural area of Maicao, in Wayúu’s legal territory. The Wayúu feel very strongly about the trespassing and violation of their land rights in the construction of these lagoons and blame them for spreading diseases especially amongst the children, since it is currently in a state of disrepair and constantly overflows in the nearby land. For years now, they have been demanding the closure of the lagoons. The current operator reports that since they took over the services a couple of years ago, the Wayúu have opposed and confronted any attempts from the authorities and sewerage responsible agency to execute any maintenance works, and are very distrustful of any negotiation with the local and regional Governments. The lack of maintenance is causing the environmental damage to worsen. The</td>
<td>Prior Consultation: All interventions in indigenous areas and/or affecting indigenous peoples(^7) to be financed under the program under APL1 and API2 - including the final solution for the disposal of municipal wastewater - will be subject to a free, prior and informed consultation with the affected population. This process is expected to ensure that those affected by the project receive culturally appropriate social and economic benefits and potential adverse impacts are avoided, minimized mitigated or compensated and ascertain their broad community support for the project. The Social Evaluation and Consultation will be undertaken in line with the guidelines attached in the present Framework. Environmental Assessment Screening: All interventions to be financed under the program under APL1 and API2 - including those in indigenous areas and in particular the discharges to water bodies used by indigenous communities - will be subjected to prior EA screening to define the studies and Action Plan required to manage the environmental impacts of the Project. The Project Implementation Unit will supervise and monitor the implementation of the</td>
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\(^7\) This is in accordance with World Bank OP 4.10 for Indigenous People, applicable to this Project
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<td></td>
<td>Government of the Department recently involved itself in the negotiations between the Wayúu and the Municipality to re-establish a dialogue and believes these attempts have been more successful than previous ones in reaching agreement on the solution to the problem.</td>
<td>corresponding Environmental Management Plan.</td>
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<td></td>
<td>The Department’s capital, Riohacha, faces a similar challenge in finding an appropriate solution for the treatment and disposal of their municipal wastewater. The environmental authorities press for a solution to the problem in a manner that would comply with the environmental regulation, but the construction of lagoons – in principle technically acceptable - would affect Wayúu lands and is considered therefore socially unacceptable. Other available options – such as a tertiary treatment plant or appropriate disposal in the ocean – present their own financial sustainability or legal compliance issues.</td>
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<td>3. Water scarcity issues:</td>
<td>La Guajira – especially Upper and Middle Guajira where most of the indigenous population live – is a desertic region, where water resources are scarce and subject to a high level of variation throughout the year. The main source of water in the department is the River Rancheria that runs from the Sierra Nevada to the Caribbean Sea, but its capacity might prove limited as demand expands. In the Upper Guajira, the limited ground water available is highly saline and often unfit for consumption without significant treatment. Water resources are further jeopardized by the exploitation of coal, pollution of watercourses due to illegal dumping, little regard for the protection of water resources through watershed management. In this context, any intervention in the water and sanitation sector calls for a thorough assessment of the quality and availability of existing ground and surface water resources to allow long-term and sustainable – both environmentally and financially -</td>
<td>The Project includes a comprehensive assessment study of available ground and surface water resources throughout the Department, including the legal Wayúu territory in coordination with the relevant authorities. This information would enlighten any decision for investment in new water sources and the most adequate solution for the rural and urban areas in the medium and longer term.</td>
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<td>The project seeks to promote sustainable management of water resources in La Guajira, by controlling overexploitation and contamination. Given that the problems associated with water scarcity and poor water quality exist at the watershed-level, the project will finance analytical work to provide a basis for the design and implementation of a water resources management policy in La Guajira. The analytical work will be complemented by a Strategic Environmental Assessment (SEA), to be conducted during project implementation, which would develop a strategy for the lower Baja Guajira and the</td>
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<td>Risk</td>
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<td><strong>4. Technical, financial and institutional weakness for maintaining investment and service provision in the Indigenous People’s area</strong></td>
<td>One of the most important weaknesses identified in all of the areas visited during Project preparation is the lack of a suitable institutional arrangement to enable system operation and maintenance and sustainability. There is no knowledge of the total population to be supplied, the number and location of existing water systems that are currently in disrepair and there is no treatment of water whatsoever. Municipalities transfer a subsidy which is not backed up by any estimate of the real cost of properly maintaining the systems. There are no water boards or community associations to handle water issues. This means that the communities will need significant assistance and support to organize them around a financially and technically viable solution to a safe water supply. In the past, the relevant departmental entities have not agreed upon institutional arrangements and community commitments for water system maintenance and this has resulted in many investments being abandoned. Institutional arrangements for the overall maintenance of the investments that bring together the families who use the supply systems must be explored, whether through the hiring of third-party operators or the communities’ direct participation, through training and capacity building. The lack of technical capacity and human and financial resources within the IP community could mean the infrastructure created under the project is inadequately operated and maintained and the increased access and improvement in service provision not being achieved.</td>
<td>The Project design includes a number of measures to support the establishment of the appropriate capacity and support structures (including the establishment of a dedicated unit within the Department) to mitigate the risks resulting from current lack of capacity. Appropriate institutional arrangement for service delivery and the management and maintenance of rural water supply and sanitation investments must be developed during APL1 and in parallel with the needs and social assessment and consultation process. In particular, the following options will be assessed: ① Hiring third-party operation and maintenance of the systems with resources from the general national participation system for Indigenous Reserves. For this to be a viable solution, it will imply coordinating with the traditional authorities regarding the allocation of these resources, the profile and duties of the operator/contractor and oversight mechanisms for resources as well as fulfillment by the operator. It will also entail the design of a fair contribution system for the transfers for each one of the indigenous communities or settlements according to the type of system or service. ③ Community maintenance, which will include the designation of community members responsible for the maintenance, training and mechanisms for facilitating system repair. This option will also require the analysis of potential funding sources, including the allocation of resources from the general national participation system for Indigenous reserves.</td>
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<td><strong>5. Lack of</strong></td>
<td>The lack of sufficient capacity in the Department to identify, assess and screen the projects from a social perspective.</td>
<td>The use of a system to screen the projects from a social perspective.</td>
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<td>Risk</td>
<td>Description of Risk</td>
<td>Risk management measure</td>
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<td>compliance with Bank safeguard policies and other negative social</td>
<td>undertake the activities contemplated in the present Framework could result in a failure to comply with Banks social safeguard policies or have an adverse social impact, especially in the Wayùu population.</td>
<td>perspective has been agreed with the Government as part of the “rules of the game” for the financing of investments under the loan.</td>
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<td>impacts at a subproject level</td>
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<td>The use of the prior screening mechanism would ensure that non-compliance with any of Bank social safeguard policies – i.e. indigenous people, involuntary resettlement, etc. is spotted, as well as any other adverse social impact brought about by the subproject. At this stage, the borrower and the Bank would be able to confirm that the existing policy frameworks, mitigation plans, organizational capacity and other actions needed to comply with the safeguard policies and mitigate and or manage adverse impacts have been addressed satisfactorily.</td>
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6. Governance, transparency and political economy issues and low public trust in Departmental Government Institutions and some Wayùu authorities

La Guajira is historically tainted with long standing governance concerns and cases of patronage and political clientelism that call for improvement in basic government effectiveness and efficiency, transparency and accountability. There are to date continuous claims in the media and in the streets about corruption issues. This has also affected the structure of authority of the indigenous community and some of its leaders. These governance issues could result in project expenditure ultimately not addressing the needs of the Wayùu population.

The Departmental Government has stated its commitment towards more transparent and accountable public institutions, and this Project supports many improvements in all of these areas. The broad information and consultation activities with the indigenous population contemplated in this Framework and the proposed fiduciary and flow-of funds arrangements will signify a solid gain in transparency and protection against misuse of funds, improving the accountability for resource allocation within the Department and make the public sector more responsive to citizens. However, the fight against corruption will depend fundamentally on sustained political will to translate technical changes into real improvements in administrative practice, together with outreach efforts to build public trust.
## 3. Action plan for mitigation of impacts

Based on the impact analysis summarized in the previous chapter, a specific Action Plan has been designed for the interventions in indigenous areas with the objective of managing the potential negative impacts in the indigenous population outlined above. Although it is mainly focused in Indigenous People, the measures indicated in the Action Plan will most likely affect the entire population of La Guajira.

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<tr>
<th>Activity</th>
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<td><strong>1. Ground and surface water resources study:</strong> As previously mentioned, there are no existing studies regarding the water demand from the diverse indigenous communities and the availability of water resources in the Department. A comprehensive and up-to-date sub-regionalized analysis of the available water resources in the department and by region in the Middle and Upper Guajira must be advanced. The study would cover the totality of the Department, including the legal Wayúu territory in coordination with the relevant authorities.</td>
<td>Start: 1st year of Project implementation</td>
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<td><strong>2. Information, communication and participation Campaign:</strong> Launching of a communication and public information campaign to share with the community information about the Project structure, phasing and objectives.</td>
<td>Start: 1st year of Project implementation</td>
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<td><strong>3. Technical needs assessment in indigenous areas:</strong> During the first year of the APL’s implementation, the Department will carry out a complete evaluative study of the needs of the indigenous areas. This will include a participatory consultation process with the indigenous population at the departmental level in order to prepare the departmental strategy for water and sanitation services in the indigenous areas in conjunction with the Wayúu communities and their authorities. This analysis shall be carried out through by an interdisciplinary (social and technical) group to include the participation of traditional indigenous authorities (See Point 4 below on consultation with the community) as well as departmental and municipal authorities who are responsible for indigenous affairs. The study will allow for planning the intervention of the APL’s second phase, identifying, among other things:</td>
<td>Start: 1st year of Project implementation</td>
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<td>- Prioritized communities and areas for the construction</td>
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8 The University of La Guajira (Etongraphy Department) has indigenous and non indigenous officials which are knowledgeable on the situation in the Wayúu territory and could support the implementation of this study. The University has also at its disposal an Information Centre for issues related to indigenous peoples Issues.
or reparation of water supply systems
- Existing systems, their current conditions and distribution.
- Water production capacity
- Community displacement and mobilization patterns.
- Complimentary productive and economic development programs to benefit communities.
- Community use and access procedures for family and collective water sources and systems.
- Community participation, coordination and commitment as ownership mechanisms for water supply system access and maintenance.
- Needs for community training and capacity building in system operation and maintenance.
- Social, cultural and environmental impacts of the allocation of water supply systems.

### 4. Social Assessment and consultation process with the indigenous population at the departmental level and at a sub-project level:

The consultation will be undertaken by the Departmental Government in a systematic and organized fashion following the methodology and guidelines agreed upon in this Framework through the Program Implementation Unit. The result of this evaluation and consultation as well as the decisions made will be included in a Sectoral Strategy and in the Indigenous People Plans (see section 5), subject to the Bank’s review prior to supporting the APL2. The Social Assessment and Consultation will be conducted in accordance with the guidelines presented in Chapter 6 of this Framework. The consultation process will have been completed before accessing any disbursements under APL2.

| Trigger for APL 2: |
| Completion of the broad consultation for the rural investment program in the indigenous areas to be financed under APL2 |

| Trigger for APL 2 |

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### 5. Sectoral strategy/Indigenous Peoples Plan:

Based on the information generated in the Social Assessment and Consultation process, the Department will come up with comprehensive Strategy to approach water and Basic sanitation services in the indigenous areas for discussion with the Bank before entering into APL 2. For each subproject, a separate Indigenous Peoples Plan (IPP)\(^9\) will be prepared, in accordance with OP 4.10. In cases where the community is already in the process of working with the Department of La Guajira’s “Life Plans” (Planes de Vida) as frequently is the case in the Upper and Middle Guajira, the elements of the IPP will be developed as part of these “Planes de Vida,” which are devised by the community in dialogue with the government, using participatory methods, planning and analyses.

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\(^9\) According to OPE 4.10, when the majority of Project beneficiaries are Indigenous People, the preparation of an independent Indigenous People’s Plan is not required, but the elements of it are incorporated in Project Design.
4. Methodology for project analysis and institutional arrangements

4.1 Institutional arrangements

The Department has established a Program Implementation Unit (PIU) to accommodate for its lack of institutional capacity to implement a project of this characteristics and size. The role of the PIU is limited and temporary and its objective is overseeing the implementation of the APL. Because Colombia’s institutional and regulatory framework for water and sanitation puts responsibility for the delivery and management of basic services at the local level, the Program Implementation Unit would coordinate aspects of APL implementation with the National Government, the municipalities and the operators in the execution of APL1 and planning for APL2.

The Unit would also have a responsibility to prepare the implementation arrangements for the scaling-up of the rural pilot which is likely to take place under APL II and for overseeing technical and analytical work which would be used for the design of APL II.

During the first phase, the Program Implementation Unit would be focused on aspects of APL1 implementation, primarily in structuring and reviewing operational arrangements with specialized operators for the urban areas, managing procurement, fiduciary and flow of funds –with the support of a fiduciary company -, overseeing compliance with environmental and social safeguards, and planning aspects of the first Phase of the APL. The Unit would also have a responsibility to prepare the implementation arrangements for the scaling-up of the rural pilot which is likely to take place under APL II and for contracting and overseeing technical and analytical work and studies envisaged under this IPPF for the design of APL II.

The main World Bank’s safeguard policies affecting this Project are:

i) Environmental Assessment
ii) Indigenous Peoples
iii) Involuntary Resettlement

The PIU will be responsible for overseeing compliance with these safeguard policies and other arrangements agreed upon with the Bank during Project preparation, as well as national regulation and legislation, and specifically in the implementation of the IPPF. The Project allocates some funds to strengthen the social and environmental management capabilities of the PIU, the municipalities and the Department, to: (i) review and clear of the submitted analyses, plans, monitoring plans, and indicators, and making recommendations for additional analyses and measures, if required; (ii) Coordinate the Social Assessment and Consultation process with the indigenous population at the Departmental level and in the preparation of each pilot subproject, as well as the rest of the activities outlined in chapter 3 of this document; (iii) coordinate the preparation of the
Environmental Assessment and Environmental Management Plan; (iv) monitoring key project indicators and the quality of reporting from the municipalities, and monitoring environmental and social conditions and developing measures to address impacts; (v) establish links with municipalities other institutions such as CORPOGUAJIRA (in charge of granting environmental licenses), the Instituto Nacional de Antropología (when subprojects might have an impact on cultural heritage) the Departments Secretary for Indigenous Issues, the MAVDT and DNP at the national Government level.

The PIU will include a social specialist on its staff who will be responsible for preparation, contracting and management of required social studies and activities agreed upon in the present IPPF. This expert must have proven trackrecord working with Indigenous Peoples in Colombia – in particular the Wayúu - and know well the context on the ground. This specialist will coordinate closely with the Departments institutions, consultants, NGOs and other stakeholders in the implementation of the Action Plan in Chapter 3 of this IPPF.

For more detail on the implementation arrangements see annex 6 of the Project Appraisal Document.

4.2 Methodology for preparing Indigenous Peoples Plans (IPPs)

The studies and consultation to be undertaken under APL1 will define and recommend the methodology for implementing Phase II of the Program. Regarding the methodology for the preparation and execution of pilot sub-projects in indigenous areas under Component B of APL1, the following are the agreed key steps. The PIU will be responsible for preparing an IPP by undertaking the following steps:

i) Review and screen of the Project from a social and environmental standpoint to determine applicable safeguard policies as well as the appropriate scope and reach of the Social Assessment;

ii) Coordinate the preparation of the Social Assessment that includes baseline information on the demographics, social, cultural and political characteristics of the affected Indigenous Peoples’ communities, the land and territories that they have traditionally owned or customarily used or occupied and the natural resources on which they depend.;

iii) Taking the review and baseline information into account, assess the potential adverse and positive impacts based on a process of free, prior and informed consultation with the affected communities following the guidelines and terms of reference outlined in the present document;

iv) Drafting of a specific Action Plan for the implementation of each subproject to incorporate the results and recommendations of the Social Assessment and consultation process;

v) Action Plan implementation;

vi) Monitoring and control of agreed set indicators for each subproject;

vii) Follow up and extraction of key lessons and sub-project results to incorporate them in the design of APL2.
All sub-projects will include a social component to finance the execution of the above tasks and the structure the relevant diagnostics related to sub-project preparation and implementation (other sub-project components discussed in Section 5). This component would be the first one undertaken and would involve community stakeholders in at least four different phases:

a) Participatory diagnosis of the Water supply and sanitation situation “inside” and “outside” the Wayúu households: This initial diagnosis will include workshops with the Wayúu community in environmental health, water supply, sanitation, hygiene education inside the Wayúu house and in school classrooms. A result of this activity will be the formation of a consultative committee, consisting of community leaders interested in the project, including people engaged in the health sector, the police inspector of the area, teachers at Wayúu schools, community leaders involved in water supply activities and women that are leaders in the community. The consultative committee will provide a two way communication channel between the PIU and the rest of the community during Project preparation and implementation.

b) Analysis of the Information: This stage includes an analysis of the information obtained in the participatory diagnosis and the technical information obtained by the preparation team. The purpose of this workshop will be to reflect on the impacts of improving the water supply and sanitation infrastructure on the community and their health. Another aspect to be discussed with the community is the allocation of transferred resources in the water sector, the participation of the municipality in supplying basic services, the administration of transferred resources in the indigenous territory, and the use of funds from the general participation system with specific destination in the water and sanitation sector.

c) Project Socialization Activities and information sharing: Further workshops and information sharing activities will be organized through facilitators to promote the presentation of the results of the participatory diagnosis and analysis of the information to the rest of the community that may not have actively participated.

d) Project Structuring: The facilitation team will explain to focus groups the steps for formulating a project and the dimensions required including social, technical, institutional and educational. In the first two dimensions, the participants will analyze the infrastructure requirements, investment costs, impacts on health, and operation and maintenance costs to guarantee its sustainability. The third one entails education in hygiene outside and inside the house and analysis of the implications of the new services in the community. The arrangements for project implementation and future operation and maintenance would be agreed at this stage.

More detail on the implementation arrangements for the pilot subprojects can be found in Annex 14 of the Project Appraisal Document.
5. Types of projects to be financed by the Program

This project will carry out community-level subprojects, each containing four components: social (discussed in Section 4.2 above), infrastructure, institutional and health/hygiene. Examples of possible subprojects technologies which might be utilized include the use of wind-powered pumping from groundwater sources, where available, investments for filtration and desalination of water, rainwater harvesting and treatment through the use of “jagues” or catchments, and environmentally and socially appropriate disposal systems for household wastewater. These pilot projects from the APL’s first phase, to be developed in the indigenous areas of Uribia and Manaure, will offer an opportunity to explore the social and cultural dynamics that will improve the likelihood of sustainability for the APL’s second phase. As such, the pilot projects would seek to identify, validate and apply a participatory analysis methodology that will later be expanded to the other indigenous communities of Uribia and Manaure. The methodology and results of the analysis will serve as references and feedback for the development of the IPPs (or, in some cases, “Life Plans”) for the indigenous Wayúu communities from the Upper and Middle Guajira reserve.

5.2 Criteria for pilot project selection

The selection of locations for pilot projects should take into the following criteria into account:

③ **Location:** Easy access that allows for the sustained and continuous advancement of coordination, accompaniment and follow-up processes and, which documents the study’s development, identifying necessary adjustments and lessons learned.

③ **Priority:** Family groups or rural settlements that do not have water supply systems.

③ **Spatial Distribution:** Various settlements that can eventually share water supply system through commitments to collective access and use.

③ **Collective Appropriation:** Solid organizational investment structures and social cohesion that can count on the active participation of the heads of household and result in coordinated and appropriate community projects.

③ **Economic:** Adequate use of the transfers, denoting the seriousness of the community in managing its resources.

These criteria are developed in more detail in the Guidelines for the Definition of Pilot Projects available in the Project archives, a summary of which can be found in annex 14 of the Project Appraisal Document.

In completion of the World Bank’s Operational Policy, OP and BP 4.10, on Indigenous Peoples, the current consultation has the objective of advancing the social evaluation of the Wayúu communities in the areas where Component B participates: Pilot Projects in Indigenous Areas within the Project Infrastructure and Management of the Water and Sanitation Services in the Department de La Guajira and, to produce the elements of the Indigenous Development Plan that will be incorporated in each pilot project in coordination with the Wayúu communities and their authorities.
6. Terms of Reference (TOR) for Social Assessment and Consultations in connection with preparing the IPP

The consultant will work with the indigenous communities located in the areas where the program participates, identified as potential pilot projects to be financed by the Program. Prior consultations will be advanced in these areas in coordination with the Project Implementation Unit. Additionally, the design of the Project’s social aspects and elements of the main development plan will be produced for incorporation into the definitive project. The consultant will coordinate with program technical experts regarding matters related to identification of water potential and systems to be built or repaired.

6.1. Activities to be completed

1. Reviewing relevant documentation, particularly documentation related to the application of Operational Policy 4.10 and the World Bank Note Policy for Indigenous Peoples in Colombia.

2. Carrying out a participatory social evaluation through consultation workshops with indigenous authorities and communities and governmental, departmental and municipal requests in the areas where the project participates, including:

   • Reviewing the application of the existing legal and institutional framework relevant to indigenous peoples in Colombia, in particular, that related to the transfer of resources, public service, life plans, traditional authorities and coordination with municipal requests.
   • General information regarding demographic, social, cultural, political and institutional characteristics of the communities in the areas where the program participates.
   • Ownership and land use systems. Community displacement and mobilization patterns should be included.
   • Identifying the main problems that affect that indigenous people in terms of water and basic sanitation, health and education, among others.
   • Community organization, participation and decision-making mechanisms and the communities’ degree of organization and social and political-administrative cohesion.
   • The use of natural resources, especially water, and community use and access procedures for family and collective water sources and systems;
   • Social, cultural and environmental impacts of the allocation of water supply systems.
   • Use and distribution of resources from the general participation system to the indigenous reserves and their allocation for construction or maintenance of water allocation systems.
3. To identify water needs in coordination with the Department’s technical domain, including:

- Existing water supply systems; their current condition and distribution.
- The area’s water potential.

4. To advance culturally appropriate prior consultations with the selected communities to produce the IPP. This allows for identification of the communities’ options, to be incorporated into the Project activities and, if necessary, aspects of the Project that could be adverse for the indigenous peoples and the proposal of mitigation measures. The following should be included:

   a) General Information

   - Prioritization of communities and areas according to the needs of water system access and use and a census of the indigenous peoples to be benefited by the activities
   - Identifying the construction or reparation of water supply systems as well as the water potential
   - Identifying the indigenous communities’ abilities, strengths and weaknesses for participation in program activities and mechanisms for reinforcing their participation.

   b) Social and Institutional Aspects.

   - Relationships with organizations, entities and other population sectors.
   - Ability of local institutions to attend to the demands of indigenous peoples.
   - Mechanisms of investment, coordination, and community commitment for the access and maintenance of water supply systems and degree of collective appropriation of the same; proposing a participation scheme for the Project.
   - Community and institutional procedures for the operation and maintenance of water supply systems, including:
     - Identification of institutional and community solutions.
     - Decisions regarding the nation’s transfers to the indigenous reserve.
     - Proposal of the fair payment distribution of transfers according to type, quality and service coverage.
     - In agreeing upon the hiring of private operators, identifying the contractual, supervisory and oversight commitments with the community.
   - Community training needs for system maintenance and repair, if necessary.

   c) Technical Aspects

   - Community use and access procedures for water sources and systems.
   - More appropriate water supply systems, taking into account the water potential, maintenance conditions and feelings of the community.
   - Use of the nation’s transfers to indigenous reserves.

   d) Program and Institutional Aspects
• Community options for joining the Project’s activities.
• Community requirements that could be supported by Component C, related to Project management and technical support.
• Identifying small economic projects, selected in coordination with the families and their authorities that compliment the water supply systems and strengthen the Wayúu family and community economy.
• Measures of Foresight and Control of Possible Negative Effects
• Costs
• Timeline
• Institutional Implementation Responsibilities
• Evaluation and Follow-up Indicators

6.2. Expected Products

1. Social Assessment of the communities in the areas where the Project participates according to the indications in Numeral V - 2 above.
2. Coordination of prior consultations process with indigenous communities and corresponding report outlining the main results.
3. Elements of an Indigenous Peoples Plan (and or Life Plan, if available) to be included in the pilot project’s final design.

6.3. Required Profile

An individual consultant with academic training in anthropology, economics, law or similar majors. Minimum requirements: Minimum experience of seven (7) years in: i) indigenous community development and planning and coordination projects with indigenous communities, iii) application of the World Bank’s Operational Policy, iv) public policies for indigenous peoples, preferably in public service matters, v) construction of indicators for follow-up and evaluation of indigenous peoples’ organizational strengthening processes and vii) availability for field work. Preference will be given to work experience with Wayúu communities.

6.4. Duration

3 months

7. Evaluation and monitoring

Monitoring of implementation of the Action Plan and overall IPPF will be a responsibility of the Program Implementation Unit on behalf of the Department. Regular supervision, monitoring and reporting will be the same than for the general Project, unless different agreements are reached in throughout the implementation of the different activities envisaged in the present document.
Under APL1, two indicators have been defined to monitor implementation and results of Component B: Pilot sub-projects in indigenous peoples areas:

- Successful implementation of at least [8] rural pilot water or sanitation supply subprojects defined in accordance with the methodology and criteria indicated in the present IPPF and based on a set of indicators to be defined on a case-by-case basis at the time of preparing each specific subproject

- Design of institutional and financial arrangements for scaling up during Phase II.

During the preparation of each of the pilot subprojects on a case-by-case basis, specific indicators and monitoring arrangements will be defined. Monitoring and evaluation mechanisms are expected to actively involve the beneficiary indigenous community members. In broad terms, the pilot projects will search to benefit the larger possible number of people within their area of influence. Preparatory work identified 16 potential candidate subproject areas to pilot integrated solutions in the rancherias located in the municipalities of Uribia and Manaure, approximately benefiting 24,650 residents with improved basic services. Of the 16 candidate sites, eleven locations were prioritized based on the selection to criteria to benefit approximately 19,825 residents.

8. Dissemination

The present IPPF has been prepared as part of Project preparation with the World Bank and will be adopted by the Government of La Guajira for the implementation of the loan as part of the legal agreements with the Bank. In accordance with OP 4.10, the draft IPPF is being made available to the affected Indigenous Peoples’ communities. Before project appraisal, the Department will send it to the Bank for review. Once the documents have been accepted for project appraisal, the Bank will make them available to the public in accordance with The World Bank Policy on Disclosure of Information, and the Department will make them available to the affected Indigenous Peoples’ communities again.

Given the broad communication and consultation process that will take place with the civil society (indigenous and non indigenous) that will be initiated in La Guajira during the first year of Project implementation, any required updates to the IPPF that may come up in this process would be incorporated then, reviewed by the Bank and properly disseminated, in principle under the same consultation process.
I. Annex I: The Wayúu Social Context

Contents

I. Introduction

1.1 General Description
1.2 Context
2.2 Indigenous Population of La Guajira
2.3 Social Organization
2.4 Political Organization
2.5 Spatial Distribution and Territorial Control
2.6 Economy

2. Institutional and Legal Context

2.1 Institutional Framework
2.2 Legal Framework

3. Water Access and Use

3.1 General Context
3.2 Social, Cultural and Environmental Impacts

4. Bibliography and Interviews
1.1 Introduction

The World Bank initiated the preparation of an infrastructure and basic sanitation loan in the Department of La Guajira - APL Phase I - together with the National Government and the Department of La Guajira.

La Guajira records Colombia’s worst performance in the water and sanitation sector and has severe water supply and wastewater management problems. The rural areas present more critical situations, in particular in matters related to the Wayúu communities, which make up 34% of the department’s population and approximately 90% of the inhabitants of the Manaure and Uribia municipalities.

The project to be carried out is comprised of three components:

- Component A: Urban Center Investment and Service Management Projects for Water and Sanitation;
- Component B: Rural Area Investment and Service Management Pilot Projects for Water and Sanitation;
- Component C: Technical Support, Project Management and Monitoring and Evaluation

The second component, the pilot projects for investment and management of water and sanitation services in rural areas, will be implemented in indigenous areas, particularly in the Uribia and Manaure municipalities, which are part of the Upper and Middle Guajira Indigenous Reserve.

The present document contains a brief description of the indigenous Wayúu of Upper and Middle Guajira, the existing legal framework in Colombia in favor of the indigenous
peoples and, relevant norms for the development of both the Project and La Guajira’s institutional framework. It proposes recommendations to be carried out during the first phase and guidelines and criteria for the development of pilot projects in accordance with the World Bank’s Operational Policy on Indigenous Peoples, or OP 4.10.
1.2 General Description

1.2.1 Context

Created by Law 19 of 1964, The Department of La Guajira is located in the peninsula at the county’s extreme north and bordered, to the north by the Caribbean Sea, to the east with the Caribbean and Republic of Venezuela, to the south with the Department of Cesar and, with the Department of Magdalena to the west.

It spans 20,848 km². While the north of the Department is characterized by being desertic and arid with low precipitation and scarcity of water, the south is less dry and has more rain with some subsistence of vegetation and development of agricultural activities.

1.2.2 Indigenous Population of La Guajira

The Wayúu indigenous village covers from the La Guajira peninsula in Colombia to the Gulf of Maracaibo in Venezuela. The existing political-administrative divisions between the two countries do not present a barrier for the indigenous people, who displace themselves from one country to another with no problem. Otherwise, the Political Constitution of Colombia recognizes the duel citizenship of those indigenous peoples who inhabit both sides of Colombia’s borders.

The Department of La Guajira is one of the most important departments in terms of the country’s ethno cultural diversity. It has the second largest indigenous population in the country (19% of the national total) and the third largest indigenous population with respect to total departmental population. Out of the department’s 459,326 inhabitants, 32% of are indigenous (156,046). The largest ethnic group is the Wayúu with 149,273 inhabitants, followed by the Koguis with 5,757, the Arhuacos with 936 and the Wiwas with 80 (Arango and Sánchez 2004:56). The Wayúus belong to the Arawak linguistic stock while the other indigenous peoples are from the Chibcha linguistic stock.

The Wayúu people mainly inhabit the arid peninsula of La Guajira at the north of Colombia and northeast of Venezuela, on the Caribbean Sea. This is a region with a warm, dry and inhospitable climate, bordered by the River Rancheria (Colombia) and the El Limón River (Venezuela). It has climatic seasons marked by an initial rainy season from September through December, followed by a drought period, which lasts from December to April. Afterwards, there is a second rainy season that ends with a long drought season from May to September (Vergara 1990: 141). However, in recent years, the drought seasons have been prolonged.

The lands of 87.44% of the department’s indigenous population are legally recognized. The Wayúu population is located within 16 indigenous reserves distributed in 10 of the 15 municipalities. The Kogui, Arhuaca and Wiwa populations are located on the Kogui-Arsario reserve, extending from the Department of Magdalena to the foothills of Sierra Nevada de Santa Marta in the Municipalities of Dibulla and San Juan del Cesar. The remaining 13% of the indigenous Wayúu population is located on the Carraipía
indigenous reserve, on the nation’s uncultivated lands or on individual properties or estates (See Chart No. 1).
**Chart 1: Indigenous Communities of La Guajira per Municipality and Type of Ownership (Source: Arango and Sánchez, 1994)**

<table>
<thead>
<tr>
<th>Region</th>
<th>Municipality</th>
<th>Reserve</th>
<th>Reserves with no Delimited Territory</th>
<th>Faction/prop. or individual possessions</th>
<th>Ethnicity</th>
<th>Population</th>
<th>Area (has)</th>
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<td>Maicao, Manaure, Riohacha, Uribia</td>
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<td>Parte Urbana</td>
<td>Wayúu</td>
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<td>---</td>
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<td>Rodeitos</td>
<td>Wayúu</td>
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</tr>
<tr>
<td>Fonseca</td>
<td>Mayabangloma</td>
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<td>Wayúu</td>
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<tr>
<td>---</td>
<td>Conejos</td>
<td>---</td>
<td>Wayúu</td>
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<tr>
<td>---</td>
<td>La Ceiba</td>
<td>---</td>
<td>Wayúu</td>
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<tr>
<td>---</td>
<td>La Loma-Gloria, Bangañitas</td>
<td>---</td>
<td>Wayúu</td>
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<tr>
<td>---</td>
<td>Madre Vieja</td>
<td>---</td>
<td>Wayúu</td>
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<tr>
<td>---</td>
<td>---</td>
<td>ND</td>
<td>Wayúu</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dibullia / San Juan del Cesar</td>
<td>Kogui- Malayo</td>
<td>---</td>
<td>Kogui, Wiwa</td>
<td></td>
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</tr>
</tbody>
</table>
1.2.3 Social Organization

There are no current studies regarding the social structure of the Wayúu or changes that such has experienced in the last decades due to the presence of multinational mining companies and State investment plans. Much of the existing information to describe the Wayúu consists of generalizations of specific cases or, is part of the popular mythology that has circulated among the region’s non-indigenous people.

The Wayúu have their own form of social organization in the form of matrilineal clans through which the members are identified by maternal lineage.

As such, the clans are defined by matrilineal kinship ties in which matrilineal cross-cousins are distinguished from patrilineal cross-cousins. The mother, father and children make up the nucleus of the Wayúu kinship system, where the brothers and sisters are the only relatives in having the same blood and same flesh. Individuals who share this genealogical tie by flesh are uterine relatives. The same blood is shared with the father and his brothers, but not the flesh, corresponding to the category of the father’s uterine relatives. As such, the Wayúu have more economic and social relationships with the maternal family, or flesh relatives, than with the paternal family, or blood relatives (Vergara 1990: 150).

The Wayúu are territorially organized in basic domestic units, or nuclear families, located in dispersed rural settlements whose members are united by uterine kinship ties. Each rural settlement is governed by the mother’s brother, or maternal uncle. Given that the Wayúu are polygamous, a head of household will have various residencies depending upon the number of wives he has.

Nuclear families are in turn grouped into extended families comprised of domestic units formed by the maternal lineage’s marriage relationships and governed by the grandmother’s oldest maternal uncle. All of these extended families make up extended matrilineages that include all of the maternal relatives who, are integrated into clans or groups that share the same last name (Friedemann and Arocha: 1982: 314-315).

Each clan is associated with a totemic animal that expresses the origin myth of each of them and whose name is transmitted through the woman. The Wayúu are grouped into approximately 20 clans, among which the Epiyú, Uriana, Ipuana, Pushaina, Epinayú, Jusayú, Arpushana, Jarariyú, Woryú, Urariyú, Sapuana, Jinru, Sijona, Pausayú, Ucharayú, Uriyú, Warpushana, Worworyú, Pipishana, Toctuyú stand out. Belonging to one clan or another creates a sense of belonging within all of group members and establishes obligations and duties for the other group members. Equality among clans does not exist. Some clans are considered poor while others have economic power.

1.2.4 Political Organization
There is no organized political institution among the Wayúu that regulates relationships among the members of this ethnic group. Each family is internally governed by maternal uncles who exert social control and maintain relationships with other families. Relationships among clans are governed by a set of norms and traditional laws, which the oldest maternal uncles are in charge of and through which internal social control is exerted, expressed by the charging of offenses committed by a family member against a member of another family. The traditional dispute resolution procedure includes a “speaker” (or “purchi”). These are recognized and respected people who mediate on behalf of each family to agree to the charging of or indemnity from the offense committed. As such, some heads of extended families are recognized and respected by other families.

In the last decades and due to the strengthening of the national indigenous movement, regional indigenous organizations have been created which seek to unify the indigenous outcry for the vindication of rights. Except in specific cases, such as the negotiation of the heads of households with the Salinas de Manaure Companies in 1991, given the Wayúu organizational and political decentralization, the four existing organizations have a limited voice, which does not represent all of the clans.

Chart 2: Indigenous Wayúu Organizations in the Department of La Guajira

<table>
<thead>
<tr>
<th>Organizations</th>
<th>Location</th>
<th>Region</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yanama</td>
<td>Sānutpiou</td>
<td>Alta Guajira</td>
</tr>
<tr>
<td>Waya Wayúu</td>
<td>Manaure</td>
<td>Alta Guajira</td>
</tr>
<tr>
<td>Pinwashi</td>
<td>Riohacha</td>
<td>Media Guajira</td>
</tr>
<tr>
<td>Oziwasug- Indigenous Wayúu Area Organization of the South of La Guajira</td>
<td>Barrancas</td>
<td>Baja Guajira</td>
</tr>
</tbody>
</table>

1.2.5 Spatial Distribution and Territorial Control

The Wayúu spatial distribution is dispersed. A good part of the population is established within a set of isolated dwellings or rural settlements.

The Wayúu are characterized by being semi-nomadic or poly-residential. Their migrations are determined by the seasonal changes and availability of water and means of subsistence, the polygamy by which the head of household has several dwellings where each one of his wives lives or, by inter-family conflicts that oblige displacement to other locations. During the dry season, many Wayúu are displaced to Maracaibo in search of employment or water, returning to their locations once the rains begin.

The indigenous peoples’ spatial distribution is determined by economic options and environmental conditions. There is, for example, a greater density in Nazareth and Serranía de la Macuira, where there are more water and agricultural resources. As such, a concentration of the population exists in or around the urban areas of Uribia, Manaure and Maicao, where there is a greater supply of public services and possibilities for income.
Even though some anthropological studies regarding the Wayúu affirm that it is not possible to determine the areas belonging to the different clans (Friedemann and Arocha 1982:317), recent analyses indicate that the Wayúus’ mobility obeys defined and limited patterns according to each one of the family groups’ territorial rights (University of La Guajira 1996:11). These territorial rights are determined by the historical prevalence of the clans within a defined area and marked by the presence of indigenous cemeteries. Said in another fashion, the location of ancestors’ cemeteries grants the rights to specific territories and, it is there where families return once the conditions that motivate their migration are through.

According to data from the Wayúu Bi-national Census taken in 1992, Uribia had 1,906 rural settlements and Manaure 459, corresponding to 75% of 3,144 Wayúu settlements in the department (Universidad de La Guajira 1996:6).

The rural settlements are comprised of five or six ranches, farmyards, gardens and a cemetery. Some have a mill to pump water or jagüeyes and casimbas for water storage (Vergara 1990:146).

1.2.6 Economy

Given that the lands of Upper Guajira are not very apt for cultivation and the sources of subsistence are not sufficient to cover the indigenous peoples’ nutritional needs, the Wayúu economy is mixed, including the raising and shepherding of goats and horticulture specializing in corn, beans, yucca, pumpkin, cucumbers, melons and watermelon, and, is complimented with fishing activities. The raising of goats grants power, status and prestige.

In coastal communities, fishing has become the indigenous peoples’ most important economic activity. Other subsistence sources include the exploitation of the salt in Manaure and woven fabrics.

Since colonial times and thanks to the location of their territories on the costs along the Atlantic Ocean, the Wayúus have complimented their subsistence with the contraband of goods such as fabric, livestock and pearls in colonial days, raw materials and rifles in the XVIII and XIX centuries and electrical appliances, liquors, arms and illegal drugs in the XX century.

2. Institutional and Legal Context

2.1 Institutional Framework

Within their administration, the Department of La Guajira and municipalities of Uribia and Manuare have created offices responsible for looking after the indigenous populations. As such, the Department has an office of Indigenous Affairs in charge of looking out for the fulfillment of the departmental policy for indigenous peoples as well
as coordinating programs. The municipalities of Manaure and Uribia have the Indigenous Settlement Center and Office of Indigenous Affairs, respectively. Among their other duties, the municipal offices are responsible for the transfer of resources from the general participation system to indigenous reserves.

2.2 Legal Framework

Colombia has a broad legal framework that recognizes the rights of the indigenous peoples. This includes the rights to the territory through the constitution of indigenous reserves, to develop according to their uses, customs, needs and aspirations, to educate themselves, to adopt health systems in accordance with their cultural characteristics and to be governed by their own authorities. This set of norms make up what is called the Indigenous Code of Laws within the country. The existence of this code of laws does not exclude the indigenous people from the other norms for citizens of the Colombian State (a summarized description of the indigenous legislation can be found in Annex 1).

The Constitución Política de Colombia (CP, or Political Constitution of Colombia) grants special recognition to indigenous communities. In its Article 329, the CP opens up the possibility for indigenous reserves to form Entidades Territoriales Indígenas (ETIs, or Indigenous Territorial Entities) positioning them equally with the conditions of the municipalities. The ETIs have not been created because the territorial ordering law that must regulate their creation continues to be debated in the Congress of the Republic. Nevertheless, the Government has meanwhile dictated provisions in accordance with the law to initiate processes of service transfer to the reserves.

Article 287 of the CP established that indigenous territories shall be able to govern themselves with their own authorities. Article 330 dictates that the indigenous territories shall be governed by boards comprised and regulated according to their communities’ uses and customs. It defines the following duties: i) to oversee the application of legal norms regarding land use and population in their territories; ii) to design their territories’ policies, plans and socioeconomic development plans; iii) to promote public investments in their territories, checking to see that they are duly fulfilled; iv) to receive and distribute their resources; v) to monitor the preserve of natural resources; vi) to coordinate programs and projects promoted by their territory’s different communities; vii) to collaborate on their territory’s public order maintenance in accordance with the national Government’s instructions and provisions; and viii) to represent the territories before the national Government and additional territories that comprise it.

Of these constitutional articles, particularly relevant subjects for the carrying out of the water supply project in the Wayúu territory are addressed: i) the Associations of Traditional Indigenous Authorities; ii) the transfer of resources from the system to indigenous reserves; iii) the design and development of the Life Plan; and iv) Consultation with the indigenous communities regarding matters that affect them.

Asociaciones de Autoridades Tradicionales Indígenas - (AATIs, or Associations of Traditional Indigenous Authorities)
Decree 1088 of 1993 regulates the creation of the Associations of Traditional Indigenous Authorities while the formation of ETIs is regulated. This Decree recognizes their special public nature and authorizes them to collect resources from the nation.

The Associations are governed by assemblies including all of their members, have a legal representative and must be registered before the Directorship of Ethnic Affairs of the Ministry of the Interior and Justice. Among their duties are the integral development of indigenous communities and the promotion of health, education and dwelling projects in coordination with the respective national, regional and local authorities.

Just like that of the constitutional article that gave rise to it, the spirit of this Decree is to strengthen the indigenous communities’ own government, seeking mutual agreement within the indigenous territories regarding the type of development that the diverse communities that make up said territory wish for. The Decree would introduce the concept of association at that time. In the cases of extensive reserves, such as Upper and Middle Guajira, this is more valid still.

The application of Decree 1088 within the Wayúu settlements belonging to the Upper and Middle Guajira reserve and located in the municipalities of Uribia y Manaure seems to run opposite to the spirit of the norm. Rather than grouping authorities, they are being broken up. According to data from the Directorship of Ethnic Groups of the Ministry of the Interior and Justice, Manuare records a total of 371 Traditional Authorities (of which only 12 are AATIs according to sources from the Municipal Mayor’s Office) and Uribia, 1,312 (see Annex 2).

According to information from La Guajira’s departmental and municipal officials, new Authorities are being created due to the transfer of the nation’s resources to the reserve and the manner in which these are distributed within it. Even though the Decree seeks for the authorities themselves, or, the heads of households in the case of the Wayúus, to be the ones that intervene in decision-making processes, the Authorities’ legal representatives, are, in many cases, young people who speak Spanish and therefore have access to the information and relationships with the municipal authorities while the older heads of households do not speak Spanish and are not informed about the agreements or projects presented to the municipalities by legal representatives. In addition to the effects that this may have within the community organization, the decisions at which the legal representatives arrive with the municipal authorities are not always sustainable or reached by consensus.

**Resources transferred from the General participation system to Indigenous Reserves**

In fulfilling constitutional provisions, the Colombian State proceeded to treat the indigenous reserves as municipalities, referring to the decentralization of preschool, basic primary and middle education, drinking water, dwelling and agricultural development within them. For this reason, the Nation annually sends resources to the reserves to be invested according to plans the municipalities have approved previously. These sums are established in accordance with the number of inhabitants of each reserve and handed into
the municipality for its administration. The municipality, in turn, hands them into the traditional authorities registered before the Directorship of Ethnic Groups of the Ministry of the Interior and Justice for their execution.

Between 2002-2005, the Wayúu communities belonging to the Reserve of Upper and Middle Guajira received a total of Col. 35,573,288 (65% of the total indigenous resources transferred that the department received). The following chart details the allocation for indigenous reserves in Guajira from 2002 – 2005:

**Chart 3: General Investment System for Indigenous Reserves Years 2002- 2005 (in thousands of Colombian Pesos)**

<table>
<thead>
<tr>
<th>DEPARTMENT NAME</th>
<th>CODE</th>
<th>MUNICIPALITY</th>
<th>2002</th>
<th>2003</th>
<th>2004</th>
<th>2005</th>
<th>DEPARTMENTAL TOTAL</th>
<th>URIBIA MANUARE TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>GUAJIRA</td>
<td>44001</td>
<td>RIOHACHA</td>
<td>389,221</td>
<td>422,115</td>
<td>434,279</td>
<td>425,249</td>
<td>1,670,864</td>
<td></td>
</tr>
<tr>
<td>GUAJIRA</td>
<td>44035</td>
<td>ALBANIA</td>
<td>-</td>
<td>20,651</td>
<td>21,664</td>
<td>21,619</td>
<td>63,934</td>
<td></td>
</tr>
<tr>
<td>GUAJIRA</td>
<td>44078</td>
<td>BARRANCAS</td>
<td>343,522</td>
<td>425,079</td>
<td>445,161</td>
<td>443,640</td>
<td>1,657,403</td>
<td></td>
</tr>
<tr>
<td>GUAJIRA</td>
<td>44090</td>
<td>DIBULLA</td>
<td>548,293</td>
<td>589,993</td>
<td>602,247</td>
<td>585,683</td>
<td>2,326,216</td>
<td></td>
</tr>
<tr>
<td>GUAJIRA</td>
<td>44098</td>
<td>DISTRACCIÓN</td>
<td>55,537</td>
<td>59,582</td>
<td>60,557</td>
<td>60,065</td>
<td>235,742</td>
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<tr>
<td>GUAJIRA</td>
<td>44110</td>
<td>EL MOLINO</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td></td>
</tr>
<tr>
<td>GUAJIRA</td>
<td>44279</td>
<td>FONSECA</td>
<td>52,779</td>
<td>56,914</td>
<td>58,240</td>
<td>56,739</td>
<td>224,672</td>
<td></td>
</tr>
<tr>
<td>GUAJIRA</td>
<td>44378</td>
<td>HATONUEVO</td>
<td>97,006</td>
<td>124,895</td>
<td>156,482</td>
<td>154,663</td>
<td>533,046</td>
<td></td>
</tr>
<tr>
<td>GUAJIRA</td>
<td>44420</td>
<td>LA JAGUA DEL PILAR</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td></td>
</tr>
<tr>
<td>GUAJIRA</td>
<td>44430</td>
<td>MAICAO</td>
<td>2,794,521</td>
<td>3,008,656</td>
<td>3,068,973</td>
<td>3,067,131</td>
<td>11,939,280</td>
<td></td>
</tr>
<tr>
<td>GUAJIRA</td>
<td>44560</td>
<td>MANAURE</td>
<td>2,991,016</td>
<td>3,341,151</td>
<td>3,407,126</td>
<td>3,414,608</td>
<td>13,153,901</td>
<td>13,153,901</td>
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<tr>
<td>GUAJIRA</td>
<td>44650</td>
<td>SAN JUAN DEL C.</td>
<td>74,479</td>
<td>79,641</td>
<td>80,810</td>
<td>79,435</td>
<td>314,364</td>
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</tr>
<tr>
<td>GUAJIRA</td>
<td>44847</td>
<td>URIBIA</td>
<td>5,260,967</td>
<td>5,689,659</td>
<td>5,802,009</td>
<td>5,666,752</td>
<td>22,419,387</td>
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<tr>
<td>GUAJIRA</td>
<td>44855</td>
<td>URUMITA</td>
<td>-</td>
<td>-</td>
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<td>-</td>
<td>-</td>
<td></td>
</tr>
<tr>
<td>GUAJIRA</td>
<td>44874</td>
<td>VILLANUEVA</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td></td>
</tr>
<tr>
<td>TOTAL</td>
<td></td>
<td></td>
<td>12,607,343</td>
<td>13,818,337</td>
<td>14,137,547</td>
<td>13,975,582</td>
<td>54,538,809</td>
<td>35,573,288</td>
</tr>
</tbody>
</table>

These resources are assigned to the Traditional Authorities through legal representatives within the municipalities. In other words, the Col. 9,081,360M corresponding to 2005 were distributed among 1,683 registered Authorities.
Concerning the allocation of transfers, municipal and departmental authorities noted that the majority of the resources transferred are invested in agricultural development (purchase of goats and reinvestments for fishing and agricultural activities). According to officials from the Government Indigenous Affairs Office, even though some resources are employed for jagüeyes, the Wayúu consider the construction of water supply systems the responsibility of the government. There is no systematized information to verify the final use of these resources.

Together with the Traditional Authorities, it would be necessary to explore the possibility of allotting part of these resources for water system care and maintenance.

**Life Plan Design and Execution**

Article 339 of the CP established that each territorial entity will produce and adopt development plans with the goal of assuring the efficient use of its resources in conjunction with the national government. In the case of indigenous peoples, various reserves within the country have been advancing Life Plans or Indigenous Territorial Ordering Plans in which the Associations of Traditional Authorities come together to leverage additional resources with the General participation system’s transfers to indigenous reserves.

The Communities of the Reserve of Upper and Middle Guajira have not developed a Life Plan. In conjunction with the traditional Authorities, the Department of La Guajira is interested in impelling a project to define the said development plan, including the communities’ participatory analysis, sub-regionalization of the reserve according to cultural and environmental characteristics and the design of a participation methodology and decision-making with the communities’ recognized authorities.

**Consultations**

In fulfillment of Agreement 169 of the Organización Internacional del Trabajo – (Internacional Labor Organization, known as the OIT) - regarding Indigenous Peoples and Tribes in Independent Countries, ratified by Colombia by means of Law 21 of 1991, “the indigenous peoples…” should be consulted “through appropriate procedures and, in particular, through their representative institutions, each time that measures capable of directly affecting them are handed down” (art. 6).

3. **Water Use and Access**

3.1 **General Context**

The indigenous areas have insufficient and deficient water supply systems. Since the fifties, different governments and public entities have advanced various water allocation programs for the indigenous population of Upper and Middle Guajira through the construction and broadening of jagüeyes, windmills, wells, tankers and dams. During the
Dictatorship of General Rojas Pinilla, the first 50 *jagüeyes* were built and in the last fifty years, more than 1,500 mills have been installed among IFI Concesión Salinas/Proaguas, Corpoguajira (400), the Municipalities (300) and Carbocol (100). The *Corporación para el Desarrollo* (the Development Corporation) - Cordes® in agreement with *Corpoguajira*, has built 10 dams and has another 20 planned. Institutions such as SENA and INCODER have also developed programs. As for the indigenous people, they have built *jagüeyes* and *casimbás*.

However, there is no existing evaluation of the impact these allocations have on the situation of the indigenous Wayúu from Upper and Middle Guajira. Even though it is known that water is one of the communities’ most deeply felt needs, there is no up-to-date, sub-regionalized analysis of the water needs of the different rural settlements, the existence of water resources or the current condition of the various water supply systems.

In 1996, the University of La Guajira, with the support of Findeter, La Red de Solidaridad Social (Social Solidarity Network) and the Department of La Guajira carried out a project for the “Institutional Formation of Administrative and Operational Non-Conventional Water System Associations for the Wayúu Community.” Said study contains an inventory of wells per Department area, indicating whether or not they should be repaired, and identifies an institutional proposal for administering the water supply with the participation of the indigenous Wayúu authorities as well as representatives from the national, departmental and municipal governments.

The analysis carried out by said study emphasizes social and cultural aspects of the Wayúu that influence water supply systems. Among them, the following should be mentioned:

③ Lack of social work to go along with the installation of systems and inform communities regarding the Projects’ characteristics.

③ Individual appropriation of water sources by family groups or individuals. This is partly because water is a highly valued resource found within family territories. Group members with rights to that determined territory will always have priority access. This does not mean, however, that access by other people is not allowed whenever such is solely for human consumption, restricting use for animals.

③ Abandonment of water sources due to migrations or drowning deaths of people in wells.

During the field visits carried out during Project preparation, additional social and cultural problems were identified:

③ The entities’ location decisions for some of the non-conventional water supply systems responds to individual requests from members of rural settlements or the traditional authorities’ legal representatives. Said systems are supplied to each rural settlement individually and, even though it is stipulated that water is a public use good, its use is individual. There is no generation of cooperative areas with
neighboring rural settlements in order to agree upon mechanisms and procedures for collective water system access.

3. Systems are installed with no coordination with rural settlements regarding their care and maintenance. Once said systems require repair, the affected communities wait for repairs to be assumed by the entity that installed them.

3. Tied to the prior point, there is no community training for water system care and maintenance.

3. Departmental authorities and entities expressed their concern regarding the Wayúu lack of a monetary economy which allows them to hire third-party operators for water supply system maintenance.

3. There are no adequate systems for water protection and care, which leads to high levels of contamination. This is expressed in high rates of morbidity among the Wayúu people, such as acute diarrhea diseases (ADDs) and acute respiratory infections (ARIs).

3. According to information from the University of La Guajira, water supply system allocation tends to be concentrated in easy access areas due to their proximity to urban centers or communication channels. Remote communities such as those located in the area bordering Venezuela or the middle of the Department of Uribia do not have sufficient water systems.

3.2 Social, Cultural and Environmental Impacts

A study carried out at the end of the forties observed that the indigenous peoples’ construction of water wells stimulated land privatization processes among the indigenous people (Friedemann and Arocha 1982: 317). There are, however, no recent evaluations which study the social, cultural and environmental impacts of supplying water systems.

- When one of the motivating factors for migrations such as water is resolved, communities tend to become sedentary. This affects the environment by putting greater pressure on natural resources such as vegetation.
- There is no documented information regarding the effects of a sedentary lifestyle on the Wayúu peoples’ social and organizational structure.
- Although there are known disputes over access to water sources among the Wayúu, there is no existing documentation to analyze how the allocation of water systems could mitigate or exacerbate inter-family conflicts.

4. Bibliography


Interviews

Teresa Suárez, Directorship of Ethnic Groups, Ministry of the Interior and Justice
Rosario Epiayú, Indigenous Leader, Manuare
Emma Luz Córdoba, Regional Coordination of CORDES@, Riohacha
Eugenio Baltuchi, Ecosesto, Riohacha
Director of Planning, Riohacha
Álvaro Cuza, SENA, Riohacha
Álvaro Gómez, Government Secretary, Mayor’s Office of Manaure
Delegates, Uriibia and Manaure
Emilse Zabaleta Secretary of the Treasury of La Guajira
Omar Toro Official of the Department of Indigenous Affairs, Department of La Guajira
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