



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

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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION
Seventy-third session
28 July-15 August 2008

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION**

**Concluding observations of the Committee on the
Elimination of Racial Discrimination**

ECUADOR

1. The Committee considered the seventeenth to nineteenth periodic reports of Ecuador, submitted as one document (CERD/C/ECU/19), at its 1876th and 1877th meetings (CERD/C/SR.1876 and CERD/C/SR.1877), held on 28 and 29 July 2008. At its 1896th meeting (CERD/C/SR.1896), held on 12 August 2008, it adopted the following concluding observations.

A. Introduction

2. The Committee welcomes with satisfaction the periodic report submitted by Ecuador and the efforts made by the State party to submit its reports on time. The Committee appreciates the opportunity to renew the dialogue with the State party and expresses its gratitude for the open and frank dialogue with the delegation and the extensive and detailed responses provided, orally and in writing, both to the list of issues and to the questions posed orally by the members. The Committee also notes the diversity of the delegation, in particular, the presence of a member of the Afro-descendant community.

B. Positive aspects

3. The Committee welcomes the fact that in July 2008 the Constituent Assembly adopted the draft of the new Constitution, which will be the subject of a referendum in September 2008 and in particular the recognition of Ecuador's multi-ethnic and multicultural nature.

4. The Committee welcomes with satisfaction the creation of the Rural Development Programme within the Ministry of Economic and Social Inclusion as a follow-up to the Poverty Reduction and Local Rural Development Project which ended in 2007 and which provided services to citizens from various provinces and cantons with indigenous and Afro-Ecuadorian populations through seven regional offices.
5. The Committee welcomes the fact that the Standing Committee on the National Human Rights Plan has organized human rights training in 22 provinces with the aim of creating a culture of tolerance and non-discrimination through the implementation of the operational plans on the Afro-Ecuadorian people, migrants, foreigners, refugees and others.
6. The Committee notes with satisfaction the fact that the Ministry of Economic and Social Inclusion, through the Office of the Under-Secretary for Social Development, has funded a number of projects in the framework of a strategy for territorial development of rural and urban marginal areas, whose beneficiaries include indigenous and Afro-Ecuadorian organizations.
7. The Committee welcomes the actions taken by the municipality of the Metropolitan District of Quito to improve the living conditions of indigenous and Afro-Ecuadorian citizens living in that district, including the Programmes for Afro-Ecuadorian and Indigenous Development (2001), the Ordinance for Ethnically Based Social Inclusion of the Afro-Ecuadorian People (2007), the Metropolitan Social Council for the Elimination of Racial Discrimination (2007) and the Strategic Metropolitan Plan for the Comprehensive Development of the Afro-Ecuadorian People of Quito (2007-2015).

C. Concerns and recommendations

8. Bearing in mind that the draft Constitution guarantees the specific rights of the indigenous peoples and the Afro-Ecuadorian communities, the Committee remains concerned that a high proportion of persons belonging to the indigenous peoples and Afro-Ecuadorian communities continue to suffer in practice from racism and racial discrimination in the State party.

The Committee recommends that the State party should undertake to combat racial discrimination by drawing up a comprehensive national policy to combat racism and racial discrimination. The Committee also calls on the State party to include in its next report indicators on the enjoyment by the various indigenous peoples and Afro-Ecuadorian communities of the rights guaranteed in the draft Constitution, broken down into the urban and rural population by age and sex.

9. While the Committee welcomes the information contained in the periodic report on statistics relating to the ethnic composition of the State party, the Committee notes the limitations in the 2001 National Population Census and wishes to receive additional information on the characteristics and particular situation of the various ethnic groups.

The Committee recommends that the State party should continue to refine the census methodology so that it reflects the ethnic complexity of Ecuadorian society, bearing in mind the principle of self-identification, in keeping with its general recommendation 8 (1990) and with paragraphs 10 to 12 of the guidelines for the CERD-specific report to be submitted by States parties under article 9, paragraph 1,

of the Convention (CERD/C/2007/1). In that context, the Committee requests the State party to include in its next periodic report disaggregated statistics on the composition of the population.

10. While the Committee takes note of the fact that the draft Constitution guarantees the enjoyment of the collective rights of indigenous peoples and Afro-Ecuadorians, the Committee expresses its concern at the obstacles in the National Assembly impeding the adoption of specific laws guaranteeing the realization of the collective rights of the indigenous peoples and Afro-Ecuadorians, such as the bill on the collective rights of the Black or Afro-Ecuadorian peoples (art. 2).

The Committee urges the State party to continue its efforts to secure the adoption of specific legislation fully guaranteeing the collective rights of indigenous peoples and Afro-Ecuadorians. The Committee calls on the State party to include detailed information in this regard in its next report.

11. While the Committee takes note of Ministerial Decision No. 2467 guaranteeing the Roma people the right to free association for peaceful purposes, the Committee is concerned at the failure of the State party's draft Constitution to grant legal recognition to the Roma people as an ethnic minority (art. 2).

The Committee reminds the State party of its general recommendation 27 (2000) on discrimination against Roma and encourages the State party to adopt and put into effect national strategies and programmes and display resolute political will to improve the situation of the Roma and protect them against discrimination by State agencies, as well as by all persons and organizations.

12. While the Committee welcomes with satisfaction the fact that the current Constitution recognizes the right of indigenous peoples and Afro-Ecuadorian communities to administer justice in keeping with their cultures and traditions, it expresses concern that this legal recognition has not been reflected in practice in a model of administration of justice which applies indigenous law (art. 5 (a)).

The Committee reminds the State party of its general recommendation 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system (sect. B, para. 5 (e)) and urges the State party to ensure respect for and recognition of the traditional systems of justice of the indigenous peoples, in conformity with international human rights law. In that regard, the Committee encourages the State party to expedite the process of adoption of the bill to harmonize and allocate responsibilities for the administration of justice, whose principal objective is to ensure compatibility between the functions of the system of justice of the indigenous peoples and those of the national system of justice.

13. The Committee is concerned that indigenous women continue to experience double discrimination based both on their ethnic origin and on their sex, and particularly the murdering of indigenous women (art. 5 (b)).

The Committee reminds the State party of its general recommendation 25 (2000) on gender dimensions of racial discrimination and recommends that it should take special steps to protect the rights of women belonging to the indigenous peoples and Afro-Ecuadorian communities. The Committee also urges the State party to take immediate steps to put a stop to the murdering of indigenous women.

14. The Committee expresses concern at alleged ill-treatment and violence against some indigenous peoples by the Armed Forces to secure the interests of oil, mining and logging companies operating in indigenous territories (art. 5 (b)).

The Committee recommends that the State party should investigate accusations of ill-treatment and violence against the indigenous peoples by some members of the Armed Forces, and that those responsible should be punished. The Committee also urges the State party to take prompt steps to prevent such acts, and in that regard recommends that it should boost training for its Armed Forces in human rights, including the provisions of the Convention.

15. The Committee notes with concern the low level of participation in political life by the indigenous peoples and Afro-Ecuadorian communities, and the poor representation of indigenous peoples and Afro-Ecuadorians in the Congress (art. 5 (c)).

In the light of its general recommendation 23 (1997), section 4 (d), the Committee recommends that the State party should redouble its efforts to ensure full participation by indigenous peoples and Afro-Ecuadorians, especially women, in public affairs, and that it should take effective steps to ensure that all indigenous peoples participate in the administration at all levels.

16. While the Committee takes note of the adoption of the Consultation and Participation Act as a supplement to article 84 of the current Constitution, which requires prior and informed consent, the Committee reiterates its concern at the exploitation of the subsoil resources of the traditional territories of the indigenous peoples, and the fact that in practice the right of the indigenous peoples to be consulted prior to the exploitation of natural resources in their territories is not fully respected. It also expresses its concern at the negative health and environmental effects produced by extractive activities at the expense of the exercise of the right to land and the cultural rights of the indigenous peoples concerned (art. 5 (d) (v)).

The Committee urges the State party to enforce the Consultation and Participation Act fully in practice and, in light of its general recommendation 23, section 4 (d), consult the indigenous population concerned at each stage of the process and obtain their consent in advance of the implementation of projects for the extraction of natural resources. The Committee also encourages the State party to ensure that oil companies carry out environmental impact studies in the areas where they plan to begin operations before obtaining licences in accordance with the 2002 Government decree.

17. The Committee is concerned that, despite the Constitutional guarantees of the right of the indigenous population to communal ownership of property, the State party does not grant that population security under the law or effective protection against forcible eviction from their ancestral lands (art. 5 (d) (v)).

The Committee urges the State party to ensure that the indigenous peoples enjoy effective legal protection against forcible eviction from their ancestral lands, and receive proper compensation if such evictions occur.

18. The Committee is concerned at the limited enjoyment of economic, social and cultural rights by indigenous peoples and Afro-Ecuadorians, particularly where housing, education, health and employment are concerned, principally as a result of the growing and persistent poverty in the State party (art. 5 (e)).

The Committee recommends that the State party should take the necessary steps to assure effective protection against discrimination in various areas, particularly in employment, housing, health and education. It also calls on the State party to include in its next report information on the impact of programmes designed to guarantee economic, social and cultural rights to the indigenous population, as well as statistics on progress made in this regard.

19. While the Committee takes note of recent progress in efforts to combat illiteracy among the indigenous and Afro-Ecuadorian population, it continues to be concerned at the high level of illiteracy among the indigenous peoples and Afro-Ecuadorian communities (art. 5 (e) (v)).

The Committee encourages the State party to take immediate and medium-term action to ensure the effective implementation of measures to reduce illiteracy among indigenous people and Afro-Ecuadorians. In addition, the State party's next report should include precise data on the proportion of indigenous people and Afro-Ecuadorians who have access to primary, secondary and university education.

20. While the Committee is pleased to note the introduction of a system of bilingual education in Ecuador, providing instruction to indigenous children in Spanish and in their own languages, it is concerned at the poor application of the bilingual intercultural system in practice (art. 5 (e) (v)).

The Committee recommends that the State party should strengthen the legal arrangements underpinning indigenous institutional structures. Specifically, it is recommended that the Department of Bilingual Intercultural Education, the Department for Intercultural Health and the Council of Nationalities (CODENPE) should be given legal status and allocated the necessary resources so that they can perform their functions effectively.

21. While the Committee welcomes the fact that the National Department for the Defence of the Rights of Indigenous Peoples is authorized to receive individual and collective complaints, it notes the absence of cases before the domestic courts (art. 6).

The Committee recommends that the State party should provide information in its next report on the outcome of cases, if any, settled before the domestic courts involving racial discrimination against the indigenous peoples and Afro-Ecuadorian communities, and whether the victims received proper compensation. The Committee also reminds the State party that it should widely disseminate information on the available domestic remedies for acts of racial discrimination, legal avenues for obtaining compensation in cases of discrimination and the individual complaint procedure under article 14 of the Convention.

22. The Committee is concerned at the racial discrimination directed against indigenous peoples and Afro-Ecuadorian communities in the media, including the presentation of stereotypes which denigrate the indigenous peoples in television programmes and in articles in the press (art. 7).

The Committee recommends that the State party should take appropriate steps to combat racial prejudice which leads to racial discrimination in the media, both in public and private channels and in the press. The Committee also recommends that in the sphere of information the State party should foster understanding, tolerance and friendship among the various racial groups in the State party, including the adoption of a media code of conduct which commits the media to show respect for the identity and culture of the indigenous peoples and Afro-Ecuadorian communities.

23. The Committee recommends that the State party should bear in mind the relevant elements of the Durban Declaration and Programme of Action adopted in September 2001 at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (A/CONF.189/12, chap. I) when incorporating the Convention, and in particular articles 2 to 7, into its domestic legal order. It also recommends that in its next periodic report the State party should provide information on plans of action and other steps taken to give effect to the Durban Declaration and Programme of Action at the national level. The Committee encourages the State party to play an active part in the work of the Preparatory Committee for the Durban Review Conference and in the Conference itself in 2009.

24. The Committee recommends that the State party's reports should be disseminated as soon as they are submitted and that the Committee's observations thereon should also be published in the official and national languages of the State party.

25. The Committee invites the State party to update its core document in accordance with the harmonized guidelines on reporting under the international human rights treaties, in particular those on the core document, as adopted by the fifth Inter-Committee Meeting of the human rights treaty bodies held in June 2006 (HRI/GEN/2/Rev.4).

26. The Committee recommends that, in preparing its next periodic report, the State party should consult extensively with civil society organizations working in the field of protection of human rights, especially in efforts to combat racial discrimination.

27. In accordance with article 9, paragraph 1, of the Convention and rule 65 of the Committee's amended rules of procedure, the Committee requests the State party to provide information on the implementation of the Committee's recommendations in paragraphs 10, 13 and 16 above, within one year from the adoption of the present concluding observations.

28. The Committee recommends that the State party should submit its twentieth, twenty-first and twenty-second periodic reports in a single document by 4 January 2012, taking into account the guidelines for the CERD-specific document (CERD/C/2007/1). The report should contain updated information and answer all the points contained in the concluding observations.
