



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

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## Committee on the Elimination of Racial Discrimination Eighty-first session

### Summary record of the 2169th meeting

Held at the Palais Wilson, Geneva, on Tuesday, 7 August 2012, at 3 p.m.

*Chairperson:* Mr. Avtonomov

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*The meeting was called to order at 3 p.m.*

**Consideration of reports, comments and information submitted by States parties under article 9 of the Convention**

*Twentieth to twenty-second periodic reports of Ecuador (CERD/C/ECU/20-22; CERD/C/ECU/Q/20-22; HRI/CORE/ECU/2009/Add.1; CERD/C/ECU/CO/19)*

1. *At the invitation of the Chairperson, the delegation of Ecuador took places at the Committee table.*
2. **Ms. Espinosa** (Ecuador) said that the State party, inspired by the principles of equality and social justice, was undertaking thorough political reform in response to the excesses of capitalism that had led the world to value money more than human beings. Human rights violations must be considered in the light of the global financial crisis and its impact on employment, social security, education and health. Convinced that its citizens' fundamental rights could be achieved only within the framework of a sovereign economic policy, Ecuador refused to be influenced by the markets and financial institutions. The Government had established a redistribution of wealth policy to enable all its citizens to live in dignity, with the primary goal of building a society of good living.
3. While Ecuador had been a party to the International Convention on the Elimination of All Forms of Racial Discrimination since 1966, it was only in 2007, the date of the Citizen's Revolution, that the country had really begun to combat racism and discrimination on the grounds of ethnic origin or culture. The new Ecuadorian Constitution, adopted in 2008, incorporated the historical claims of 14 Ecuadorian nationalities and 18 Ecuadorian peoples and stipulated that Ecuador was a plurinational and intercultural State governed by the rule of law and striving for the integration and interaction of all peoples and nationalities through dialogue, mutual respect and equality. The Constitution listed as supreme rights the right to water, food, education, housing, work, health and social security.
4. As part of its new social policy, Ecuador had made unprecedented efforts to combat poverty, particularly by encouraging economic growth, which had reached 7.8 per cent in 2011. A 13.8 per cent increase in public spending in 2010 had been made possible thanks to resuming the extraction and sale of oil, improving tax collection methods, reducing tax evasion and establishing a progressive contributions model. Over the past five years, 1 million Ecuadorians had been lifted out of poverty, and the overall national poverty rate had been lowered from 37.6 per cent to 28.6 per cent. As a result, the Economic Commission for Latin America and the Caribbean (ECLAC), in its report entitled "Social Panorama of Latin America 2011", had listed Ecuador as the country in the region with the second largest reduction in poverty. Families' overall purchasing power had also increased. Domestic workers, many of whom were indigenous or Afro-Ecuadorian women, had seen their monthly salary increase nearly 400 per cent since 2006, reaching US\$ 292. The number of workers enrolled in the social security system had increased by more than 50 per cent since enrolment had become mandatory. All health indicators were positive, thanks in particular to the increase in the number of medical consultations per year, which had risen from 14 to 34 million.
5. In an effort to combat discrimination, in September 2009 the Government had adopted the Plurinational Plan for the Elimination of Racial Discrimination and Ethnic and Cultural Exclusion, developed with the participation of civil society, and had informed Afro-Ecuadorians, indigenous persons and Montubios about the services, plans and programmes to which they were entitled. By implementing the Plan, Ecuador was giving effect to the recommendations contained in paragraphs 8 and 23 of the Committee's most recent concluding observations (CERD/C/ECU/CO/19). In 2011, the Government had conducted a second survey on discrimination and racism in Ecuador, which reflected its

determination to eliminate all forms of discrimination. Altogether, 14 per cent of all respondents, 34 per cent of indigenous persons, 29 per cent of Afro-Ecuadorians and 19 per cent of Montubios had reported suffering discrimination in the workplace. The Government, with the participation of young people, children and women, had undertaken many initiatives to raise awareness about the essential contribution to the national culture made by indigenous and Afro-Ecuadorian artists. It had also organized the Nelson Estupiñán Bass competition, which gave children an opportunity to use their artistic talents to combat racism.

6. In 2010, the criterion of self-identification had been included in the seventh population census and the sixth housing census, and the National Statistics Commission on Indigenous Peoples, Afro-Ecuadorians and Montubios (CONEPIA) of the National Statistics and Census Institute (INEC) had launched a campaign promoting the right to self-identification. The census had shown that 7 per cent of Ecuadorians belonged to indigenous peoples, 7.4 per cent belonged to the Montubio people, and 7.2 per cent were of African descent. In 2010 and 2011, the Government had officially granted land to various indigenous peoples and nationalities and to Afro-Ecuadorians. Indigenous lands and territories accounted for one third of the country's territory.

7. There were currently 150,000 students and 10,256 teachers from indigenous peoples or nationalities in the bilingual education system. The Government had introduced programmes to guarantee the rights of indigenous and Afro-Ecuadorian women, particularly in the areas of education, culture, health and work. For example, the agrarian revolution schools had provided training for 26,601 people, 52 per cent of whom were indigenous women.

8. Following the decisions of the Inter-American Commission on Human Rights, Ecuador had developed a national policy on peoples living in voluntary isolation, through which it had taken action to help the Tagaeri-Taromenani peoples. The Government intended to implement the decision adopted by the Inter-American Commission on Human Rights on 25 July 2012 recognizing the right of the Sarayaku people to free, prior, and informed consultation and to obtain redress following the damages inflicted in its territory in 2003. In order to increase the representation of Afro-Ecuadorians, indigenous peoples and the Montubio people in the civil service, in April 2012 the Ministry of Labour had adopted a system whereby members of those groups who passed the civil service examination were awarded five extra points. The Government had also decided to include those groups in the diplomatic corps, which had never been done before.

9. In order to improve access to higher education for indigenous peoples and nationalities, the parliament had adopted an organic law introducing a quota system in higher education and an organic law on intercultural education that offered preferential access to scholarships and student loans for indigenous persons. Public expenditure on education had increased from 2.5 per cent to 5.5 per cent of the national budget, which had made it possible to increase enrolment in secondary education from 48 per cent in 2006 to 62 per cent in 2011. The enrolment rates in secondary education for members of indigenous peoples and Afro-Ecuadorians had increased from 24.3 per cent in 2006 to 46.9 per cent in 2011 and from 44.2 per cent in 2006 to 58.5 per cent in 2011, respectively. In May 2011, the Government had assigned radio frequencies and had supplied radio equipment to the 14 indigenous nationalities in the country, in order to help them preserve their cultures and languages and exercise their fundamental right to information.

10. In 2011 the Government had launched a reform of the justice system to mete out harsher punishment for the offences of racism and xenophobia. It had submitted to parliament a draft criminal code that increased the number of categories of offences linked to racial hatred and made those offences punishable by clearly established criminal sanctions. The National Assembly was also considering several bills on, inter alia, water

and land resources, the collective rights of indigenous peoples and Afro-Ecuadorians, and cooperation between indigenous and ordinary courts. Ecuador hosted more refugees than any other country in the Americas (56,000 refugees who had been fully integrated into the socioeconomic fabric of the country were living in the country) and it received 1,200 new applications each month.

11. She recognized that a culture of respect for diversity still needed to be established in the country, both among the media and in the daily lives of its citizens. Ecuador was striving to build a plurinational State and to promote interculturality in both the public and private spheres, with full respect for diversity, promotion of the rights of all, and peaceful coexistence among all citizens. She reiterated her country's determination to comply with its obligations to the international community and above all to its people, especially to peoples that had long been victims of injustice and discrimination. Her Government was convinced that true freedom, peace and justice were not possible unless all forms of racial discrimination were first eliminated.

12. **Mr. Calí Tzay** (Country Rapporteur) asked the delegation to comment on information from some indigenous organizations alleging that insufficient funding was allocated to institutions working for the protection of indigenous rights, particularly the Council for the Advancement of the Nations and Peoples of Ecuador (CODENPE) and the Development Fund for Indigenous Nations and Peoples (FODEPI), which together had founded the indigenous movement, and that those institutions were in danger of disappearing under a draft organic law that had been submitted to the National Assembly. With regard to bilingual intercultural education, he asked the delegation to explain the concept of bilingual interculturality and to give specific examples of that type of teaching. He also wished to know if instruction manuals had been developed for bilingual intercultural education.

13. He noted that, according to paragraph 28 of the report, the Roma were still considered as foreigners in the State party, and he pointed out that in its previous concluding observations the Committee had expressed concern about the absence of any legal recognition of the Roma people as an ethnic group. He wished to know what measures the State party had taken to remedy that situation. He requested information about the alleged lynchings of Afro-Ecuadorians in major cities of the country. He wished to know if racial discrimination has been criminalized in ordinary legislation or in the Criminal Code. He asked whether any cases of discrimination had been brought before the courts and whether any public officials had been suspected of acts of racial discrimination.

14. He also asked how many Colombian refugees were living in the State party and requested information about their situation, as well as details of measures taken to prosecute xenophobic and racist acts and statements directed against refugees. Lastly, he expressed concern about the situation of indigenous peoples and nationalities, in the light of reports that sentences had been handed down to indigenous persons who had peacefully demonstrated in defence of indigenous rights.

15. **Mr. Diaconu** said that he had read in the report under consideration that there were 18 indigenous peoples and 14 indigenous nationalities living in Ecuador, and he wished to know what specifically distinguished indigenous peoples from indigenous nationalities and on the basis of what criteria a person was considered to belong to one or the other. He requested additional information about the councils of peoples and nationalities, and specifically about their duties and whether they received public subsidies.

16. He noted that the Organic Act on Communication, which was currently before the National Assembly, included a definition of discrimination similar to that contained in article 1 of the Convention, and he wished to know whether that definition would apply to all areas of public life or only to discrimination practised by persons in the communications

sector. He recognized that since 2009 the Criminal Code had defined racial hatred offences, in accordance with article 4, subparagraph (a), of the Convention, but he wished to know why the provisions of article 4, subparagraph (b), which called on all States parties to prohibit organizations and propaganda activities that incited racial discrimination, had not been incorporated into domestic law.

17. He asked the delegation of Ecuador to comment on the information that indigenous peoples allegedly did not participate in decision-making on issues concerning them, and to explain why, according to some sources, the requirement of obtaining the free, prior and informed consent of indigenous peoples and nationalities was not always respected, particularly in the case of natural resource exploitation projects. He took note of the financial compensation awarded to persons harmed by oil development projects, but said that Ecuador might consider providing compensation that was more acceptable to the parties concerned, for example by offering them State-owned land on which they could continue to live according to their ancestral customs. He also asked the delegation to confirm or deny allegations that there had been a crack-down on peaceful demonstrations organized by indigenous persons to protest infringements of their social rights and that the protesters had been imprisoned for sabotage and terrorism. Lastly, he asked the delegation of Ecuador to comment on the view that bilingual intercultural education tended to efface cultural differences and that its objectives had more to do with assimilation than integration.

18. **Mr. Lindgren Alves**, noting with satisfaction that the State party defined itself as a plurinational State, asked whether the indigenous peoples of Ecuador felt that they were an integral part of the nation and whether they identified with its symbols. Given that ancestral lands inhabited by indigenous peoples accounted for about one third of the national territory, it would be interesting to know how the State party proceeded when it wished to undertake activities in those areas and whether it held prior negotiations and concluded agreements with the communities concerned. The delegation might wish to explain the meaning of the term “Montubio” and indicate whether the State party had agreed to grant asylum to Wikileaks founder Julian Assange, who had temporarily taken refuge in its embassy in London, where he had filed an application for asylum. In his view, that case was of symbolic importance from a human rights point of view, and Ecuador should accept the application.

19. **Mr. Murillo Martínez** asked the delegation to describe the efforts made thus far to effectively implement the provisions of the Constitution defining Ecuador as a plurinational State, particularly article 57 on the right to collective redress for minorities who had suffered racial discrimination. He took note with satisfaction of Decree No. 60 adopting the Plurinational Plan for the Elimination of Racial Discrimination and Ethnic and Cultural Exclusion, which called for positive action and measures to increase the representation of ethnic minorities in the civil service. He noted that 150,000 students had received an intercultural education provided by 10,000 teachers and wished to know how those teachers had been recruited, what qualifications they were required to hold, and whether the policy would be continued in the long term. Noting that under article 57 of the Constitution the prior informed consent of indigenous peoples must be obtained before a project likely to affect them was launched, he wished to know how many consultations carried out to that end had resulted in an agreement, whether there were any plans to draft a bill on that issue, and whether a framework had been established to promote dialogue between the public authorities and the communities concerned.

20. He wondered whether the customary law of indigenous peoples, minorities of African descent and the Montubio people was recognized in domestic legislation and whether there were any customary courts. He asked the delegation to provide statistics on the impact the distribution of the State budget had on the situation of persons belonging to

an ethnic minority. Lastly, he asked if the Ecuadorian authorities had conducted any studies to determine whether the financial crisis had affected xenophobia against Ecuadorian immigrants living abroad, particularly in Spain.

21. **Mr. Thornberry** noted that, according to paragraph 29 of the State party's report, the grounds for discrimination listed in article 1 of the Constitution could be either permanent or temporary, which gave that definition of discrimination a broader scope than the one set out in article 1 of the Convention. The delegation might wish to explain why Ecuadorian lawmakers had made that choice and indicate how the definition of discrimination contained in the draft Organic Act on Communication could be applied in practice. According to studies conducted on the identity of the Montubio people, that group had originally been a minority made up of farmers, who had gradually come to consider themselves as an ethnic group. The delegation might wish to provide clarification on that subject and on the relationship between the term "Montubio" and the concept of "mestizaje" (hybridity).

22. Further information would be welcome on the coordinating mechanism provided for in the preliminary bill on coordination and cooperation between indigenous and domestic courts and with regard to the way human rights standards were applied within the two justice systems. The delegation might wish to provide further information on the video used as a tool for training on indigenous justice mentioned in paragraph 33 of the report, and on the situation of indigenous peoples living in the Untouchable Zone of the Tagaeri-Taromenani, especially on the implementation of the recommendations of the Inter-American Commission on Human Rights referred to in paragraph 40 of the report. It was not clear to him how the provision in article 60 of the Constitution allowing indigenous, Afro-Ecuadorian and Montubio peoples to establish territorial constituencies enabled them to fight forcible evictions, and he requested clarification on that matter. Noting that the Criminal Code contained a section on genocide and ethnocide, he asked the delegation to describe the difference between the two concepts, to explain the meaning of the term "ethnocide", and to indicate what steps were being taken to combat those phenomena and who the victims and the perpetrators were.

23. **Mr. de Gouttes** said that he wished to know which NGOs had participated in the drafting of the report. Noting that a law on the collective rights of black and Afro-Ecuadorian peoples had been adopted in 2006, he asked what was encompassed in the concept of collective rights as set out in the State party's legislation. He requested further information on the measures taken to combat marginalization as part of the implementation of the human development policy for the Afro-Ecuadorian people. Noting that a preliminary bill on coordination and cooperation between indigenous and domestic courts was under consideration, he asked the delegation to provide more details of the way in which the indigenous courts operated. He wished to know whether parliament had adopted the draft comprehensive Criminal Code, which classified racial motivation for an offence as an aggravating circumstance, and the draft Organic Act on Communication. Lastly, the delegation might wish to provide information on the situation of refugees from Colombia and on the measures the Ecuadorian authorities had taken in response to the violent clashes that had broken out between demonstrators and security forces during a demonstration organized in September 2009 in Macas, Morona-Santiago Province, by the Confederation of Indigenous Nationalities of Ecuador (CONAIE), during which an indigenous leader had been killed.

24. **Mr. Kemal** said that in its recent decision on the case of *Pueblo indígena Kichwa de Sarayaku vs. Ecuador*, the Inter-American Court of Human Rights had found that the State party had violated the rights of the community concerned by starting an oil development project without first obtaining the informed consent of those affected, and that those activities had had a serious impact on the environment, especially on the water resources on

which members of that community depended for their survival. Knowing that the State party was planning to launch other similar projects in areas of the Ecuadorian Amazon inhabited by indigenous persons, and that those persons had already indicated their disapproval, he asked whether measures had been taken to consult them prior to the launch of the projects.

25. **Mr. Ewomsan** asked what role Ecuador intended to play in the celebrations of the Decade for People of African Descent.

26. **Mr. Lahiri** said that, despite the progress Ecuador had made in recognizing the rights of minorities, it had to be admitted that indigenous peoples, Afro-Ecuadorians and persons of mixed race, who were almost entirely absent from political life, were still disadvantaged in terms of education, health and employment. Indigenous persons or persons of mixed race were still sometimes negatively portrayed in the media and ill-treated by the army, especially in border regions. He asked whether, the State party having succeeded in obtaining disaggregated statistical data, it planned to take any special measures to remedy the socioeconomic disparities between the various population groups and to combat poverty among vulnerable populations.

27. **Ms. January-Bardill** requested further information on the effectiveness of the measures taken to combat poverty among indigenous peoples, Afro-Ecuadorians and women. She wished to know what positive measures had been taken to encourage indigenous peoples' and Afro-Ecuadorians' integration into society and their active participation in political life. Lastly, she welcomed the measures taken to compensate indigenous peoples who had suffered damage caused by the activities of the extractive industries and welcomed the adoption of the Mining Act, but asked whether the State party had any plans to adopt a long-term strategy that would reconcile the rights of indigenous peoples, environmental protection and the development of extractive activities.

28. **Mr. Saidou** noted with satisfaction that the State party defined itself as a "multinational and intercultural" State but said that he was puzzled by the distinction drawn in paragraph 10 of the report between, on the one hand, the 18 indigenous peoples and 14 indigenous nationalities in the country, and, on the other, the Afro-Ecuadorian and Montubio peoples. He requested an explanation in that regard. He also wished to know whether the right to be free from discrimination was given the same priority as the other rights set out in the Constitution. He pointed out that in 2009 the Sub-Committee on Accreditation of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights had asked the State party to amend its Constitution with regard to the manner in which the governing body of the national human rights institution was appointed. He requested clarification about the appointment of that institution's leaders and asked whether it included a special unit focusing specifically on issues related to racial discrimination. Lastly, he asked whether the Plurinational Plan for the Elimination of Racial Discrimination and Ethnic and Cultural Exclusion addressed the problem of discrimination in sport, especially in football.

29. **Mr. Vázquez** said that, according to a recent survey conducted in Ecuador, Colombian refugees continued to be distrusted by a majority of the Ecuadorian population and claimed still to suffer discrimination. He asked what the State party was doing to combat such discrimination and to change peoples' attitudes, and what follow-up had been given to legal proceedings initiated by asylum seekers against the Ecuadorian authorities. He wished to know the current stage of the proceedings to adopt the draft Organic Act on Communication, which provided for administrative disciplinary measures against those who failed to comply with its provisions (para. 103 of the report). The Committee was of the view that such a measure went beyond the recommendations it had made in its previous concluding observations (CERD/C/ECU/CO/19) and was concerned about the risks (such

as media censorship) that could arise from its implementation. He would like to hear the delegation's view on that matter.

30. **Mr. Amir**, recalling that the country's oil industry was booming and was the primary force driving economic growth in Ecuador, asked how the State party planned to reconcile protection for the rights of indigenous peoples, especially their environmental and land rights, with the expansion of extractive activities. He also asked whether the State party intended to develop renewable energy sources and to combat environmental destruction for the sake of future generations.

31. **Ms. Crickley** said that it was her understanding that the Roma people were still not officially recognized in the State party and requested additional information in that regard. She also asked for details of the measures taken to improve working conditions for domestic workers, who were often immigrants or members of minority groups, and to issue permits allowing them to reside legally in Ecuador. Lastly, she wished to know whether the State party had consulted civil society and indigenous peoples when drafting the Plurinational Plan for the Elimination of Racial Discrimination and Ethnic and Cultural Exclusion, and whether it intended to encourage their active participation in the Plan's implementation.

32. **Ms. Espinosa** (Ecuador) assured the Committee that her Government was deeply committed to combating all forms of discrimination by taking appropriate social measures and by establishing an institutional and legal framework conducive to their implementation. Since the adoption of the new Constitution in 2008, Ecuador had begun a broad-ranging effort to strengthen the legal framework so that the country would have the necessary tools to implement the Constitution. All the rights enshrined in the Constitution were of equal value and there was no hierarchy among them, insofar as they were interdependent. Ecuador, which was going through a period of extensive political change, was seeking to build an egalitarian society from which no one was excluded. In order to accomplish that task, the State intended to prioritize social investments with a view to reducing the socioeconomic differences between the different population groups and to combating discrimination in all its forms, which would enable it to embark on the path to inclusive development.

*The meeting rose at 6.10 p.m.*