

**Совет по правам человека****Сорок пятая сессия**

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Пункт 9 повестки дня

**Расизм, расовая дискриминация, ксенофобия
и связанные с ними формы нетерпимости:****последующие меры и осуществление****Дурбанской декларации и Программы действий****Посещение Эквадора****Доклад Рабочей группы экспертов по лицам африканского
происхождения* *****Резюме*

Настоящий доклад содержит выводы Рабочей группы экспертов по лицам африканского происхождения по итогам ее поездки в Эквадор 16–20 декабря 2019 года. В этом докладе Рабочая группа описывает существующую правовую, институциональную и политическую основу и меры, принятые в целях предотвращения расизма, расовой дискриминации, ксенофобии, афрофобии и связанной с ними нетерпимости, с которыми сталкиваются лица африканского происхождения в Эквадоре, отмечая позитивные события, а также пробелы в осуществлении. Рабочая группа описывает ситуацию, приводит примеры передовой практики и основные выявленные проблемы, а также выносит конкретные рекомендации.

* Резюме доклада распространяется на всех официальных языках. Сам доклад, содержащийся в приложении к резюме, распространяется только на том языке, на котором он был представлен.

** На основании достигнутой договоренности настоящий доклад издается позднее предусмотренного срока его публикации в связи с обстоятельствами, не зависящими от представляющей доклад стороны.



Annex

Report of the Working Group of Experts on People of African Descent on its mission to Ecuador

I. Introduction

1. At the invitation of the Government of Ecuador, the Working Group of Experts on People of African Descent undertook a visit to Ecuador from 16 to 20 December 2019.¹ The members of the delegation were Ahmed Reid (Chairperson) and Ricardo Sunga III (member of the Working Group). This visit was conducted in follow-up to the Working Group's official visit to Ecuador in 2009 and its subsequent report to the Human Rights Council in 2010 (A/HRC/13/59).

2. During the visit, the Working Group assessed the human rights situation of people of African descent living in Ecuador and gathered information on the forms of racism, racial discrimination, xenophobia, Afrophobia and related intolerance that they faced. The Working Group studied the official measures taken and mechanisms in place to prevent racial discrimination and protect victims of racism, as well as responses to multiple forms of discrimination. The visit focused on both good practices and challenges faced in realizing their human rights.

3. As part of its fact-finding mission, the Working Group visited Quito, San Lorenzo and Esmeraldas. It met representatives of the national Government (including from the Ministry of Foreign Affairs and Human Mobility, the Secretariat for Human Rights, the Technical Secretariat for Planning ("Planifica Ecuador"), the Ministry of Economy and Finance, the Ministry of the Interior, the Ministry of Economic and Social Inclusion, the Ministry of Public Health, the Ministry of Education, the Ministry of Culture and Heritage, the Ministry of Urban Development and Housing, the Ministry of Labour, the National Statistics and Census Institute, the National Police and the Police Complaints Authority), the National Assembly, the Assembly's Committee on Collective Rights, the parliamentary group on people of African descent, the National Council for the Equality of Peoples and Nationalities, local authorities in Esmeraldas Province (including the Mayor of Esmeraldas and all the mayors of the cantons in the province), the Attorney General, judges of the Constitutional Court, the Council of the Judiciary, the Ombudsman's Office and the United Nations country team. It also visited the juvenile detention centre in Esmeraldas.

4. In all the places that the Working Group visited, it also met members of communities of African descent, as well as human rights activists, lawyers, academics and representatives of non-governmental organizations.

5. The Working Group wishes to thank the Government for its invitation and for its cooperation during the visit, and the Resident Coordinator Office and the United Nations country team for their support. The Working Group would also like to express its appreciation to the members of Afro-Ecuadorian civil society who assisted in organizing meetings, and all the people who shared their views on the human rights situation of people of African descent in the country.

II. Background: historical overview and population

6. The history of Ecuador and people of African descent started with the trade in enslaved Africans, which has left a lasting legacy of systemic racism that is very difficult to address without real implementation and enforcement of law and policy and dedicated resources to address the situation of Afro-Ecuadorians.

¹ The visit was postponed from October to December 2019 owing to the state of emergency that was declared on 3 October 2019 in response to protests against the adoption of austerity measures. The President revoked the austerity measures on 14 October 2019.

7. The first enslaved Africans are thought to have arrived in Ecuador in 1526. The trade in enslaved Africans to Ecuador thrived as the demand for enslaved labour among Jesuit monks and missionaries increased. These monks, missionaries and owners of huge haciendas and cotton and sugar-cane plantations needed cheap labour to increase their productivity and maximize their profits. Enslaved Africans were sent to work in gold mines, which exposed them to dangerous situations with no protection. Young women and children were made to work in homes until they were old enough to do more strenuous work. In 1533, a ship carrying enslaved Africans travelling to Peru capsized on the Ecuadorian coast. A total of 23 enslaved Africans survived, after which they established a Maroon settlement in Esmeraldas. The successful establishment of the settlement made them the first freed peoples in Ecuador. Between 1710 and 1820, there were several rebellions and resistance movements by enslaved people who challenged the colonial superstructure of racism and exploitation. Enslaved Africans who escaped the oppressive and repressive system of enslavement often settled in Esmeraldas, which later developed into a black community. After a while, more and more freed people began to settle in other parts of the country. Many black people fought in the army to help Ecuador gain its independence, but despite the country gaining independence in 1822, slavery in Ecuador officially came to an end only in the 1850s. The end of slavery began a new struggle for Afro-Ecuadorians.² Enslavers were compensated for their loss, while the enslaved were left with no land or money. They could not afford education because they were not offered jobs and many of them were forced to continue working for very little money or in exchange for a place to sleep and something to eat. Descendants of enslaved Africans in Ecuador continued to suffer racism and marginalization.³

8. In 1988, the Asociación de Negros Ecuatorianos (known as ASONE) was set up by Afro-Ecuadorians to fight for the fundamental rights of its people. It was the first of many groups to be formed with the aim of making Ecuador a home to people of African descent. The fight of Afro-Ecuadorians continued and reached its peak in 1992, during the 500th anniversary of the European arrival in the Americas. They aimed to include their narrative in history after many years of having been sidelined, disrespected and disregarded. After years of struggle, the Afro-Ecuadorian community got support from international bodies, including pan-Latin American networks. The connection with these organizations led the Government to include and recognize the Afro-Ecuadorian community in the Constitution as an ethnic group with rights.⁴

9. The Working Group was inspired by the extensive literature by Afro-Ecuadorian academics who have studied the history and current situation of Afro-Ecuadorians, including poverty and the failure of public policies to bridge the gaps between racial and ethnic groups and protect the rights guaranteed in the Constitution, as well as specific recommendations to address these concerns.⁵ The Working Group encourages all stakeholders to ensure that experts of African descent are involved at all stages of the development and implementation of laws and policies to ensure the fulfilment and protection of the human rights of Afro-Ecuadorians.

10. According to official government statistics based on the last census, in 2010,⁶ 7.2 per cent of the population, or more than one million citizens of Ecuador, self-identify as people of African descent. The Afro-Ecuadorian people are particularly widespread in the Costa region: the highest percentage of the Afro-Ecuadorian population is distributed across the Provinces of Esmeraldas, Guayas and Manabí, with a combined total of 64.2 per cent. Pichincha Province follows, in the Sierra region, with 11.2 per cent. Of this population, 7.1 per cent reside in urban areas and 29 per cent in rural areas. The province with the largest urban Afro-Ecuadorian population is Guayas (319,531 Afro-Ecuadorian inhabitants),

² Carole Boyce Davis, ed., *Encyclopedia of the African Diaspora: Origins, Experiences, and Culture* (Santa Barbara, California, ABC-CLIO, 2008).

³ Elizabeth Ofosu Johnson, "The resilient story of Afro-Ecuadorians who gained recognition in 2002, 150 years after slavery had ended", *Face 2 Face Africa*, 22 August 2018.

⁴ *Ibid.*

⁵ See, for example, John Antón Sánchez, *Afroecuatorianos y políticas de inclusión en la Revolución Ciudadana* (Quito, Ediciones Abya-Yala, 2018).

⁶ National Statistics and Census Institute, *Las cifras del pueblo Afroecuatoriano: Una mirada desde el Censo de Población y Vivienda 2010* (Quito, 2011).

followed by Esmeraldas (135,190 inhabitants). The Provinces of Pichincha and Manabí have an average of between 58,000 and 83,000 Afro-Ecuadorian inhabitants in urban areas. The province with the largest Afro-Ecuadorian population in rural areas is Esmeraldas (99,321 inhabitants), followed by Manabí (23,524), Guayas (32,546) and Pichincha (33,941). According to the 2010 census, the vast majority of the Afro-Ecuadorian population is under the age of 30 years. Civil society estimates that the proportion of Afro-Ecuadorians is now closer to 10 per cent of the population. The Government was preparing for the next census, in 2020, and it will be important that people of African descent are included at all stages of the preparations and implementation to obtain accurate results.

III. Legal framework and steps taken for the protection of the human rights of people of African descent

A. Legal framework

11. Ecuador has demonstrated its commitment to human rights and ratified all major international and regional human rights treaties. On 10 December 2019, Ecuador ratified the Inter-American Convention against Racism, Racial Discrimination and Related Forms of Intolerance.⁷ Ecuador is also signatory to the Andean Charter for the Promotion and Protection of Human Rights, of 2002, which promotes Andean unity based on the recognition of the diversity of the signatories' territories, peoples, ethnic groups and cultures, with the firm belief that democracy, development and respect for human rights and fundamental freedoms are interdependent and mutually reinforcing.

12. The Constitution of 2008 is groundbreaking and contains specific provisions to protect the human rights of people of African descent. It establishes that Ecuador is an intercultural and multinational State. The Constitution recognizes the collective rights of Afro-Ecuadorian peoples, as set forth in the Constitution, the law, and agreements, conventions, declarations and other international human rights instruments. It also establishes that all rights and guarantees contained in the Constitution and international instruments are of direct and immediate application.

13. The collective rights of indigenous, Afro-Ecuadorian and Montubio peoples (articles 1, 11, 56, 57, 58 and 59 of the Constitution) include freedom from racism or any form of discrimination based on their origin or ethnic or cultural identity; recognition, reparation and compensation for community groups affected by racism, xenophobia and other related forms of intolerance and discrimination; keeping ownership, without being subject to a statute of limitations, of their community lands, which are unalienable, immune from seizure and indivisible, and exempt from payment of fees or taxes; keeping ownership of ancestral lands and territories and obtaining allocation of these lands free of charge; and participating in the use, usufruct, administration and conservation of natural renewable resources located on their lands. The Constitution also covers the right of these peoples to free prior informed consultation, within a reasonable period of time, on plans and programmes for prospecting, exploiting and marketing non-renewable resources located on their lands and which could have an environmental or cultural impact on them, and to participate in the profits earned from such projects and to receive compensation for social, cultural and environmental damages caused to them; such consultation must be conducted by the competent authorities and must be mandatory and in due time, and if the consent of the consulted community is not obtained, steps provided for by the Constitution and the law must be taken. The Constitution also includes nature as a rights holder (art. 71).

14. Since 2009, many legislative initiatives have been adopted, all linked to the idea of the democratic, multinational and intercultural State that is in harmony with the principle of *sumak kawsay* ("the good way of living") set forth in the Constitution, reflecting a democratic

⁷ Executive Decree No. 942. On 14 January 2020, Ecuador deposited the instrument of ratification to the General Secretariat of the Organization of the American States.

country committed to rights and justice. This process of policy reform has led to progress in harmonizing domestic legislation with the international treaties to which Ecuador is a party.

15. Through Executive Decree No. 60 (28 September 2009), the Plurinational Plan for the Elimination of Racial Discrimination and Ethnic and Cultural Exclusion was adopted with a view to minimizing rates of discrimination and exclusion and improving the situation of populations that have historically suffered discrimination (indigenous, Afro-Ecuadorian and Montubio peoples), including affirmative action measures.

16. The Comprehensive Organic Criminal Code, which has been in force since 2014, includes articles 176 and 177 under which acts of racial discrimination and hate crimes are criminalized as offences punishable by one to three years' imprisonment.

17. The Organic Act on Rural Lands and Ancestral Territories was adopted in 2016, which regulates the possession, ownership, management and redistribution of rural land as a factor of production for ensuring food sovereignty, increasing productivity, fostering a sustainable and balanced environment and providing legal certainty for all rights holders.

18. The Organic Act on Water Resources, Use and Management was passed in 2014, with the aim of protecting the right to water and regulating and monitoring the authorization, management, preservation, maintenance and restoration of water resources, as well as the use, overall management and reuse of water.

19. The Comprehensive Organic Act on the Prevention and Eradication of Violence against Women was passed in 2018. Among the guiding principles for application of the Act are equality, non-discrimination, diversity and empowerment (art. 7), and the Act is to be applied with a gender, human rights, intercultural, intergenerational and intersectional approach (art. 8). Furthermore, according to the information received, a draft organic act on the prevention and eradication of racial discrimination and ethnic and cultural exclusion is currently before the National Assembly.

B. Institutional and policy measures

20. The Working Group welcomes the recognition of the historic and structural racial discrimination faced by people of African descent, and the many good practices and positive measures developed by the Government, local authorities and national institutions to combat racism, racial discrimination, xenophobia and related intolerance, and to specifically guarantee the human rights of people of African descent in Ecuador. In particular, they welcome the following institutional and policy initiatives.

21. The International Decade for People of African Descent (2015–2024), whose theme is “People of African descent: recognition, justice and development”, was launched in Ecuador on 16 February 2016. Under Executive Decree No. 915, it was declared that it was national policy to achieve the aims and objectives of the programme of activities for the implementation of the International Decade, adopted by the General Assembly in its resolution 69/16 of 18 November 2014.

22. In addition to Executive Decree No. 915, the National Council for the Equality of Peoples and Nationalities, in accordance with the Organic Act on National Equality Councils, formulated the Agenda for the Equal Rights of Indigenous Nationalities and Peoples, Afro-Ecuadorian People and Montubio People 2019–2021, which contains public policy proposals regarding the demands and enforceability of such rights; and the Equality Agenda for the Decade for People of African Descent (2016), entitled “Capítulo Ecuador” (Chapter Ecuador), as part of the International Decade.

23. The Secretariat for Human Rights and the National Council for the Equality of Peoples and Nationalities have a mandate to protect the human rights of people of African descent. The Organic Act on National Equality Councils (2014) established the institutional and policy framework for the activities of five equality councils – tasked with ensuring the full enjoyment and exercise of rights by promoting the right to equality and non-discrimination for groups that have historically suffered discrimination – in the following areas: (a) gender (women and lesbian, gay, bisexual, transgender and intersex persons); (b) intergenerational

(children, young persons and older persons); (c) peoples and nationalities (indigenous, Afro-Ecuadorian and Montubio peoples); (d) disabilities; and (e) human mobility (migrants). The councils have a mandate to formulate, mainstream, implement, monitor and evaluate public policies related to equality and non-discrimination. Their stated aim is to ensure the full enjoyment and exercise of all the rights set forth in the Constitution and in international human rights instruments and to promote, advance, protect and ensure respect for the rights of persons, communes, communities, peoples, nationalities and other groups in order to strengthen national unity in diversity and forge a multinational and intercultural State

24. The Afro-Ecuadorian Development Corporation, the Council for the Development of the Montubio People of the Ecuadorian Coast and Subtropical Coastal Areas, and the Council for the Development of the Nationalities and Peoples of Ecuador were set up to promote and enhance diversity and different world views and to further the human, endogenous, economic, social and cultural development of the country's peoples and nationalities. Between 2012 and 2016, they served as transitional councils, pending the establishment of the National Council for the Equality of Peoples and Nationalities; they also designed and implemented the National Agenda for the Equality of Nationalities and Peoples 2013–2017. Within the framework of this agenda, public policies on equality and non-discrimination and affirmative action measures have been implemented at different levels of government. Social indicators with an intercultural focus have been developed, in coordination with the National Statistics and Census Institute, to enable a statistical assessment of the living conditions of the indigenous, Afro-Ecuadorian and Montubio peoples.

25. The adoption in 2009 of the Plurinational Plan for the Elimination of Racial Discrimination and Ethnic and Cultural Exclusion, through Executive Decree No. 60, led to the implementation of 15 national programmes and 56 measures relating to legislation, rights, access to communication, international relations, education and citizen participation of Afro-Ecuadorians.

26. The Working Group was informed that specific ethnic equality requirements have been established for competitive examinations for admission to institutions of higher education and public sector jobs, with the aim of ensuring, in the case of the latter, that public institutions include on their payroll the same proportion of members of an ethnic group as the proportion represented by that group within the total national population. Successful candidates in merit-based selection processes who were awarded additional points on the basis of self-identified ethnicity included 255 Afro-Ecuadorian women and 256 Afro-Ecuadorian men, 218 indigenous women and 244 indigenous men, and 270 Montubio women and 217 Montubio men.

27. The National Plan for Good Living 2013–2017 and the National Development Plan 2017–2021, entitled “Toda una Vida” (A Whole Life), are aimed at achieving equality and eradicating poverty on the basis of a multidimensional approach. The National Development Plan 2017–2021 includes objectives, policies and goals aimed at guaranteeing compliance with the constitutional rights of Ecuadorians, eradicating discrimination in any of its manifestations, reducing social exclusion of priority groups in particular, reducing social gaps and recognizing diversity.

28. The Secretariat for Human Rights has the responsibility to promote and ensure compliance with the National Development Plan. Interventions include specific anti-discrimination programmes, campaigns and projects that seek to guarantee the rights of people throughout life, promote diverse identities, strengthen the intercultural and multinational nature of the country and its people, protect the rights of nature for present and future generations, and promote a more active and participative society for an inclusive State. The Plan, and associated public policy, aims to close the inequality gaps and eradicate the discrimination faced by Afro-Ecuadorians and other historically excluded groups. The implementation of the Plan is also the responsibility of the decentralized autonomous governments, and guides have been prepared in coordination with the National Equality Councils on including the policy in local planning. These guides include a document on approaches to equality in local planning, forming part of a toolbox of normative and operative resources to facilitate the inclusion of issues relating to nationalities, gender, disabilities, intergenerational aspects and human mobility in the decentralized autonomous governments' planning.

29. According to the Government, police training has been conducted to address racial profiling and discrimination in law enforcement. With regard to representation, the Directorate of Human Rights and Gender Equality – of the Office of the Under-Secretary for Public Security, within the Ministry of the Interior – has coordinated with the National Police’s promotion commission with a view to ensuring compliance with article 95 of the Organic Code governing Public Security and Public Order Institutions, which provides that in promotion processes, equality and non-discrimination criteria are to be considered and affirmative action taken in favour of the Afro-Ecuadorian, indigenous and Montubio peoples.

30. According to the Government, it has also taken action to promote greater knowledge and respect for the heritage and culture of Afro-Ecuadorians, including the following initiatives: repositories of memories of Afro-Ecuadorian society in Esmeraldas and Quito, artistic events, conferences, book launches, forums and exhibitions. The National Assembly officially declared 2 October as the national day of Afro-Ecuadorians, with various events in celebration, and gave formal recognition to Alonso de Illescas as a national hero.

31. The Working Group welcomes the work of the Ombudsman to promote and protect the human rights of people of African descent on the basis of its constitutional mandate, including its reports and studies on the right to equality and non-discrimination, and its statements, resolutions and case work. The Working Group welcomes the new Organic Act on the Ombudsman’s Office, in force since April 2019, which creates a national mechanism for the protection and promotion of the rights of indigenous, Afro-Ecuadorian and Montubio peoples.

32. The Working Group also welcomes the vibrant and active Afro-Ecuadorian civil society and their initiatives to promote and protect the human rights of people of African descent and raise awareness about Afro-Ecuadorian identity.

IV. Manifestations of racial discrimination

33. Despite the progressive legal provisions of the Constitution, the recognition of the collective rights of people of African descent and the positive institutional and policy developments referred to above, the Working Group is concerned about the human rights situation of people of African descent in Ecuador. There has not yet been effective implementation and enforcement of laws and policy to protect their human rights. The Working Group was informed of several cases of serious human rights violations and lack of access to protection and justice for people of African descent.

34. Afro-Ecuadorians continue to suffer racial discrimination, particularly with regard to their access to justice, security, land, clean water, education, health care, housing and employment. People of African descent make up 7.2 per cent of the Ecuadorian population, yet they constitute 40 per cent of Ecuadorians living in poverty. According to the National Statistics and Census Institute the Province of Esmeraldas, of which 68.25 per cent of the population is of African descent, is one of the poorest and most excluded in Ecuador: 84.6 per cent of the population live below the poverty line, 15.3 per cent are illiterate and 23 per cent have basic services. The province also has the highest rates of maternal mortality, gender-based violence and teenage pregnancy. The gap between the social indicators of the northern border communities and the national rates are a clear expression of a development policy that has not prioritized these communities. In recent years, Ecuador has made significant investments in the border area, particularly on roads, schools, health centres and infrastructure. However, this increased investment has not been accompanied by the commitment to strengthen the relevant institutions. There is weak presence of the administration of justice and of ministries such as the Ministry of Labour or the Ministry of Environment and Water, and there is no rural development policy that would benefit the Afro-Ecuadorian population.

35. For Afro-Ecuadorians, their relationship with the land must be redirected. Land is a precious resource. In many ways, they are the land that they till and on which they labour, with hardly any respite. But the acute imbalance in land ownership prevents them from owning land. Notably, their social, economic and political standing is intimately tied to the land. To break the cycle of poverty and raise the quality of their lives, their land rights must

be respected. They have a right to own the land directly or collectively. Land ownership must be equitably diffused. The land must be redistributed and allocated to them, as a way to realize their economic, social and cultural rights, as well as their civil and political rights.

A. Environmental racism, insecurity and lack of access to protection and justice

36. The Working Group was informed and saw first-hand the environmental racism,⁸ insecurity, poverty and violence at the northern border, which disproportionately affect communities of African descent, and learned of the displacement from ancestral Afro-Ecuadorian territory.⁹

37. The Working Group heard testimonies of serious violations of the right to a safe, clean, healthy and sustainable environment.¹⁰ The environmental impact of mining and other extractive industries is significant. The communities most affected are in the Cantons of Eloy Alfaro and San Lorenzo, which are located in the north of the Province of Esmeraldas. The rivers are contaminated by the presence of heavy metals such as arsenic, mercury and aluminium, affecting the biodiversity of the area. The health of the inhabitants has also deteriorated and it is estimated that mining has destroyed approximately 15,000 hectares of land.

38. During its visit, the Working Group saw the pollution caused in the dying, toxic Santiago River in Esmeraldas Province. The watershed of this river affects the whole province of Esmeraldas. Communities of African descent who drink from the river, bathe in it or wash their clothes in it end up suffering skin rashes, genital infections and other serious illnesses. Water is life: their human rights to life and to the highest attainable standard of health have been seriously compromised by their constant exposure to the hazardous substances in their water. There has been inefficient public management to regulate resource extraction in Afro-Ecuadorian areas and achieve environmental remediation and reparation for the population affected by the years of contamination.

39. In violation of constitutional guarantees of the right to territory, Afro-Ecuadorians report that thousands of hectares of ancestral lands have been given to extractive industries,¹¹ including the timber industry, oil-palm agro-industry and gold mining industry. There has been a widespread failure to respect the right of communities of African descent to prior consultation on decisions that may affect them. The policy decisions taken by the State for this province are discriminatory. Highly polluting natural resource extraction activities are allowed to operate, unregulated or supervised by any institution of the State, leaving people of African descent in the middle of toxic and poisonous waste that poses a serious threat to their health, life and dignity. The judgment on precautionary measures, issued by the courts of justice and designed to safeguard the lives of Afro-Ecuadorian populations,¹² is violated

⁸ Robert D. Bullard. "Environmental justice in the 21st century: race still matters", *Phylon*, vol. 49, No. 3/4 (Autumn–Winter 2001), pp. 151–171.

⁹ María Moreno Parra, "Racismo ambiental: muerte lenta y despojo de territorio ancestral afroecuatoriano en Esmeraldas", *Íconos*, No. 64, May 2019.

¹⁰ Human rights obligations relating to the environment include the following: procedural obligations of States to assess environmental impacts on human rights and make environmental information public, to facilitate participation in environmental decision-making, and to provide access to remedies for environmental harm; substantive obligations of States to adopt legal and institutional frameworks that protect against environmental harm that interferes with the enjoyment of human rights, including harm caused by private actors; and non-discrimination and other obligations of States relating to the protection of members of groups in vulnerable situations, including women, children and indigenous peoples. See A/HRC/37/59, annex.

¹¹ John Herlyn Antón Sánchez and Fernando García Serrano, "La presión sobre el derecho al territorio ancestral del pueblo afroecuatoriano: el caso de la Federación de Comunidades Negras del Alto San Lorenzo", *Revista Colombiana de Sociología*, vol. 38, No. 1 (January–June 2015).

¹² Judgment on precautionary measures No. 08256-2011-0058, awarded in November 2017, by the Court of Justice of Esmeraldas in favour of Afro-Ecuadorian communities in La Chiquita and Awá de Guadualito in a case of environmental pollution generated by the companies Palmeras de los Andes and Palmar de los Esteros (No. 08100-2010-0485).

or breached by ministries and State institutions, and the courts themselves are indifferent to the fulfilment of their legal sentences.

40. In the Province of Esmeraldas, gold mining contaminates water and soil with heavy minerals that are toxic to health. These processes expose the local population to daily environmental threats that they cannot control and that compromise their health in the short and long run. In addition, in the northern area of Esmeraldas, the provision of infrastructure and basic services such as access to clean water and electricity is limited and deficient.

41. The Working Group expresses serious concern about the inaction by the State owing to interference and lobbying by exporters and other groups and individuals seeking to continue the operations of these industries. The Working Group noted the insufficient action and indifference on the part of the Ministry of the Environment and Water, the Mining Regulation and Oversight Agency and the Ministry of Agriculture and Livestock.

42. The Working Group is also deeply concerned by the racialized criminalization of human rights defenders and people of African Descent as a strategy to suppress or even to eliminate opposition to extractive projects.

43. One emblematic case is the Uimbí community of African descent, which has taken an active role in the defence of its territory as the community lands were under pressure from oil-palm and gold mining companies. According to the information received, the conflict goes back to an informal adjudication on ancestral lands, which passed into the possession of a community member who then sold it to an investor from Quito. Subsequently, the lands were transferred to the company Energy & Palma, which currently holds the title of ownership of the 1,200 hectares in dispute. Conflicts began shortly after the adjudication and illegal sale of land. In 2016, Energy & Palma filed a lawsuit against four leaders from Uimbí on charges of illegal use of land. The conflict escalated with an attempted eviction of local people in November of that year. A police squad used a mechanical digger to destroy crops and fences in the disputed lands. Several members of the community came out to stop the eviction and the machinery being brought in by the company. Subsequently, the company sued community leaders for the theft of machinery. In August 2017, the company and Uimbí leaders reached an agreement whereby the community returned the machinery and the company withdrew the charges of theft. However, the trial for illegal use of land continues. The leaders of Uimbí have been criminalized as thieves and invaders of their own territory; however, they continue to fight for their ancestral right to it. The leaders of Uimbí and other communities in the north of Esmeraldas requested precautionary measures, which were initially rejected by the legal authorities of the Canton of San Lorenzo.

44. In 2011, the communities of Esmeraldas, with the support of the Ombudsman's Office, managed to obtain precautionary measures to prevent the violation of rights, but the competent authorities did not comply with the measures. In 2018, the measures were expanded, dictating that all mining activity in the northern area of Esmeraldas should stop until the environment was restored and the inhabitants received reparations.

45. On 10 April 2019, the communities affected by mining pollution in the Cantons of San Lorenzo and Eloy Alfaro, with their lawyers and in the company of the Ombudsman's Office, filed with the Constitutional Court an action of non-compliance with the judgment on precautionary measures No. 08256-2011-0058. This case in the Constitutional Court has been assigned No. 0018-19-IS, although no action has been taken.

46. The Working Group requested information on the delay and neglect by the justice system and the Constitutional Court, and urged the judiciary to monitor compliance with the precautionary measures and other cases that are neglected and to respond to non-compliance with the precautionary measures.

47. In reply to the Working Group's concerns, the Government provided information regarding the policy of mining concessions. According to that policy, interested parties or applicants, whether natural or legal persons, must comply with all the requirements established in the various application instructions for each case, which are analysed and verified by the various administrative units of this State portfolio together with the Mining Regulation and Oversight Agency, before the mining concession is issued. The Ministry of the Environment, in accordance with the principles of conservation and environmental

prevention, reportedly continuously monitors mining activities to verify compliance with current environmental regulations through the processes of environmental regularization and control. The Government also made reference to the guarantees in the Constitution.

48. Despite the stated law and policy, the Working Group is deeply concerned by the activities of extractive industries, the lack of monitoring of and sanctions imposed on these industries, and the indifference by the State towards the grave human rights violations committed by them. These industries – forestry, palm and mining – are responsible for some of the most serious human rights violations. This is a situation of environmental racism due to the systematic contamination of water and the environment, threats and intimidation of communities of African descent, and insufficient efforts by the State to avoid, punish and repair such degradation. The State should not remain indifferent to the abuses and human rights violations committed by these companies.

49. The Working Group is also deeply concerned by the reports of impunity and ongoing violations of the human rights of plantation workers and their families by the Japanese company Furukawa Plantaciones. The Ombudsman's report indicates that the majority of workers are of African descent, who work and depend on the extraction of abaca fibre without employment contracts or social security.¹³ The Ombudsman's Office verified the situation in 17 camps for workers located in the Provinces of Santo Domingo de los Tsáchilas and Los Ríos, and found that the workers were at high risk of being evicted from the territories in which they lived because they were owned by the company. The camps did not have basic services such as drinking water, electricity, public lighting, or sanitary or toilet facilities.

50. According to information received, for 56 years, Afro-Ecuadorians have worked for the company under deplorable conditions. Children born on the farms do not have their births registered, denying them the right to nationality de facto. The children are forced to work instead of going to school. Neither the children nor their parents have identity documents. They have no access to health care or to other services. The Working Group met a man whose legs were twisted and broken while working. He needed an operation, but he did not have the necessary papers or money. The workers live in makeshift homes that do not qualify as adequate housing. In 2019, the authorities took initial action and suspended the operations of the company. The company is still operating and the workers are demanding justice and reparations for the harm suffered. In 2020, the Working Group learned that there had been forced evictions during the coronavirus disease (COVID-19) pandemic, which had aggravated the situation further. There is an urgent need for justice and reparations for the victims in this case, who continue to suffer harm.

51. The Working Group is concerned by the lack of access to justice for people of African descent. It welcomes the commitment by the current judges of the Constitutional Court, appointed in 2019, to address structural discrimination and the backlog of cases. Action must be taken to address the clear racial injustice in these emblematic cases and provide a remedy to the victims in accordance with the law.

52. Other emblematic cases were brought to the attention of the Working Group, including cases of hate speech and State violence against Afro-Ecuadorians. One such case was that of Michael Arce, a cadet at a police academy who was on the receiving end of cruel, inhumane and degrading treatment, and racial discrimination from his police instructor. This was the first case in Ecuador in which a person was convicted for the crime of racial hatred. Another case, on the other hand, was that of Andrés Padilla, who was shot dead by a member of the special operations unit of the National Police, in a control operation that was carried out in the Mascarillas area in the Province of Imbabura: the officer was punished with the minimum penalty (imprisonment for three years and four months) for the crime of overreach in the execution of an act of service of members of the armed forces and National Police.

53. Another concern is racial profiling, the overrepresentation of people of African descent in detention and human rights violations that they suffer in detention. The Working Group visited the juvenile detention centre in Esmeraldas, where 90 per cent of detainees

¹³ Ombudsman's Office, *Informe de verificación de derechos humanos: La indigna situación de familias que viven dentro de las haciendas de abacá de la empresa japonesa Furukawa Plantaciones C.A. del Ecuador* (Quito, 2019), p. 14.

were of African descent. The Working Group was deeply concerned by the lack of access to legal aid, lack of access to clean water, inadequate food, insufficient recreation, poor living conditions and lack of security.

54. The Working Group was also informed about negative racial stereotypes and stereotyping of people of African descent by the media. There is a need for increased public education campaigns to address these concerns. Many interlocutors emphasized the importance of education for combating racism.

B. Disparities in access to education, health, housing and employment

55. The Working Group noted that Afro-Ecuadorians face structural discrimination, extreme poverty and disparities in access to education, health, housing and employment. Afro-Ecuadorians, particularly those in the northern border areas, are at risk and are being left behind. This was underlined by all interlocutors that the Working Group met during its visit to Ecuador. There is a need for greater attention and resources for development programmes to address inequality and poverty through affirmative action and special measures for people of African descent specifically.¹⁴

56. According to official statistics, only 5 out of every 100 Afro-Ecuadorians over the age of 24 years have attained higher education degrees in various professional disciplines. Out of a total population of 511,146, only 26,748 Afro-Ecuadorians have a university degree. Of this total of 26,748 Afro-Ecuadorian university professionals, only 11.6 per cent (3,105) have obtained fourth-level or postgraduate degrees. In other words, out of an Afro-Ecuadorian population of 490,809 inhabitants aged of 25 years and over, only 3,105 have obtained a fourth-level or postgraduate degree, representing less than 1 per cent (0.3 per cent) of the total population. Between the 2001 and 2010 censuses, the number of Afro-Ecuadorian professionals who have obtained a fourth-level or postgraduate degree has barely increased, by 0.1 per cent of 1 per cent.¹⁵

57. The Working Group was informed by the Government during the visit that access to education is free and inclusive, from the first year of primary school to the third year of secondary school. Various strategies have been developed to reduce school dropout, including involving the family and the educational community, as a result of which the dropout rate fell from 8.1 per cent in 2010 to 4.4 per cent in 2015. Between 2007 and 2016, net enrolment in primary education increased by 7 per cent for indigenous children, by 4.3 per cent for mestizo children and by 5.2 per cent for Afro-Ecuadorian children, while net enrolment in secondary education rose by 31.2 per cent for indigenous adolescents, by 20 per cent for mestizo adolescents and by 22 per cent for Afro-Ecuadorian adolescents.

58. The Working Group note that Afro-Ecuadorians continue to face challenges in terms of access to secondary and higher education despite affirmative action in universities, reportedly owing to the poor quality of their education at the primary and secondary levels.¹⁶ To try and address this gap, the parliamentary group on people of African descent is developing a new law to introduce “ethno-education” – that is, ensuring access to good-quality education, including promoting and preserving the cultural identity, history and ancestral knowledge of the Afro-Ecuadorian people in education – into the curriculum. There is a pilot project for schools that will become guardians of traditional knowledge. Academics have also studied the reasons behind the failure, even in the public system, to apply the mandatory quotas for admission to higher education for groups that have historically been

¹⁴ In accordance with international human rights obligations, while States may realize economic, social and cultural rights progressively, they must also take immediate action, irrespective of the resources that they have, in five areas: elimination of discrimination; economic, social and cultural rights not subject to progressive realization; the obligation “to take steps”; non-retrogressive measures; and minimum core obligations.

¹⁵ National Statistics and Census Institute, *Las cifras del pueblo Afroecuatoriano*, p. 58.

¹⁶ Ethan Johnson, “Afro-Ecuadorian educational movement: racial oppression, its origins and oral tradition”, *Journal of Pan African Studies*, vol. 7, No. 4 (October 2014), pp. 115–137.

excluded and discriminated against, as provided in article 74 of the Organic Act on Higher Education.¹⁷

59. According to official data, the proportion of the Afro-Ecuadorian population that is unemployed is greater than that of other population groups.¹⁸ The State has recognized this and has developed public policies to promote the expansion of coverage in education, health, labour and academic training, along with increased access to basic and public services. However, during the Working Group's visit, Afro-Ecuadorians reported that racial discrimination continued in all areas of life, including in employment. According to official statistics provided to the Working Group, from the national survey on employment, unemployment and underemployment in 2019, only 45.5 per cent of the Afro-Ecuadorian population complete primary education and 23.6 per cent attend high school, and in terms of employment categories, 38.3 per cent are employers or partners, 35 per cent are private employees, 8.63 per cent are self-employed and 7.4 per cent are civil servants.

60. The situation concerning Furukawa, described above, is a severe case of impunity for labour exploitation, in a vicious cycle of human rights violations lasting for 56 years. Hundreds of families are severely affected and the victims are mainly people of African descent. Despite the evidence and the facts of the case, justice and reparations have not been delivered to the victims in accordance with the law.

61. Racial discrimination and disparities are also apparent in access to health. The Government informed the Working Group that it had developed a number of plans and initiatives specifically for Afro-Ecuadorians to address these gaps.

62. According to information received, Ecuador declared a state of emergency and quarantine for the entire national territory starting on 17 March 2020, owing to the COVID-19 pandemic. The measures included restrictions on mobility, prohibition of productive activities (limited to 80 per cent) and curfews. The communities of African descent in the villages of northern Esmeraldas, which are mostly river villages, abided by the measures in order to safeguard the health of their inhabitants and prevent the spread of the disease, which meant that they stopped using their canoes and rivers for transport. This situation has obviously led to a shortage of food products, and they are experiencing a food and health emergency because they cannot market their products and lack the money to purchase medicines. All the rivers in the Cantons of Eloy Alfaro and San Lorenzo are contaminated by mining activity. In the context of the COVID-19 pandemic, when all citizens are under quarantine and respect curfews, people of African descent have reported that mining activities have not ceased, but rather that they have intensified in their territories. The situation has deteriorated, as these communities do not have drinking water and are absolutely dependent on the water of their rivers for cooking, cleaning and other social, cultural and spiritual activities. In addition, there are concerns about the shortage of medicines in State medical centres and private pharmacies. The communities are not being served by the relevant health authorities and even the limited health sub-centres have closed. A number of complaints have been made, but the responses necessary for this population have not yet been received.

63. According to Government data, more than 60 per cent of the Afro-Ecuadorian population are part of the marginal urban sectors of cities such as Quito and Guayaquil, with 39.82 per cent working in services, 18.3 per cent in formal or informal trade and 11.83 per cent as construction workers. By its nature, their work generates little income, not enough for their subsistence, and without any guarantee of security. They are at risk of being thrown out of their homes while searching for a new job in the same fields. They are unable to save and to meet the needs of their families. They cannot provide for themselves for any significant period, not even for a few months.

64. Subsequent to the Working Group's visit, reports of a high number of deaths of Afro-Ecuadorians in Guayaquil and other cities during the COVID-19 pandemic highlighted the

¹⁷ John Antón Sánchez and Katy Valencia Caicedo, "El impacto del Sistema Nacional de Admisión y Nivelación y el acceso en los afrodescendientes a la universalidad pública ecuatoriana", *Revista San Gregorio*, No. 15 (July–December 2016), pp. 20–33.

¹⁸ National Statistics and Census Institute, *Las cifras del pueblo Afroecuatoriano*, p. 106.

structural inequities and the lack of access to health care historically faced by people of African descent in Ecuador. Structural racial discrimination may further exacerbate inequality in access to health care and treatment, leading to racial disparities in health outcomes and increased mortality and morbidity for people of African descent.

65. With regard to access to adequate housing, according to the data provided by the Government during the visit, it is estimated that 56 per cent of the Afro-Ecuadorian households have a housing deficit. According to the national survey on employment, unemployment and underemployment, conducted by the National Statistics and Census Institute, as of December 2018 a total of 85,513 households were inhabiting unsuitable dwellings, in terms of either the characteristics of the dwelling or its lack of attributes in structure, space and availability of public services. The Working Group was informed that to address this situation, efforts had been made through the development of the “Casa para Todos” (Homes for All) project, as part of the Government’s National Development Plan 2017–2021, to support sectors of the population that are in situations of extreme and moderate poverty in gaining access to a home of their own. Positive results from the project and new development plan for Afro-Ecuadorians are yet to be seen.

C. Multiple forms of discrimination

66. The Working Group learned that people of African descent in Ecuador often faced inequalities and multiple forms of discrimination. In particular, the Working Group is concerned about the high levels of gender-based violence suffered by women of African descent and the lack of specific programmes to address the problem. According to the national survey on family relations and gender-based violence against women, conducted by the National Statistics and Census Institute, 60.6 per cent of women in Ecuador have experienced some type of violence. Indigenous and Afro-Ecuadorians have the highest cases of violence, at 67.8 per cent and 66.7 per cent respectively. Afro-Ecuadorian women also face disproportionately high rates of maternal mortality, particularly in the rural areas of the northern border region, owing to lack of access to health care. The Working Group also heard about intersectional discrimination and violence faced by the lesbian, gay, bisexual, transgender and intersex community on the basis of race and sexual identity.

V. Conclusions and recommendations

A. Conclusions

67. **The Working Group welcomes the commitment demonstrated by Ecuador in its recognition of the collective rights of Afro-Ecuadorians, the progressive Constitution, its laws, and the many policies and plans, including affirmative action, to specifically address the human rights situation of people of African descent and systemic racial discrimination.**

68. **Despite the progressive provisions of the Constitution, recognition of the collective rights of people of African descent and the many positive measures referred to above, the Working Group is deeply concerned about the human rights situation of people of African descent in Ecuador.**

69. **According to official statistics provided to the Working Group, from the national survey on employment, unemployment and underemployment in 2019, only 45.5 per cent of the Afro-Ecuadorian population complete primary education and 23.6 per cent attend high school, and in terms of employment categories, 38.3 per cent are employers or partners, 35 per cent are private employees, 8.63 per cent are self-employed and 7.4 per cent are civil servants. The Government recognizes that, as shown by the data, Afro-Ecuadorian people are in a vulnerable human rights situation and that racial discrimination and social exclusion are visible in Ecuadorian society, and it has taken steps to address concerns.**

70. Despite progress in some areas since the Working Group's visit in 2009, many of the same concerns were highlighted. The Working Group learned that there has not yet been effective implementation and enforcement of laws and policy to protect the rights of people of African descent. Afro-Ecuadorians continue to suffer racial discrimination, particularly with regard to their access to justice, security, land, clean water, education, health care, housing and economic opportunity.

71. There is a need for greater attention and resources for development programmes to address inequality and poverty through affirmative action and special measures for people of African descent specifically. Ecuador must take steps to respect, protect and fulfil economic, social and cultural rights and take immediate action irrespective of resources to guarantee their enjoyment without discrimination.

72. The Working Group is deeply concerned by the activities of extractive industries, and the lack of monitoring and sanctions of these industries by the State. It is a situation of environmental racism due to the systematic contamination of water and the environment, threats and intimidation of communities and insufficient efforts by the State to avoid, punish and repair such degradation. The State should not remain indifferent to the abuses and human rights violations carried out by these companies. Afro-Ecuadorians in particular have been seriously hurt by the significant environmental harm that endangers the lives of communities.

73. The Working Group is deeply concerned by the racialized criminalization of human rights defenders and people of African descent as a strategy to suppress or even to eliminate opposition to extractive projects.

74. Despite the constitutional guarantee of the right to territory, Afro-Ecuadorians complain that thousands of hectares of ancestral lands have been given to extractive industries.

75. The Working Group expresses concern about the inaction by the State owing to interference and lobbying by exporters and other groups and individuals seeking to continue the operations of these industries. The Working Group also notes the insufficient action on the part of the Ministry of the Environment and Water, the Mining Regulation and Oversight Agency and the Ministry of Agriculture and Livestock.

76. The Working Group is deeply concerned by the reports of impunity and ongoing violations of the human rights of plantation workers and their families by the Japanese company Furukawa Plantaciones.

77. The Working Group is concerned by the lack of access to justice for people of African descent, and welcomes the commitment by the new judges to the Constitutional Court to address the backlog of cases.

78. There has been racial injustice, impunity, neglect and serious gaps in human rights protection, and there is a need for greater inclusion and partnership with Afro-Ecuadorians to repair the historical damage and address the root causes of racial discrimination. The strong legal and policy framework provides many opportunities to make progress. Action and resources are now required to effectively implement the legal framework, address systemic racial discrimination and ensure that people of African descent are able to fully exercise their human rights.

79. The following recommendations are intended to assist Ecuador in its efforts to combat all forms of racism, racial discrimination, xenophobia, Afrophobia and related intolerance faced by people of African descent.

B. Recommendations

80. The Working Group recommends that the Government of Ecuador:

(a) Intensify awareness-raising campaigns combating racial discrimination, stereotypes and all forms of discrimination;

- (b) **Recognize the historical contribution of people of African descent to Ecuadorian culture, society and economy at all levels of government and in society as a whole;**
- (c) **Ensure that high-quality education is accessible and available in areas where communities of African descent live, particularly in rural and marginalized communities, with particular attention to improving the quality of public education;**
- (d) **Introduce “ethno-education” into the national school curriculum;**
- (e) **Create a national secretariat for ethno-education within the Ministry of Education;**
- (f) **Ensure that textbooks and other educational materials reflect historical facts accurately as they relate to past tragedies and atrocities, in particular slavery, the trade in enslaved Africans and colonialism, so as to avoid stereotypes and the distortion or falsification of these historical facts, which may lead to racism, racial discrimination, xenophobia and related intolerance;**
- (g) **Increase special measures so that Afro-Ecuadorians are able to attend university;**
- (h) **Strengthen the space for participation in the creation of public policy and regulations, with a focus on human rights and a cross-cutting, intercultural approach, to allow the inclusion of people of African descent;**
- (i) **Ensure that experts of African descent are involved at all stages of development and implementation of laws and policies to ensure the fulfilment and protection of the human rights of people of African descent;**
- (j) **Adopt effective measures to prevent acts of violence against Afro-Ecuadorian leaders and human rights defenders and to ensure the protection of their lives;**
- (k) **Increase economic and social investment to improve equality of access, opportunities and needs for Afro-Ecuadorian families and to facilitate their full participation in public life;**
- (l) **In the context of the 2020 census, collect, compile, analyse, disseminate and publish reliable statistical data at the national and local levels, and take all other related measures necessary to assess regularly the situation of people of African descent who are victims of racism, racial discrimination, xenophobia and related intolerance. People of African descent must be included at all stages of the preparation and implementation process to obtain accurate results;**
- (m) **Through the National Assembly, approve the draft organic act on the prevention and eradication of racial discrimination and ethnic and cultural exclusion;**
- (n) **Ensure access for Afro-Ecuadorians to justice, security, land, clean water, health care, housing and economic opportunity;**
- (o) **Guarantee access to justice and reparations, including restoration, compensation, guarantees of non-repetition and rehabilitation, for Afro-Ecuadorians affected by extractive industries and transnational companies;**
- (p) **Audit and ensure environmental control of mining companies and other extractive industries with the active participation of Afro-Ecuadorians and civil society; monitor and control water quality and environmental impacts with the participation of the communities concerned; conduct investigations to establish criminal liability for human rights violations and environmental damage committee against Afro-Ecuadorian communities by companies; effect the closure of extractive companies that pollute the environment; and impose sanctions on institutions and authorities that have not complied with the law;**
- (q) **Ensure that Afro-Ecuadorians are consulted on and enjoy the benefits arising from the use of their territory;**

(r) Provide clean water and full access to free and adequate health services for victims; the authorities must recognize and fulfil their continuing duty to clean up and rehabilitate rivers and other bodies of water, and appropriate solid and liquid waste disposal and management systems must be put in place;

(s) Ensure that State institutions take concrete action aimed at overcoming racism and discrimination, including the dispossession of lands and territories, and addressing the lack of enforcement mechanisms for participation and consultation and forced displacement;

(t) Implement the recommendations of the Ombudsman's report on the Furukawa case by (i) indemnifying the workers for the violation of their human rights; (ii) expropriating the land to be awarded to the workers, with support services to ensure productive use by the workers of the land; (iii) and closing the Furukawa company;

(u) Ensure that (i) the births of the children of Furukawa workers are registered; (ii) identity papers are given to the Furukawa workers who lack them; (iii) the Furukawa workers and their children are given scholarships for schools and universities; and (iv) the Furukawa workers are given full access to health care, housing and the formal job market;

(v) In keeping with racial and land justice, undertake the redistribution of lands, taking into account ecological, developmental or equity considerations, including Afro-Ecuadorians as beneficiaries;

(w) Strengthen the Ombudsman's Office to create a subdivision dedicated to the protection and promotion of the rights of people of African descent, with sufficient human, financial and technical capacities;

(x) Implement Executive Decree No. 915 of 2016, on the International Decade for People of African Descent, and assess progress made in consultation with people of African descent;

(y) Ensure that police and military academies include training and capacity-building to eradicate racism and comply with national and international human rights law;

(z) Ensure that implementation of the 2030 Agenda for Sustainable Development truly leaves no one behind and that racial discrimination is addressed; include Afro-Ecuadorians and other people of African descent and develop specific programmes to protect their human rights; provide greater attention and resources for development programmes to address inequality and poverty through affirmative action and special measures for people of African descent specifically;

(aa) Ensure that women of African descent are adequately protected from all forms of discrimination and violence, and are able to enjoy equal opportunities in access to employment, health and justice;

(bb) Develop and implement public policies of affirmative action for Afro-Ecuadorian people, including with respect to access to work, among other rights, to improve the living conditions of people of African descent;

(cc) Create a technical secretariat for people of African descent to identify, visualize and address discrimination and exclusion of people of African descent;

(dd) Prepare and approve an organic act on public consultation, with an intercultural approach and with the participation of the Afro-Ecuadorian, indigenous and Montubio peoples;

(ee) Through the Ministry of Education, implement a policy allowing ethno-education and publicizing and disseminating the culture of people of African descent to the entire population, while including opportunities for the participation of people of African descent and their organizations;

(ff) Through the Council of the Judiciary and the Secretariat for Human Rights, guarantee access to justice for Afro-descendant peoples and provide training for its staff on the collective rights of people of African descent;

(gg) Develop and adopt a comprehensive policy to protect human rights defenders that includes measures to protect people of African descent and to prevent violations of their rights, particularly in the context of extractive activities;

(hh) Take measures to ensure the legal security of Afro-Ecuadorians with regard to the land, territories and natural resources that they have traditionally occupied and used;

(ii) Ensure adequate consultation and obtain the free, prior and informed consent of Afro-Ecuadorians on the establishment and management of protected areas and other protection measures in respect of their lands and territories;

(jj) Strengthen the presence of State institutions in the northern border provinces including Esmeraldas, to provide the public services necessary to ensure people's well-being and security and the full enjoyment of human rights, with special attention paid to communities of African descent;

(kk) Take specific action to meet the needs of Afro-Ecuadorians in the Province of Esmeraldas in the context of the COVID-19 pandemic, taking into account that they are a particularly vulnerable population; in particular, address the food and drug needs of these populations that have emerged as a result of the pandemic, control and halt the extractive activities that are invading the territories of Afro-Ecuadorians and polluting their main sources of water, and initiate environmental remediation and social reparation processes for the northern communities of the Province of Esmeraldas;

(ll) Increase COVID-19 testing in communities of people of African descent;

(mm) Collect and disaggregate COVID-19 data to better understand the racial make-up of those who have been tested, those who have tested positive, those who have been hospitalized, those who have recovered and those who have died;

(nn) Ensure the participation of Afro-Ecuadorian communities in the development of strategies to respond to and recover from the COVID-19 crisis.

81. The justice system and the Constitutional Court should take action to clear the backlog of cases, in particular cases filed by Afro-Ecuadorian in defence of their constitutional rights.

82. The Constitutional Court must respond to the action of non-compliance with the judgment on precautionary measures No. 08256-2011-0058, awarded in November 2017, by the Court of Justice of Esmeraldas in favour of Afro-Ecuadorian communities in La Chiquita and Awá de Guadualito in a case of environmental pollution generated by the companies Palmeras de los Andes and Palmar de los Esteros. (case No. 08100-2010-0485).

83. The Working Group reminds the media of their important role as a public watchdog with special responsibilities for ensuring that factual and reliable information about people of African descent is reported. It also urges the media to play its role in increasing the visibility of people of African descent and their culture, including through representation in the media sector.

84. The Working Group would like to reiterate its satisfaction at the Government's willingness to engage in dialogue, cooperation and action to combat the racial discrimination faced by Afro-Ecuadorians. It expresses its hope that its report will support the Government in this process, and its willingness to assist in this important endeavour.