



## 人权理事会

### 第四十五届会议

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#### 议程项目9

种族主义、种族歧视、仇外心理和相关不容忍行为：  
《德班宣言和行动纲领》的后续行动和执行情况

## 对秘鲁的访问

### 非洲人后裔问题专家工作组的报告<sup>\*, \*\*</sup>

#### 概要

非洲人后裔问题专家工作组于2020年2月25日至3月4日访问了秘鲁。工作组在本报告中说明了目前的有关法律、体制和政策框架以及为防止非洲人后裔在秘鲁面临的种族主义、种族歧视、仇外心理、非洲恐惧症和相关不容忍现象而采取的措施，强调了积极的事态发展和执行方面的差距。工作组还强调了良好做法和其查明的主要挑战，并提出了具体建议。

\* 报告概要以所有正式语文分发。报告正文附于概要之后，仅以提交语文分发。

\*\* 因提交方无法控制的情况，经协议，本报告迟于标准发布日期发布。



## **Annex**

# **Report of the Working Group of Experts on People of African Descent on its mission to Peru**

## **I. Introduction**

1. The Working Group of Experts on People of African Descent undertook a visit to Peru at the invitation of the Government from 25 February to 4 March 2020. The members of the delegation were Ahmed Reid (Chair), Dominique Day (Vice-Chair) and Sabelo Gumedze.
2. During the visit, the Working Group assessed the situation of human rights of people of African descent living in Peru, and gathered information on racism, racial discrimination, xenophobia, Afrophobia and related intolerance that they face. It examined the official measures taken and mechanisms intended to prevent structural racial discrimination and protect victims of racism, and the responses to multiple forms of discrimination according to the concept of intersectionality. The Working Group visited Lima, Ypatera, Piura, Chiclayo, Chincha and Ica.
3. The Working Group met representatives of several central government ministries in Lima, including of the Ministries of Foreign Affairs, Culture, Justice and Human Rights, Development and Social Inclusion, Women and Vulnerable Populations, the Interior, Health, Labour, and Housing, Construction and Sanitation, Education, the Presidency and the Council of Ministers, and of the National Institute of Statistics (INEI). It also met with senior officials at the regional and provincial levels, Afro-Peruvians, representatives of civil society, and United Nations entities working to promote the rights of people of African descent, and also with representatives of the National Police of Peru, the Office of the Public Prosecutor, the National Anti-Discrimination Commission (CONACOD), the National Institute for the Defence of Competition and Protection of Intellectual Property (INDECOPI) and the Office of the Ombudsperson. The Working Group also visited the Casa de la Cultura in Ypatera and the exhibit “La Arqueología de la Esclavitud en las Haciendas de Nasca” at the Museo Regional de Ica.
4. The Working Group met with various local government authorities, including judicial and law enforcement authorities, in Piura and Ica regarding human rights, education, health, employment, housing and culture. In all cities that the Working Group visited, it also met a considerable number of Afro-Peruvians, human rights activists, lawyers, academics and representatives of non-governmental organizations.
5. The Working Group thanks the Government of Peru for its invitation and the authorities in the provinces of Lima, Piura and Ica for their support and cooperation during the visit. It thanks in particular the Ministry of Foreign Affairs. The Working Group also extends its thanks to the United Nations agencies in Lima for their support. It also expresses its appreciation to Afro-Peruvian civil society in various parts of the country, and for the feedback from all those who shared their views on the situation of human rights of people of African descent in the country.

## **II. Historical overview and population**

6. Peru is located in western South America, along the Pacific coast, and bordered by the Plurinational State of Bolivia, Brazil, Chile, Colombia and Ecuador. The country has a land area of 1,285,215.9 km<sup>2</sup>. Administratively, Peru is divided into 24 departments, one constitutionally autonomous province, 195 provinces and 1,845 districts.

7. The Afro-descendent presence in Peru dates back to the arrival of the Spanish conquerors and during the first half of the sixteenth century. Today's Afro-Peruvians are descended from enslaved Africans, brought to the colonies by the Spanish conquerors to perform forced labour. In that first migration, many enslaved Africans came directly from Africa, or from Spain or other colonies. By 1850, approximately 95,000 enslaved Africans had been brought into Peru. The legacy of enslavement and the trade in enslaved Africans, manifested in racism, racial discrimination, Afrophobia, xenophobia and related intolerance, remains evident for Afro-Peruvians in Peruvian society today.

8. The latest national census, conducted by the National Institute of Statistics in 2017, introduced the variable of ethnic self-identification for the first time since the censuses of 1876 and 1940.<sup>1</sup> In 2017, 828,894 people (3.6 per cent of the total population) self-identified as Afro-Peruvian. Civil society reports a higher number of Afro-Peruvians (10 per cent of the population, or as many as 3 million). This disparity may have various reasons, such as the forced choice between categories of *mestizo* and "Afro-Peruvian" that conceals Afro-Peruvians and fragments identity. In the census, self-identified Afro-Peruvians were geographically concentrated in six departments: Lima (26.86 per cent), Piura (8.9 per cent), La Libertad (7.4 per cent), Lambayeque (8.45 per cent), Cajamarca (5.82 per cent), Ica (5 per cent) and the Constitutional Province of Callao (4.86 per cent).<sup>2</sup>

### III. Legal framework and steps taken to protect the human rights of people of African descent

#### A. Legal framework

9. Peru has ratified all major international human rights treaties. The binding precedent of the Constitutional Court No. 00025-2005-PI/TC and No. 00026-2005-PI/TC (accumulated) stipulates that international human rights treaties enjoy constitutional status and take precedence over domestic legislation. According to article 2, subsection 2 of the Constitution of Peru, which was promulgated on 29 December 1993 and entered into force on 1 January 1994, everyone has the right to equality before the law. No one may be subject to discrimination based on origin, race, sex, language, religion, opinion, economic condition or any other ground. Peru is a signatory to the Andean Charter for the Promotion and Protection of Human Rights, which refers to the rights of communities of African descent. It is also a signatory to the Inter-American Convention against Racism, Racial Discrimination and Related Forms of Intolerance. Article 323 of the Penal Code establishes racial discrimination as an aggravating circumstance, with sanctioned conduct carrying a suspended sentence of two to three years for civilians and of two to four years for public servants, as well as a life-time ban on serving in public office.

#### B. Institutional and policy measures

10. In 2009, the State made a historical apology to Afro-Peruvians, asking for forgiveness for the abuses, exclusion and discrimination perpetrated since the colonial period. Codified in

<sup>1</sup> See Maribel Arrelucea Barrantes, Jesús A. Cosamalón Aguilar, *La Presencia Afrodescendiente en el Perú: Siglos XVI-XX Siglos XVI-XX*, Ministerio de Cultura, 2015, p. 118.  
<https://centroderecursos.cultura.pe/sites/default/files/rb/pdf/La-presencia-afrodescendiente.pdf>.

<sup>2</sup> Censos Nacionales 2017: XII de Población, VII de Vivienda y III de Comunidades Indígenas, Instituto Nacional de Estadística e Informática. Elaboración : Dirección de Políticas para la Población Afroperuana (DAF), Ministerio de Cultura  
([www.inei.gob.pe/media/MenuRecursivo/publicaciones\\_digitales/Est/Lib1642/cap03\\_03.pdf](http://www.inei.gob.pe/media/MenuRecursivo/publicaciones_digitales/Est/Lib1642/cap03_03.pdf)).

supreme resolution No. 010-2009-MIMDES, this symbolic act sought to recognize the legacy of the Afro-Peruvian people.

11. The Ministry of Education recognizes public holidays relating to racial equality, including the International Day for the Elimination of Racial Discrimination (21 March), National Afro-Peruvian Culture Day (4 June), Indigenous Populations and Intercultural Dialogue Day (12 October) and Abolition of Slavery Day (3 December). The holiday on 4 June also commemorates Nicomedes Santa Cruz, a reputed Afro-Peruvian poet who highlighted the contribution of Afro-Peruvians to national culture. In 2014, the Government, in ministerial resolution No. 182-2014-MC, mandated that Afro-Peruvian culture would be celebrated in June. In 2007, the National Institute of Culture declared the *cajita ritmica Afroperuana*, a percussion instrument, part of the national heritage. In 2015, the United Nations Educational, Scientific and Cultural Organization recognized the Zaña community as a living repository for black collective memory and for the preservation of black identity.

12. According to articles No. 161 and 162 of the Constitution and the Organic Law, the Office of the Ombudsperson oversees compliance of the State with its obligations to collective rights and individual citizens. In February 2011, the Office issued an inaugural analysis of the situation that people of African descent in Peru face.<sup>3</sup> In 2014, the Ministry of Women and Vulnerable Groups published *Afroperuanas: Situación y Marco Legal de Protección de sus Derechos*. The Indigenous and Afro-Peruvian Peoples Directorate (under the Office of the Deputy Minister of Interculturality), which was commissioned to develop protection policies, plans and programmes for Afro-Peruvian rights and development, has to date established public policies, consolidated representative participation, developed an information system, and strengthened the visibility and institutional coordination of Afro-Peruvians in Peru.

13. Representatives of civil society reported to the Working Group that, in 2011, the Ministry of Culture replaced the legal category of *pueblo afroperuano* (Afro-Peruvian people) with *población afroperuana* (Afro-Peruvian population). This is a significant cause for concern, given that it raises the prospect of the potential erasure of recognition for Afro-Peruvian communities and the erosion of the rights to consultation and to consent in decisions affecting the collective rights of Afro-Peruvians, as enshrined in Convention No. 169 of the International Labour Organization (ILO) concerning Indigenous and Tribal Peoples in Independent Countries [Indigenous and Tribal Peoples Convention, 1989 and international human rights law.

14. Since 2013, the Directorate of Cultural Diversity and Elimination of Racial Discrimination, under the Ministry of Culture, has administered programmes to eliminate racial discrimination. The *Alerta contra el racismo* (“Racism Warning”) programme allowed citizens to report acts of ethnic racial discrimination. The National Anti-Discrimination Commission, a standing multisectoral body, was established in 2013 with a mandate to design, implement, operate and assess the national platform for action against discrimination. The National Institute for the Defence of Competition and Protection of Intellectual Property (INDECOPI) is another specialized public body attached to the Presidency of the Council of Ministers responsible for market promotion and the protection of consumer rights, including against racism. Its activities began in 1992, pursuant to decree No. 25868.

15. In 2015, the Ministry of Culture promulgated Supreme Decree 004-2015-MC with purpose of strengthening the development and promoting the social inclusion of Afro-Peruvians in the context of the International Decade for People of African Descent.<sup>4</sup> All sectors and levels

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<sup>3</sup> Defensoría del Pueblo, *Los Afrodescendientes en el Perú: Una Aproximación a su Realidad y al Ejercicio de sus Derechos*, Lima, 2011.

<sup>4</sup> [www.gob.pe/institucion/cultura/normas-legales/206209-004-2015-mc](http://www.gob.pe/institucion/cultura/normas-legales/206209-004-2015-mc).

of government were directed to formulate and implement programmes, projects and actions to strengthen the human rights of Afro-Peruvians.<sup>5</sup>

16. In July 2016, the Government of Peru approved the National Development Plan for the Afro-Peruvian Population (2016–2020).<sup>6</sup> The National Development Plan aims to ensure comprehensive, cross-sectional development for Afro-Peruvians, with equal opportunities and without discrimination. In its proposal for action, the Plan contains four strategic objectives: (a) guarantee statistical visibility; (b) guarantee the rights to equality and non-discrimination; (c) promote social, political, economic, productive and cultural development, including recognition of contributions; and (d) strengthen public institutions and promote participation in and access to decision-making bodies.

17. In approving the National Development Plan, the State placed the Ministry of Culture in charge of monitoring compliance. Given the specificity of the objectives and actions, a strategy for the implementation of the Plan was enacted at three levels of government. Given their concentration of Afro-Peruvians, the regions of Piura, Lambayeque, Ica, Lima and Callao were designated priority areas.<sup>7</sup> The Plan encompassed intercultural and sectoral policies on employment, education, health and human rights for Afro-Peruvians.

18. In 2016, a registry of Afro-Peruvian representative organizations was officially established, alongside the Grupo de Trabajo con Población Afroperuana, a working group responsible for facilitating dialogue between the Executive and Afro-Peruvian civil society for the formulation and monitoring of public policy. The national human rights plan (2018–2021) aims to draft a strategy document on guaranteeing the implementation of public policies in favour of “groups that require special attention”.<sup>8</sup>

19. The Office of the Ombudsperson has the authority to remind public authorities and institutions of their legal duties and to suggest the adoption of measures that enable Afro-Peruvians to exercise their human rights. The Office has in the past advised the State to implement an effective policy to prevent racism or racial discrimination, to deconstruct prejudices, stigmas and stereotypes against Afro-Peruvians, to fight racist hate speech, and to change racist structures in society or public institutions. In March 2020, the Office issued an evaluation of the National Development Plan for the Afro-Peruvian Population, noting the lack of implementation political will and guidance designating clear authority to implement the National Development Plan.

20. The national policy for mainstreaming an intercultural approach was approved by Supreme Decree No. 003-2015-MC. In 2019, the President of Peru signed and presented to the Congress a draft bill (still pending) on measures to counter racial discrimination. Peru is currently setting policies in the context of the 2030 Agenda for Sustainable Development, although according to civil society sources, the State has not yet introduced a public policy specific to reducing poverty in Afro-Peruvian communities. In 2019, the Government also adopted “Visión al 2050”, an aspirational approach to the next 30 years, approved by consensus by the Foro del Acuerdo Nacional. In 2021, Peru will celebrate the bicentennial of its independence. The Ministry of Culture plans to reflect the contribution made by Afro-Peruvians in various publications on the culture and history of Afrodescendants in Peru. Afro-Peruvians cite the importance of their visibility in the bicentennial celebrations, referring to the

<sup>5</sup> [www.cepal.org/es/publicaciones/42654-situacion-personas-afrodescendientes-america-latina-desafios-politicas-la](http://www.cepal.org/es/publicaciones/42654-situacion-personas-afrodescendientes-america-latina-desafios-politicas-la).

<sup>6</sup> [www.gob.pe/institucion/cultura/normas-legales/206206-003-2016-mc](http://www.gob.pe/institucion/cultura/normas-legales/206206-003-2016-mc).

<sup>7</sup> [www.gob.pe/institucion/cultura/normas-legales/209075-162-2016-mc](http://www.gob.pe/institucion/cultura/normas-legales/209075-162-2016-mc).

<sup>8</sup> [www.minjus.gob.pe/wp-content/uploads/2018/02/PNDH-2018-2021.pdf](http://www.minjus.gob.pe/wp-content/uploads/2018/02/PNDH-2018-2021.pdf).

opportunity for Peru to mark its independence by honouring all of the cultures that have contributed to its history.

## IV. Manifestations of systemic racial discrimination

### A. Systematic denial of access to public administration, goods and services

21. Throughout the public sector, poor implementation of the State's robust anti-discrimination framework has led to a profound denial of access of Afro-Peruvians to public administration, goods and services. Lack of investment in public utilities, infrastructure and irrigation, and of the formalization of land title, education and health has resulted in a comprehensive lack of access to basic services and the denial of core human rights for many Afro-Peruvians. In addition, private sector employers regard Afro-Peruvians as a resource to be exploited while openly ignoring their human rights, without any intervention by the State.

22. Public investment in human capital, research and development has in a similar disregarded the potential offered by the Afro-Peruvian community. Even periods of widespread economic growth in Peru have been accompanied by a significant decline in the socioeconomic status of Afro-Peruvians.<sup>9</sup> Together, this multifaceted denial of the benefits offered by the public administration has limited growth, trade and welfare at every level in the Afrodescendent community.<sup>10</sup>

23. Systemic racism plays a key role in the denial of public administration, goods and services to Afro-Peruvians. The national survey conducted in 2017 on perceptions of cultural diversity in Peru found that while 60 per cent of Peruvians believed that racial discrimination against Afro-Peruvian persons existed, only 8 per cent of them saw themselves as racist or perpetuating racism. Afro-Peruvians reported manifestations of racial discrimination particularly when they were seeking access to public services, such as health-care centres, schools and the police.

24. Private sector employers have taken advantage of the desperation felt in these communities, while Afro-Peruvians themselves report cases of exploitation in the private sector and denounce the lack of recourse for extreme exploitation by agribusiness employers. Without any meaningful access to alternative employment or education, Afro-Peruvians often tolerate shocking living and working conditions at the hands of agribusiness, including unconscionable contracts that lease land on terms asymmetrical to payment (including inconsistent currencies) for the produce that the land eventually yields. In addition, Afro-Peruvians have been largely ignored in discussions on development, sometimes openly deprioritized in favour of the indigenous population.

25. This is particularly important for Afro-Peruvians living and working in areas where agribusiness, and oil and hydroelectric production by Peruvian and international companies are prominent. For example, some exploitative practices adopted by agribusiness and hydroelectric companies, including using state-of-the-art technology to dig much deeper wells in areas with water scarcity, and using shallow community wells of water, results in the denial of access to safe drinking water for Afro-Peruvians. Similarly, the development of natural gas pipelines has a direct impact on Afro-Peruvian livelihoods in fishing areas. These projects were nonetheless approved without any consultation with or compensation for the Afro-Peruvian communities affected, regardless of the fact that they have lived on these lands for centuries. In some cases,

<sup>9</sup> Martin Benavides et al., *Estudio Especializado sobre Población Afroperuana* (Lima, Ministerio de Cultura del Perú y Grupo de Análisis para el Desarrollo (GRADE), 2015).

<sup>10</sup> Jean-Marc Fournier, "The Positive Effect of Public Investment on Potential Growth", OECD Economics Department Working Papers No. 1347.

environmental impact statements refer to Afro-Peruvian traditions of music, dance and food without any acknowledgement or assessment of how water rights and the basic needs of Afro-Peruvian communities will be affected.

26. The National Development Plan for the Afro-Peruvian Population was intended to be a comprehensive, cross-cutting project to coordinate public management and the promotion of human rights for Afro-Peruvians. The Office of the Ombudsperson reported concerns at the Plan's design, which lacked adequate baselines, and its implementation.

27. The disregard to which Afro-Peruvians are subject in their access to public administration, goods and services was reflected by the approach taken by the State in the implementation of the National Development Plan. The lack of interest shown by government ministries in the Plan was manifest as a lack of political will; indeed, only eight of 19 ministries agreed to implement it. As the Ombudsperson reported, the Ministries of Health, Labour and Education failed to designate a vice-ministry or division to implement the Plan or to promulgate related regulations. Other ministries, like the Ministry for Development and Social Inclusion, did not participate in the Plan at all, and failed to collect or disaggregate data to evaluate the impact of social policy on the Afro-descendent population. This specific exclusion, recognized at the national level by the Ombudsperson, was also mentioned by Afro-Peruvians in El Carmen, where the Working Group travelled down unpaved roads to meet with civil society representatives in a community that lacked running water and infrastructure. No ministry explained or justified its inaction in this regard.

28. In its evaluation, the Office of the Ombudsperson noted the limitations of mainstreaming an intercultural approach, which was mostly focused on indigenous peoples, not Afro-Peruvians. These included the lack of data on the socioeconomic status of the Afro-Peruvian population; the lack of a budget for the implementation of the National Development Plan; the absence of an adequate monitoring and evaluation system; and the lack of capacity of regional governments. The efforts made by the Ministry of Culture lacked political support; in its report, the Office of the Ombudsperson also noted the weakness of the National Anti-Discrimination Commission. Once again, the very concerns raised by the Ombudsperson were echoed by civil society and public officials in their meetings with the Working Group.

29. The lack of implementation of the National Development Plan for the Afro-Peruvian Population has also led to institutional failures to use the information gathered by the National Institute of Statistics incorporating the ethnicity variable with respect to Afro-Peruvians, although reported delays in generating race and ethnicity statistics also played a role. The Ombudsperson recommended that ministries expedite analysis and incorporation of data from the 2017 national census.

30. The Ombudsperson also noted the impact of the lack of regulations specifying clear authority to implement the National Development Plan for the Afro-Peruvian Population: of the 10 regional governments, half claimed ignorance of the National Development Plan, lack of competence to implement it, or suggested that the Plan was the exclusive responsibility of the Ministry of Culture. The regional government of Lima, where nearly one third of all people of African descent in Peru live, did not respond to the Ombudsperson's request for information. Only the regional governments of Ica and Piura issued specific ordinances to draft plans to implement the Plan. Therefore, rather than serving as an initiative to address the needs of Afro-Peruvians, the Plan has become a complex means of facilitating avoidance of that responsibility, resulting in a profound failure of public administration to serve Afro-Peruvians.

31. With no intent to follow up the National Development Plan for the Afro-Peruvian Population with a dedicated plan for Afro-Peruvians, the National Centre for Strategic Planning (CEPLAN) has indicated that it will be integrated into an imminent national policy on mainstreaming an intercultural approach. No government official was, however, able to clarify what funding, resources, structure and authority the policy would have in promoting and

protecting the rights of Afro-Peruvians. As the National Development Plan is already coming to an end, the matter is of particular concern.

32. Part of the issues of the visibility and development of Afro-Peruvians is the acknowledgment of their collective rights. Their status as a people (as against a population) under ILO Convention No. 169, and the resulting rights framework under international law, offers them the protection they need. Civil society representatives have reported revisions to this policy, without field studies or consultations with Afro-Peruvian communities being conducted; any decision to downgrade the status of Afro-Peruvians from “people” to “population” would therefore not be the result of an adequate or legitimate process, and may indeed constitute the institutional denial of collective rights and the suppression of Afro-Peruvian identity. Such a concern appears to be well-founded. According to one submission received from civil society in response to a call for submissions regarding the coronavirus (COVID-19) pandemic, the law adopted on 30 May 2020<sup>11</sup> supporting the collection of data in the COVID-19 health emergency excluded the term “Afro-Peruvian” from its final version. The official reason for the refusal to collect disaggregated data on the impact of COVID-19 among Afro-Peruvians (despite the stark racial disparities for people of African descent globally) was because no technical or legal instrument conferred status as a “people” to Afro-Peruvians.

33. For Afro-Peruvians with intersectional identities, a severe lack of access to public administration persists in policy and practice, as reported by women, LGBTI persons, migrants, young people and persons with disabilities. Public policy does not routinely include intersectional analysis. Workplace training and guidance often fail to raise awareness of or support for public policy, rendering public services (such as public restrooms) traumatizing for some Afro-Peruvians, including some LGBTI persons. In addition, public interventions to address the lack of networks, mentoring and informal assistance for LGBTI persons and other Afro-Peruvians appear non-existent, leaving intersectional populations in a particularly precarious situation with respect to, inter alia, education, employment and health care.

34. In Peru, State institutions do not reflect the diversity of its population. Afro-Peruvians have minimal representation in public and private institutions. Furthermore, international organizations are not always a paradigm of inclusiveness; for example, the United Nations country team has no people of African descent in its leadership.

35. Many discriminatory marketing practices and advertisements originate from international public relations entities or external sources.<sup>12</sup> Racial disparities and a lack of representation – even resulting from race-neutral policies in Peruvian or international organizations – license and perpetuate racial discrimination.

36. To their credit, several public officials at the national, regional and local levels have demonstrated insight into the complex task of dismantling systemic racism against people of African descent. Members of the judiciary and the ministries and directorates responsible for culture and education have demonstrated a clear and nuanced understanding of this persistent reality. Some ministries and directorates, including those responsible for housing, construction and sanitation, and education, reported existing or future innovative projects to target the needs of Afro-Peruvians and the barriers to access to existing programmes. The director of the Afro-Peruvian Policy Directorate of the Ministry of Culture demonstrated particular insight and expertise throughout the Working Group’s visit.

37. The Office of the Ombudsperson also has credible expertise with respect to the situation of people of African descent in Peru. In its comprehensive evaluation of the National

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<sup>11</sup> [www.gob.pe/institucion/cultura/normas-legales/633316-005-2020-mc](http://www.gob.pe/institucion/cultura/normas-legales/633316-005-2020-mc).

<sup>12</sup> For example, the Directorate of Cultural Diversity and Elimination of Racial Discrimination referred to an advertisement in 2018 for mattresses that suggested that Afro-descendent women lacked proper hygiene and smelled bad, reinforcing a common racist trope.

Development Plan for the Afro-Peruvian Population, it noted that the lack of effective implementation began with a lack of political will, and that the absence of a general anti-discrimination law or registries of Afro-Peruvians affected the capacity to implement the Plan. The Ombudsperson has, inter alia, called upon the Government to approve a specific and autonomous national policy for Afro-Peruvians.

38. Peru has a vibrant group of academic researchers documenting and investigating the Afro-Peruvian community. Several are Afro-Peruvian themselves, and are connected to universities or the Group for the Analysis of Development. To the Government's credit, a leading researcher into Afro-Peruvian experiences and racial discrimination was recently appointed Minister of Education. Nonetheless, the contributions of academics and researchers studying the situation of Afro-Peruvians have not had adequately broad influence in public policy.

39. Lastly, the collection and analysis of disaggregated data based on race and ethnicity is an important way to understand the material deprivation of groups and progress in remediation. Afro-Peruvians face disproportionately higher levels of poverty and barriers to access to land, clean water, education, health care, housing and economic opportunity. A study conducted in 2014 found that only 3 of 100 Afro-Peruvians had access to tertiary education.<sup>13</sup> In 2018, while national poverty levels averaged 20.5 per cent, Afro-Peruvian poverty was 27.5 per cent. It appears that the State has nevertheless excluded Afro-Peruvian identity as a category from COVID-19 data collected pursuant to the supreme decree issued on 30 May 2020.<sup>14</sup>

## **B. Invisibility, lack of recognition, and stereotyping**

40. Despite its institutional and policy framework, Peru faces challenges in realizing civil and political rights, and economic, social and cultural rights as well. Most Peruvians have witnessed discrimination against or the mistreatment of Afro-Peruvian people. The national human rights survey conducted in 2013 by the Ministry of Justice and Human Rights found that 64 per cent of Peruvians considered non-discrimination to be the most elusive human right of Afro-Peruvians. A survey conducted in 2017 on perceptions of and attitudes towards cultural diversity and ethnic-racial discrimination found that while 60 per cent of Peruvians perceived racial discrimination against Afro-Peruvian people, only 8 per cent of them saw themselves as racist or perpetuating racism, illustrating the challenge posed when confronting institutional racism.

41. Systemic discrimination against and the institutional invisibility of people of African descent are a legacy of the country's past. Afro-Peruvians were denied the basic human right to legal identity and remained invisible in laws, legislation and policies. This lack of visibility has been compounded by the State's focus on geographical territories and mother-tongue languages, both of which render Afro-Peruvians invisible in local and national data. Interculturality and diversity are embedded in the Afro-Peruvian identity, particularly in its cultural production. The acknowledgment of the contribution and identity of Afro-Peruvians in Peru has, however, been weakened by discrimination, exploitation and disregard. Furthermore, popular conceptions of interculturality often exclude Afro-Peruvian identity. The self-identification of Afro-Peruvians was erroneously perceived as a denial and a rejection of Peruvian identity. This misperception is an important source of the ongoing invisibility of Afro-Peruvians.

42. The inclusion of a self-identification variable in the 2017 census was a demonstration of the State's commitment to offering social protection to Afro-Peruvians. As it is enhanced,

<sup>13</sup> Benavides et al., *Estudio Especializado sobre la Población Afroperuana*.

<sup>14</sup> [www.gob.pe/institucion/cultura/normas-legales/633316-005-2020-mc](http://www.gob.pe/institucion/cultura/normas-legales/633316-005-2020-mc).

the self-identification variable will offer an even more rigorous mechanism to tackle their lack of visibility.

43. The successful launch of the self-identification variable also brought to the surface key issues for the ongoing preparation for the next census, in 2022. These include how the “forced choice” between the broad category of *mestizo* and Afro-Peruvian dilutes Afro-Peruvians; and how, at the regional and local levels, the design of the census sample has limited the analysis of Afro-Peruvians, precluding any analysis of the variation and complexity of these communities. The census offered only a minimal capacity to understand the reality of Afro-Peruvians and their access to social protection, in part because of its heavy reliance on broad geographical territories to connote similarity. For example, the census sample allowed for the measurement of poverty at very local levels, but not specifically the poverty of Afro-Peruvian families in local contexts.

44. Afro-Peruvian history is deeply connected to the category of *mestizo*, which also masks or supplants racial identity in complex ways. Research suggests that adolescents identify as both *mestizo* and Afro-Peruvian when given the option, but if given only one choice they would default to the category of *mestizo*. Other Afro-Peruvians self-identify as *mestizo* to exclude themselves from a group associated with discrimination, to accurately reflect their multiracial identities or for other reasons. The Working Group observed a prison identification photograph of an Afro-Peruvian who was racially identified as *mestizo*. Such self-identification thus warrants further clarification. Deconstructing the broad category of *mestizo*, which effectively dilutes the number of Afro-Peruvians, would allow the recovery of lost Afro-Peruvian history and reveal the current complex realities of Afro-Peruvians.

45. Peru is a country with a *mestizo* majority. In many ways, the Afro-Peruvian population is relegated to a peripheral environment contributing to its lack of visibility. The compartmentalization of Afro-Peruvians within the Ministry of Culture may create restrictions in the realization of other rights. The lack of training of public officials has also licensed racial discrimination against Afro-Peruvians.

46. Access to justice for Afro-Peruvians remains a concern. Representatives of civil society reported to the Working Group that Afro-Peruvians had no access to the justice system owing to financial constraints, racial and gender discrimination, and the absence of police and other services normally provided by the State in remote rural areas. The Working Group was also informed about xenophobia and the use of hate speech against Venezuelan migrants (some of whom of African descent) by government officials, politicians and the media.

47. People of African descent created, nurtured and grew the mango industry in Peru, a significant agricultural product for sale and export. While Peru is a country of extraordinary agricultural and culinary diversity, mangoes came to Peru via the trade and trafficking of enslaved Africans. Today at the heart of a multimillion-dollar industry, mango trees are still nurtured by people of African descent – and yet, nowhere are they mentioned in literature, media reports or discussions on the national mango industry.

48. In January 2020, Peru reported more than \$70 million in mango exports, and an additional \$10 to \$15 million in canned, frozen or dried mangoes (down from over \$80 million in January 2018). Such a contribution to the Peruvian economy is directly attributable to the first people of African descent in Peru, who laboured to bring, site, nurture and produce fruit from early mango trees. Most mangoes in Peru are grown in the Piura region, where, in Yapatara, the Working Group spoke with several Afro-Peruvian mango farmers who lacked the modern irrigation infrastructure necessary to cope with drought or weather irregularities. They were routinely unable to secure a fair price for their produce, which was exported at many times the price paid to it. In addition, no government support recognized their contribution to the development of a successful industry or sought to support their pursuit of additional ideas, production or creativity within it. Their ideas for products, to engage in global fair trade markets, and to stabilize production with modern practices did not gain traction inside the government,

nor did their talented youth receive scholarships or other incentives to learn modern agricultural, business or other related practices.

49. The Working Group was unable to view the National Afro-Peruvian Museum, which was still closed at the time of its visit. The Museum has not been formally designated a museum, despite 12 years of intermittent operation during which it has changed location and been under different jurisdictions. Representatives of the Ministry of Culture envisioned the Museum as an important forum for convening members of civil society.

50. The Working Group was particularly concerned by the prevalence of the negative racial stereotyping of Afro-Peruvians. The Afro-Peruvian community continues to endure racial prejudice from the media, businesses and even public officials. Representatives of civil society reported that schools often witness racial stereotypes, racist jokes, insults and even violence, perpetrated with impunity, consequently normalizing racism and discrimination for future generations. Afro-Peruvians may construct their identities away from blackness to better realize certain rights. These stereotypes also feed the impunity of discrimination based on skin colour for Afro-Peruvians in public spaces outside schools.

51. Media and cultural production remain ongoing sources of racism in Peruvian society. Portrayals of people of African descent that invoke long-held racial stereotypes encourage bias. The use of blackface and racist advertising that reduce Afro-Peruvians to a negative or ancillary status are evident in the advertising of consumer products and in programming. The National Institute for the Defence of Competition and Protection of Intellectual Property and the Ministry of Transportation and Communications have demonstrated insight and discussed the implementation of robust frameworks targeting racist advertising and racism in the media, including accountability and fines for discrimination in the media, as well as affirmative campaigns with Afro-Peruvian influencers. High-profile cases have indeed been taken up by the Institute, which it has the capacity to follow over time. In addition, the Ministry of Culture has conducted joint media and social media campaigns on racial discrimination in the media.

52. Such programming nonetheless continues with impunity. The powerful influence of the media on social perception suggests that racial stereotypes are accepted uncritically, including by many Afro-Peruvians themselves, further complicating and burdening self-identification as Afro-Peruvian. Members of the Working Group had a viewing of “Negro Mama”, a prime-time comedy sketch television programme featuring blackface that is still airing on the *Frecuencia Latina* network, despite its acknowledgment and apology for the programme, and a significant fine levied on the network several years ago. The main character is played by an actor who paints his face black, wears hairy black gloves and dons grotesquely large prosthetic nose and lips. The actor deliberately animates racial tropes, and uses diminutive terms for people of African descent, self-references as *negrito* and jokes about his little brain. In 2010, a legal case was brought alleging that the broadcasting of the character was itself a violation of the dignity of people of African descent.

53. These concepts are seen elsewhere, such as larger-than-life blackface puppets observed by the Working Group in Lima and Chincha. They were sometimes endorsed by Afro-Peruvians, authorized by similar portrayals on television. At the chic Larcomar Mall in Lima, the only presence of Afro-Peruvians observed by the Working Group were blackface dolls for sale in shops.

54. It is difficult to overstate the impact of blackface programming and negative racial stereotypes in the media, including the normalization and legitimization of anti-blackness. Many Afro-Peruvians, particularly young people, condemn these products and programming as destructive. Those making racist portrayals of Afro-Peruvians, offered as entertainment, ignore their toxic impact, normalizing racial stereotypes and bias for the public at large. In its concluding observations on Peru, the Committee on the Elimination of Racial Discrimination described how this perpetuates racial prejudice (CERD/C/PER/CO/22-23, paras. 40–41).

### C. Barriers in access to education, health, housing and employment

55. The pervasiveness of the structural discrimination that Afro-Peruvians endure is reflected in disparities in education, employment, housing, health and living standards. Afro-Peruvians face challenges in their access to their economic, social and cultural rights, which in turn poses a serious challenge to the State's ability to implement the 2030 Agenda for Sustainable Development. Meeting the Sustainable Development Goals will require the dismantling of systemic barriers grounded in racial discrimination. Some Afro-Peruvians reported their lack of access to running or safe drinking water, and those who did have access reported having water only a few hours a day. In addition, the absence of local police in their communities, paved roads, bridges and public services (such as waste removal) were commonly reported. Afro-Peruvians have lived in Peru since the 1500s; but as one Afro-Peruvian noted, "it's the bicentennial but we are still living like we did before independence".

56. Afro-Peruvians suffer disproportionately from hypertension, high cholesterol, diabetes and cardiac problems. Afro-Peruvian children suffer from malnutrition and anaemia. The right of Afro-Peruvians to health is limited as a result of their poverty; they are often entitled only to the State-run comprehensive health insurance system, which is ineffective and inaccessible to many rural communities. An administrative directive mandating the registration of ethnicity in the health information system has not yet been implemented, preventing the development of an understanding of the specific challenges that Afro-Peruvians face and the limits in their ability to have access to quality health care. In particular, the lack of updated statistical data has made it difficult to estimate how many Afro-Peruvian children do not have adequate access to health care. The Working Group learned that racial stereotypes of Afro-Peruvian women seriously affected their access to health care.

57. The Working Group learned that educational material, textbooks, curricula and resources consistently fail to include the contribution of Afro-Peruvians to the history and development of Peruvian society. In Ica, the Working Group heard reports of the closure of universities without alternatives and lost family investments, schools with leaking classrooms, widespread lack of access to running water, and insufficient textbooks.

58. In 2014, 13 per cent of Afro-Peruvian children reported discrimination based on their skin colour in schools. Peruvian researchers have confirmed that Afro-Peruvian children suffer more racial discrimination than any other minority group.<sup>15</sup>

59. With respect to higher education, Afro-Peruvians fared below the national average, with only 3.38 per cent completing university studies. Their rate of access to any higher education was substantially lower than the national average, particularly in rural areas. Despite a slight increase in that figure between 2004 and 2014 (from 25.7 per cent to 33.1 per cent of young people between the ages of 18 to 26 years), university matriculation of Afro-Peruvians remained below the national average (43.4 per cent).

60. Reportedly, few options exist for outstanding Afro-Peruvian students. In one rural area, civil society representatives reported the case of a family that had saved a full year's wages to send their child to university. After the first year, the Government withdrew accreditation of the university without making any provisions for matriculated students to remain at university, to transfer their credits or to recover their investments. While the quality of university education should remain high, the closure of a university serving the poorest residents should be accompanied by efforts and assistance, including financial assistance, to ensure that capable

<sup>15</sup> Martin Benavides, et al., "Access to higher education of Afro-Peruvians: disentangling the influence of skin color and social origins in the Peruvian stratification system", *Sociology of Race and Ethnicity*, vol. 5, No. 3, p. 354, citing Martin Benavides "Situación actual de la población Afrodescendiente en tres localidades del Peru" (unpublished), Lima, GRADE, Fundación Bernard Van Leer.

students with potential are not lost in the process, or that the extreme sacrifices of families concerned are not squandered.

61. Land tenure and security are elusive for Afro-Peruvians. Although the presence of people of African descent in Peru dates back to the period of enslavement, their land titles have never been properly formalized. Conflicts between communities of African descent and large industrial companies relate to hydroelectricity and development projects that disregard the use of water by communities where drinkable water is scarce. Nor has the historical presence of Afro-Peruvians in these areas protected their rights. For example, many oilfield projects negotiated in Tumbes, Piura, Lambayeque and La Libertad were conducted without consultation with or consideration of Afro-Peruvian communities.

62. The Working Group identified home ownership as a major problem for people of African descent, particularly in places like Piura. In coastal areas, ownership was also affected by natural disasters, such as the earthquakes, which are common occurrences owing to the country's location in a seismic zone. In 2004, 5.3 per cent of Afro-Peruvians had inadequate housing, a percentage that had risen to 8 per cent by 2014. On the south coast, during the same time period, the proportion of Afro-Peruvian households affected by inadequate housing rose from 3.7 per cent to 17.6 per cent, an increase associated with the impact of the earthquake that struck the Ica region in 2007.<sup>16</sup>

63. According to a study published in 2015, 37 per cent of Afro-Peruvians received less than the minimum living wage, while 43.3 per cent stated that they had been the victim of discrimination.<sup>17</sup> Racial discrimination is particularly evident in areas where subjective decision-making empowers misconduct, as has been confirmed by research on the fairness of the hiring process; Peruvian academic researchers have in fact demonstrated that fictitious white applicants received 19 per cent more callbacks for interviews than similarly qualified fictitious Afro-Peruvian applicants, and noted that discrimination dynamics in employment were largely overlooked in existing employment research.<sup>18</sup> Similarly, the National Institute for the Defence of Competition and Protection of Intellectual Property reported having determined that Afro-Peruvians were being denied access or charged inappropriately to enter social venues.

64. The Ministry of Justice and Human Rights is designing a national action plan on business and human rights that could offer explicit protection for the rights of Afro-Peruvians, although stakeholder consultations have yet to create an enabling environment, enhance national partnerships to prevent racial discrimination or sought to provide effective remedies to victims.

65. Disaster relief, disaster recovery, disaster risk reduction and reconstruction strategies have lacked an understanding of the human rights obligations to eradicate racial discrimination. Peru is vulnerable to climate change. In Piura, climate change has had an impact on Afro-Peruvian farmers, as rising temperatures and lack of rain and irrigation threatens agricultural production. In 2019, the State adopted a framework law on climate change, which aims to promote public policies, such as measures to adapt to and mitigate the impact of climate change to reduce vulnerability. Afro-Peruvian communities, however, stated that their concerns might not be adequately prioritized by the Government.

66. Since its visit to Peru, the Working Group has been informed about the devastating impact of the COVID-19 pandemic in the country. Early reports raise several surprising concerns. For example, on 30 May 2020, a law relating to the COVID-19 health emergency

<sup>16</sup> Benavides, *Estudio Especializado sobre Población Afroperuana*.

<sup>17</sup> Ibid.

<sup>18</sup> Francisco B. Galarza and Gustavo Yamada, "Afro-descendants in Peru: Do beauty and race matter in the labor market?", *Review of Development Economics*, 27 August 2018.

authorized the collection of racial/ethnic data.<sup>19</sup> According to representatives of civil society, the law in its final form did not include an option to designate Afro-Peruvians, reportedly because no legal requirement exists to support the status of Afro-Peruvians as a “people”. The Government has not taken any measures to prevent racial bias from pervading the pandemic health response, claiming that no specific policies or differentiated protection measures were required for people of African descent, although they would receive facemasks and food baskets. The concern that COVID-19 might disproportionately affect Afro-Peruvians was dismissed as media-driven hyperbole.

#### **D. Intersectional and multiple forms of discrimination**

67. Afro-Peruvians also reported complex, intersectional forms of discrimination. Afro-Peruvian women stated that their access to health care was complicated not merely by economic barriers but also by stereotyping, health assumptions based on their race, cultural insensitivity, general disregard for their humanity and overall mistreatment. This was confirmed in a 2014 analysis published by the Ministry for Women and Vulnerable Groups (see para. 12 above). Afro-Peruvian women also described in detail their experiences of racialized harassment, disrespect and disregard when reporting sexual assault and domestic violence to the police. The Working Group directly relayed these concerns to local, regional and national police, but only one public official, the head of the Department of Democratic Policing, demonstrated any insight into or understanding of the nature and gravity of this concern.

68. In addition, according to representatives of civil society, the draft of the national culture policy excluded all recognition of intersectional contexts, such as for persons with disabilities, migrant workers, refugees, asylum seekers, women or LGBTI persons of African descent. For example, one policy acknowledged the significant problem of gender-based and domestic violence faced by Afro-Peruvian women without providing any specific measures for them. If approved, the policy is unlikely to be effective in addressing the multiple and intersecting forms of racial discrimination that Afro-Peruvians face.

69. Afro-Peruvian LGBTI persons referred to exclusion from all statistical measures (including the census), ongoing lack of visibility, “corrective” violence and sexual assault, and lack of recognition in identification documents, access to health care for transgender persons, and more. They stated that fear, harassment and violence had been normalized, that basic and routine activities were often traumatizing, and that they were disproportionately exposed to the risk of violence and impoverishment. These are chronic violations of human rights. Afro-Peruvian LGBTI persons do not benefit from any identity law that would facilitate the registration of a transgender person’s chosen name and identity; rather, such persons have to navigate an expensive, pathologizing and invasive process for legal name change, as mandated by the congress. Three witnesses, a doctor’s diagnosis of gender dysphoria, expensive fees and ongoing individual responsibility to notify each and every agency with which they interact are the high costs associated with using one’s chosen name, which create a profound denial of self-determination at the direct instigation of the State. Worse, even gender confirmation surgery is not sufficient to guarantee a legal change in gender, given that a physical inspection is also required.

70. Afro-Peruvian women and girls suffer disproportionately from a lack of access to education and from high illiteracy levels. For instance, along the northern Pacific coast, where the Afro-Peruvian population is most heavily concentrated, only 26.9 per cent of girls have access to education as against 42.3 per cent of girls from all racial groups in the same

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<sup>19</sup> [www.gob.pe/institucion/cultura/normas-legales/633316-005-2020-mc](http://www.gob.pe/institucion/cultura/normas-legales/633316-005-2020-mc).

geographical area.<sup>20</sup> Overall, Afro-Peruvians have higher illiteracy rates (6 per cent against the national average of 4 per cent), especially among women, whose illiteracy rates are twice that of Afro-Peruvian men. Afro-Peruvian women also have the lowest percentage of secondary education in rural areas.

71. Afro-Peruvian women and LGBTI persons have also struggled to have their leadership and professional capacities recognized and rewarded. Some women reported being mistaken for service personnel when they entered professional offices for meetings. Others reported racism in the form of hyper-sexualization – the dehumanizing perception that it is permissible to sexualize certain women’s roles in the workplace and to view women largely as sexual objects, rather than professionals – a widespread tendency that particularly affects women of African descent, and much more than their white counterparts. The Working Group heard consistent testimonies of exclusion, on these grounds and others, from women farmers, trade union leaders and domestic workers.

## V. Conclusions and recommendations

### A. Conclusions

72. **The Working Group noted that several public officials at the national, regional and local levels demonstrated insight into the complex and pervasive problem of the racial discrimination that Afro-Peruvians face in the country. Members of the judiciary, and the ministries and directorates of culture, education, the Office of the Public Prosecutor and the Office of the Ombudsperson demonstrated a clear and nuanced understanding of this persistent reality. Some ministries and directorates, including housing and education, informed the Working Group about existing or future innovative projects targeting the needs of Afro-Peruvians and the barriers in access to existing programmes. The Working Group welcomes the many good practices adopted and positive steps taken to guarantee the human rights of people of African descent in Peru, including:**

- (a) **The historic apology made by the Government in 2009 to Afro-Peruvians for abuse, exclusion and discrimination;**
- (b) **The adoption of the National Development Plan for the Afro-Peruvian Population (2016–2020);**
- (c) **The work of the Directorate for Afro-Peruvians of the Ministry of Culture, including studies and publications on Afro-Peruvians and racial discrimination;**
- (d) **The work of the National Afro-Peruvian Council and the Working Group for Afro-Peruvians;**
- (e) **The promotion by the Office of the Ombudsperson of anti-discrimination policies and the human rights of Afro-Peruvians;**
- (f) **The inaugural inclusion of a racial self-identification variable in the 2017 census and the collection of disaggregated data on Afro-Peruvians by the National Institute of Statistics;**
- (g) **Draft law 37/93 of 2018 on the prevention, elimination and punishment of racism and racial discrimination;**
- (h) **The campaigns conducted to address racial stereotypes and prejudice, including the “Racism Warning”;**

<sup>20</sup> Eliana Villar Márquez, “Barriers to secondary school completion for Afro-Peruvian girls”, Brookings, 6 November 2018.

- (i) The decision to declare June the month for the celebration of Afro-Peruvian culture and heritage;
- (j) Civil society initiatives to promote and protect the human rights of people of African descent and to raise awareness about their identity;
- (k) The efforts made by the Government to implement the programme of activities of the International Decade for People of African Descent;
- (l) The inclusion of Afro-Peruvians as a vulnerable group in the national human rights plan;
- (m) Targeting Afro-Peruvians for improved access to justice in public defence services;
- (n) The drafting of a national action plan on business and human rights, including for Afro-Peruvians;
- (o) The approval of a protocol on human rights defenders, including for Afro-Peruvian human rights defenders.

73. Despite the above-mentioned positive measures, the Working Group is concerned about the prevalence of racial discrimination and the situation of human rights of people of African descent in Peru.

74. The recognition of Afro-Peruvians as a distinct people, with ancestral claims, is essential. Discourses on the visibility and development of Afro-Peruvians should include the acknowledgment of their collective rights. The status of Afro-Peruvians as a people in accordance with ILO Convention No. 169 and the resulting rights framework under international law offer the necessary protection. Civil society hails the importance of the recognition of Afro-Peruvians as a people rather than a population, in order to prevent institutional denial of collective rights, barriers to consultation or enforcement of certain rights, and the suppression of Afro-Peruvian identity. The recent rejection of “Afro-Peruvian” as a category in the collection of COVID-19-related data, reportedly because of their legal status, is a recent example of the risks and barriers that lack of recognition of Afro-Peruvians may cause.

75. The Government has not implemented a mechanism of repair to remediate harm caused, such as the ongoing invisibility of the Afro-Peruvian population in intercultural dialogue and its differences from the indigenous population. Popular conceptions of interculturality often exclude Afro-Peruvian identities, compromise collective rights and result in exclusion from the delivery of public services.

76. The National Anti-Discrimination Commission has an important role to play, but its impact on tackling racial discrimination, racism and xenophobia in an effective way is limited. It should therefore be strengthened.

77. The inclusion of a self-identification variable in the census conducted in 2017 is an important step and a demonstration of the State’s commitment to making visible and offering social protection to Afro-Peruvians.

78. The successful launch of the self-identification variable nevertheless revealed concerns, including how the broad (but necessary) category of *mestizo* may actually misrepresent the number of Afro-Peruvians without due care, and how the design of the sample for the census conceals analysis of Afro-Peruvian experience at the regional and local levels.

79. The National Development Plan for the Afro-Peruvian Population (2016–2020) has not been adequately or systematically implemented. The Working Group is concerned that no specific funding, resources, structure or authority have been specifically designated to promote and protect the human rights of Afro-Peruvians after the Plan has

been implemented. Only eight of 19 ministries have agreed to implement the Plan. Only the regional governments of Ica and Piura have issued specific ordinances to draft plans to implement it.

80. In the public sector, the denial of access of Afro-Peruvians to public administration, goods and services is the result of a lack of implementation of the State's existing anti-discrimination framework. Lack of investment in public utilities, infrastructure and irrigation, of formalization of land title, and of education and health care have led to a denial of access to basic services and to core human rights for many Afro-Peruvians.

81. Similarly, public investments in human capital and in research and development ignore the potential of the Afro-Peruvian community at every socioeconomic and educational level, including academic researchers investigating persistent Afro-Peruvian realities. Even periods of widespread economic growth in Peru have seen a significant decline in the socioeconomic status of Afro-Peruvians.

82. Private sector employers have taken advantage of the desperation felt in the Afro-Peruvian community, while Afro-Peruvians themselves report cases of exploitation in the private sector and denounce the lack of recourse for extreme forms of exploitation by agribusiness employers.

83. The Working Group welcomes the analysis conducted by and resolutions against racial discrimination adopted by the National Institute for the Defence of Competition and Protection of Intellectual Property.

84. Although article 323 of the Penal Code criminalizes racial discrimination, it is little used by Afro-Peruvians. The law is currently being revised to eliminate subjectivity, to make anti-discrimination norms enforceable and to set clear standards.

85. The outbreak of the COVID-19 pandemic in Peru has exacerbated structural racial discrimination faced by Afro-Peruvians, severely undermining their right to health, employment and education.

86. The pervasiveness of structural discrimination faced by Afro-Peruvians is reflected in disparities in education, employment, housing, health and living standards. Some Afro-Peruvians have no bridges to cross rivers, paved streets, waste removal, potable water, access to primary-care facilities or recourse for complex health needs.

87. Bullying and discrimination in schools on the basis of race is a significant concern; their impact on educational performance reflects the mutually reinforcing impact of poverty and racial discrimination.

88. Education is an engine for development, an indispensable tool to eradicate poverty and discrimination and to promote social mobility for Afro-Peruvians. Afro-Peruvians suffer disproportionately from unequal access to quality education, particularly in rural areas.

89. Afro-Peruvians face significant employment discrimination. Large numbers of Afro-Peruvian women perform domestic work, and are often subjected to sexual violence, discrimination and racism.

90. Afro-Peruvians often tolerate shocking living and working conditions at the hands of agribusiness, oil and hydroelectric production industries, including unconscionable contracts; they are denied access to safe drinking water, and their fishing areas are compromised. In some cases, environmental impact statements explicitly recognize Afro-Peruvian cultural traditions without acknowledging or assessing the impact on the water rights and basic needs of Afro-Peruvian communities.

91. Many Afro-Peruvians lack access to appropriate housing and have no land title, despite living on their lands for centuries. The Ministry of Housing, Construction and

Sanitation demonstrated an understanding of these persistent challenges, including the historical lack of land title. In Lima and Ica, ministry representatives cited plans to design specific programmes to navigate obstacles facing Afro-Peruvians.

92. The Working Group is concerned that the National Afro-Peruvian Museum is currently closed, and that it has not yet been formally designated as a museum, despite 12 years of operation.

93. Afro-Peruvian human rights defenders and civil society organizations are subject to violence, harassment, death threats, stigmatization, intimidation and racism.

94. The Working Group notes that, according to the 2017 census, 13 per cent of Afro-Peruvians are over 60 years of age. The absence of any national policy on elderly Afro-Peruvians puts them at risk, given the lack of specific social protection for them.

95. Afro-Peruvians also reported complex, intersectional forms of discrimination. The access of Afro-Peruvian women to health care is complicated by stereotyping and health assumptions based on race, cultural insensitivity, disregard for their humanity and mistreatment. Afro-Peruvian women detailed their experiences of racialized harassment in reporting sexual assault and domestic violence to the police.

96. Afro-Peruvian LGBTI persons experience exclusion, invisibility and sexual violence. Transgender persons specifically lack protection.

97. Climate change has had an impact on Afro-Peruvians, particularly peasants and others living in rural and coastal Peru. The country is also susceptible to natural disasters, such as floods, drought, earthquakes and landslides. In addition, mitigation measures, such as the widening of rivers, are being implemented without consultation with or participation of the Afro-Peruvian communities affected. On a positive note, Peru recently passed a law to create an institutional framework to address climate change. Afro-Peruvians should be actively consulted in its implementation and progression.

98. Portrayals of people of African descent that invoke long-held racial stereotypes and racial bias, including the use of blackface and practices that reduce Afro-Peruvians to a negative or ancillary status, are evident in the advertising of consumer products and in programming.

## **B. Recommendations**

99. The Working Group makes the recommendations below to assist Peru in its efforts to combat all forms of racism, racial discrimination, xenophobia, Afrophobia and related intolerance.

100. The Working Group reiterates the recommendations made by the Committee on the Elimination of Racial Discrimination, namely, that Peru should adopt a comprehensive national policy against racism and racial discrimination that will promote social inclusion and reduce the high levels of inequality and poverty affecting Afro-Peruvians (CERD/C/PER/CO/22-23, para. 13).

101. The Afro-Peruvian Policy Directorate of the Ministry of Culture should receive adequate, dedicated, multi-year funding to support its efforts and leadership on behalf of Afro-Peruvians.

102. Competent agencies in each sector and at every level of government should designate specific personnel and funding to implement policies promoting and protecting the rights of Afro-Peruvians.

103. In the national policy on mainstreaming an intercultural approach, the Government should clarify the funding, personnel and other resources that will be

allocated specifically to Afro-Peruvians, and what measures will ensure that Afro-Peruvians are visible and benefit from the policy.

104. The Government should revise its anti-discrimination legislation to conform with Committee on the Elimination of Racial Discrimination general recommendations No. 35 (2013) on combating racist hate speech and No. 25 (2000) on the gender-related dimensions of racial discrimination in policies and strategies for combating racial discrimination. Article 323 of the Penal Code should be revised in accordance with the existing proposed text shown to the Working Group by the Office of the Public Prosecutor.

105. The National Institute for the Defence of Competition and Protection of Intellectual Property and the Ministry of Transportation and Communications, and the Ethics Tribunal of the National Society of Radio and Television should use outcomes as their primary criteria of success, and revise procedures to create adequate deterrents to ongoing use of racist imagery by the media. While the law criminalizing discrimination is under review, the Public Prosecutor should consider whether such racism is cognizable within the existing text or suggest modifications in order to target intractable misconduct that has not been deterred by fines, public apologies or other civil interventions.

106. The important role of the Office of the Ombudsperson in monitoring the situation of human rights of people of African descent should be recognized and adequately funded, with stable and ongoing support from the State. The Working Group encourages the Government to implement the recommendations made by the Office in its report on the National Development Plan for the Afro-Peruvian Population.

107. Peru should fully implement its anti-discrimination regulatory framework, including by promoting public awareness of this form of social protection and raising awareness of how to submit claims, and also of the imposition of sanctions where appropriate.

108. Action should be taken to implement the United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas to benefit Afro-Peruvians.

109. The Government should recognize collective rights for Afro-Peruvian people, and include specific protections for Afro-Peruvians in the national action plan on business and human rights.

110. The Government should ensure that all public institutions incorporate systematically an ethno-racial variable in administrative record-keeping and data-collection methods.

111. The Working Group urges the Government to facilitate reparatory justice for Afro-Peruvians and to consider adopting the Caribbean Community Ten Point Plan for Reparatory Justice.

112. In its bicentennial plans, the Government should, in consultation with civil society, recognize and render visible Afro-Peruvians who fought in the fight for liberation. The State should also acknowledge the cultural, economic, political, scientific and intellectual contributions made by Afro-Peruvians through the establishment of monuments and memorial sites, and by renaming streets, schools and government buildings in their honour.

113. In preparing for the next census, and other public research and administrative data, the Government should further clarify the variable of *mestizo*. The Working Group recommends (a) a follow-up inquiry among self-identified *mestizos* into the multiple ethnicities/races that comprise their self-identity; (b) a mechanism allowing people to identify with multiple racial or ethnic categories in the census and other surveys incorporating self-identification, thereby eliminating the forced choice between Afro-

Peruvian and *mestizo*; or (c) a similar data-driven intervention to improve the accuracy of data pertaining to Afro-Peruvians.

114. All administrative records should include and standardize the self-identification variable, as defined by the National Institute of Statistics, both within government agencies and with respect to those using public services.

115. The capacity of each sector to collect and use data should be developed in favour of their role to promote the human rights of people of African descent.

116. The census sample designed by the National Institute of Statistics should consciously facilitate analysis of data pertaining to Afro-Peruvian communities (with respect to, for example, poverty and education) regionally and locally, not just nationally.

117. The Working Group urges political leaders and government officials to refrain from using hate speech against Venezuelan migrants.

118. The Government should financially support and draw upon existing academic research on the Afro-Peruvian community.

119. The Government should adopt measures to increase the number of teachers of African descent in educational institutions.

120. The Government should enact new preventive and affirmative public policy to address the high dropout rate of Afro-Peruvian children and the lack of vocational, technical and higher education.

121. The Government should adopt measures, including affirmative action policies, at all levels of education to recognize the existence and impact of structural discrimination, and to combat it.

122. The Government should ensure that quality education is accessible to and available to Afro-Peruvians, and particularly those living in rural and marginalized communities. The Government should support the significant investment and sacrifice that Afro-Peruvians make in sending their children to university, and should commit to making students at universities with lost accreditation “whole”, with alternative access to universities or an equivalent for formerly matriculated students.

123. The Government should revise and develop specific curricula and corresponding teaching materials that respect and recognize history, including the transatlantic trade in Africans, the role of Afro-Peruvians in the country’s independence, and their contribution to the development, diversity and richness of Peru.

124. The Government should ensure that textbooks and other educational materials reflect historical facts accurately, including tragedies and atrocities affecting Afro-Peruvians, to avoid stereotypes and distortion or falsification of historical facts, which could stoke racism, racial discrimination, xenophobia and related intolerance.

125. The Government should implement a public policy to reduce racial disparities and narrow gaps in access to health care and quality of care provided to Afro-Peruvians.

126. The Working Group urges the Government to adopt a systematic and more effective policy for fighting malnutrition and anaemia in Afro-Peruvian children.

127. In order to address racial disparities in employment, quotas and incentives should be effectively implemented within the private and public sectors. Educational interventions to build social capital, social networking and job readiness should be prioritized for all Afro-Peruvians.

128. The Government should ensure that Afro-Peruvians have access to adequate housing, including assisting in the formalization of title to their lands and designing

programmes to address barriers, such as lack of credit, down payments, title or fraudulent deprivation.

129. The Government should invest in programmes, training, education and financial assistance to assist in the transformational potential of Afro-Peruvian communities, including farmers, to build their capacity for effective tourism, fair trade of market-based products, and other retail sales and marketing of their products.

130. The Government should oversee the operations of agribusiness and curb exploitative labour and employment practices, unconscionable contracts, wage theft and the de facto extension of the workday without compensation or overtime pay. Agribusiness leasing, particularly in the region of Ica, should be fair and symmetrical with 15-year contracts for payment mirroring 15-year contracts to lease land using the same stable currency for all parties.

131. The Government should require that all environmental impact assessments include detailed information about the impact on Afro-Peruvian communities, including access to water.

132. Taking into account the devastating impact of the COVID-19 pandemic, the Government should take emergency protection measures for the protection of the Afro-Peruvian population as a vulnerable population group. Racially disaggregated data on the impact of COVID-19 must inform targeting of structural racism, which results in disproportionately poor health outcomes for Afro-Peruvians.

133. The Government should formalize the status of the National Afro-Peruvian Museum, and consider using the site in Lima named after the Afro-Peruvian poet and public intellectual Nicomedes Santa Cruz as a site of memory for a museum or other lasting institution.

134. The Government should provide meaningful social protection for Afro-Peruvian women and children, and use disaggregated data on disparities to measure progress and outcomes.

135. The Working Group urges the Government to adequately fund and strengthen the capacity of Afro-Peruvian civil society, including by adopting effective measures to prevent violence against and fast-tracking the registry of human rights defenders.

136. The Government should develop a national policy for elderly Afro-Peruvians. Older persons of African descent should be regarded as specific right holders and a social resource.

137. The Government should recognize that neutral policies may have a racialized impact, and routinely investigate intersecting and multiple forms of discrimination affecting Afro-Peruvians, including the structural discrimination that Afro-Peruvians face in their access to public administration, goods and services.

138. The Government should take action to mitigate climate change in partnership and consultation with Afro-Peruvians, including by implementing the framework law on climate change.

139. The Government should increase efforts to abolish the stigmatization of race and racial stereotypes perpetuated in Peruvian media.

140. The bicentennial of Peru falls in the middle of the International Decade for People of African Descent. While Peru has acknowledged the International Decade, the bicentennial offers an important opportunity to recognize the contribution made by people of African descent, to build a repository of Afro-Peruvian culture and to renegotiate Peruvian national identity to include Afro-Peruvians. For example, the State might promote local meetings to bring people together to celebrate Afro-Peruvian culture

**and contributions, including those of Afro-Peruvian public intellectuals and others, within the typical celebrations of Afro-Peruvian food, dance and music.**

**141. The Working Group reiterate its satisfaction with the Government's willingness to engage in dialogue, cooperation and action to combat racial discrimination. It hopes that the present report will support the Government in this process, and expresses its willingness to assist in this important endeavour.**

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