



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

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Seventy-third session

SUMMARY RECORD OF THE 1877th MEETING

Held at the Palais Wilson, Geneva,
on Tuesday, 29 July 2008, at 10 a.m.

Chairperson: Ms. DAH

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The meeting was called to order at 10.10 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION
SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE
CONVENTION (agenda item 4) (*continued*)

Seventeenth to nineteenth periodic reports of Ecuador [CERD/C/ECU/19; list of issues (document without symbol distributed in the Committee room, in Spanish only); HRI/CORE/1/ Add.7]

1. *At the invitation of the Chairperson, the members of the delegation of Ecuador took places at the Committee table.*
2. Mr. HOLGUÍN (Ecuador) said that while the delegation of Ecuador did not include any representatives of non-governmental organizations, it did have an anthropologist, Mr. Chala, among its members. The questions raised by the Committee would accordingly be addressed by the delegation from a variety of angles, which should help to enhance the dialogue.
3. Ecuador had been actively involved in the preparation of the draft Optional Protocol to the International Covenant on Economic, Social and Cultural rights, adopted by the Human Rights Council at its eighth session, by its resolution 8/2 (A/HRC/RES/8/2). The Ecuadorian Government strongly hoped that that new instrument would be adopted by the General Assembly. Turning to the questions put by Committee members the previous day, he said that the delegation would respond to them in clusters, by theme.
4. Ms. MELO (Ecuador) first explained that the report under consideration had been prepared in consultation with civil society representatives and organizations. With regard to the contradiction between the content of paragraph 20 and that of paragraphs 35 and 36, the Ecuadorian authorities would send a written reply on that subject to the Committee subsequently. In reply to the questions concerning the incorporation of the Convention into the new Constitution, she recalled that the provisions of that instrument had already been integrated into the 1998 Constitution, which was currently in force. Article 17 of that basic text ensured the enjoyment by all individuals without distinction of the human rights enshrined in the Constitution and the international instruments to which Ecuador was a party. Article 163 provided that the standards set out in treaties and conventions published in the Official Gazette were part of the domestic legal order and took precedence over laws and other standards of inferior rank.
5. Concerning the complaint lodged following the arrest for "suspicious behaviour" of 23 Afro-Ecuadorians in a public park, she said that the Government had presented a public apology to the persons concerned and to the entire Afro-Ecuadorian community and that action had been taken to sanction those responsible, since that arrest constituted a violation of paragraph 3 of article 23 of the Constitution, which prohibited all forms of discrimination.
6. Mr. CHALA (Ecuador), replying to the question concerning the use of the term "black peoples" in the periodic report, explained that the term employed to refer to the Afro-Ecuadorian community had changed over time, under the impetus of certain members of that population group. Going back about a century, the term most commonly used, even by those concerned, to designate Ecuadorians of African descent, had been "morenos" (brown or dark-skinned people). Later, the term had

been considered inapt and had been replaced by "negros" (blacks); Afro-Ecuadorians had wished to reappropriate that term while divesting it of its negative connotations linked to the slave trade and giving it a positive slant. Under pressure from Afro-Ecuadorian civil society, the expression "black peoples" had thus been included in the 1998 Constitution. However, ideas had again changed since then and the communities concerned had requested that, in the draft new Constitution which was soon to be adopted, the expression "black peoples" should be replaced by "Afro-Ecuadorians".

7. Ms. MELO (Ecuador), responding to questions concerning the repercussions for the indigenous and black communities of projects for the exploitation of natural resources, recalled that paragraph 5 of article 84 the Constitution stipulated that those communities had the right to be consulted on projects aimed at prospecting for and exploiting non-renewable resources situated on their land which might affect them, to receive as far as possible a share of the profits generated by such projects and to be compensated for the social and ecological damage caused thereby. With regard to the dispute around the block 23 drilling project in Pastaza province, where the Sarayacu community lived, she recalled that, as stated in the report (para. 60), the State had taken the provisional measures prescribed by the Inter-American Court of Human Rights, in particular by investigating the facts alleged by the Sarayacu community and by guaranteeing the members of that community the right to freedom of movement within the drilling zone.

8. Mr. CHALA (Ecuador) said, in connection with the problems that had arisen on the occasion of the 2001 census, that, looking ahead to the 2011 census, representatives of the indigenous and Afro-Ecuadorian communities had set up a joint commission to launch an awareness campaign, in the media and within national and local public bodies, in order to encourage the members of minorities to determine themselves the indigenous or racial group to which they considered themselves to belong. Workshops had been organized through the country in collaboration with members of civil society in order to explain to people the importance of them defining their own identity as members of an ethnic or racial group. In addition, there were plans to send specially-trained officials to the most remote areas in the country in order to reach communities had not been able to be included in the census in 2001 for geographical reasons.

9. Ms. MELO (Ecuador), replying to the question concerning the compatibility between the indigenous justice system and the ordinary courts, recalled that article 191 of the Constitution granted to the authorities of indigenous peoples the right to dispense justice according to their own standards and internal conflict settlement procedures, provided that they were not contrary to the Constitution and national law. Moreover, upon the resumption of their work, the national legislative bodies would be seized of a bill aimed at bringing together the main rules governing the two legal systems and harmonizing the functioning of indigenous courts and ordinary courts.

10. The Ecuadorian Government would reply in writing to the many questions put by Committee members on the situation of the Roma minority (see paras. 121 to 126 of the report). No study had yet been carried out either on "femicide" in Ecuador or on domestic violence, which affected indigenous women and girls in particular. Indigenous women did, however, have access to credit and to microcredit through

solidarity and human development loans, amounting to \$600 and \$350 respectively, established by the Government for women heads of households in particular.

11. To understand the distinction drawn between the concept of indigenous nationality, people and community, reference was to be made to paragraphs 105 to 107 of the report. In response to the concern expressed about paragraph 135 of the report, where it was stated that indigenous ministers had held office for only six months, she said that, under the presidential regime of Ecuador, there was nothing surprising about the mobility of ministers, which was in no way linked to their ethnic, cultural or racial identity.

12. Explanations having been requested regarding the concept of "buen vivir" ("living well"), she said that it had practically the same meaning as sustainable development and that it was planned to include it in the draft new Constitution.

13. On language-related matters, she said that the current Constitution stipulated that the official language of Ecuador was Spanish, which was used in particular in the administration of justice. However, the Department of Bilingual Intercultural Education was seeking to foster the development of indigenous languages and cultures in the country and to promote the teaching of those languages and of Spanish as a second language, and to strengthen the cultural identity of indigenous peoples with the aim of building a multicultural, multilingual society. With that in view, 500,000 school textbooks were distributed throughout the country every year for the teaching of indigenous languages.

14. Mr. CHALA (Ecuador) said that the indigenous minorities did not form a homogeneous group and that they could be distinguished from one another according to a number of criteria, with special attention to how they defined themselves and to their particular world view. The distinctive signs included language, traditional living area, methods of farming and fishing, clothes, religious rites and cooking.

15. Ms. MELO (Ecuador) said that several human rights handbooks had been published in Ecuador, including the Andean Charter for the Promotion and Protection of Human Rights, which had been translated into Spanish, Quichua and Shuar.

16. As for the representation of minorities in State bodies, 812 Afro-Ecuadorians worked in executive or legislative bodies or held high public office at the time of drafting the report.

17. The current Constitution did not provide explicitly for corrective measures but the proposed new Constitution would soon remedy that. However, certain domestic legislative texts, such as the law on the collective rights of the Afro-Ecuadorian people, already contained corrective measures.

18. The delegation had nothing to add to the comment made regarding question 11 in the list of issues, which dealt with the harmful effects of crop fumigation along the northern border of Ecuador, since that question had been posed by the Committee itself. For fuller information about the collective rights of indigenous communities, she referred the Committee to article 84 of the current Constitution.

19. The 2001 population census contained a question on ethnic affiliation and made a distinction between blacks, mulattos, indigenous people, persons of mixed

race, whites and others. According to that census, there were 9,411,890 persons of mixed race out of a total of 12,106,608 inhabitants.

20. The report described the measures taken by the Government to provide human rights courses to members of the national police, in accordance with the voluntary commitments assumed by Ecuador during its universal periodic review before the Human Rights Council.

21. On the question concerning self-determination, article 83 of the Constitution dealt with the self-definition of the members of ancestral nationalities forming part of the one indivisible Ecuadorian State.

22. As stated in the report (para.136), two citizens of African descent had been ambassadors of Ecuador, one to the Bolivarian Republic of Venezuela, the other to the Permanent Commission of Ecuador to UNESCO.

23. In response to the concern expressed by a member of the Committee that the report provided figures but no indicators of discrimination, she said that was true; Ecuador possessed indicators which had, unfortunately, not been included in the report.

24. As for the question concerning the rights of migrants, she said that Ecuador recognized all their basic rights as human beings.

25. Mr. LINDGREN ALVES noted an error in the original Spanish wording of paragraph 136 of the report, according to which "La población afroecuatoriana conto con dos representaciones internacionales". Ecuador did indeed have two diplomatic representatives who were Ecuadorians of African descent, but they represented the Ecuadorian State as a whole, not their community.

26. Mr. MURILLO MARTINEZ commended the Ecuadorian Government for having such precise figures concerning the number of Afro-Ecuadorians employed in the public sector; that was an example to other countries in the region. However, it would be useful to break down the figures by level of responsibility.

27. With regard to the 2001 census and the possible use of a single ethnic label, "Ecuadorian of African descent", he cited the example of Colombia where several censuses had been carried out of the population of African descent and where the figures had varied greatly according to the census method adopted, as the use of different terms, such as Afro-Colombians, blacks, African descent, etc., had had significant repercussions on the results. It might therefore be useful, in the next census, to ask the persons being questioned to define for themselves their ethnic affiliation.

28. Mr. CALI TZAY, Country Rapporteur, noting that Ecuador had undertaken a process of school textbook review, asked whether, in addition to the translation of existing textbooks into indigenous languages, there were also plans to review in detail the content of textbooks. Such a review would be useful and would contribute to the process of internal decolonization.

29. As a citizen of Guatemala and as an indigenous person, he rejected the idea set out in the report that the Spanish language offered a means of developing interculturality, as that was a form of inequality. According to that logic, Spanish speakers could remain "monocultural", while the other population groups should be "bicultural". That was then a one-way interculturality. Moreover, that was

tantamount to imposing Spanish-speaking culture on part of the population. He wished to have the views of the delegation on the subject.

30. He also wished to know the reasons for the disparities noted between the results of the programme to improve technical and administrative management for the Afro-Ecuadorians and those of the equivalent programme for indigenous groups. He asked what positive consequences that programme had had for the indigenous people.

31. Mr. de GOUTTES requested fuller information about the rights to natural resources deriving from the concept of Mother Earth, "Pachamama", which had been described as the expression of an ancestral indigenous cosmography defining the relations between nature and human beings.

32. He asked the delegation to give some examples of penalties or sanctions traditionally imposed within indigenous communities, under the indigenous justice system, which were said to be not compatible with respect for the physical integrity of the offenders or with constitutional human rights principles.

33. On a question of terminology, he noted in paragraphs 101 to 110 of the report of Ecuador a distinction between three population groups: indigenous nationalities, indigenous peoples and indigenous communities. He asked if there was really a precise distinction between the three groups and requested clarification.

34. Mr. AVTONOMOV said that he likewise did not understand the distinction in the report between the terms "indigenous nationality" and "indigenous people". He wished to know what legal and political difference there was between them.

35. Mr. AMIR inquired about the legal status of the Roma in the domestic legal order of Ecuador. He wished to know if some of them had Ecuadorian citizenship and if others were from neighbouring countries and therefore had different nationalities. Knowing that, even though they formed a transnational people, they were citizens of one country, he was curious to know the nature of their travel documents. He also wished to know whether Ecuadorian Roma enjoyed all the rights established under the domestic law of Ecuador.

36. Mr. THORNBERRY recalled that the criterion of self-identification occupied an important place in international human rights instruments, in particular in ILO Convention No. 169, to which Ecuador was a party, and in the Committee's General Recommendation No. VIII. Interference in declarations for the purposes of self-identification could raise human rights issues, and even result in violations of those rights. Moreover, self-identification was influenced by the political and social climate prevailing in the country. A high rate of self-identification might suggest that the group concerned enjoyed considerable freedom and did not fear any possible discrimination.

37. Anyone could claim dual identity, calling themselves both Roma and Ecuadorian for example, in particular in the case of Ecuador which described itself as a multiethnic country.

38. He wished to know, lastly, the nature of the "collective rights" referred to by the delegation, and whether those rights were inherent in the various population groups, particularly the indigenous communities.

39. Mr. EWOMSAN said that discrimination often led people to remain within their own group and that national culture should be regarded as the sum of the different cultures coexisting in the country. To combat discrimination, the State must therefore work to establish intercultural dialogue and ensure that no culture took precedence over others.

The meeting was suspended at 11.15 a.m. and resumed at 11.35 a.m.

40. Ms. MELO (Ecuador) said that her delegation did not yet have updated data on the population of African descent and that one of the ways of determining the origins of Afro-Ecuadorians was to ask the various indigenous population groups how they regarded themselves, as had been suggested by Mr. Murillo Martinez.

41. Mr. CHALA (Ecuador) said that his country could be guided by the Colombian model, which consisted in asking the persons concerned to state, where appropriate, to which indigenous group they belonged. Whatever the case, it was important for the Government to know the exact number of indigenous people in order for it to be able to develop public policies for them. The census to be conducted in 2011 should serve to obtain more precise statistics in that regard.

42. In education, the policy in support of bilingualism did not mean simply translating into Quechua school textbooks written in Spanish. Textbooks for Quechua-speaking pupils should reflect that people's cultural and linguistic riches, as well as its world view and specific knowledge or ancestral wisdom. However, it was important to establish an intercultural dialogue between language communities. Quechua was taught at university in order to bring the rich culture of the Quechua to the knowledge of the greatest number and to teach them their way of thinking, which was essential for the creation of a truly multicultural society.

43. The Development Project for Indigenous and Black Peoples (PRODEPINE) had not yet been formally evaluated, but the concrete measures that had been taken in support of those peoples in the 1990s had enabled them to play a more active part in national policy-making.

44. Pachamama, which meant "Mother Earth" in the Quechua language, was very important for the indigenous peoples and nationalities. As a bountiful mother nature, she was considered to be a living being with whom the indigenous people were careful to maintain harmonious relations and to whom gifts and offerings needed to be made in order to benefit from her good graces, on the occasion of the feast of the sun (*Fiesta del Sol*), celebrated on the day of the summer solstice, for example. The indigenous people drew their means of subsistence from Pachamama, without ever exceeding the needs of their community and, of course, without ever hoarding her riches.

45. Ms. MELO (Ecuador) said the project to harmonize indigenous law and ordinary law was in progress and that its purpose was to protect more effectively the physical integrity and basic rights of individuals.

46. On the difference between the terms "indigenous 'nationalities', 'peoples' and 'communities'", she referred the Committee members to paragraphs 105 to 107 of the report under consideration and said that the definitions were those adopted by the Council for the Development of Ecuadorian Nationalities and Peoples.

47. Mr. HOLGUÍN (Ecuador) said that there were no stateless people in Ecuador. The Roma were Ecuadorian citizens who enjoyed the same rights as their fellow

citizens, namely, the right to have a travel document, the right to freedom of movement and expression and the right to own property. They were not subject to exclusion. A Roma holding a Colombian passport would be treated in Ecuador like any other Colombian citizen and would benefit from the rights inherent in his or her particular status in the country, for instance as a refugee or as a migrant. The fact of belonging to the Roma community would in no way influence how she or he would be treated in Ecuador.

48. Ms. MELO read out, for Mr. Thornberry, the 15 "collective rights" set forth in article 84 of the 1998 Constitution. Indigenous peoples accordingly had the rights: (1) to maintain, develop and strengthen their identity and their spiritual, cultural, linguistic, social, political and economic traditions; (2) to maintain imprescriptible ownership of community land, which remained inalienable, non-distrainable and indivisible; (3) to maintain ancestral ownership of community land; (4) to participate in the use, usufruct, management and conservation of renewable natural resources on their lands; (5) to be consulted on plans and programmes to prospect for and exploit non-renewable resources on their lands which might have an environmental or cultural impact; to share in the profits yielded by such projects, whenever possible, and to receive compensation for the social and environmental damage thereby caused to them; (6) to conserve and promote biodiversity and natural environment utilization practices; (7) to conserve and develop traditional forms of co-existence and social organization in particular; (8) not to be displaced from their lands; (9) to have, inter alia, collective intellectual ownership of their ancestral knowledge; (10) to maintain, develop and administer their cultural and historical heritage; (11) to have access to a decent education and to a bilingual intercultural education system; (12) to enjoy systems, knowledge and practices of traditional medicine, including the right to the protection of ritual and sacred places, plants, animals, minerals and ecosystems of vital importance for such medicine; (13) to formulate priorities in the context of plans and projects for the development and improvement of their economic and social conditions; (14) to serve, through representatives, in official bodies; and (15) to use symbols and emblems to identify themselves

49. Mr. AMIR said that there was cause for concern in the fact that the current Ecuadorian Constitution spoke of the rights of the "black people", as that implied that discrimination could be exercised against persons who were not black. He recalled in that connection that the apartheid regime in South Africa had established a regime of terror against black South Africans based on the pejorative definition given to the term "black" by the white minority.

50. Mr. CHALA (Ecuador) said that it was indeed a matter of concern that the term "black people" had been used with such violence, particularly in South Africa, but recalled that it was the blacks and Afro-Ecuadorians who had chosen to define themselves as such. The categories of persons identified as black or Afro-Ecuadorians in the 1998 Constitution corresponded to different national identifications. Noting that what was important was the value assigned by people to the various identities characterizing them, he stressed that the draft Constitution which would be the subject of a referendum in September 2008 would no longer contain the term "black people" but that of "Afro-Ecuadorian people".

51. Mr. MURILLO MARTINEZ said that the designation of certain groups of persons according to their skin colour or race was a very important phenomenon

which often formed part of a process of political construction which should be respected. He stressed that the Durban Programme of Action had firmly established the concept of persons of African descent. In Ecuador as in other Latin American countries, political elements often underpinned the process of identity building. The initial report of Colombia had stated that the total population of the country comprised 0.4 per cent of Afro-Colombians, but the country now recognized that they accounted for nearly 30 per cent of the total population. It was thus clear that the use of a particular label in census questionnaires had repercussions on the final population statistics.

52. In addition, certain racial labels, which had carried a negative connotation at one time, could subsequently be given a positive twist by members of the group concerned. Brazil, for example, maintained the term "black" and certain Colombian population groups asserted their African origin while others insisted on being identified as blacks. It was therefore necessary to respect the point of view of each State in that regard and to take into account the fact that each was engaged in a historical process of identity building. Self-denial was perhaps the deepest wound that could afflict human beings.

53. Mr. THORNBERRY said that, as a matter of principle, the Committee respected the way in which the members of a particular population group defined themselves, since that came within the scope of self-definition and self-determination. Regarding the Roma, for example, whenever the Committee considered the periodic report of a State party comprising a large proportion of Roma, it sought to know whether they defined themselves as members of the Roma community and, where appropriate, how they were referred to by the authorities of the country concerned. The Committee had thus always recommended that States parties should respect the wishes of the Roma as to their official name.

54. He concurred with Mr. Murillo Martinez that a pejorative term serving to designate a population group could be taken over by the group and given a far more positive meaning. However, what was important was to know who decided, the group itself or an outside authority.

55. Mr. LINDGREN ALVES said that the term "black" was in no way pejorative in Brazil and that the black movement in the country was particularly attached to the term. Expressing concern about the fact that Ecuador contained population groups designated as black would be tantamount to showing racial prejudice towards that country.

56. Mr. CALI TZAY, Country Rapporteur, welcomed the sincere and detailed replies of the delegation to the many questions of the Committee members; they clearly attested to the country's resolve to address the problem of racial discrimination. At the legal level, it was also gratifying to note the many advances achieved in the country, particularly the holding of a referendum on a new Constitution in the coming months. Recalling that several Committee members had been concerned about the large number of stateless people in Ecuador, he recommended that the State party should consider ratifying the 1961 Convention on the Reduction of Statelessness.

57. Mr. HOLGUÍN (Ecuador) thanked the Committee members for the constructive exchanges. Ecuador had for many years been striving to promote equality and equity and eliminate racial discrimination and the extremely rich

dialogue that had taken place should help the authorities to give further thought to the various aspects of those efforts.

58. The draft new Constitution which would be submitted to a referendum on 28 September 2008 sought to remedy the gaps and shortcomings affecting universal enjoyment of human rights since the adoption of the 1990 Constitution. He assured the Committee that the Ecuadorian Government was ready to take all the measures needed to ensure that all human rights were respected and protected in the country.

59. The CHAIRPERSON welcomed the frank, open and constructive dialogue established between the members of the Committee and Ecuador and hoped that it would continue on a regular basis. She said that the Committee had finished considering the seventeenth to nineteenth periodic reports of Ecuador.

60. *The delegation of Ecuador withdrew.*

The meeting rose at 12.30 p.m.