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TO VULNERABLE GROUPS

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against Racism, Racial Discrimination, Xenophobia  
and Related Intolerance

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THE CONDITION OF AFRO-AMERICANS : MARGINALIZATION  
ON THE BASIS OF RACE AND POVERTY, ATTITUDES  
TOWARDS CULTURAL IDENTITY

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Note: The opinions expressed in this paper are those of the author.

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#### A) Introduction

- 1) To start the discussion on the condition of the Afro-Americans in the Latin America and Caribbean Region, focusing the marginalization on the basis of race and poverty, and attitudes toward cultural identity, it would be useful to review some basic concepts in the general debate about racial discrimination.
- 2) As stated by Mr. Michael Banton <sup>1</sup>, the International Convention on the Elimination of all Forms of Racial Discrimination (ICERD) was issued in a moment when colonialism and segregation and discrimination associated therewith were at the center of the debate and it was expected a speedy elimination of racial discrimination as a result of United Nations member States action. Colonialism and doctrines of racial superiority were mentioned in the preamble paragraphs as the only two causes of racial discrimination. Dramatic changes have occurred in the world since ICERD was issued. If today United Nations can duly commemorate the end of apartheid and colonialism, the world has witnessed the emergence of a number of bloody ethnic and racial conflicts that caught the world media attention especially in Europe and Africa. These facts have demonstrated the narrowness of the previous framework used to analyze racial discrimination. However, if the world attention is caught only by the most dramatic and gross present violations, we will miss the chronic and continuously violations suffered by millions of people in the world, including the Afro-Americans.
- 3) Mr. Banton makes an important updating of types and causes of discrimination, discussing with precision the changing circumstances related to the new communication and transport facilities that weakens the processes of assimilation of migrants in their new societies <sup>2</sup>. As regards the economic, social and cultural rights, he discusses the changes in the labor market and immigration policies related to globalization; discrimination in the workplace and its causes; provisions of remedies by the civil law as compared with criminal sanctions; segregation in housing that may arise as an unintended by-product of actions of private persons; de facto segregation in the school system; need or circumstances under which collection of ethnic data may be justified; need of codes for journalists and advertising regarding the representation of cultural diversity of the country and of other peoples <sup>3</sup>.
- 4) Mr. Banton considers that the ICERD preamble presents racial discrimination as a social sickness while Article 26 of ICCPR presents it as an unlawful behavior for which one or more individuals are responsible and are accountable for. Considering these views insufficient, Mr. Banton affirms that, as demonstrated by the fact that all over the world native workers resent competition from immigrants, there is a universal disposition to discriminate, which would be a normal and not pathological form of behavior <sup>4</sup>. A recent paper by the International Council on Human Rights Policy

establishes a difference between the natural tendency of individuals identify themselves by reference to the group to which they belong and the following steps: pride in the achievements of 'our' nation, or clan; then, to see others in opposite terms; and another step to see different groups and their members as less deserving, inferior, less human, not truly human: *at this point, the projection of a natural sense of identity to exclude others and deny their humanity becomes pathological*<sup>1</sup>.

- 5) To demonstrate that discrimination is not necessarily illegal, Mr. Banton refers to anti-discrimination laws that permit favorable treatment for the disadvantaged groups and he also affirms that discrimination is not necessarily immoral, giving as an example the reservation of the position of priest to male persons, which although discriminatory on grounds of sex, might be justified on religious grounds<sup>2</sup>. It would appear that actions of a complete different nature are being taken as similar as it leaves out of the picture an evaluation of the results of the actions: in one case equality is being promoted whereas in the other it results in inequality and impairment of enjoyment of a fundamental freedom in a social field of public life. In spite of the fact that the term discrimination has been used as positive discrimination or just discrimination to refer compensatory measures<sup>3</sup>, to avoid semantic and political misunderstandings, it would appear preferable to restrict the use of the word discrimination to the meaning defined in paragraph 1 of article 1 of ICERD. As defined by paragraph 4 of Article 1, the term discrimination should not be applied to the special measures taken to promote equality, with the restrictions imposed therein. The exclusions referred by paragraph 2 and 3 of article 1 allows for legislation that has been enacted especially by European countries that as pointed by the Special Rapporteur of the United Nations Commission on Human Rights increasingly discriminates against immigrants and refugees from developing countries and Eastern Europe.<sup>4</sup>
- 6) Mr. Theodor van Boven considers that in the context of the Third World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, United Nations is facing a very different situation as compared to the previous conferences when apartheid evoked general condemnation and rejection. Now a box of Pandora was opened up and it will be difficult to reconcile diverse or opposing interests<sup>5</sup>: racial discrimination can not be taken any more as a matter of foreign policy, as a problem of South Africa, but it is now every State Party's problem. The struggle against apartheid as a sort of "ice-breaker"<sup>6</sup> opened new ways of fighting violations of human rights and were instrumental for the promotion of a global strategy.
- 7) At the global level, the areas of major concern have been considered the explosion of ethnic conflicts and widespread violence related thereto with the return of notions and practices of national or ethnic exclusivity, the phenomenon of xenophobia and victims of double discrimination. As regards issues for a continuing agenda it is referred acceptance of international instruments and procedures, national institutions to combat racism and racial discrimination, law enforcement, effective recourse and redress for victims, teaching and education, communication media and internet<sup>7</sup>.

- 8) In a recent working paper, Mr. Paulo Sergio Pinheiro, states that in 1980 it became clear that racism and racial discrimination "often resulted from inequitable distribution of political and economic power within societies and that in consequence the enjoyment of economic opportunities was an important target"<sup>8</sup>.
- 9) Gloria Steinem gives a different view in the report *Beyond Racism*, considering that racism grew up as a justification for the take-over of the land and the means of production<sup>9</sup>. In this direction, the report *The persistence and mutation of racism* refers to the fact that racial discrimination impedes directly or indirectly that the groups that are discriminated against have access (or equal access) to essential means of life, such as land, jobs, housing, education, family planning and health services<sup>10</sup>. Discriminated against groups' poverty results of racism, which is related to the distribution of resources. Social exclusion is one of the faces of contemporary racism. Whatever we think, if racism is a cause or a result of poverty, it is clear that to combat racism, we have to combat poverty and vice-versa, notwithstanding the importance of other actions to impact on ideas, ideologies and values.
- 10) Considering the analysis and recommendations presented by Mr. Pinheiro, the following appear to be most relevant to Afro-Americans in the Latin American and Caribbean context: a) the denial of racism, understood both as denial of the facts or denial of the interpretation of the facts; b) the (un)rule of law and racism, focalizing the right to education, decent living conditions, fair salaries and other economic and social rights; c) representation in the public administration and positions of power; d) specific protections and compensatory policies; e) legislation against racial bias in employment, discrimination in pay and incentives, discrimination in the workplace; f) legislation aiming to curb police violence; g) reform legal systems to avoid discrimination specially in the criminal justice system; h) development programs with a human rights perspective to eliminate racial discrimination in employment, education, credit services and other entitlements; i) need to redress the effects of past discrimination against persons of African descent, including the legal implications of the slave trade; j) pervasive gender discrimination intertwined with other forms of discrimination; l) review racial effects of government policies, and especially the action of the military, the police, the law and the courts<sup>11</sup>.
- 11) The report *Beyond Racism – Embracing an Interdependent Future* proposes eight strategies to create a "virtuous circle of change" as opposed to a "vicious circle": 1) securing a baseline of legal equality and effective remedies for discrimination; 2) promoting access to educational opportunities; 3) gaining access to economic, entrepreneurial, employment and training opportunities; 4) using political power and participation; 5) challenging the media to provide better and more in-depth coverage of issues, needs and contributions made by people of African descent or appearance; 6) appealing to moral authority; 7) using the arts to speak to our sensibilities as human beings; 8) engaging, supporting and promoting the use of human rights values and instruments<sup>12</sup>. The report targets Brazil, South Africa and the United States of America, however we may find below that these recommendations may also be applicable to the Latin America and Caribbean Region as a whole.

- 12) The report *The Persistence and Mutation of Racism* discusses a very important issue in the context of Latin America and Caribbean: the issue of denial, establishing a typology that goes from *denial in good faith* (I didn't know) to *outright lie*, deliberate denial through falsehoods, misinformation or evasion. The States may deny the existence of racial minorities in their territories. Or a fact may be admitted but its racist motives or meanings may be denied: the discriminatory racial effects of a policy are denied as if it was justified by social and economic inequality. Euphemisms may be used to hide racism. Rationalizations may deny moral responsibility or may keep the focus exclusively in the juridical equality or equality of opportunity, without considering the real circumstances<sup>13</sup>.

#### B) Overview on Situation of Afro-Latin Americans and Caribbeans<sup>14</sup>

- 13) Many Latin American states do not collect information on race/ethnic data of their population. This fact appears to be associated to ideologies of whitening and dilution of African physical and cultural heritage elaborated by many authors in the region<sup>15</sup>.
- 14) The figures of the Latin American and Caribbean population of African descent have been drastically underestimated in the continent. However, according to the existing information, the demographic weight of the Afro-American population varies significantly: in some countries the Afro-Americans may constitute a minority scattered in rural communities in regions of difficult access, in others they may be almost invisible and dispersed mainly in urban areas, or may constitute a large proportion of the population both in rural and urban areas, or may be the great majority of the population as in the case of the Caribbean region.
- 15) During the colonial period, the imbalance gender proportions of Europeans and Africans, and the sexual subordination of both African and Indigenous women, encouraged race mixing in the continent, giving birth to the peculiar ideological construction of *mestizaje*, or *creolization*<sup>16</sup>, through which the "whitening" of the population would be reached. The small proportion of Europeans determined the manipulation of race classification in such a way that people would rather be perceived as "passing" to a lighter tone: a pigmentocracy was built so that one would be in a hierarchical position in relation to others darker than his/her own skin. It should be remembered that besides the mixing of Europeans with African and Indigenous women, there was mixing between Africans and Indigenous, resulting a *zambo* (or *cafuzo*, in Brazil) population.
- 16) Ideas of "racial democracy", "cosmic race", "hybridism"<sup>17</sup> were forged, disguising the violence, the roughness, the fierceness under which the so-called mixing of races occurred.
- 17) Pérez Sarduy and Stubbs consider that in Latin America we can distinguish three forms of political systems: those where one dominant segment of the population claimed that its racial or ethnic identity was the only legitimate one in the nation (Puerto Rico, Dominican Republic, Mexico and Andean countries); those where new power élites

sought legitimacy by promoting a synthetic national culture, discouraging racial or ethnic thinking (Brazil, Cuba, Colombia and Venezuela); and those where groups shared more equally in the political life of the nation in proportion to their population (Belize).<sup>18</sup>

- 18) Throughout the continent abolition of slavery was made with no consideration to the survival needs of the ex-slaves. Concentration of property of land in the hands of small élites is one of the most serious social problems in the continent, as the great majorities of indigenous, mestizos and blacks do not have access to or the legal property of the land. Poverty is not produced by spontaneous generation: poverty results of expropriation of means of living and production: land, material goods, financial resources, knowledge and human capacities.<sup>19</sup> The economic and power relations existing in the continent reproduce the most unequal region in the world. In order to guarantee the human rights of the Afro-Americans, it is essential to focus on some main areas of concern.
- 19) According to ECLAC, in 1998 Latin America and the Caribbean had an estimated population of 499,447,000 and the black and mixed population in eighteen of thirty-five countries listed would be 146,084,651. It may be clarified that the meaning of "mixed" population may not be the same in terms of their ancestry in the various countries of the region. In fourteen states the census does not ask about racial (African) origin, making their population of African descent invisible.<sup>20</sup> However, eight of these states do collect information about their indigenous population, making it clear that invisibility is a process that is mainly related to the Afro-Latin Americans<sup>21</sup>.
- 20) The following countries do not collect information about the racial African origin in the Census: Argentina, Bolivia, Chile, Costa Rica, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru and Uruguay. While most of these countries collect information about their indigenous population, Argentina, Costa Rica, El Salvador and Uruguay do not collect any ethnic information at all in their Census<sup>22</sup>.
- 21) While we did not find estimates for Argentina, Chile, El Salvador and Guatemala, we can classify the remaining countries in Latin America into two categories: 1) countries where the Afro-American population is a minority, within a range of 2% to 10% - Bolivia, Costa Rica, Ecuador, Mexico, Paraguay, Peru and Uruguay; 2) countries where the Afro-Americans are a large proportion or a majority of the population, ranging from 30% to 90% - Brazil, Colombia, Cuba, Honduras, Nicaragua, Panama, Puerto Rico, Dominican Republic, Venezuela and Guyana. The other Caribbean countries are well known as countries of populations almost entirely of African descent.
- 22) Interestingly enough the absence of information has been instrumental in the production of a European and a mestizo image of certain parts of Latin America: while Argentina, Uruguay, southern Chile and south Brazil are sometimes thought as the Euro-Latin America, Mexico, Guatemala, the Andes and the Amazon Basin are seen as the mestizo America<sup>23</sup>.



- 23) Although we were unable to find general data for the continent disaggregated by race, life expectancy for Latin America is 68.7, and varies considerably ranging from 56.6 in Haiti and 59.3 in Bolivia to 76.3 in Costa Rica and 75.3 in Cuba. Infant mortality rate is low in some countries, 13.7 per thousand in Costa Rica, 11.8 in Cuba, 14 in Chile, close to figures in the developed countries, significant averages and 55.5 in Peru, 57.7 in Brazil, 52.3 in Nicaragua, 49.7 in Ecuador, 48.5 in Guatemala, and very high in Haiti (86.2) and Bolivia (75.1). The rates are higher in the rural areas due to the lack of safe water, sanitation and adequate primary health services. 2.250.000 women deliver without medical assistance<sup>24</sup>.
- 24) Education is critical; instead of being an instrument of promoting equality, very frequently the education system is an instrument to reproduce inequalities. Although there was a great expansion of enrolment, there would be 13% of illiteracy in 1995. However the main problems are repetition and evasion, which are associated to the socio-economic level and area of residence (rural/urban). 1/3 of children in Central America present serious symptoms of malnutrition, resulting in reduced stature and problems in school<sup>25</sup>.
- 25) Problems in Latin America are getting deeper and worst, social indicators are getting further behind other developing regions such as South East Asia as a result of adjustment policies. Disparities are so great, that Latin America is being called the anti-exemplary case<sup>26</sup>. According to Patrinos, *ethnic concentration of poverty and inequality is increasingly being recognized in the development literature*. A revision of studies from six Latin America countries that estimated the cost to an individual of being an economic minority found that in most cases much of the earnings disadvantage of minority group workers is due to what economists call "lower human capital" endowments. Although an increase in schooling levels would lead to a significant increase in earnings, it is recognized that monetary benefits of schooling are lower for minority group populations.<sup>27</sup> Five countries in this study refer to indigenous populations and one refers to three studies of racial discrimination in Brazil, regarding Afro-Brazilians. In spite of the lack of data in the majority of countries, the existing ones demonstrate the acute internal disparities and the disproportionate burden of being an Afro-American<sup>28</sup>.
- 26) In spite of having a National Institute to Combat Discrimination, Xenophobia and Racism and important Acts offering reparation of moral and material damages occasioned by discriminatory acts or omissions, the detailed 15<sup>th</sup> report presented by Argentina concentrates on indigenous groups and intolerance related to Jewish religious, and has one single reference to one case of a black Brazilian who made a complaint on the hotline set up by INADI<sup>29</sup>. Besides the descendants of the Africans in the colonial period (estimated at least 8,000 in Buenos Aires), Argentina has migrant communities originally of Cabo Verde, Uruguay, Brazil, Perú, Dominica Republic and migrant Africans from Mali, Nigeria, Angola, Liberia, Senegal, Sierra Leone and Guinea Conakry. The estimated total by the communities themselves is 66,300 people.<sup>30</sup> Education, health, housing and basic services such as electricity, heating, telephone training and employment for the youth are priorities. Some women from Dominica

Republic are obliged to survive as prostitutes. Education and adequate training are key issues for all women.

- 27) Bolivia makes no reference to Afro-Bolivians in its 13<sup>th</sup> report to CERD<sup>31</sup>. Racial discrimination is presented as a legacy of the past towards the Guaraní people, who survive in inhuman conditions of semi-slavery. According to Alison Spedding<sup>32</sup> Afro-Bolivians were a considerable minority throughout the colonial period and intermarried with both criollos (native born 'white' people) and native Andean. Today there would be only a few regions where a visible minority could be found: provinces of Northern and Southern Yungas in the Department of La Paz. In the past ten years a black consciousness movement has surfaced and requests that the Afro-Bolivians be counted in the census have been made. There would be considerable class differences between urban and rural Afro-Bolivians. For the latter, environmental deterioration, low prices for the agricultural produce, and US-sponsored demands for the eradication of coca cultivation would be problems shared with all other peasant inhabitants of the region. Trials to organize separately from non-blacks created ethnic conflict and were abandoned.<sup>33</sup>
- 28) Brazil has the largest Afro-population in the continent (75 millions in 1998), of which 10 million are illiterate, summing up 67% of the total illiterate population in Brazil. While 8% of the white population are illiterate, 21% of the Afro-Brazilian are in this condition. Brazil ranks 70 in the Human Development Index (HDI), calculated by PNUD for 174 countries. The same methodology has been used by the project Atlas Afro-Brasileiro<sup>34</sup> to determine the HDI<sup>35</sup> for the white and the black populations in Brazil: the white HDI would be 49 and the black 108. Life expectancy for the period 1990-1995 would be 70 for the white population and 64 for blacks<sup>36</sup>. The income indicators are respectively 0,74 for the white population and 0,60 for the black population<sup>37</sup>.
- 29) Another recent research made by INSPIR and DIEBSE<sup>38</sup> based on data collected by the Surveys of Employment and Unemployment found consistent income disparities between black and non-black workers for all 6 metropolitan areas investigated. Also the black population presents a higher rate of participation in the labor market, start working at an earlier age and remains in the workforce for a larger period, while the unemployment rates are much higher.
- 30) There are consistent and dramatic disparities in health between the black and white populations, as regards infant mortality (62 and 37, respectively for Afro and white Brazilians), maternal mortality, mortality by external causes, access to the health system. In spite of having approved a program for sickle cell anemia, a genetic and serious disease of high incidence in the Brazilian black population, the Brazilian Ministry of Health left it on paper. Aids, hypertension, high prevalence of female sterilization and septic/illegal abortions are important health problems.
- 31) Pursuant the promulgation of the 1988 Constitution that declared racism an unbailable and unprescriptible crime, and established that the State will protect the manifestations of the popular, indigenous and Afro-Brazilian cultures, there has been a significant



production of legislation at the national, state (province) and municipal levels. Also as a result of the continuous denounces by the Brazilian Black Movement, a growing number of researches start to unveil the unlawful and immoral racial inequalities in the Brazilian society. Despite of the fact that 511 quilombos<sup>39</sup> communities have been mapped<sup>40</sup>, twelve years after the Constitution recognized the right of property to these communities who remain in their land for centuries, only a few have indeed obtained their titles. Lack of regulation, conflicts between different governmental branches, pressures from companies and individuals interested in those ancestral lands, lack of political will have maintained the rights of the majority of the communities unattained.

- 32) In 1996 the federal government approved the National Program of Human Rights that has a section regarding the Black Population. Although a number of initiatives have been taken at the national, state and municipal levels, the real key issues remain to be confronted: access to land, education at all levels and especially the university, access to higher level jobs, access to capital, equity in the justice system, adequate housing.
- 33) In spite of the barriers for the Afro-Brazilians to access the judicial system, this population is increasingly looking for justice in cases of racial discrimination. However, according to the Preliminary Version of the Fourteenth Report to be presented to CERD, jurisprudence has been oscillating, revealing in many cases the absence of introjection of the basic values proposed by ICERD and the Brazilian Constitution.<sup>41</sup> Through its decisions, the judiciary power in Brazil reveals the discriminatory views of many of its members, deeply embedded in the hegemonic Brazilian culture. Violence against the black population, usually perpetrated by state agents, targeting especially those in more vulnerable conditions – slum dwellers, street children, institutionalized youth - is well known internationally. The news is that now we face a rise of hate speech in the Internet and threats and bombs against human rights militants and organizations.
- 34) The 14<sup>th</sup> Chilean report<sup>42</sup> mentions that racial discrimination refers to indigenous groups. Africans are referred one single time under the euphemistic label of “African immigrants” (referring to the colonial period) who would have been absorbed in the general miscegenation. We were unable to obtain any other information on this State Party.
- 35) While the Eighth and Ninth Report presented by the Colombian government<sup>43</sup> informs that the Afro-Colombians sum up to about 6 million inhabitants, accounting for 16 per cent of the total population, the Departamento Nacional de Planeación has estimated (1998) the Afro-Colombian population amounts to 9,715,940, performing 56% of the total population.<sup>44</sup> Some Afro-Colombian communities speak their own dialects such as Palenquero and Creole and the Constitution recognizes the languages and dialects of ethnic groups and stipulates bilingual education. Ethnic information was collected in the Census 1993, however the question was presented in such a way that especially people in the cities did not identify themselves and the figures obtained were very low<sup>45</sup>. In spite of the lack of precise data for the Afro-Colombian population, the National Development Plan for the Afro-Colombian Population has information for the regions with high and low concentration of Afro-Colombians. While 77.5% deliveries

are assisted by doctors in the regions of low concentration, only 66% are assisted in the "high" regions. Although the average life expectancy for the "low" and "high" regions are similar (71.0 and 69.9 respectively), the disparities between the departments with lowest and highest concentration is enormous: Bogotá – 69.7 and Chocó – 53.7. While 80% of domiciles have access to running water in the country, in Chocó only 25% have it.

- 36) Regarding the 10<sup>th</sup> to 12<sup>th</sup> reports, the Committee has manifested appreciation to Cuba's policy of promoting blacks to managerial positions at all levels and has requested that in its next report provides fuller information on the demographic composition of the population. The Committee also requested the Government of Cuba to provide in its next report information on the number of complaints of racial discrimination, outcome of the prosecution of cases and the redress provided to persons affected.
- 37) In its 4<sup>th</sup> to 8<sup>th</sup> reports, Dominican Republic presents a quite defensive position: instead of showing data to back up its alleged claims of no existence of racial discrimination, especially against Haitians, the report limits itself to rhetoric denial, preferring to accuse NGOs of needing a pretext to exist. As a "proof" of no discrimination, it is affirmed that the thousands of Haitians, who are expelled for being undocumented, return the next day. Emphasizing the non-existence of ethnic minorities, the report informs that the last 1992 census did not mention color, following United Nations recommendations (sic). The report goes on to affirm that racial discrimination between Dominicans, if ever existed, has disappeared as a form of social pathology.<sup>46</sup> Of course, this statement does not include xenophobia and social exclusion, contemporary forms of racism.
- 38) The Concluding Observations of CERD on Guatemala's 7<sup>th</sup> report (1997) refer to the end of the civil war, to the exercise of racial discrimination especially against indigenous populations, but makes no reference to the black population. We acknowledge the existence of at least a Garifuna women's organization.<sup>47</sup>
- 39) Africans comprised 231,330 out of the total population of 758,619 of Guyana, being the second largest group in the country. Political and social life is marked by ethnic tensions between Guyanese of African and East Indian descent<sup>48</sup>
- 40) The Core document presented by Honduras to CERD acknowledges eight cultural groups, among which there are the Garifuna and Misquitos, totaling 463,700 persons. According to this document the Garifuna represent over half of this number<sup>49</sup>. Other estimates may refer to numbers as high as 300,000<sup>50</sup>. The Misquitos are approximately 35,000. These groups are people of African descent although this fact is not referred in the Honduras government document. This document recognizes that these groups live in severely disadvantaged areas, characterized by limited access to social services, shortage of road networks and subsistence economy. As these groups retain their languages, bilingual education is an important issue. Unemployment and underemployment are high and migration to the U.S.A. has increased. With a high proportion (70%) of the population below the poverty line, Garifuna is one of the most disadvantaged groups. Garifuna communal lands have been illegally expropriated and there have also conflicts over fishing areas. The land conflicts have been both with

military officers, private capital interests and peasants searching for land titles. The Honduras definition of social function of land and the proof of occupation conflicts with the traditional ecological practices of the community. Malnutrition, early pregnancies, sewage, contamination of water are important problems. Malaria, dengue, diarrhea, parasites are endemic and hypertension is also important. The Agrarian Reform Law is affecting the future of Garifuna communities, as their lands remain without titles.<sup>51</sup>

- 41) Jamaica has not submitted a report since 1985 because it has not yet adopted the legislation required to implement article 4, but the country representative informed that in the past light-skinned people had been preferred for certain jobs, what was no longer the case<sup>52</sup>.
- 42) Nicaragua's fifth to ninth report refer to Article 5 of the 1987 constitution that enshrined the principle of political, social and ethnic pluralism, recognizing for the first time the existence of indigenous populations.<sup>53</sup> Among the ethnic groups mentioned are the Miskitos and Creoles, who are both of African descent, however this is not referred. The concept of autonomy is fundamental for the ethnic groups in Nicaragua and bilingual education is an important issue.
- 43) The 10<sup>th</sup> to 14<sup>th</sup> report presented by Panama recognizes the fact that members of black and Asian *minorities* do not fully benefit from the rights protected by ICERD. However, the report Comunidades de Ancestria Africana estimates that Afro-Panamanians make up to 77% of the population!<sup>54</sup> The distinction between antillanos (chombos, West Indians) and negros nativos is important for the ethnic dynamics of the country, that is related to differences of language, culture, skin color and nationalism. The pan-African leader Marcus Garvey had an important role to the lives of Panamanian workers. The Afro-Panamanians were particularly hit during the US invasion in 1989-90 and many lost their homes and lives and many 'disappeared'. The invasion exacerbated problems regarding public services such as health and education. The importation of workers during the construction of the canal was a strongly gendered process with a majority of men, although the authorities allowed the migration either of family members or of single women especially from the French Caribbean to reach a better gender ratio. West Indian women have a strong heritage of participation in all aspects of social life<sup>55</sup>.
- 44) Paraguay has not ratified ICERD. There is scarce information about Afro-Paraguayans. A micro-study published by the Minority Rights Group International focus on the Community of Cambacua, made up of 300 families, around 2,000 individuals. Thirty years ago the community was dispossessed of over 90 per cent of its land by the State. The Paraguayan Constitution recognizes the indigenous peoples and their right to land and to practice their culture but it does not recognize the existence of the Afro-Paraguayans. Constitutional recognition of their existence, investigation of the violent removal of the community from its land and restitution or compensation for the loss of the land should be awarded<sup>56</sup>.

- 45) Peru carried out in 1993 the first Census of Indigenous Communities in Peruvian Amazonia, as part of the National Population and Housing Censuses. In spite of recognizing the multi-ethnic and multi-cultural nature of the Peruvian nation, Peru has no official information on the racial make-up of the country's population. The 13<sup>th</sup> report to CERD focus mainly on legal measures with little attention to real conditions and addresses exclusively issues of the indigenous peoples.<sup>57</sup> The report *Comunidades de Ancestría Africana*<sup>58</sup> presents estimates of the Afro-Peruvian population between 5 to 13.5%. Education, health, basic services such as access to electricity, safe drinkable water and sewage would be priorities. Drug addiction is emerging as an important issue affecting the youth in the poor communities of Lima and small-scale drug dealing becomes an alternative in the lack of others. The Agrarian Reform Laws of 1970 that gave access to lots of 2 –6 hectares benefited Afro-Peruvians. Centralization of financial resources for infrastructure by FONCODES<sup>59</sup> has had a negative impact on the Afro communities that have better access to local governments. Programs of poverty alleviation have tended to focus on the indigenous groups.
- 46) According to the report *Comunidades de Ancestría Africana*, INE, the National Institute of Statistics of Uruguay, included for the first time a question about racial origin in the Domicile Survey and found six percent of blacks in Uruguay, making up 189,000 persons. The majority of Afro-Uruguayans is non-qualified workers in the constructions industry, domestic services and cleaning and porter services. There are many Afro-Uruguayans in the informal sector and self-employment as plumbers, carpenters, electricians, mechanics and musicians. Unemployment is high among youth. The majority completes the primary school and only a few goes to the university. Respiratory diseases, asthma, hypertension and diabetes are the most evident health problems. Tobacco consumption is high and dental health is an important problem. Teen pregnancies and alcoholism have affected many families and there have been cases of AIDS. Many families are headed by women. The quality of housing is a problem for both the population that lives in the capital – who live in deteriorated houses – and the one who lives in the interior, in poor conditions without access to safe water and sewage<sup>60</sup>. The concluding observations of CERD to the twelfth to fifteenth reports considers that the information about ethnic groups has been insufficient, and expresses particular concern with the situation of Afro-Uruguayan women, victims of double discrimination and recommends the State Party to adopt special measures of protection for members of the indigenous and Afro-Uruguayans communities. The Committee recommends approval of legislation prohibiting racial discrimination and measures to facilitate the access to the judiciary system, and programs in the educational, cultural and information fields<sup>61</sup>.

### C) Recommendations

- 47) The recommendations proposed herewith are based 1) on the ideas of Bernardo Kliksberg, who considers that equity is good for the economy as it influences the national rates of savings, increases the investment in the formation of the human capital, has positive effects in the technological development, strengthens the social capital (shared values, mutual confidence, social norms and institutions, etc) and increases the governance; 2) on the concept that the Afro-Americans constitute a

significant portion of the population of Latin America and Caribbean that has been destitute of the necessary conditions of living since the time their ancestors were brought as slaves to the new world. In order to include this population as an important asset to the development of the region, public policies should stop to promote the privileges of the small racial élites of the continent and start to focus the needs of the Afro-Americans, developing focalized policies. Adequate compensation should be provided to counteract the vicious circles of inequalities that are reproduced by various social mechanisms that reinforce themselves to maintain this population in inhuman and unacceptable standards of living. The recognition of the dignity and the inalienable human rights of the Afro-Americans implicate the recognition and fulfillment of their economic, social and cultural rights through the implementation of policies and programs at the national, regional and global level.

#### **ICERD**

- 48) The following countries in the region have not yet ratified ICERD: Belize, Dominica, Granada, Guadeloupe, Honduras (in process), Paraguay, and St. Kitts and Nevis. The preparations for a World Conference against Racism should be a strong incentive for all remaining states in the region ratify the Convention.
- 49) Only the following State Parties have signed declarations on article 14, recognizing the Committee: Chile, Costa Rica, Ecuador, Peru and Uruguay. As a region, it should be set a goal of arriving in South Africa with the largest number of State Parties signing article 14.

#### **Data Production**

- 50) It is essential that all countries in the region acknowledge the existence of their population of African descent, collecting and analyzing relevant information to determine the conditions of living and the level of expropriation that they are subjected. Race/ethnic information should be properly collected in the National Censuses and National Domicile Surveys, addressing issues like employment, education, health, housing, sanitation, access to land, credit, etc. Advice from the Afro-Americans organizations should be requested to shape adequate questions to address the issue of ethnic origin. The information collected should be duly analyzed and disseminated to a large audience, including the UN system, multilateral institutions, cooperation agencies, representative organizations of Afro-Americans. It is also recommended that indicators of the living conditions like the HDI be calculated, in order to compare the human development of the Afro-Americans to the non-Afro population. Countries like Brazil that, as a result of great pressure from the black organizations, already have significant databases about the Afro population, governments need to go beyond rhetoric and use the information to implement policies of equality.
- 51) Governmental bodies to undertake and promote research, conduct training programs, maintain databases, compile statistics and develop qualitative and quantitative indicators to measure progress in the struggle against discrimination should be



established<sup>62</sup>.

### **Access to land and titles of property**

52) In many countries Afro-Americans remain concentrated in rural areas, and have survived developing their traditional practices establishing balanced relations with the environment. In many cases demographic changes, pressures from capital entrepreneurs, mining companies and tourism business, represent considerable threats to the livelihoods of these communities. There have been important initiatives in the continent in this regard, such as the 70 Law of the Black Communities in Colombia, and the Article 68 of the Transitory Dispositions of the Brazilian Constitution. Guarantee of access to adequate sized plots of land, titles of property of the possessed land to protect the livelihoods of the communities are of utmost priority. The human rights of the majority of the Latin Americans, black and indigenous, will not be guaranteed without their right to land. For those who have been dispossessed, land should be restituted or compensation for the loss of land should be awarded. The issue of land should be focalized as a compensatory measure for slavery.

### **Health**

53) As stated by Bernardo Kliksberg, assessor to the UN, ILO, OAS, UNICEF and UNESCO, health is an aim in itself and integrates the category of the most basic human rights. Besides that, investment in health offers one of the highest possible returns, as it strengthens the so-called "human capital", basis of productivity, technological progress and competitiveness.<sup>63</sup> Without a firm basis on health, the objectives of education can not be attained. Health is a privileged field to rapidly reduce inequality, as it is possible to make progress in coverage, access, information, etc. Besides that, health is an intensive labor sector and requires the creation of jobs, with various levels of complexity, making it possible the incorporation of staff at a primary and secondary level of education. Investment in health means investment in people, reducing avoidable deaths of children, women, workers, elderly and the perception of this priority impacts on people's self esteem. With health we do not mean exclusively the health system, but measures of impact to change the health status of the population, such as nutrition, sanitation, electricity, water safety and control of environmental hazards. For five centuries, people of African descent have been dying disproportionately in this continent. Affirmative policies, of differential investments focusing communities where the black population is a majority should be implemented.

### **Education**

54) It is imperative for the State Parties of the region to invest heavily in education to break the vicious circles of inequality suffered by Afro-Americans that are reproduced by the educational system. To strengthen the public school to increase the quality of education in the poor areas where the black population is: to dignify the work of teachers, offering worthy salaries above the level of other professions, training and working materials and adequate infrastructure. Discriminatory contents of school texts and daily practices



and norms should be revised. To increase the period students' stay in school would both result in better quality of education and reduce the risks of violence that Afro-American youth are subjected in the majority of the Latin American countries. To offer computer training since the primary school would offer better conditions to compete in the labor market and include this population in the era of information.

### **Employment**

- 55) The region should prioritize growth strategies from bottom upwards, strengthening the small and medium companies, including rural companies, to create jobs in the areas of concentration of the Afro-American population. Black empowerment should be practiced as a means to develop a sector of black businessmen/women. Affirmative actions should be taken both in the public and private sectors: the public sector should especially analyze the factors that impede the progress of Afro-Americans to higher positions and take adequate measures to remove barriers; the private sector should analyze its personnel policies, as regards recruiting, salaries, promotions, etc to promote the workforce diversity at all hierarchical levels. Disregulations have deeply affected the rights of workers, especially the ones in most vulnerable social conditions, as is the case of Afro-Americans. These policies are extremely harmful in the region and Governments should take measures to reverse this tendency and encourage contracted work in order to protect the social rights of workers. Legal protection to domestic workers is essential to guarantee the enjoyment of the most essential human rights of a great majority of Afro-American women. Special programs of training for Afro-American youth, targeting modern sectors of the market, should be developed, offering them real alternatives of inclusion. Alternatives related to the traditional arts and culture should also be supported with a perspective of empowerment and strengthening the autonomy and networking capacity of communities.

### **Access to justice and law enforcement**

- 56) Afro-Americans must be assured just and adequate reparation for material and moral damage suffered as a result of racial discrimination. Reparations either monetary or non-monetary should have sufficient coercive or persuasive power to discourage the occurrence of the offence. Adequate laws, access to court, adequate training of the judiciary power on the national and international instruments of protection related to racial discrimination, xenophobia, ethnic violence and related intolerance are key issues to combat racism and to assure the economic, social and cultural rights of Afro-Americans.
- 57) The Regional Conference should seriously consider the suggestion presented in resolution 1999/6, adopted by the Sub-Commission on the Promotion and Protection of Human Rights at its fifty-first session that the current realities in the aftermath of slavery and colonialism, including the legal implications of the slave trade and the conditions of persons of African descent in the Americas be focused.

- 58) Law enforcement officials, especially members of the security forces, should be intensively trained on human rights, to assure their respect to all persons, without distinction as to race, color, descent or ethnic origin<sup>64</sup>.
- 59) Punishment of officials, especially of the security forces, who commit violations of human rights, should be enforced exemplary to combat the culture of violence that has Afro-Americans, especially young males, as preferential targets.

### Media

- 60) As stated by the report *Beyond Racism*, the media can help to undercut stereotypes, present more accurate pictures of groups and gain public support for the need to overcome discrimination and poverty. Governments should encourage journalists to develop codes of practice concerning the representation of Afro-Americans in the media.<sup>65</sup> Media companies should promote balance in coverage and inclusion in staffing and readership<sup>66</sup> Codes for regulating advertising should recommend balanced representation of the cultural diversity of the country.<sup>67</sup>

### Multiple Discrimination

- 61) Special attention should be paid to the burden of multiple discrimination imposed on Afro-Americans on the basis of gender, sexual orientation, physical disabilities, and health status. The combination of gender and racial discrimination results in increased vulnerability for Afro-American women, many of which are subject to sexual exploitation and traffic. Homosexual males and females are subject to harassment that frequently result in injuries and homicides. HIV/Aids incidence is high for both male and female Afro-Americans of many countries in the region and special attention should be given to confront the additional difficulties resulting of multiple discrimination. Sexual and reproductive rights are an integral part of human rights.

Special attention needs to be paid to the new structure of the global sex industry, how it operates and combines legal and illegal mechanisms of trafficking of women and children.

- 62) From the point of view of implementation of policies, it does not matter whether we think that poverty produces racism or vice-versa. What is essential is the understanding that these evils are inextricably connected and that there is no way of eliminating one without combating the other simultaneously: a person can only submit a human being to the most cruel levels of exploitation if believes that he or she is not so human, but is essentially different. To promote equality requires at the same time to change our mindsets that naturalize poverty and to change the real conditions that imprison millions human beings in the vicious circles of inequality.

## D) Notes

<sup>2</sup> Op.cit., para. 10 and 11.

<sup>3</sup> ibidem, pp. 4 - 9

<sup>4</sup> ibidem, para. 7

<sup>1</sup> The Persistence and Mutation of Racism, report of a meeting on 3-4 December 1999, p. 8.

<sup>2</sup> Op. cit., para. 8

<sup>3</sup> see Silva Jr., Hedio, *Direito de Igualdade Racial: Aspectos Constitucionais, Cíveis e Penais*, São Paulo, Ed. Juarez de Oliveira, (to be published 2000)

<sup>4</sup> Commission on Human Rights, fifty-fifth session, sessional open-ended working group to review and formulate proposals for the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, "United States strategies to combat racism and racial discrimination: past experiences and present perspectives, Background paper prepared by Mr. Theodor van Boven, member of the Committee on the Elimination of Racial Discrimination, in accordance with paragraph 51 of Commission resolution 1998/26, E/CN.4/1999/WG.1/BP.7, 26 February 1999, p. 9, para. 5 (b)

<sup>5</sup> ibidem, p. 4, para. 3 (d)

<sup>6</sup> ibidem, p. 6, para. 4

<sup>7</sup> ibidem, pp. 8-13

<sup>8</sup> Preparatory Committee, First session, "Reports, Studies and Other Documentation for the Preparatory Committee and the World Conference, Contribution of the Sub-Commission on the Promotion and Protection of Human Rights, Addendum, working paper submitted by Mr. Paulo Sérgio Pinheiro, member of the Sub-Commission, in accordance with Sub-Commission resolutions 1998/6 and 1999/6, A/CONF.189/PC.1/13/Add.1, 6 March 2000, para. 6.

<sup>9</sup> Member of the International Working and Advisory Group of the Comparative Human Relations Initiative, *Beyond Racism – Embracing an Interdependent Future*, Overview Report, p. 23.

<sup>10</sup> Op. cit., p. 8

<sup>11</sup> ibidem, pp. 5 – 9

<sup>12</sup> op.cit., pp. 43-44

<sup>13</sup> op. cit. Pp. 10-12

<sup>14</sup> Due to time constraints, it was not possible to analyze information on all countries of the region, neither to give a more balanced view. The amount of information presented does not necessarily reflect the amount of existing data.

<sup>15</sup> Alan Phillips, Preface and Acknowledgements, *No Longer Invisible: Afro-Latin Americans Today*, edited by Minority Rights Group, London, 1995, p. vii.

<sup>16</sup> Safa, Helen I., Introduction, *Latin America Perspectives*, Issue 100, Special Issue on Race & National Identity in the Americas, Volume 25, Number 3, May 1998, p. 3

<sup>17</sup> Martínez-Echazábal, Lourdes, *Hibridismo e Diasporização em Black Atlantic: o caso de Chombo*, *Estudos Afro-Asiáticos* 35, CEAA, Universidade Cândido Mendes, Rio de Janeiro, julho 1999

<sup>18</sup> Pérez Sarduy, Pedro and Stubbs, Jean, Introduction, *No Longer Invisible: Afro-Latin Americans Today*, p. 6

<sup>19</sup> Social Exclusion in Latin America, International Labour Office (ILO), International Institute for Labour Studies (IILS), Regional Forum, 1995, p. 14

<sup>20</sup> ECLAC, Information Services, Press Release, PR-34, Table 3: Latin America and the Caribbean: Estimates of the Black and Mixed Race Population by Country, 19 July 2000, based on U.S. Bureau of the Census, International

<sup>21</sup> idem, Table 1: Latin America: Indigenous Population (Census and Estimates) by Country, during the 1990s, Source: adapted from Peyser, Alexia and Chackiel, Juan (1999), "La identificación de poblaciones indígenas en los censos de América Latina", in: *América Latina: aspectos conceptuales de los Censos del 2000*, ECLAC/CELADE, Santiago, Chile, p. 361.

<sup>22</sup> idem

<sup>23</sup> Pérez Sarduy, Pedro and Stubbs, Jean, Introduction, *No Longer Invisible: Afro-Latin Americans Today*, p. 3

<sup>24</sup> Kliksberg, Bernardo, *Desigualdade na América Latina: o debate adiado*, São Paulo: Cortez; Brasília; UNESCO, 2000, pp. 71 - 73

<sup>25</sup> ibidem, p. 54

<sup>26</sup> ibidem, p. 33

- <sup>27</sup> Patrinos, Harry Anthony, *The Costs of Discrimination in Latin America*: [www.worldbank.org/html/extdr/hnp/hddflash/hcwp/hrwp040.html](http://www.worldbank.org/html/extdr/hnp/hddflash/hcwp/hrwp040.html), p. 1
- <sup>28</sup> *ibidem*, page 2
- <sup>29</sup> Fifteenth periodic reports of States parties due in 1998: Argentina, CERD/C/338/Add., 11 November 1999, page 26
- <sup>30</sup> *op.cit.*, pp. 113-114
- <sup>31</sup> Thirteenth periodic report of States parties due in 1995: Bolivia, 12 July 1995, CERD/C/281/Add.1
- <sup>32</sup> Spedding, Alison, Bolivia and Uruguay, in *No Longer Invisible: Afro-Latin Americans Today*, p. 319
- <sup>33</sup> *ibidem*, 329
- <sup>34</sup> <http://atlas.rits.org.br>
- <sup>35</sup> Human Development Index
- <sup>36</sup> If we disaggregate by gender, white men have a life expectancy of 69 years, white women 71, black men 62 and black women 66 years.
- <sup>37</sup> Disaggregating by gender we find 0,808 for white men, 0,657 for white women, 0,660 for black men and 0,515 for black women
- <sup>38</sup> Instituto Sindical Interamericano pela Igualdade Racial and Departamento Intersindical de Estatística e Estudos Sócio-Econômicos respectively
- <sup>39</sup> The equivalent to cimarrones or palenques
- <sup>40</sup> anthropologists, the leadership and the catholic church believe the number will surpass 1000
- <sup>41</sup> Versão Preliminar do décimo Quarto Relatório Periódico relativo à Convenção Internacional sobre a Eliminação de todas as Formas de Discriminação Racial prepared by Núcleo de Estudos da Violência
- <sup>42</sup> Fourteenth periodic report of States parties due in 1998: Chile, 28/10/98. CERD/C/337/Add.2
- <sup>43</sup> Ninth periodic report of States parties due in 1998: Colombia. 17/11/98. CERD/C/332/Add.1
- <sup>44</sup> Departamento Nacional de Planeación, Comisión para Formulación de Desarrollo Nacional de Población Afrocolombiana, Estimativa de Población por Municipios, kindly sent by Dr. Gustavo Makanaki, together with various health indicators in the areas of high and low concentration of the Afro-Colombian population.
- <sup>45</sup> People were asked if they belonged to a black/Afro-Colombian community. According to information received of Khittle, the concept of community was unclear and especially the urban population did not see themselves as members of such.
- <sup>46</sup> Eighth periodic reports of States Parties due in 1998: Dominican Republic. 11/02/99. CERD/C/331/Add.1
- <sup>47</sup> Asociación de Mujeres Garifunas de Guatemala – ASOMUGAGUA, that integrates the Board of Directors of Organización Negra Centroamericana – ONECA, according to document Acuerdos de la VI Asamblea General de la ONECA. (mimeo)
- <sup>48</sup> According to the summary record of the first part of the 1242<sup>nd</sup> meeting: Burkina Faso, Burundi, Guyana, Norway, Papua New Guinea, Suriname. 10/12/97. CERD/C.1242
- <sup>49</sup> Core document forming part of the reports of States Parties: Honduras. 15/09/98. HRI/CORE/1/Add.96
- <sup>50</sup> Comunidades de Ancestría Africana, p. 81
- <sup>51</sup> *idem*, p. 87
- <sup>52</sup> Concluding observations of the Committee on the Elimination of Racial Discrimination: Jamaica. 15/09/93. A/48/18, paras. 152-161
- <sup>53</sup> Concluding Observations of the Committee on the Elimination of all Forms of Racial Discrimination: Nicaragua. 22/09/95. A/50/18, paras. 499-541
- <sup>54</sup> *op. cit.* p. 20. The report consider that the official figure of 14% refers only to antillanos, who came originally from West Indies to build the canal.
- <sup>55</sup> *Afro-Central Americans: Rediscovering the African Heritage*, Minority Rights Group, London, 1996, p. 22
- <sup>56</sup> *The Afro-Paraguayan Community of Cambacua*, Minority Rights Group International, London, July 2000
- <sup>57</sup> Thirteenth periodic reports of States parties due in 1996: Peru, 20/07/98. CERD/C/298/Add.5
- <sup>58</sup> Comunidades de Ancestría Africana en Costa Rica, Honduras, Nicaragua, Argentina, Colombia, Ecuador, Perú, Uruguay y Venezuela, preparado por Cowater International Inc. para Banco Interamericano de Desarrollo, 1996, p.169
- <sup>59</sup> Fondo Nacional de Compensación y Desarrollo Social
- <sup>60</sup> *op.cit.*, 189-191
- <sup>61</sup> Conclusiones del Comité Acerca de la Eliminación de la Discriminación Racial acerca de los informes periódicos 12, 13, 14 y 15 en su encuentro 1350 y 1351. CERD/C/SR.1350 y 1351
- <sup>62</sup> Based on proposal presented by Mr. Paulo Sérgio Pinheiro, *op.cit.* para. 48.

<sup>63</sup> Op. cit., p. 63

<sup>64</sup> Borrowed from Mr. Paulo Sérgio Pinheiro, op.cit. para. 56, which is taken from joint working paper on article 7 of the International Convention on the Elimination of all Forms of Racial Discrimination, prepared by Mr. José Bengoa, Mr. Ivan Garvalov, Mr. Mustafa Mehedi and Mrs. Shanti Sadiq Ali (E/CN.4/Sub.2/1998/4), Preliminary conclusions and recommendations (chap. VI)

<sup>65</sup> based on Mr. Michael Banton, op. cit. para. 45

<sup>66</sup> Proposal presented in the report Beyond Racism, p. 43.

<sup>67</sup> Proposal presented by Mr. Michael Banton, op.cit., para. 45

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