



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

Distr.
GENERAL

CERD/C/62/CO/2
2 June 2003

Original: ENGLISH

COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION
Sixty-second session
3-21 March 2003

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION**

**Concluding observations of the Committee on the
Elimination of Racial Discrimination***

ECUADOR

1. The Committee considered the thirteenth to sixteenth periodic reports of Ecuador, due from 4 January 1994 to 4 January 2000, respectively, and submitted as one document (CERD/C/384/Add.8), at its 1556th and 1557th meetings (CERD/C/SR.1556 and CERD/C/SR.1557), held on 4 and 5 March 2003. At its 1580th meeting (CERD/C/SR.1580), held on 20 March 2003, it adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the detailed reports submitted by the State party and appreciates the updated information provided orally by the delegation, as well as its frank and straightforward answers to the questions and comments formulated by members of the Committee. However, the Committee notes that the constructive dialogue it was thus able to resume with the State party after 10 years of interruption could have been further enhanced if it had taken place earlier.

* Please note that the symbol CERD/C/Session No./CO/... replaces the symbol CERD/C/304/Add...

B. Positive aspects

3 The Committee notes with satisfaction that the 1998 Constitution, as well as other legal provisions, guarantee special measures of protection for indigenous and Afro-Ecuadorian people and criminalize racial discrimination against these and other ethnic minorities. It also notes that the State party has adopted legislation which criminalizes the illegal smuggling of people across the country's borders under often inhumane conditions ("*coyoterismo*").

4. The Committee welcomes the adoption of several action plans within the framework of the State party's National Human Rights Plan, in particular those on the rights of black persons and on the rights of foreigners, migrants, refugees and stateless and displaced persons, as well as the State party's efforts to promote the adoption of other action plans, in particular on the rights of indigenous peoples.

5. The Committee welcomes the creation by the State party of an Ombudsman's Office with special units for indigenous and Afro-Ecuadorian affairs, and of a Commission for Public Coordination of Human Rights.

6. The Committee welcomes the introduction of a bilingual education system in Ecuador for teaching some 94,000 indigenous children in both Spanish and their own languages.

7. The Committee notes with satisfaction that the State party has ratified ILO Convention (No. 169) concerning Indigenous and Tribal Peoples in Independent Countries of 1989 and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families of 1990.

8. The Committee also welcomes the State party's expressed intention to ratify the amendment to article 8, paragraph 6, of the International Convention on the Elimination of All Forms of Racial Discrimination. In this connection the Committee refers to General Assembly resolution 57/194 of 18 December 2002 in which the Assembly strongly urged States parties to accelerate their domestic ratification procedures with regard to the amendment and to notify the Secretary-General expeditiously in writing of their agreement to the amendment.

C. Concerns and recommendations

9 The Committee expresses its concern about the lack of consistent statistical data on the ethnic composition of the Ecuadorian population. While it recognizes the difficulties in establishing criteria for defining the different ethnic groups, the Committee emphasizes that such data are necessary to ensure the application of special legislation in favour of these groups.

10. The Committee recommends that the national institutions responsible for the advancement of the rights of indigenous and Afro-Ecuadorian people, in particular the Council for the Development of Ecuadorian Nationalities and Peoples (CODENPE), the Council for Afro-Ecuadorian Development (CODAE) and the Ombudsman's Office, be further strengthened. The interlinkages and delimitation of responsibilities between the numerous institutions working in this field should be explained in the State party's next report. The Committee also recommends that the State party strengthen, through adequate funding and other appropriate means, the recently established Commission for Public Coordination of Human Rights.

11. The Committee notes that, despite constitutional and legal guarantees, indigenous and Afro-Ecuadorian people, as well as members of other ethnic minorities are, de facto, still discriminated against. It urges the State party to ensure the practical application of the constitutional and legal provisions which outlaw racial discrimination and to guarantee special protection measures in favour of indigenous and Afro-Ecuadorian people, as well as members of other ethnic minorities, in particular through the national courts and other competent bodies such as the Ombudsman.

12. Serious concern is expressed about reported instances of excessive use of force by the police and armed forces against indigenous people, particularly in the context of political demonstrations and civil unrest. The Committee recommends that the State party ensure that such acts are avoided and, in this connection, recommends that the State party include human rights education in the professional training of police and armed forces, as well as prison staff, and requests it to report on any measures taken in this regard.

13. While welcoming the sincerity with which the State party recognizes the existence of de facto discrimination against indigenous people, Afro-Ecuadorians and members of other minorities, the Committee is concerned that a disproportionately high percentage of persons belonging to ethnic minority groups often do not enjoy equal access to the labour market, land and means of agricultural production, health services, education and other facilities and, accordingly, a disproportionately high percentage of members of these groups live in poverty. The Committee urges the State party to intensify its efforts to raise the living standards of these groups, with a view to ensuring their full enjoyment of the economic, social and cultural rights enumerated in article 5 of the Convention. The State party is requested to include in its next report precise figures as well as some key indicators relating to the enjoyment of economic, social and cultural rights by the different ethnic groups, disaggregated by urban/rural population, age and gender.

14. With regard to the important problem of illiteracy among indigenous and Afro-Ecuadorian people, the Committee recommends that the State party take measures to increase the number of bilingual teaching personnel, in particular from among these communities. The State party's next report should contain precise data as to the percentage of the indigenous, Afro-Ecuadorian and other minority populations having access to primary, secondary and university education, as well as on access by these groups to programmes in their language on the radio, on television and in other mass media.

15. The Committee notes that women belonging to ethnic minorities are subject to double discrimination, based on their ethnic origin as well as their gender. Information relating to gender-related discrimination against indigenous and Afro-Ecuadorian women and on action taken by the State party in this regard should be included in the next periodic report. In formulating the action plan on the rights of women, the State party should address the problem of double discrimination against women belonging to ethnic minorities as well as their lack of political representation in Ecuador, in line with the Committee's General Recommendation XXV on gender-related dimensions of racial discrimination.

16. As to the exploitation of the subsoil resources of the traditional lands of indigenous communities, the Committee observes that merely consulting these communities prior to exploiting the resources falls short of meeting the requirements set out in the Committee's

general recommendation XXIII on the rights of indigenous peoples. The Committee therefore recommends that the prior informed consent of these communities be sought, and that the equitable sharing of benefits to be derived from such exploitation be ensured. Detailed information on land titles of indigenous communities, as well as on remedies available to indigenous people claiming compensation for the environmental depletion of their traditional lands, should be included in the State party's next periodic report.

17. The Committee is concerned about the lack of confidence on the part of members of ethnic minorities in the Ecuadorian judicial system. The State party is requested to report on the causes of this lack of confidence, and on whether the current reform of the judicial system has made it more efficient and more easily accessible for the poor.

18. The Committee recommends that the State party disseminate widely information on the available domestic remedies for acts of racial discrimination, on the legal avenues for obtaining compensation in cases of discrimination and on the individual complaint procedure under article 14 of the Convention.

19. The Committee notes the lack of information in the State party's report on the functioning of the indigenous judicial systems and recommends that such information be provided in its next periodic report.

20. The Committee is concerned at the reports on discrimination and hostility suffered by migrants and calls on the State party to intensify its efforts in designing and implementing educational campaigns to combat racial discrimination within all sectors of society.

21. The Committee recommends that the State party take into account the relevant parts of the Durban Declaration and Programme of Action when implementing the Convention in the domestic legal order, in particular in respect of articles 2 to 7 of the Convention, and that it include in its next periodic report information on the measures taken to implement the Durban Declaration and Programme of Action at the national level.

22. The Committee encourages the State party to consult with organizations of civil society working for the promotion of human rights during the preparation of the next periodic report, and recommends that the periodic reports be made readily available to the public from the time they are submitted and that the observations of the Committee on these reports be similarly publicized.

23. The Committee recommends that the State party submit its seventeenth periodic report jointly with its eighteenth and nineteenth periodic reports, due on 4 January 2006, and that it address all points raised in the present concluding observations.
