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Report on the Regional Seminar for Latin America and the Caribbean on data collection and use of indicators to promote and monitor racial equality and non-discrimination*

Summary

The Regional Seminar for Latin America and the Caribbean on data collection and use of indicators to promote and monitor racial equality and non-discrimination was held in Rio de Janeiro, Brazil, from 3 to 5 May 2010. It was organized by the Office of the United Nations High Commissioner for Human Rights in conjunction with the Brazil office of the United Nations Development Programme and was hosted by the Government of Brazil.

The main objective of the Regional Seminar was to discuss the issue of collecting and disaggregating statistical data for the purpose of formulating anti-racism and anti-racial discrimination policy, taking account of the benefits, risks, need and relevance involved from a human rights standpoint. It also provided a forum for sharing experience in data collection and use of indicators to promote and monitor racial equality and non-discrimination.

The Regional Seminar concluded that careful collection of data disaggregated by ethnicity or race¹ could benefit victims, provided that the data complied with standards on human rights and fundamental freedoms, such as provisions for data protection and privacy guarantees. Statistics are an important instrument in formulating and conducting appropriate public policies to combat racism and racial discrimination, for instance the

* Late submission.

¹ In line with the outcome document of the Durban Review Conference, the use of the term “race” in the present document does not imply acceptance of theories claiming the existence of distinct human races.

adoption of special measures. They are useful for evaluating, measuring and determining the effectiveness of anti-discrimination policies so that any changes and adjustments can be made.

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I. Introduction

1. The World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, held in Durban, South Africa in 2001, emphasized the importance of collecting and analysing reliable statistical data to ascertain the extent of racial discrimination, monitor the situation of marginalized groups, and develop appropriate legislation, policies, practices and other measures aimed at preventing and combating racism and racial discrimination. The World Conference called upon States to ensure that statistical data are disaggregated in accordance with national legislation and collected with the explicit consent of victims, based on their self-identification and in accordance with provisions on human rights and fundamental freedoms, such as data protection regulations and privacy guarantees.² In 2009, the Durban Review Conference recommended that States develop a system of data collection, including equal-opportunity and non-discrimination indicators, that makes it possible to assess and guide the formulation of policies and actions to eradicate racism.³ The Regional Seminar of experts for Latin America and the Caribbean on data collection and use of indicators to promote and monitor racial equality and non-discrimination was held in follow-up to the World Conference.

A. Organization

2. During six meetings over three days, experts from the United Nations, national statistics institutes and national racial equality organizations, as well as academics and representatives of civil society, presented background papers which served as a basis for discussions. The Regional Seminar adopted conclusions and recommendations which are set out in this report.

B. Participants

3. The list of participants may be found in annex II of this report.

C. Background⁴

1. Data collection and formulation of racial equality policies

4. Many international and regional human rights mechanisms consider “data and indicators disaggregated by ethnicity” to be an important tool for identifying and combating racial discrimination. The Durban Programme of Action, the Committee on the Elimination of Racial Discrimination and the Council of Europe’s European Commission against Racism and Intolerance (ECRI) have expressed support for collecting data disaggregated by ethnic origin and provided guidance on safeguards against misuse or abuse of data.

5. The Committee on the Elimination of Racial Discrimination has consistently recommended that States collect disaggregated data in order to improve the effectiveness of existing anti-racism measures. In 2009, the Committee issued general recommendation No.

² See the report of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (A/CONF.189/12 and Corr.1), chap. I.

³ See the report of the Durban Review Conference (A/CONF.211/8), chap. I.

⁴ The secretariat distributed reference material to the participants. The key elements of that documentation are summarized in this chapter.

32 on the meaning and scope of special measures under the International Convention on the Elimination of All Forms of Racial Discrimination⁵ in an attempt to clarify the concept of special measures and provide guidance to States on adopting and implementing them. It is noteworthy that paragraph 16 of the general recommendation states that the measures should be designed and implemented on the basis of need, grounded in a realistic appraisal of the current situation of the individuals and communities concerned. Appraisals of the need for special measures should be carried out on the basis of accurate data, disaggregated by race, colour, descent and ethnic or national origin and incorporating a gender perspective, on the socio-economic and cultural status and conditions of the various groups in the population, and on their participation in the social and economic development of the country. Collection of ethnically disaggregated data should be based on self-identification, a principle directly derived from the Committee's general recommendation No. 8, which states that identification with a particular racial or ethnic group shall, if no justification exists to the contrary, be based upon self-identification by the individual concerned. Although self-identification is not without problems — for example, persons who are members of minorities may refrain from self-identifying as such for fear of persecution or prejudice — it is grounded in the important notion that the State cannot impose an identity on an individual.

6. Similarly, the Committee on Economic, Social and Cultural Rights, in its general comment No. 20 on non-discrimination in economic, social and cultural rights (art. 2, para. 2, of the International Covenant on Economic, Social and Cultural Rights) encourages States parties to ensure that strategies, policies, and plans of action are in place and implemented in order to address both formal and substantive discrimination by public and private actors. Such policies, plans and strategies should address all groups distinguished by the prohibited grounds and States parties are encouraged, among other possible steps, to adopt temporary special measures in order to accelerate the achievement of equality. The Committee further recommends that national strategies, policies and plans should use appropriate indicators and benchmarks, disaggregated on the basis of the prohibited grounds of discrimination.⁶

7. The Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Githu Muigai, has repeated time and again that collecting ethnically disaggregated data is an essential tool. It should be understood both as a “component of the right of individuals to be free from racial discrimination and as an obligation of States to ensure effective equality irrespective of ethnicity”.⁷

8. Regarding regional efforts in this area, it is worth highlighting the work being done by the Economic Commission for Latin America and the Caribbean (ECLAC) to ensure that ethnic and racial data on the region's Afro-descendants and indigenous peoples are included in the 2010, 2011 and 2012 round of censuses, and to establish databases⁸ for

⁵ CERD/C/GC/32.

⁶ E/C.12/GC/20, paras. 38 and 41.

⁷ Githu Muigai, “Statistical data as a method to promote and monitor racial equality and non-discrimination: benefits and risks” http://www2.ohchr.org/english/issues/racism/rapporteur/docs/Contribution_ethnically_disaggregated_data_BrazilMay2010.pdf (consulted on 6 September 2011).

⁸ Latin American and Caribbean Demographic Centre (CELADE) – Population Division of the Economic Commission for Latin America and the Caribbean (ECLAC), “Banco de datos de pueblos indígenas y afrodescendientes en América Latina y el Caribe (PIAALC)” (“Indigenous Peoples and Afro-descendants in Latin America and the Caribbean data bank”) http://www.cepal.org/cgi-bin/getprod.asp?xml=/celade/noticias/paginas/0/36160/P36160.xml&xsl=/%20celade/tpl/p18f.xsl&base=/celade/tpl/top-bottom_ind.xsl. (consulted on 6 September 2011).

assessing the extent to which specific human rights are realized among indigenous persons and Afro-descendants in Latin America and the Caribbean.

9. ECRI emphasizes that, without quality data, it is impossible to formulate, implement or evaluate sound public policies to combat racism and racial discrimination or to promote equal opportunity. Therefore, it recommends collecting, in accordance with European laws, regulations and recommendations on data protection and protection of privacy, data which will assist in evaluating the situation and experiences of groups which are particularly vulnerable to racism, xenophobia, anti-Semitism and intolerance.⁹

10. It should also be noted that there are general concerns about collecting “ethnic” data, such as the usual risk of obtaining false information, risks relating to the right to privacy, and the abuse or unlawful use of information to discriminate against or stigmatize certain groups. Protecting such data is a key issue, particularly in the computer era. A series of specialized normative instruments has been designed to guide States in developing personal-data collection processes and to provide appropriate privacy guarantees and safeguards against data abuse. The spirit of these instruments is not to prohibit the gathering of personal information, but rather to establish appropriate guarantees under democratic political systems and in keeping with the rule of law.

11. Internationally, the Guidelines for the regulation of computerized personal data files, as approved by the General Assembly,¹⁰ provide guidance that national authorities should apply when collecting and disaggregating sensitive data by ethnicity or race. The instrument applies the principle of non-discrimination which allows the gathering of sensitive information, including on race and ethnic origin, provided that the collection methods do not give rise to “unlawful or arbitrary discrimination”.¹¹ The instrument includes, inter alia, the principles of:

(a) Lawfulness and fairness: Information about persons should not be collected or processed in unfair or unlawful ways, nor should it be used for ends contrary to the purposes and principles of the Charter of the United Nations;

(b) Accuracy: Recorded data should be accurate and updated regularly, and regular checks should be made on their accuracy and relevance;

(c) Purpose-specification: The purpose which a file is to serve and its utilization in terms of that purpose should be specified, legitimate and, when it is established, receive a certain amount of publicity or be brought to the attention of the person concerned. All personal data collected and recorded should remain relevant and adequate to the purposes so specified;

(d) Interested-person access: Interested parties should be given access to information on how their personal information is being used;

(e) Security: Appropriate measures should be taken to protect files.

12. In addition, the Guidelines establish minimum guarantees for States to implement:

(a) Interested-person access: Any person who offers proof of identity has the right to know whether information concerning him is being processed and to obtain it in an intelligible form;

⁹ ECRI general policy recommendation No. 1 on combating racism, xenophobia, anti-Semitism and intolerance, approved in 1996.

¹⁰ General Assembly resolution 45/95 of 14 December 1990, and document E/CN.4/1990/72.

¹¹ *Ibid.*, principle 5.

(b) Security: Appropriate measures should be taken to protect files against both natural and human dangers, such as unauthorized access, fraudulent use of data or contamination by computer viruses;

(c) Supervision and sanctions relating to the aforementioned principles.

13. Regionally, Council of Europe Convention No. 108 for the Protection of Individuals with regard to Automatic Processing of Personal Data is a key instrument for protecting fundamental freedoms, especially the right of all persons to privacy. Directive 95/46/EC of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and on the free movement of such data was adopted with the same aim, and further strengthens the right to privacy, regulation and processing of personal data and establishes a common standard for all member States.¹²

14. Convention No. 108 and Directive 95/46/EC treat “ethnic data” as sensitive or personal information. Given the special nature of sensitive data, including information on ethnic or racial origin, and the potential risks involved, special safeguards must be put in place. Convention No. 108 establishes that personal data cannot be processed automatically unless domestic law provides appropriate safeguards. Directive 95/46/EC stipulates that European Union member States shall prohibit the processing of personal data; however, it also sets out a number of exceptions involving the data subject’s explicit consent. For reasons of substantial public interest, member States may lay down exemptions under national law, subject to the provision of suitable safeguards.

2. Recent work on the use of indicators

15. The discussion on human rights indicators was largely initiated by the international human rights treaty bodies. Defining and developing indicators can help to make Government actions to combat racial discrimination more systematic and transparent, and also to gauge progress over a given period. The Office of the United Nations High Commissioner for Human Rights (OHCHR), the United Nations Development Programme UNDP, the United Nations Children’s Fund (UNICEF) and various bodies within the Inter-American system have attempted to find and define human rights indicators on specific or general themes.

16. The Permanent Forum on Indigenous Issues has also identified data collection and disaggregation as a matter of crucial significance. At its sixth session, in May 2007, the Permanent Forum recommended that “all States work in equal partnership with indigenous peoples to develop, implement and evaluate indicators on well-being that provide an overview of the social and economic status of indigenous peoples within a holistic, integrated framework”.¹³

17. OHCHR has developed a useful model with a view to facilitating the monitoring function of United Nations human rights treaty bodies. Under this methodology, there are three categories of indicators:

(a) Structural indicators: they include evaluating the steps taken by a State in relation to its obligations on the basis of its acceptance of international human rights standards;

(b) Process indicators: they evaluate the efforts made to fulfil the obligations resulting from those standards;

¹² Directive 95/46/EC, art. 8 (1).

¹³ E/2007/43, para. 128.

(c) Outcome indicators: they measure efforts from the perspective of subjects of rights.

18. Based on this conceptual and methodological framework, OHCHR prepared lists of illustrative indicators for various civil, cultural, economic, political and social rights, such as the right to food, the right to education, the right to liberty and security of person and the right to participate in public affairs.¹⁴ More recently, it began work on cross-cutting human rights indicators for the principles of non-discrimination and equality.

19. Similarly, the Committee on the Elimination of Racial Discrimination, in its Guidelines for the early warning and urgent action procedure, developed indicators for evaluating serious violations, in particular those that could lead to ethnic conflict and violence.¹⁵

D. Opening

20. Mr. Christian Salazar, OHCHR, opened the seminar and stressed that statistics were a key factor in preventing racism and discrimination. He noted that statistics could shed light on discrimination and its victims. It was also necessary that groups or persons discriminated against should be able to back up their demands with statistical data. Many Latin American and Caribbean countries had gaps when it came to issues of ethnic origin and sound data were essential not only for establishing that human rights were not respected but also for fixing domestic budgets. He highlighted the importance of States being able to formulate policies to overcome discrimination and the significance of specialized public policies, for which disaggregated data were necessary. Policies must be based on reliable data which also included a gender perspective. He highlighted four conditions necessary for State and non-State information systems to be used as tools for combating discrimination in a human rights framework: (a) data disaggregated by age, gender, place and ethnicity were indispensable to policymaking; (b) strict methodology was crucial for any human rights focus and for avoiding the manipulation or distortion of data; (c) citizens' participation should not be limited to providing information and they should be consulted throughout the process; (d) disseminating information was essential for combating discrimination and strengthening democracy.

21. Mr. Eloi Ferreira de Araujo, Minister and Chief of the Brazilian Office for Policies of Racial Advancement and Equality, said he was somewhat concerned by such opinions, because if all persons were equal, it should be possible to demonstrate that fact and there would be no racial inequality or discrimination; yet both did exist. For the new round of censuses, Afro-descendants and indigenous people would be identified in only nine of the region's countries, which demonstrated the structural and historical racism prevailing in Latin America. Every social group, including ethnic or racial groups, had its specificities which universal policies could not always cover. The challenge was to overcome discrimination and achieve universal enjoyment of human rights. Democracy should not suffer from archaic racism that worsened the living conditions of the population at large. In the Brazilian census of 1872, it was slave owners who had defined the colour of slaves, whereas the current context was completely different now that the disaggregation of data was based on self-identification. According to the latest survey on standards of living (*Pesquisa sobre Padrões de Vida – PPV*), Afro-descendants accounted for 50.7 per cent of the Brazilian population. That group had seen significant growth, driven by the work of the Black Movement which had increased the self-esteem of Afro-descendants and reduced

¹⁴ See tables of indicators in HRI/MC/2008/39, annex I (English only).

¹⁵ See A/62/18, annex III.

self-denial. Lastly, he said that 70 per cent of the 60 million people who received government subsidies to improve their living conditions were Afro-descendants.

22. Mr. Jorge Chediek, United Nations Resident Coordinator in Brazil, emphasized the importance, from a rights standpoint, of supplying appropriate information so that all could benefit. The United Nations had worked on those themes with the Brazilian Government and an atlas had been published in 2004 for use in policy- and decision-making. The atlas revealed that Afro-descendants had the worst living conditions, although in recent years the Brazilian Government had played a positive role in changing that situation. The United Nations system was working with the Government to combat all forms of racism and racial discrimination and hoped that the private sector would also contribute to a fairer society. In his opinion, better disaggregated data meant better anti-racism policies.

23. Ms. Marcia Adorno, Brazilian Ministry of Foreign Affairs, said that there were international difficulties in the struggle against racism, which was a priority item on the Latin American agenda. Countries like Brazil were trying to establish the topic as a permanent feature of international and national agendas. On some occasions the topic of migration was on the agenda for criminalization without a broader debate on xenophobia. Other problems included intolerance of diversity and rejection of manifestations of religion and culture, for instance Islamophobia. Brazilian policy dealt objectively with racism, intolerance and discrimination, and tried to put an end to those practices and reach solutions that could be implemented. Sound anti-discrimination policy could only come from sound diagnosis of the issue, and policymaking required disaggregated data. She urged States to redouble their efforts in that regard, to build professional capacity and to move forward with developing that complex methodology.

24. Mr. Agustín Espinoza, Ibero-American Secretariat (SEGIB), said that the aim of his organization was to contribute to strengthening democracy and human rights in Latin America, for which purpose it was necessary to address issues facing indigenous peoples and Afro-descendants. Member States had given SEGIB the mandate to carry out the recommendations from 20 summits of heads of State. The importance of promoting racial equality had been a recurrent theme at those meetings, and was a priority for the work of SEGIB. Similarly, SEGIB had leadership programmes for Afro-descendant and indigenous youth in several countries of the region. The topic of the Regional Seminar was fundamental to the development of fairer and more democratic societies. Data collection and use of indicators would undoubtedly lead to the development of public policies for correcting historical inequalities.

II. Statistical data as a method to promote and monitor racial equality and non-discrimination: benefits and risks

25. Ms. Edna Roland, Independent eminent expert for the implementation of the Durban Declaration and Programme of Action, said that the international human rights system was based on the principles of equality and non-discrimination, which were the cornerstones of the struggle against racism, racial discrimination, xenophobia and intolerance. In addition, the Durban Programme of Action urged States to produce reliable data despite some potential risks, such as the risk of data on fertility being misused depending on a country's political stance and commitment to strengthening democracy. Affirmative action should be relevant and based on reliable data, both quantitative and qualitative. The use of special measures, such as affirmative action, did not constitute discrimination since the role of the State was to put an end to discrimination.

26. Ms. Virginia Bras Gomes, Member of the Committee on Economic, Social and Cultural Rights, said that racial discrimination involved a persistent pattern of social

behaviour, was systematic and constituted a violation of human rights. The International Covenant on Economic, Social and Cultural Rights covered relevant areas of socio-economic development which ensured a decent living for all men and women. Compliance with that instrument led to a direct improvement for groups subject to discrimination through the implementation of short-, medium- and long-term policies. It was crucial for States to have a clear idea of which groups were vulnerable and where and how they lived. That information should form part of the data collected by Governments. Assessments carried out in each country provided significant international points of comparison, such as in the work of the International Labour Organization (ILO) and UNDP. It was regrettable that statistical data were rarely used to monitor human rights and that the inability of certain groups or individuals to access their basic rights was not identified. The challenge was to move from recognizing that situation to taking action. Basic requirements in that regard were the collection of disaggregated data and the methodology and criteria used over time. The availability of data for the purposes of monitoring and designing action plans was the only way forward. Moreover, policy design should take account of gender and the complementarity of qualitative and quantitative data.

27. Mr. Humberto Adami, Brazilian Office for Policies of Racial Advancement and Equality, said that, on the basis of the latest disaggregated data received on the socio-economic situation of the country's Afro-descendants and indigenous people, the Government of Brazil had adopted policies such as setting goals for inclusion of those groups in public tenders and taking other affirmative action, which had proved their effectiveness. In response to the negative reaction of certain dominant groups to the adoption of affirmative action, social actors such as universities and the Bar Association of Brazil had taken part in a public debate and used disaggregated data to substantiate the need for affirmative action in Brazil.

28. Ms. Alma Jenkins, UNICEF, discussed the absence of statistics on childhood and adolescence issues and stressed the need for improved statistical visibility for those age groups. She drew attention to the fact that children and adolescents were already citizens and subjects of rights, therefore the issue was an immediate one.

29. Mr. Carlos Viafra, Del Valle University, Colombia, presented evidence of inequality in the opportunity structure for the Afro-Colombian community on the basis of disaggregated statistical data. The data revealed that Afro-Colombians suffered the worst living conditions, as reflected by the public investment allocated to them. Colombia had conducted three population censuses containing ethnic and racial characteristics, but the inclusion of an ethnic and racial classification section in household surveys and quality-of-life studies was a recent development. There had been significant progress in regard to self-recognition by the Afro-Colombian population, resulting from better phrasing of the question and the awareness campaigns carried out for the 2005 census. That population group showed greater socio-demographic vulnerability and limited participation in the goods and services market, a situation stemming from institutional factors connected with ethnic and racial discrimination.

30. Mr. José Carlos Morales, Member of the Expert Mechanism on the Rights of Indigenous Peoples, said that only 13 Latin American countries had ratified the ILO Convention concerning Indigenous and Tribal Peoples in Independent Countries, 1989 (No. 169), while a far greater number of countries had signed the ILO Convention concerning the Protection and Integration of Indigenous and Other Tribal and Semi-Tribal Populations in Independent Countries, 1957 (No. 107). The reason was that ILO Convention No. 169 entailed respect for, inter alia, the diversity of cultures and ways of life and collective ownership of land and resources, and it was necessary to reconcile that with applicable domestic legislation. As a result, ratification had progressed at a much slower pace. The Millennium Development Goals did not take account of indigenous peoples and in many

cases even served to make them invisible, hence the need to rework the Goals to include an ethnic component with a view to racial equality. Similarly, the Permanent Forum on Indigenous Issues had championed the pressing need to disaggregate data and ensure full participation of those peoples, in so doing recognizing that their rights were indivisible and inalienable.

31. Mr. Francisco Calí Tzay, Member of the Committee on the Elimination of Racial Discrimination, said that population censuses were an indispensable and very useful source for victims of racism because they made the invisible visible. World awareness of the existence of indigenous people dated back only a few years, but now they were numbered at approximately 340 million. It was important to identify vulnerable persons and groups, to know how many there were, how and where they lived, what their level of education and access to other services were, and if they enjoyed their economic, social and cultural rights. It was also important that concepts such as interculturalism, ethnic group, indigenous peoples, Afro-descendants and ethnic, racial and cultural minorities should be defined and that the definitions should be based on the terminology used in international human rights conventions.

32. Mr. Harold Robins, United Nations Population Fund (UNFPA), said that his organization valued information, especially the data provided in demographic censuses. Disaggregated data were fundamental to the administration of justice as they could, for example, help reveal any racial profiling, and they required specialized work. Efforts should not be limited to mere data collection, which was but one step, albeit an important one; what mattered more was work on the subsequent stages, i.e., the correct handling and appropriate use of the data. He reaffirmed the importance to countries' sustainable development of reliable data helping to rectify shortcomings in the area of discrimination.

III. Exchange of experience on collection and use of disaggregated statistical data to promote and monitor racial equality and non-discrimination

33. Mr. José Luiz Petrucelli, Brazilian Institute of Geography and Statistics (IBGE), addressed the reasons for enquiring about a person's ethnic origin and said that the aim of gathering data was to detect any structural inequalities, support corrective policies and evaluate the effectiveness of government policy over time. Based on Brazil's experience, the design of the data collection tool, i.e. the questionnaire, was an important matter, be it on paper or via other media. The design would conform to IBGE's theoretical and conceptual frame of reference, which informed the definition and analysis of census categories, especially those reflecting the population's ethnic and racial composition. Brazil was now in a position to question the ideology of a homogenous nation, move forward on creating a legal and political framework that encompassed policies focused on affirmative action, and delineate new subjects of rights, such as Afro-descendants, indigenous peoples, Quilombolas, and Roma. He noted the significant shift from government-centred activity to action based on the interests of the population.

34. Ms. Alma Sacalxot, Director of Indigenous Peoples Projects at the Embassy of Spain in Guatemala, gave an overview of the indigenous situation in that country, detailing the socio-economic characteristics of the indigenous peoples, the inequality they experienced in relation to the rest of the population, and the actions taken to combat discrimination, including collecting and using statistical data. Some Government bodies had begun keeping records of cases of discrimination and racism, and some of the cases had resulted in legal penalties. A unit had been established within the National Statistics

Institute to ensure that gender and indigenous perspectives were included as cross-cutting issues in statistics production.

35. Mr. Luis Pijal Caiza, National Statistics and Census Institute (INEC) of Ecuador, said that indigenous peoples and Afro-descendants fared the worst on socio-economic indicators, reflecting the fact that the region did not design or apply proper government policies and hence did not realize the rights of these groups. One of the central struggles of the region's indigenous and Afro-descendant movement had been to build more equitable and inclusive societies within a context of national diversity. Since the 1990s there had been a push for recognition of plurinational and intercultural States, a goal reflected in a number of the region's constitutions. The mandate of the National Statistics Commission on Indigenous Peoples, Afro-Ecuadorians and Montubios (CONEPIA) set up by INEC was to reach consensus on technical criteria for producing quantitative and qualitative data and standardizing variables for calculating indicators on the living conditions of indigenous peoples and Afro-Ecuadorians. CONEPIA was endeavouring to develop disaggregated data on nations and peoples in order to ensure the statistical visibility of those groups, thus recognizing the country's cultural diversity, enhancing citizen participation and sensitizing peoples to the value of statistics.

36. Mr. Eugenio Fuentes, National Statistics Institute of Costa Rica, described the country's experience with the 2000 census. There had been only one question on ethnicity in the country as a whole, but five questions in indigenous territories, regarding indigenous territory, ethnicity, indigenous people, indigenous language and mother tongue. The concept of ethnicity used in that census had been based on membership or self-identification, including traditions, practices and values associated with identity, and not on physical appearance, skin colour, place of residence or origin. Highlights of the 2000 census were: (a) due to the standard of training, the question had often not been asked, the census taker had noted the respondent's appearance instead (skin colour and physical traits) and there had been problems with coverage; (b) the concept of Afro-Costa Rican had proved ambiguous and left out the immigrant population of Afro-descendants; and (c) indigenous and Afro-descendant representatives claimed their numbers had been underestimated.

37. Mr. Humberto Brown, Working Group on Afro-descendants in the 2010 Census Round, NGO Coalition, emphasized the importance of civil society in awareness campaigns and the census process. The goals of the coalition were to: shape the preparation of censuses in the region's 2010–2011 round; work to improve the information gathered; ensure the participation of interested groups throughout the process; and raise awareness in reluctant countries of the need to collect data. The first step was to recognize the existence of racial discrimination in order to better deconstruct stereotyped beliefs.

38. Mr. Jhon Anton, Afro-Ecuadorian Development Corporation, gave an overview of the 2010 census round in the region. Ecuador had run a campaign "*Si no nos cuentan no contamos*" (If we are not counted, we don't count). He said that, if individuals or groups were not counted, they would not be taken into consideration in public policy and their demands would not be heeded. Statistical invisibility meant that Afro-descendants, indigenous peoples and other groups affected by racism were marginalized and suffered injustice and inequality.

39. Mr. Cristián Báez, Alianza Afrochilena, said that one of the Afro-Chilean movement's greatest challenges was gaining visibility. There was a bill before parliament to give constitutional recognition to Afro-descendants in Chile, and Alianza Afrochilena was cooperating with the National Statistics Institute to include questions on self-identification by Afro-descendants in the next census, to be held in 2012. He described a pilot project that had been conducted in Chile to identify Afro-descendants and establish their socio-economic situation.

40. Mr. José Ribeiro, ILO, said that, under the ILO Convention concerning Discrimination in Respect of Employment and Occupation, 1958 (No. 111), data and indicators were indispensable for observing the Convention and promoting equality, especially racial and ethnic. He summarized the Brazilian report on the work done with data disaggregated by ethnicity, race and gender to evaluate the extent to which specific rights in that country were realized. Despite progress on many indicators, there continued to be disparities between the white population and Afro-descendants and indigenous peoples. There was a survey in Brazil aimed at fulfilling requests for disaggregated data which could contribute to planning and better municipal management. For instance, it gathered information on whether a municipality was running programmes for specific groups, such as the lesbian, gay, bisexual and transsexual community, Roma, women, senior citizens, and persons with disabilities, and on discrimination in the administration of justice.

41. Ms. Maria Inês Barbosa, Brazilian Institute of Applied Economic Research (IPEA), said that collecting disaggregated data could be a painful experience because that information revealed very sad circumstances and there were many difficult battles to be fought between the time that the data were collected and their use in public policy. She emphasized that the right to health was recognized under the Constitution and that a national health policy specifically geared to Afro-descendants and indigenous peoples was increasingly necessary in the interests of equality. There were great disparities between Afro-descendants and the white population in the amount of prenatal care, which was a universal service, and in birth and mortality rates. She suggested that, pursuant to the Millennium Development Goals, disaggregated data should be used to close ethnic and racial gaps.

42. Ms. Margaret Paz, Benjamin N. Cardozo School of Law, New York, said that disaggregated data were important for defending human rights and fighting discrimination, although the necessary precautions should be taken not to infringe privacy. She noted the Council of Europe's important work in that area and its recommendations concerning the right to privacy, which was best protected through anonymous data. She further stressed the risk of persecution as a result of the data collected and the consequent need to take all necessary precautions. Data ought not to be overdetailed and should not be kept for longer than necessary, and a legal framework should be adopted to ensure data were not misused.

43. Ms. Marta Rangel and Mr. Bruno Ribotta, CELADE – Population Division of ECLAC, said that statistics with an ethnic focus involved a joint effort between indigenous peoples and Afro-descendants, the United Nations, States, civil society organizations, national statistics institutes and universities. They entailed a fundamental change in the approach to rights: indigenous peoples and Afro-descendants were no longer objects of policy but subjects of rights. Including an ethnic perspective was a priority for CELADE – Population Division, which had progressed towards consensus on how to approach ethnic identification at the data source, i.e., indigenous and Afro-descendant populations. However, that remained a complex task from both the technical and socio-political angles. In that connection, CELADE – Population Division had provided technical advice for countries, organized interactive, culturally relevant workshops for ethnic groups, and designed an online bank of disaggregated data.

IV. Presentation of human rights indicators followed by a hands-on group exercise

44. Mr. Nicolas Fasel, OHCHR, presented the conceptual and methodological framework which had been agreed through workshops and an interactive methodology. He noted that the use of statistics in the field of human rights was not new and was mentioned in the main international human rights treaties. They reflected, inter alia, infant mortality

rates and levels of education and health and were a tool for measuring a country's progress. The framework used by the United Nations espoused a common conception of human, economic, social and cultural rights. He also presented tables with examples of health indicators generated by the methodology under development which comprised structural, process and results indicators. He stressed the importance of disaggregated data and the need to focus on areas of disaggregation that combated racial discrimination. He suggested relating socio-economic and administrative data to cases of violations, opinions and perceptions.

V. Conclusions

45. **The Regional Seminar referred to the declaration of the Regional Conference of the Americas, held in Santiago in December 2000 in preparation for the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, which recognized and accepted that the conquest, colonialism and slavery had been a source of racism and racial discrimination in the Americas; condemned the injustice suffered, especially by indigenous peoples and Afro-descendants; and stated that the effects of those socio-economic and cultural structures persisted and were a source of ongoing systemic discrimination against large sectors of the population.**

46. **The Regional Seminar reaffirmed that careful gathering of ethnic and racial data, in accordance with international standards on human rights and protection of data and privacy, was a necessary tool for ensuring full and discrimination-free enjoyment of human rights by groups affected by racism, in particular indigenous peoples and Afro-descendants.**

47. **The Regional Seminar concluded that, despite major achievements in recent years and the importance and necessity of having "ethnic" data, there were serious gaps in data-collection practices and few Latin American and Caribbean countries had anti-discrimination legislation. The lack of available data was linked to the phenomenon of denial. The Regional Seminar considered that racism took a different form in each region of the world and in each country of a region, and should be analysed carefully. Hence the need for reliable data to facilitate study and evaluation of the scale of racism, its nature and its country-specific manifestations.**

48. **The Regional Seminar also concluded that the existence of "ethnic" data and appropriate data-collection systems were important tools for formulating, monitoring and assessing public racial-equality policies at the national, regional and local levels. Policy could include national action plans against racism and appropriate special measures to counter persistent or structural disparities and de facto inequalities stemming from historical circumstances that denied certain groups, especially indigenous peoples and Afro-descendants, the advantages needed to realize their full potential. Special measures could take the form of programmes and quota systems in sectors such as education, employment, housing, culture and participation in public life.**

49. **The Regional Seminar stressed that data were extremely useful to national racial equality bodies and national human rights institutions in monitoring and investigating cases of racial discrimination, planning and orienting their work, and designing national awareness campaigns.**

50. **The Regional Seminar reiterated that it was important for States to collect data for use in reports submitted to the Committee on the Elimination of Racial**

Discrimination, illustrating the situation regarding racial discrimination in the country concerned.

51. The Regional Seminar placed particular emphasis on the need for States to reconcile their obligation to ensure protection of data and the right to privacy, on the one hand, and, on the other, the positive obligation to ensure that all human rights were enjoyed and exercised equally and without discrimination.

52. The Regional Seminar found the European experience to be noteworthy and instrumental for the region for the following reasons: first, because it highlighted the need to gather data in order to formulate anti-discrimination policy; and, secondly, because States recognized the obligation to safeguard privacy and the corresponding need to protect data. As a result, an appropriate regulatory framework at the regional level had been adopted with due guarantees.

53. The Regional Seminar noted that special data-processing methods were necessary for protecting people's identity, in particular procedures that ensured anonymity and guarantees that data could not be traced back to individuals. There was a difference between personal data, which were subject to special protection, and processing impersonal statistical data, which was permitted for historical, statistical or scientific purposes. In that regard, efforts should be made to neutralize the risks inherent to identifying individuals and examine how the data could be dissociated from the identification of individuals. Relevant practice in the field of medicine could be an important guide.

VI. Recommendations

54. The Regional Seminar urged States to:

(a) Adopt domestic legislation on combating racial discrimination. Data collection should result from explicit anti-discrimination laws that require data in order to measure discrimination and formulate, implement and monitor appropriate public policies, including special measures, pursuant to international human rights standards;

(b) Adopt laws regulating the collection and processing of ethnic and racial data that protect fundamental freedoms, including the right to privacy, provide the necessary safeguards for protecting data from misuse and ensure confidentiality of information, in accordance with relevant regional and international standards, in particular the Guidelines for the regulation of computerized personal data files¹⁶ concerning the legality, fairness, accuracy and relevance of data, purpose-specification, interested-party access, non-discrimination, security, oversight and penalties. The normative framework should be approved beforehand and lay down the following minimum conditions: the person must give explicit consent; the data collecting must serve the public interest, i.e. the fight against racial discrimination; and the framework must be legally binding;

(c) Develop and identify quantitative and qualitative indicators for promoting and monitoring racial equality and non-discrimination, taking account of the methodology approved by the United Nations human rights treaty bodies.¹⁷

¹⁶ General Assembly resolution 45/95 of 14 December 1990, and document E/CN.4/1990/72.

¹⁷ See the report on indicators for monitoring compliance with international human rights instruments (HRI/MC/2008/3).

55. The Regional Seminar called upon government bodies, as well as national statistics institutes, human rights institutions and organizations for racial equality, in conformity with their mandates, to:

(a) Include questions on indigenous, Afro-descendant or other minority identities in all relevant data-collection and disaggregation activities;

(b) Consider the possibility of establishing methods to dissociate data from individuals and convert personal data into statistics, with a view to protecting the individuals concerned;

(c) Produce qualitative data to complement quantitative information in order to enhance knowledge of the level of well-being of the various groups affected by racial discrimination;

(d) Conduct prior research and contextualize the data system so as to ensure that the data are culturally relevant and use appropriate terminology;

(e) Produce data illustrating the situation of women, children, adolescents and adults of indigenous or Afro-descendant origin;

(f) Contribute to formulating survey questions in order to gather information on perceptions of the populations who are the subject of discrimination and the extent of discrimination against them;

(g) Respect self-identification and free consent and encourage participation by indigenous peoples, Afro-descendants and other groups affected by racism in all stages of the process, from design to collecting data, formulating questions and analysing results;

(h) Ensure that data are returned to communities and that results are freely accessible, and provide training so that the groups can use the information;

(i) Sensitize and train staff of national statistics institutes responsible for collecting and disaggregating data, in human rights and the culture, history and linguistic profile of the communities on which they will be gathering information;

(j) Carry out pre- and post-census awareness campaigns on the importance of gathering disaggregated data and disseminate results through the media. Published data should be accompanied by a careful analysis so that the information can serve as a useful tool in devising public policies for racial advancement.

56. The Regional Seminar called upon OHCHR to continue its work on data collection and use of indicators to promote and monitor racial equality by preparing a practical guide on the topic or providing technical assistance to States that request it.

Annexes

Annex I

Programme

Opening of the Seminar

Panel discussion on statistical data as a method to promote and monitor racial equality and non-discrimination: benefits and risks

Panel discussion on statistical data as a means of promoting and monitoring racial equality and non-discrimination: benefits and risks

Panel discussion involving data collection and exchange of experience in use of disaggregated statistical data to promote and monitor racial equality and non-discrimination

Introductory workshop on human rights indicators

Adoption of conclusions and recommendations

Annex II

List of participants

United Nations experts

Ms. Edna María Santos Roland, Independent eminent expert for the implementation of the Durban Declaration and Programme of Action

Mr. Francisco Calí Tzay, member of the Committee on the Elimination of Racial Discrimination

Mr. José Carlos Morales, member of the Expert Mechanism on the Rights of Indigenous Peoples

Ms. Virginia Bras Gomes, member of the Committee on Economic, Social and Cultural Rights

States

Barbados, Brazil, Chile, Colombia, Costa Rica, Cuba, Ecuador, Jamaica, Mexico, Paraguay, Peru, Trinidad and Tobago, and Uruguay.

United Nations bodies, specialized agencies and intergovernmental bodies

Latin American and Caribbean Demographic Centre (CELADE) – Population Division of the Economic Commission for Latin America and the Caribbean (ECLAC), Ibero-American Secretariat (SEGIB), International Labour Organization (ILO), Office of the United Nations High Commissioner for Human Rights (OHCHR), United Nations Children’s Fund (UNICEF), United Nations Development Fund for Women (UNIFEM), United Nations Development Programme (UNDP), United Nations Population Fund (UNFPA), United Nations Resident Coordinator in Brazil

Non-governmental organizations, academic institutions, other members of civil society et al.

Asociación de Afrodescendientes de América Latina en España (FEDAHFRO), Bahá’í Community, Benjamin N. Cardozo School of Law, Brazilian Institute of Applied Economic Research (IPEA), Brazilian Institute of Geography and Statistics (IBGE), Brazilian Institute for Social and Economic Analysis (IBASE), Coalición de Organizaciones No Gubernamentales, Coordination group of the Programa de Educação sobre o Negro na Sociedade Brasileira, Coordinator of the Núcleo de Estudos Afro-brasileiros (NEAB) and Lato Sensus courses at the Centro Federal de Educação Tecnológica (CEFET/RJ), CRIOLA, Del Valle University, Federal University of Rio de Janeiro, Fórum Nacional de Juventude Negra (FONAJUNE), Geledés – Instituto da Mulher Negra, Grupo Censo 2015 Colombia, Grupo de Trabajo Censo 2010, Movimiento de la Juventud, National Indigenous Women’s Council, Organización Social y Cultural de Afrodescendientes Lumbanga, Proyecto Pueblos, Religiones de Matrices Africanas, Spanish Agency for International Cooperation (AECID).

Networks of national human rights institutions

Ibero-American Federation of Ombudsmen (Defensoría del pueblo de Perú), Network of National Institutions for the Promotion and Protection of Human Rights of the American Continent (Defensoría del pueblo de la República Bolivariana de Venezuela).
