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the Elimination
of all Forms of
Racial Discrimination**

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Sixty-second session

SUMMARY RECORD OF THE 1556th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 4 March 2003, at 3 p.m.

Chairman: Mr. DIACONU

later: Mr. YUTZIS (Vice-Chairman)

later: Mr. DIACONU (Chairman)

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The meeting was called to order at 3.15 p.m.

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

Thirteenth to sixteenth periodic reports of Ecuador (CERD/C/384/Add.8)

1. At the invitation of the Chairman, the members of the delegation of Ecuador took their places at the Committee table.
2. Mr. PONCE-ALVARADO (Ecuador) said that his country was pleased to present its thirteenth to sixteenth periodic reports on the measures taken to give effect to the provisions of the Convention. However, before discussing their contents, it was necessary to explain the reasons for his country's failure to present those reports in 1994, 1996, 1998 and 2000. There were two main reasons: the first was the armed conflict with Peru that had occurred in early 1995. The "Cenepa war", as it was known, had produced not only Ecuadorian and Peruvian casualties, but many other negative consequences as well, including an economic disaster of such magnitude that it had taken the country years to recuperate. The second reason was the political instability which had prevailed from 1997 to 2000, during which period as many as five different governments had come and gone, thereby plunging the country into uncertainty and opening the door to political agitation. While that was still insufficient cause for a State party to fail in its reporting obligations, the Committee might concede that it was difficult for a country with such precarious political, social and administrative structures to create an environment conducive to preparing reports.
3. Ever since its birth as an independent nation, Ecuador had been characterized by a multicultural and multi-ethnic population. Although little known, the country's history stretched back for thousands of years and its people were proud of their heritage. Ecuador's diversity was the very element that constituted its wealth - an inheritance claimed only recently by the true heirs of its ancient cultures: its indigenous peoples. No one would ever know what level of development the native cultures might have attained, since their evolution had been cut short by the external forces of European domination.
4. Without entering into the well-worn discussion of the advantages and disadvantages of that domination, it bore mentioning that colonialism and the subsequent cultural and economic subjugation of the American indigenous populations had given rise to anti-democratic social and political structures, whose negative effects had persisted ever since. One such effect was precisely that of racial discrimination, which constituted an undeniable reality in nearly every nation in the world, including Ecuador. While his country had made great strides in overcoming racial discrimination, the greatest progress was being made by Ecuadorian society itself, as he would explain later.
5. Ecuador was a developing country and, as such, it suffered a fate similar to many nations around the world. Its economic and social problems, particularly the scourge of poverty, could be traced to its colonial past, to difficulties inherent in its society and to external factors beyond its control. He drew the Committee's attention to the fact that, despite the economic crisis

of 1999 - during which the banking system had virtually collapsed, foreign debt had claimed between 40 and 50 per cent of the national budget, and the national currency had been replaced by the United States dollar - the Government had pressed ahead with the programmes it had begun during the 1990s. Those programmes had focused on promoting the economic and social development of vulnerable groups, including indigenous and Afro-Ecuadorian peoples.

6. Two special bodies, composed of officials from various ministries and public entities, had been set up by the Government to defend the interests of indigenous peoples and Afro-Ecuadorians: the Council for the Development of Ecuadorian Nationalities and Peoples (CODENPE) and the Council for Afro-Ecuadorian Development (CODAE), respectively. As described in the report, CODENPE was the more established of the two bodies and relied upon considerable local and international resources, in particular those of the Development Project for Indigenous and Black Peoples of Ecuador, or PRODEPINE, which was financed by the World Bank. The Government planned in the coming years to increase the funding and development of CODAE in order to bring it up to the same level as CODENPE. In 2002, work had begun on the design of a development plan for the Afro-Ecuadorian communities with the technical and financial cooperation of the Inter-American Development Bank (IDB).

7. He drew the Committee's attention to some of the observations it had made concerning Ecuador's eleventh and twelfth periodic reports, and in particular the ethnic composition of the Ecuadorian population. It was important that paragraphs 32 and 36 of the current report should be understood in light of the fact that the 2001 population census had asked respondents for a self-identification of their ethnic origins with the question "What do you consider yourself to be?". The options listed were "white", "indigenous", "mestizo", "black", and "other ethnic groups". Out of a total population of a little over 12 million, 830,418 people considered themselves to be indigenous, 271,372 black, 9,411,890 mestizo, 1,271,051 white, and 39,240 as belonging to other ethnic groups.

8. Figures for the size of the indigenous population estimated by the Confederation of Indigenous Nationalities of Ecuador (CONAIE) and PRODEPINE were significantly higher than those provided by the census. Those discrepancies might be explained by the fact that awareness of the existence of discrimination towards indigenous people in Ecuador might have led many of that ethnic group to disguise their true origins. Based on the foregoing figures, the majority of the Ecuadorian population was mestizo and considered itself as such - a phenomenon that would not have occurred a few decades ago, when ordinary citizens in the country saw themselves as either white or Indian. That new perception demonstrated how Ecuador was progressing gradually towards ethnic cohesion and a situation, which in the near future would allow it to overcome definitively the scourge of both open and hidden discrimination.

9. With regard to concrete examples of the types of protection afforded victims of racial discrimination by the judicial system and the sentencing of the courts in cases of participation in racist organizations or activities, paragraph 152 of the report recognized that the indigenous and Afro-Ecuadorian peoples had traditionally exhibited a certain lack of confidence in the justice system. That would explain the almost negligible number of complaints of racial discrimination. According to paragraph 114 of the report, one of the most significant innovations in the Ecuadorian Constitution (in its article 191) was the recognition of the right of the authorities of

the indigenous peoples and nationalities to administer justice among their peoples and within their territories, in accordance with the particular legal system of each people or nationality. One example of how that constitutional provision was being applied was a case that had been brought by the Public Prosecutor's Office, in which two indigenous defendants, who had previously been tried for an offence and punished according to ancestral customs, had been acquitted on those grounds.

10. Although there were no racist organizations in Ecuador, the country's Penal Code contained explicit provisions for dealing with the problem, inflicting sentences ranging from six months to three years, depending upon the offence (article 212-A of the Penal Code).

11. The Office of Ombudsman, which had been established under article 96 of the Constitution in 1997, was the institution most suited to defending and promoting the observance of fundamental rights, including those of the indigenous and Afro-Ecuadorian peoples. Although the Office had initially dealt with migration issues, violations of individual rights and society's role in that regard, its area of responsibility had expanded and it currently dealt with indigenous affairs and those of other social groups through a special unit, which had been set up in 1999 and was responsible for reviewing reports of violations.

12. As to the issue of providing education in indigenous languages, the Government's view was that teaching in the language native to each indigenous community facilitated the psychological development of children and strengthened their cultural identities and relationship with the environment. The Department of Bilingual Intercultural Education (DINEIB) maintained that each indigenous people had developed a unique world vision, through which it affirmed its identity and preserved its beliefs and ancient traditions. Although there was a shortage of qualified teachers in the native languages, the Government was nevertheless attempting to meet the demands of the indigenous communities for bilingual education. Nearly all the schools in the indigenous communities of the Sierra and Amazonian regions had developed bilingual education programmes, in which more than 95,000 children had been enrolled.

13. During the 1990s the political participation of the Ecuadorian indigenous nationalities had been strengthened. Although that was due in large part to their active organization and dedicated participation, it was also facilitated by the democratic system in place in the country. After 1990, the Confederation of Indigenous Nationalities had constituted one of the largest political parties in Ecuador and had achieved positive results in terms of the presence of its members in local and regional government bodies. In the 1990s, the Pachakutik Multicultural Unity Movement (MUPP) - political organ of the coalition - had proposed a reform of the Constitution to incorporate the multinational and culturally diverse nature of Ecuador and the recognition of the collective rights of the indigenous and Afro-Ecuadorian peoples. The Constitution adopted in 1998 reflected those proposals. Included among them was a provision that addressed one of the Committee's prior concerns regarding the fact that illiterate persons, many of whom were of indigenous or Afro-Ecuadorian origin, had been denied the right to vote. Such persons could now exercise that right if they so chose.

14. The information provided in paragraphs 42 to 47 of the report should be updated to include the results of the latest general elections held in the fall of the previous year. The political branch of the CONAIE, the Pachakutik Multicultural Unity Movement, together with the New Country Movement (MUPP-NP), had formed an alliance with the Patriotic Society Party, which had brought the country's current President, Mr. Lucio Gutiérrez, to power. MUPP-NP had also won five deputy seats without the support of other political forces and nine additional seats in alliances with other political parties, particularly with the Patriotic Society - the party of President Gutiérrez. It had also been successful in having 14 provincial councillors (out of 65) and 75 presidents of municipal councils (out of 672) elected. Four MUPP-NP members were currently serving in the Ministerial Cabinet, and, for the first time in the history of Ecuadorian diplomacy, an Afro-Ecuadorian had been appointed Ambassador to UNESCO, while another Afro-Ecuadorian had been serving as Consul of Ecuador in Montevideo.

15. With regard to the Committee's concern over whether the Government was involving the indigenous communities in decisions pertaining to the exploitation of natural resources, its current periodic report had acknowledged the collective rights of the indigenous peoples, including that of being consulted on development programmes and projects carried out on their lands, as provided for in article 84 of the Constitution. The periodic report also mentioned a series of initiatives that had been taken since the last decade to promote the effective participation of indigenous and Afro-Ecuadorian communities in integrated sustainable development, while respecting and reinforcing their cultural identity. Those initiatives, which were primarily educational and cultural in nature, had afforded those communities a better understanding of their rights. That, in turn, had facilitated not only a considerable increase in their political presence, but also the possibility of active participation in developmental issues.

16. The Government had taken special note of the Committee's General Recommendation No. XIX and had established priorities in resource allocation, while safeguarding its citizens' civil and political rights. The resource-rich areas of Cuyabeno and Yasuní were good examples of integrated sustainable development, insofar as exploitation of their resources had been prohibited, owing to their exceptional cultural and biological importance and out of respect for the Tagaeri and Taromenane peoples, who had expressed the wish to remain "free of contact" with Western civilization. Those decisions had been adopted in accordance with the General Recommendation.

17. With regard to the Committee's concern for the impact of social and environmental development projects on indigenous communities, he stressed that the majority of such projects had yielded positive results. Infrastructure improvements had led to increased agricultural production and had generated employment, thus increasing incomes in the area, lending fresh impetus to community initiatives and fostering greater involvement in Government actions. Indigenous communities participated actively in decisions relating to development projects, which they could subsequently monitor and evaluate. They were also given the opportunity to express their concerns and opinions on projects to exploit natural resources through specific institutions, such as CODENPE, the Federation of Afro-Ecuadorians, CONAIE and other social organizations created for that purpose.

18. With regard to the right to a healthy environment mentioned by the Committee, the new Constitution had expanded upon that right by incorporating it in the section on “collective rights” and had linked it directly to the rights of indigenous peoples. It provided for consultation of the indigenous communities on any government decision that could affect the environment, as well as sanctions for actions or omissions that contravened environmental protection laws. Another important provision was contained in the Hydrocarbons Act, which required contractors to prepare environmental impact studies and management plans to prevent, mitigate, rehabilitate and compensate for any environmental and social consequences arising from their activities.

19. With regard to the actions carried out by the Government in accordance with the Durban Declaration and Programme of Action, the most important had been the establishment of a Public Coordination Commission for Human Rights. Its role was to serve as a coordinating mechanism for human rights issues and to carry out the country’s obligations before the committees and bodies created by international human rights instruments. The Commission was composed of the Ministers of Foreign Relations, Interior, Finance, Social Welfare, Labour and Human Resources, Education and Public Health. It could also solicit the assistance of the Supreme Court, the National Congress and the Ombudsman in order to carry out its mandate, in which case such assistance was mandatory. In addition to its coordinating function, the Commission was responsible for reviewing the guidelines established in the National Human Rights Plan, which had been created in 1998. That plan had been the result of a consensus among government agencies and numerous non-governmental organizations (NGOs) dedicated to defending human rights; it was currently in its second edition and had already been translated into Spanish, Quechua, English, French and Portuguese.

20. Ecuador was a nation that had made significant strides in the legal, social, cultural and economic spheres in terms of ensuring respect for the rights of all individuals without regard to racial or ethnic origin. Its progress had been strengthened by its accession to the main international human rights instruments, especially the Convention on the Elimination of Racial Discrimination. Ecuador’s current periodic report demonstrated that despite the financial limitations of a developing country, it had been able to implement social projects that complemented its considerable body of legislation. The Administration that had taken office in January 2003 fully understood the country’s historic obligation to eliminate racial discrimination. If Ecuador was making so much progress to reduce and possibly eliminate racial discrimination, it was largely thanks to the changing mentality of Ecuadorian society itself, and especially that of its young people. Indeed, 46.8 per cent of the country’s population was under the age of 19. That was significant because young people tended to be more open-minded than their forebears and were helping the nation to understand that its differences did not constitute an obstacle to be overcome, but rather a strength to be protected.

21. Mr. Yutzis (Vice Chairman) took the Chair.

22. Mr. TANG Chengyuan (Country Rapporteur) said that following consideration of the previous report, the Committee in 1993 had issued concluding observations that included a request for information on the National Development Plan and its benefits for and impact upon the indigenous and Black populations, as well as a question relating to whether the economic

development of the Amazon region took into consideration the rights and interests of the indigenous population. In the intervening years, the Human Rights Committee had issued similar requests.

23. The Government had taken legislative and administrative measures and steps to improve the administration of justice, and the Constitution ensured equality for all. Ecuador was a party to the majority of international human rights treaties. Offences against racial equality were punishable under the Penal Code, and the Government had set up a number of bodies whose mandates included combating racial discrimination. In 1988 the country had initiated a bilingual education system, but it was still not very effective owing to a lack of teachers and funding. Of the population of 12 million, the estimates of the indigenous population ranged from 800,000 to about 1.5 million. Much of the population was of mixed descent, and many Ecuadorians preferred not to identify themselves as indigenous. Blacks accounted for about 3 per cent of the population. Indigenous participation in politics had recently increased, with the election of some indigenous people to Congress and the naming of indigenous government ministers. The Constitution recognized indigenous ownership of community lands, and indigenous peoples had to be consulted when such lands were exploited. They had the right to share in the benefits deriving from such exploitation, and to receive compensation for any social or environmental damages.

24. While noting that remedies for acts of racial discrimination were available in the court system but that no complaints had been filed, he asked why the Afro-Ecuadorian and indigenous populations apparently lacked confidence in the judicial system. The delegation should describe in more detail the activities of the Ombudsman, and especially of the special unit that reviewed cases and reports of violations. What cases had been dealt with to date? The Constitution recognized the rights of indigenous peoples to administer justice within their communities in accordance with their particular legal systems, and such systems had played an important role, for example in settling land disputes. What mechanism was there for resolving conflicts when a community justice system issued rulings that were contrary to constitutional provisions? What specific measures had been taken to eliminate socio-economic disparities?

25. Although the Government was working hard to overcome problems, many of which were attributable to the country's history, such problems persisted. In early 2001 there had been clashes between indigenous people demanding an improvement in their living conditions and the police, resulting in nine deaths. According to NGOs, despite the absence of official racial discrimination, de facto discrimination persisted in society. The Committee on the Rights of the Child in its concluding observations issued in 1998 had expressed concern in that connection and in respect of increasing disparities between urban and rural areas. The Human Rights Committee had in its concluding observations drawn attention to the status of the children of refugees in Ecuador, a subject that was currently being addressed by the Government, and had noted that despite the legislation enacted to defend the interests of indigenous peoples, they were not able in practice to enjoy fully their rights, in particular when oil interests were involved. An NGO had reported that the Texaco oil company's activities in Ecuador had polluted rivers and led to thousands of cases of skin diseases, including cancer. Indigenous groups had sued Texaco for compensation, but the company had reportedly argued that it had been bankrupt at the time in order to avoid paying damages. The Special Rapporteur on the human rights of migrants,

Ms. Gabriela Rodríguez Pizarro, had expressed concern about the status of illegal immigrants and migrants in Ecuador, and had underscored the State's obligation not to discriminate against undocumented foreigners in providing education and health services.

26. The current report was being considered some 10 years after the previous one, owing to various problems faced by the State party, including internal tensions and a war in the late 1990s. The report was forthright, honest and addressed many of the questions of concern to the Committee. The Government was clearly committed to eliminating racial discrimination, as it had revised its legislation, acceded to human rights instruments and established various institutions for that purpose. It had engaged in a dialogue with indigenous organizations. While overt forms of discrimination did not exist, racial discrimination was still reflected in the economic situation of minority groups and in the persistence of racist ideas. While the Government had adopted many measures to improve the socio-economic status of ethnic groups, it still had a long way to go to meet many of its commitments. It should in particular intensify its efforts aimed at human rights education and at campaigning against racial discrimination.

27. Mr. HERNDL expressed satisfaction with the Government's understanding of the situation of indigenous groups and Afro-Ecuadorians. The State party had taken a number of positive measures, such as the introduction of a bilingual education system, and had ratified a number of conventions of the International Labour Organization (ILO), including the Indigenous and Tribal Peoples Convention, 1989 (No. 169). The ILO Committee of Experts on the Application of Conventions and Recommendations had stated that the indigenous population's income was insufficient to provide for their basic needs, including food, education and housing. In rural areas, where most indigenous peoples had lost their lands and were working as agricultural labourers, the main problem they faced was reportedly de facto discrimination. Those that still owned their land suffered from discriminatory treatment in access to credit, agricultural extension, skills training and marketing facilities. The Government should focus on eliminating such barriers.

28. The recognition of the right of indigenous peoples to administer justice through their own systems was highly commendable, but raised a number of questions. The presentation by the head of delegation had mentioned a case that had been dismissed by the national courts on the grounds that it had already been settled by indigenous law proceedings. That approach, while very innovative, would require some elaboration in practice, especially so as to avoid a sectionalization of the law. It would be useful to the Committee if the State party could in its subsequent report describe such developments in detail. To what extent could indigenous communities pass judgement on their own people? What effect would the existence of indigenous justice systems have on the indigenous and Afro-Ecuadorian peoples' traditional lack of confidence in the State's justice system?

29. Noting that in the late 1990s a large number of institutions, some of which had replaced others, had been established with various mandates dealing with the rights of ethnic minorities, he asked why indigenous organizations had in 1996 rejected the establishment of the Ministry of Ethnic Culture, and what specific status the various bodies had enjoyed. In particular, was the Council for the Development of Ecuadorian Nationalities and Peoples (CODENPE) a State institution? Did it have ministerial status, or was it part of a government ministry?

30. The Penal Code had been amended to provide penalties for offences against constitutional guarantees and racial equality, thus defining and prohibiting racial discrimination. Could the delegation provide information concerning specific cases that had been prosecuted under that provision? The delegation should also update the Committee on the status of the legislative texts that according to the report were in the process of revision, and should describe the institution of Parish Commissioner to which the report referred. Lastly, he invited the Government to ratify the amendment to article 8 of the Convention.

31. Mr. Diaconu (Chairman) resumed the Chair.

32. Mr. ABOUL-NASR underscored the importance of the Government's acknowledgement that racial discrimination existed in Ecuador, as such recognition was a crucial first step in tackling the problem. In future reports, it would be helpful if the State party would include a map of the country. Turning to the ethnic composition of the country, he asked what criteria were used, and what groups fell under the category of "others". He wished to know how advice given by the World Bank and other bodies with regard to the social and economic development of indigenous and Afro-Ecuadorian populations affected the situation in the country. According to the report, indigenous peoples were consulted on plans for prospecting for or exploiting resources situated on their land. He believed that consulting owners was not enough and asked whether the latter had to give their consent before plans could go ahead. It would also be interesting to know who fixed compensation for damage resulting from exploitation and whether agreements were made with indigenous people regarding the areas they retained and that were being exploited.

33. Mr. PILLAI was concerned about the mentality behind the identification of indigenous peoples. The discrepancy between the percentages provided for indigenous populations indicated that identification problems existed. Who then benefited from the special measures introduced for the social and economic development of indigenous peoples? A clear identification methodology would be essential to ensure that laws and programmes intended to safeguard their interests were successful. He acknowledged that a number of important improvements, such as the reduction in poverty and infant mortality, had been made, but wondered how the various ethnic communities had benefited from those improvements.

34. How had globalization affected disparities in the enjoyment of rights by ethnic groups? In view of the fact that over 80 per cent of indigenous people lived in rural areas, as opposed to less than 20 per cent of the white population, it would be useful to know how the economic effects of globalization differed in rural and urban areas. He would also welcome comments by the delegation on the Committee's recommendations regarding the country's previous report. Referring to paragraph 152 of the report, he wished to know what steps were being taken to address the lack of confidence in the justice system among the indigenous and Afro-Ecuadorian peoples.

35. Mr. de GOUTTES said that according to a report by a group of NGOs representing Afro-Ecuadorian people, the country's economy was divided into a capitalist economy, made up of large firms and mining and agricultural companies, and a traditional subsistence economy, which included indigenous and Afro-Ecuadorian communities. In view of the variety of figures provided concerning indigenous populations, he wished to know whether the figures of

the 2001 National Census could be considered accurate. He would also welcome information on how the various bodies dealing with issues of indigenous and Afro-Ecuadorian peoples were linked and what their respective areas of competence were. Could the fact that there were so many institutions be detrimental to their effectiveness?

36. He would appreciate further details on the implementation in practice of the numerous rights guaranteed to the indigenous and Afro-Ecuadorian peoples. In the past, the Committee had requested additional information on the role of indigenous associations in ensuring the implementation of laws which regulated the exploitation of natural resources. Were indigenous communities consulted before decisions were reached regarding the exploitation of resources? Were the indigenous people whose subsistence might be threatened by new industries compensated and, if so, how did the system work? How did indigenous people benefit from the exploitation of resources in their areas?

37. According to the aforementioned report by a group of NGOs, Black people continued to suffer from discrimination in terms of employment, education and access to the legal system. Black women were often exploited as domestic labour and suffered in addition from sexual exploitation. Additional information on the situation in that regard would be welcome. While paragraphs 67 and 107 of the report indicated that the country's Penal Code conformed to article 4 of the Convention, details should be provided on how the legislation was being implemented. He also wished to know more about how indigenous legal systems functioned. He expressed concern at the fact that the armed forces were organizing projects for the indigenous and Afro-Ecuadorian communities. According to the Amnesty International report for 2002, the armed forces had committed atrocities against the country's indigenous populations. What guarantees were in place to ensure their protection?

38. Mr. KJAERUM welcomed the Government's efforts to improve the situation for indigenous and Afro-Ecuadorian peoples. To make the dialogue with the Committee even more fruitful, the delegation might include persons working on those issues. He acknowledged that the human rights programme had come a long way but shared Mr. de Gouttes' concern at the involvement of the armed forces. Referring to paragraph 114, he asked how human rights compliance was ensured in the case of decisions made in tribal courts. Did clashes occur between customary law and human rights law?

39. It would be useful if Ecuador's next periodic report could provide key social and economic indicators, such as income level, housing conditions and the number of children enrolled in primary and secondary education, broken down by ethnic groups. A similar breakdown of the prison population would be welcome. He wished to know what cases the Ombudsman had dealt with in particular and what the reactions had been. Had there been any cases and court rulings related to the implementation of article 4 of the Convention?

40. He enquired to what extent the possibility of submitting communications to the Committee under article 14 of the Convention was part of the human rights education and training of police, the Ombudsman and other persons in contact with possible victims. There were indications that indigenous and Afro-Ecuadorian women experienced discrimination in the field of work. Figures on the participation of women of those communities in political life at local and national levels would be welcome.

41. In 2001, a recommendation had been made in Durban, urging States to elaborate a plan of action in relation to racial discrimination and the Convention. Had the country started work in that regard or was it considered part of the existing human rights plan of action?

42. Mr. LINDGREN said that the difficulties the country had faced gave even greater value to the initiatives it had taken to ensure better living conditions for the indigenous and Afro-Ecuadorian populations. He was impressed that a country with such scarce resources managed to provide bilingual education. Referring to paragraph 114 of the report concerning the right of indigenous authorities to administer justice among their people, he said that the innovation could be considered positive only if it was consistent with the Universal Declaration of Human Rights of 1948.

43. Mr. AMIR said that the report had succeeded in focusing on essential points of direct relevance to the Convention and in addressing issues of particular interest to the Committee. The country had made remarkable progress in terms of education and training, with the rate of illiteracy falling considerably every year. It was not easy, however, to ascertain whether provisions of the Conventions were being implemented effectively, since the statistics provided could not be correlated with other data. Additional indicators on employment, school environment and land distribution were needed. For example, it would be useful to know what types of land were distributed and who received the best land. Did the more vulnerable minorities have access to good land? More information was also needed on the participation of the rural population in the country's social, economic, cultural and political life.

44. Mr. BOSSUYT wondered whether the reference in paragraph 11 to a vote on apartheid held in 2002 concerned South Africa or Ecuador. With regard to the composition of the population, he asked the delegation to explain why the figures provided on the percentage of indigenous persons and Blacks varied from one part of the report to another. He would also like to know why indigenous organizations had been so hostile to the Ministry of Ethnic Culture created in 1996 and referred to in paragraph 79. The manner in which paragraph 124 was worded suggested that there were restrictions on the right of Ecuadorian citizens to leave and return to the country. Could the delegation confirm whether that interpretation was correct?

45. Mr. THORNBERRY said that he had been struck by the use of the term "unitary" State in paragraph 3. It was interesting that Ecuador did not see any contradiction between that notion and recognition of specific legal regimes for particular groups. Paragraph 4 stated that Spanish was the official language, whereas the other tongues were the official languages of the indigenous peoples. He asked how that worked in practice. He had the impression that the considerable divergences in the statistics to which other members had referred was partially due to changes in the self-identification and self-perception of groups; that made a statistical profile problematical. If groups were changing their way of identifying themselves, it was difficult to capture that in a static picture. He sensed that the report had been influenced by ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries, according to which self-identification as "indigenous" and "tribal" was a fundamental criterion for determining the groups to which that convention applied. The list of criteria in paragraph 32 of the report seemed to be cumulative: self-identification was important, but not the only factor.

Concerning the self-identification of Afro-Ecuadorians, paragraph 48 referred to lands which were imprescriptible and inalienable, but the State nevertheless had the power to declare them to be of public interest. What was the significance and impact of the term “public interest”?

46. With regard to paragraph 114, the reference to the recognition of the right of the authorities of the indigenous peoples and nationalities to administer justice among their peoples and within their territories in accordance with the particular legal system of each people or nationality was an innovative approach, and he wondered how the concept worked in practice, especially in view of growing indigenous consciousness. Much could be learned from the example of Ecuador about the relationship between the principle of non-discrimination and what might be called diversified jurisdiction, which was increasingly common. He noted that some elements of international law sought to reconcile forms of indigenous justice with human rights norms.

47. He agreed with Mr. Aboul-Nasr about the limits of consultation, which was not the same thing as participation. The Committee’s General Recommendation XXIII referred to “informed consent” (para. 4 (d)). He had the impression that there had been a greater development of indigenous issues compared with Afro-Ecuadorian ones, and he asked whether Afro-Ecuadorian self-identification was a newer element that called for a different set of actions from those being elaborated for indigenous peoples and which might require a greater focus on economic and social rights.

48. Mr. YUTZIS said that the reference in paragraph 3 to Ecuador as being a multicultural and multi-ethnic State was not theoretical but reflected a concrete commitment. There had clearly been a proliferation of organizations which dealt with indigenous and Afro-Ecuadorian issues. Some of them would probably need to be merged. Although he had his doubts as to the effectiveness of all the indigenous and Afro-Ecuadorian bodies referred to in paragraphs 55, 75, 77, 79 and 80, many of them were changing in response to pressure from the indigenous and Afro-Ecuadorian communities. He welcomed the visibility and acceptance by society of Afro-Ecuadorian involvement and issues; that was not always the case in Latin American countries.

49. He took note with interest of the arbitration, mediation and other alternative conflict-resolution procedures referred to in paragraph 113. Mediation was a useful way of resolving conflicts for indigenous and Afro-Ecuadorian communities. The reference in paragraph 152 to a certain lack of confidence in the justice system among indigenous and Afro-Ecuadorian peoples actually understated what was a longstanding, deep-seated mistrust. That being the case, it was particularly disturbing that the report had not provided any data on complaints of violations of the human rights of such persons or on proceedings instituted on the basis of such allegations. That was all the more worrisome because the Office of the Ombudsman had full jurisdiction to hear such complaints. Ecuador should strengthen the legal instruments at its disposal.

50. He would like to know how many teachers taught bilingual classes and how many indigenous persons and Afro-Ecuadorian persons had access to primary and secondary schools and universities. He also asked what percentage of GDP was allotted to indigenous and Afro-Ecuadorian communities for health care and education. The report had referred to the large

number of television channels in Ecuador (para. 160). He enquired whether indigenous and Afro-Ecuadorian persons had access to the audiovisual media and whether any effort was made to place limits on television advertising, which promoted a culture that was alien to that of the indigenous or Afro-Ecuadorian community.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 2) (continued)

51. The CHAIRMAN said that he had received a letter from the Minister for Foreign Affairs of the Bahamas saying that his Government would submit a consolidated report by 21 March and asking the Committee to defer its consideration until the August 2003 session. If the Committee agreed to the Bahamas proposal, he would draft a letter to the State party to that effect.

52. It was so decided.

53. The Secretary-General and the High Commissioner for Human Rights had asked the Committee to give close consideration to whether States should submit a sole report to all treaty bodies. Speaking as a member of the Committee, he said that he had a number of comments to make. It appeared that most States parties wanted to submit a sole report. On the face of it, the six treaties at issue had a number of similar clauses regarding legality and non-discrimination on grounds of religion, race or ethnic origin. But the idea of a sole report also posed a number of problems. For one thing, the conventions were all different. The reporting periodicity for the various treaty bodies were not identical. The list of States parties which had signed the six treaties varied; some treaties had more signatories than others. Some committees had more members than others, and the committees had different working methods. The danger of marginalization was real. Owing to their specialized nature, the Committee on the Elimination of Racial Discrimination and the Committee against Torture were most at risk.

54. It was clear that the status quo could not be maintained. He proposed that a sole core report should be prepared, similar to the one currently produced, but more detailed and with general paragraphs on human rights and a brief presentation of the constitutional, legal, organizational and administrative system of the State party, together with addenda on questions of concern to each of the six committees. Some might object that there was no difference between a core document and six reports and a core document with six addenda, but such a method might make it easier to pinpoint the issues, questions and replies, avoid repetition and facilitate the work of Governments.

55. Mr. YUTZIS said that the pressure created by the Alston report to produce a sole consolidated report was not new and had already been discussed in a number of forums. He suggested that a working group should be established to submit ideas on the subject to the Committee for discussion.

The meeting rose at 6 p.m.