

# PUEBLO KITU KARA, FIAN ECUADOR & PLATAFORMA INTERAMERICANA DE DERECHOS HUMANOS, DEMOCRACIA Y DESARROLLO

## ALTERNATIVE REPORT FOR THE UN COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

(Executive Summary)<sup>1</sup>

SESSION 93°

July – August 2017



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<sup>1</sup> This Alternative Report is an extract of the Alternative Report for the 93th session addressed to the CERD Committee. Due to **financial constraints**, our organizations could not afford the comprehensive translation of the present report. It is important that the UN, CERD Committee and other organizations know that local organizations, especially the ones that are not totally aligned with the State, operate on voluntary basis and/or under precarious conditions.

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## EXECUTIVE SUMMARY

### Main concerns:

1. In the Articles 1, 56 and 57 of the Constitution of Ecuador is mention that the country is a Plurinational and Intercultural State and it recognizes the collective rights of indigenous people, communities and nationalities; the Afro-Ecuadorian people and Montubio people. Therefore, the State guarantees to these people, among others, the right to strengthen their forms of social organization; not to be subjected to racism or discrimination; to preserve, maintain possession of their lands and not to be displaced from them; to free and informed prior consultation; and to guarantee and protect self-determination of people in voluntary isolation. However, over the last decade, these people and nationalities have suffered a setback in the exercise of their rights and have been subjected to racism and rational discrimination.
2. Regarding to the *Consejos Nacionales de la Igualdad Organic Law* and the creation of National Councils of Equality of People and Nationalities (CNIPN) the institutional transformation of the government meant a significant loss of the system of representation of the 14 nationalities and 18 indigenous communities. Nowadays, there are only participating 5 indigenous representatives and 5 delegates in each branch of the State.
3. The reports of follow-up to public policies done by the CNIPN is not binding, which hinders the incidence that should be achieved for the wellbeing of diversity. It is also a concern the fact that these national councils cannot execute investment funds, which limits the fulfillment of the cycle of public policy and specialized labor in the territory.
4. Despite the fact that since 2008 with the current constitution it was allowed the communities to self-identify as territories of indigenous ancestral origin, they are still victims of plunder and displacement of their territories.
5. Due to plunder and displacement of their territories, a lot of people have had to postpone their political, economic and social development, because they have been forced to allocate economic resources for the defense of their collective rights.
6. The lack of laws to guarantee their territorial rights is discriminatory and led to cases of racism, the community fragmentation and the loss of their self-ethnic identification.
7. Regarding to the *Plan Nacional para el Buen Vivir*, no regulations have been approved, such as *Organización y Régimen de Comunas Law*, which is necessary in order to guarantee, among others, land rights, self-government, social development, ethnic identity and the exercise of indigenous justice.

8. According to the articles 57,4 and 57,5 of the constitution, the State guarantees the conservation of communal lands, exemption from taxes and fees, maintenance of ancient lands and free adjudication of their territories. However, these communities continues paying taxes to the *Gobiernos Autónomos Descentralizados* (GADs) and they do not even receive basic infrastructure work such as sewage, street construction and access to water.
9. Regarding to the *Participación Ciudadana Organic Law* and the *Council of Citizen Participation and Social Control* (CPCCS), there GADs do not incorporate clear strategies and tools to help the recognition of self-determination and authority of the towns and their territories.
10. Regarding to Montubio people, there is a lack of laws and regulations in order to protect and guarantee their collective rights. One of the major problems, that reflects discrimination, is the access and handling of their lands due to the lack of policies for redistribution of land and access to productive resources. In addition, the State has not guaranteed access to public services as well as access to justice.
11. Statistics have shown that 23,9% of Montubio people under 5 years suffers chronic malnutrition; furthermore, 37,9% of children has anemia and the 14,7% has Vitamin A deficiency.
12. The Public General Defender expressed his concern about the way in which the justice system processes citizens who are highly vulnerable, including indigenous leaders who have participated in social mobilizations. On October 20<sup>th</sup>, 2016, three *Saraguro* indigenous leaders were sent to prison for four year for the alleged “crime of shutting down public services”. This sentence is considered disproportionate. However, in other cases such as the so-called “golden star”, in which the police is accused of creating a network dedicated to processing illegal passes as an organized crime, with profits in thousands of dollars, the sentence was of eight months.
13. In the *Código Orgánico Integral Penal* (COIP) is contemplated the crimes of sabotage, attack and resistance, and the suspension of public services. This is a contradiction to the article 98 of the Constitution that guarantees the “right to resistance of individuals and groups”. Therefore, on these legal inconsistencies two projects to reform the COIP and the Organic Code of Judicial Function were presented, but without any treatment to date.

#### **Questions for the State of Ecuador:**

14. Provide information on specific measures and actions in favor of the rights of binational indigenous people, both on the northern border and in the south. Consider the current situation of the application of collective rights and economic, social, cultural and environmental rights.

15. What is the number of indigenous people accused and prosecuted for the crimes of sabotage, attack and resistance and the suspension of public services during the last ten years? As well as which specific the measures and actions to repeal the article 283 of COIP, because it contravening constitutional principles and norms, such as the right to resistance.
16. What is the status of the COIP reform process, with the purpose of rationalizing the punitive system in the country, according to the project presented by the Public Defender of Ecuador?
17. Which are the steps to be followed for the progressive transformation of the institutional system of the administration of justice system to guarantee indigenous intercultural and plurinational justice?
18. Which are the policies, strategies or mechanisms developed for the coordination of national institutions such as the Ministry of Agriculture and the Municipality of Quito for an effective updating of the municipal cadastres of the communities of the city of Quito?

**We call for:**

19. Create public policies for the reduction of poverty in Montubio people. The drafting of these policies must include a consultation of citizens in order to meet the need of the different contexts in which the life of Montubio people develops.
20. It is recommended to the Executive function promote disaggregate information on the different areas of statistics in which it considers the plurinationality and interculturality recognized in the Constitution, thus allowing real census of Montubio and Indigenous people.
21. The State of Ecuador is requested to transform the symbolic relation between State, communities, nationalities and indigenous, Afro-Ecuadorian and Montubio people, in order to lead an integral construction of models of authority, management, evaluation, participation and social control of public, local and national politics.
22. The Ecuadorian State is required to design intersectoral policies that incorporate the articulation of mechanisms and strategies for the recognition of community authority, the generation of processes and procedures for co-management of the territory and the environment, the construction of indicators and inclusive goals that consider community plans and means of life of these communities and nationalities.
23. The State of Ecuador should promote positive discrimination strategies for planning and budgeting for both emerging and basic services for community areas.