



# **POLITICAL REPRESENTATION & SOCIAL INCLUSION:** Ecuador Case Study

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# INTRODUCTION

The integration of Indigenous and Afro-descendant populations into Latin American systems of political representation is a recent development; the political gains have come gradually over nearly a quarter-century, in a space where economic ones often have not. The new era of democratic freedoms has helped facilitate the formation of race and identity-based civil society groups, spurred in part by recognition and support from international organizations and donors. As self-awareness and the popular and political strength of Indigenous and Afro-descendant groups have grown, various Latin American countries became signatories to international treaties to protect minority rights—and some codified those rights in new constitutions, furthering formal ethnic-based or racial representation in local and national politics. This numerical increase, though, gives rise to the question: to what extent are these representatives effective at successfully advocating the demands of their constituents? Does their participation in elected office contribute to the adoption of policies that serve the interests of those populations?

Americas Society, with support from the Ford Foundation, attempted to answer these questions in a comparative study of Bolivia, Colombia, Ecuador, and Guatemala. What follows is a description of the study undertaken in Ecuador.

For the purposes of this study, Indigenous legislators were identified in one of three ways: a) through membership in the ethnic political movements Pachakutik and Amauta Yuyay; b) through the political agenda of various legislators from Alianza Pais who, in the course of the 2007 Constituent Assembly identified themselves as Indigenous and stressed demands for the plurinationality, interculturalism, collective rights, Indigenous justice, alimentary sovereignty, etc. of indigenous peoples; and c) the style of presentation in the legislative chamber. For example, Indigenous assembly members generally begin their interventions in the plenum with a greeting in Kichwa or in Shuar (Indigenous languages) and define themselves as interlocutors and representatives of Indigenous peoples to the State. Next they present in Spanish their opinions on whatever law is being analyzed. In certain instances, this is combined with the use of the poncho, sombrero, or other distinctively Indigenous dress.

It should be emphasized that the majority of Indigenous legislators are drawn from the Indigenous movement, and in the past were promoters of the struggle for ethnic demands. On the other hand, some elected assembly

members from the ranks of President Correa's *Alianza Pais* identified themselves as Indigenous in the 2008 Constituent Assembly and lobbied for the passage of the Indigenous movement's demands.

The process of identifying Afro-Ecuadorian legislators, of which there have been fewer, is less complicated. There was one Afro-Ecuadorian legislator in the 1998 Constituent Assembly, who self-identified as such but did not take initiative to advance a particularly Afro agenda. Prior to the Constituent Assembly of 2008, Afro-Ecuadorian civil society leaders convened a meeting of all the assembly candidates who self-identified as Afro-Ecuadorian so that they could elaborate a common agenda on behalf of Afro-Ecuadorian peoples. All those elected came from within that pool. In the current legislative session, assembly members also self-identified (as either black or of African descent), but without necessarily belonging to the Afro-Ecuadorian movement.





# Ecuador

## History: Identity, Social Movements and Political Participation

Until the Constitution of 1979, Indigenous people—the majority of whom were illiterate—did not have the right to vote in Ecuador. But beginning in 1980, they began to mobilize. Until the 2000s, the clearest and most powerful manifestation of the political awakening of Ecuador’s Indigenous was the *Confederación de Las Nacionalidades Indígenas del Ecuador* (Confederation of Indigenous Nationalities of Ecuador—CONAIE). One of CONAIE’s original demands—together with other grassroots organizations—was that the government promote a bilingual intercultural educational system, which it achieved in 1988. Later, CONAIE participated in a series of popular Indigenous uprisings in 1990, 1994, 1996, and 2001—the latter two leading to the replacement of elected presidents—with demands for formal ethnic recognition and recognition of Indigenous civil and collective rights.

However, social pressure was not the only key to opening up space for Indigenous political participation; the reforms of the political system also played a part. International and regional political transformations—including constitutional reforms in Colombia (1991), Peru (1992), Bolivia (1994), and Venezuela (1999)—paved the way for an opening of Ecuador’s political system to Indigenous people.<sup>1</sup> In 1994, then-President Sixto Durán Ballén called and secured passage of a referendum on the political participation of independent groups and political movements. As a result, the CONAIE and other social organizations created the *Movimiento de Unidad Plurinacional Pachakutik-Nuevo Pais* (Pachakutik Plurinational Unity Movement-New Country—MUPP-NP, or *Pachakutik*) in 1996, and subsequently, Indigenous evangelical organizations founded the *Amauta Yuyay* party.<sup>2</sup>

The 1998 Constitution ratified the possibility of independent political movements and candidates’ electoral participation, along with the formation of political parties. In 1999 the creation of the *Consejo de Desarrollo de las Nacionalidades y Pueblos Del Ecuador* (Council for the Development of the Indigenous Peoples and Nationalities of Ecuador—CODENPE) as a government body charged with Indigenous issues ensured that a portion of the state’s economic and technical resources would be earmarked for the promotion of the social and economic development of Indigenous peoples. Later, the 2008 Constitution (Articles 108 and 109) established the right of political movements and parties to compete in elections.

“ Social pressure was not the only key to opening up space for Indigenous political participation; the reforms of the political system also played a part. ”

Whether through *Pachakutik*, *Amauta Yuyay* or, more recently, *Alianza Pais*, Indigenous peoples—as part of an ethnic movement—have participated in the political process and elected representatives to congress, constituent assemblies, local governments (prefectures, mayoralties, and city councils), and even the executive branch of government. *Pachakutik* has historically had the greatest success in national legislative and presidential/vice-presidential elections, but today President Rafael Correa’s coalition, *Alianza Pais*, competes also for Indigenous votes and support as does *Amauta Yuyay*, a smaller political movement of Indigenous evangelicals, which has generated greater polarization among Indigenous groups and leaders competing for their support.

Afro-Ecuadorians’ participation as social and political actors is more recent, beginning approximately 20 years ago. The movement, which coalesced around ethnic-territorial and cultural rights, has rural, ecclesiastic and cultural origins, in addition to an urban base. From the start, it was defined by a set of heterogeneous demands. Various groups sprung up with their own agendas, organizational structures, political and cultural frameworks, and strategies for furthering political recognition and objectives.

In spite of this fragmentation and internal competition, an umbrella organization, the *Consejo de Coordinación del Pueblo Afroecuatoriano* (Coordinating Council of the Afro-Ecuadorian People—COCOPAE), among others, attempted to articulate a broad common agenda and strategy for the Afro-Ecuadorian movement. Sadly, the racially-motivated assassinations in the late 1990s of 17-year-old Patricia Congo and 32-year-old Mireya Congo Palacios (a maid whose attackers included two escort police for the National Congress) and the ensuing public demonstrations and formal complaints to seek justice helped both to bring public awareness to the issues of Afro-Ecuadorians and to forge a common reference point within the movement.

In 1996 Congress passed a bill designating the first Sunday in October the National Day of the Afro-Ecuadorian People, recognizing Alonso de Ilescas as a national black hero and mandating that Afro-Ecuadorian history be included in school curricula. During the Constituent Assembly of 1998, a proposal to

recognize the “pueblo negro” was approved, thanks to the support of an Indigenous legislator (Nina Pacari Vega), but lacking initiative by the sole Afro-Ecuadorian member of the Assembly.

In 1998 the Ecuadorian government created by executive decree the *Corporación de Desarrollo Afroecuatoriano* (Corporation for Afro-Ecuadorian Development—CODAE), a not-for-profit government body whose goal was to further the inclusion and integration of Afro-Ecuadorians into society at large. While an important recognition of Afro-Ecuadorian issues, the organization has struggled with a limited budget and mandate, as well as with divisions with the community it seeks to represent.

For many marginalized groups—the Indigenous, Afro-Ecuadorians, women, labor unions, environmentalists, etc.—President Rafael Correa’s election in 2005 signaled a major shift in Ecuador’s political landscape. Correa had campaigned on the promise of convoking another constituent assembly to reorganize the Ecuadorian state, and the 2007–2008 Assembly captured the hopes of Indigenous and Afro-Ecuadorian peoples to demand and finally secure full recognition of their rights.

Because of their participation in the 2007-2008 Constituent Assembly (seven representatives were Afro-Ecuadorians) and alliances with other movements, the 2008 Constitution reflected many of the demands of the Afro-Ecuadorian movement, including recognition of Afro-Ecuadorian collective rights and the criminalization of racism and discrimination. After it was drafted, the Afro-Ecuadorian movement supported the referendum to approve it.

Nonetheless, while long fought for, the constitutional guarantees alone have not been sufficient. Prior to and since the approval of the 2008 Constitution, Afro-Ecuadorian movements have had to work to promote the adoption of these guarantees into law and practice. At the local level, groups like the *Federación de Organizaciones y Grupos Negros de Pichincha* (Federation of Black Groups and Organizations of Pichincha—FOGNEP) successfully lobbied for the passage, in July 2007, of affirmative action employment and education laws in the municipality of Quito.

Afro-Ecuadorian movements have also increased their visibility on the national scene. Today there is one Afro-Ecuadorian governor, Roberto Cuero of Guayas province, and to date there have been two Afro-Ecuadorian cabinet-level ministers: Antonio Preciado, Minister of Culture from 2007 to 2008, and Alexandra Ocles, Minister of Peoples, Social Movements and Civic Participation from 2010 to 2011. Yet the movement depends largely on individual relationships with the state, especially the executive

branch, which has taken incremental steps to address its demands.



## Representation and Legislation

Since the adoption of its 1979 Constitution, Ecuador has had a unicameral legislature, variously titled. It has held two constituent assemblies in that period, ending with the approval of new constitutions in 1998 and 2008. The 2008 Constitution established the *Asamblea Nacional* (National Assembly) as the national government's sole legislative body, consisting of 124 members elected through a mixed system and without reserved seats for minority groups. We have focused on four key political moments to analyze the representation of Indigenous peoples and Afro-Ecuadorians in national politics and their effectiveness: the 1996–1998 National Congress; the 1998 Constituent Assembly; the 2007–2008 Constituent Assembly; and the 2009–2013 National Assembly.

### INDIGENOUS REPRESENTATION

The 1996–1998 Congress and 1998 Constituent Assembly were the first time in Ecuador's history that Indigenous groups demanded that the state recognize Ecuador's plurinationality as well as Indigenous justice and collective rights. Indigenous representatives historically have tended to come from a limited range of parties. In the 1990s Indigenous interests were largely represented by the CONAIE and its political arm, the MUPP-NP, but by the time of the 2007–2008 Constituent Assembly and elections to the 2009–2013 term, representation of the Indigenous movement had become dispersed among the *Alianza Pais* coalition, *Amauta Yuyay* and other parties in addition to MUPP-NP.

#### National Congress, 1996–1998

In the 1996–1998 period, only one bill relating to Indigenous communities was introduced—the Creation of the Intercultural University of the Indigenous Nationalities of Ecuador. It failed to pass through the first debate.

#### Constituent Assembly, 1998

In drawing up the 1998 Constitution, three bills relating to collective rights, plurinationality and land and territory issues were introduced. Only the bill proposing the incorporation of the collective rights of Indigenous peoples, in



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accordance with ILO Convention 169, was approved. Implementation, however, has proved elusive. For example, the bill titled “Exercising the Collective Rights of Indigenous Peoples,” sponsored by the Indigenous legislator Gilberto Talahua in the 1998–2003 Congress, proposed the creation of autonomous Indigenous governments and the administration of justice in accordance with Indigenous practices. However, it was vetoed in its entirety by the executive.

**FIGURE 4: INDIGENOUS REPRESENTATIVES IN ECUADOR AND BILLS PROPOSED/PASSED**

REPRESENTATIVE CONGRESSIONAL SESSION	NUMBER OF INDIGENOUS LEGISLATORS (AND % OF TOTAL)	NUMBER OF BILLS PROPOSED BY INDIGENOUS LEGISLATORS AFFECTING INDIGENOUS COMMUNITIES	NUMBER OF BILLS PROPOSED BY INDIGENOUS LEGISLATORS AFFECTING INDIGENOUS COMMUNITIES THAT WERE APPROVED (AND % OF TOTAL)	HOW INDIGENOUS REPRESENTATIVES VOTED ON BILLS APPROVED	SOURCES/ GENESIS OF BILLS ULTIMATELY APPROVED
National Congress 1996–1998	4 of 82 (4.9%)	1	0 (0%)	0	Not applicable
Constituent Assembly 1998	3 of 124 (2.4%)	3	1 (33%)	100% in favor	<i>Pachakutik</i> bloc-based on ILO 169
Constituent Assembly 2007–2008	4 of 130 (3.1%)	6	6 (100%)	100% in favor	CONAIE, Indigenous legislators
National Assembly 2009–2013	5 of 124 (4.0%)	7	1 (14%)	20% in favor	Indigenous legislator (Pedro de la Cruz, <i>Alianza País</i> )

### Constituent Assembly, 2007–2008

In contrast to its strong role in the 1998 Constitution, during the 2007–2008 Constituent Assembly CONAIE found itself in a moment of instability, internal confrontation and exhaustion.<sup>3</sup> The relationship between CONAIE and other umbrella and grassroots Indigenous organizations—such as the *Federación Nacional de Organizaciones Campesinas Indígenas y Negras* (National Federation of Indigenous, Peasant, and Black Organizations)

and the *Federación Ecuatoriana de Indígenas Evangélicos* (Ecuadorian Federation of Evangelical Indigenous) was characterized by rupture and a lack of cooperation. Despite this situation, they introduced and secured approval of six articles in the new constitution: recognition of the plurinational character of the Ecuadorian state; interculturalism; land and territory of the Indigenous peoples; the proclamation of Kichwa as official language of Ecuador (accepted as an official language of intercultural relations); Indigenous justice; and environmental rights.

### **National Assembly, 2009–2013**

In the 2009–2013 session of the National Assembly, Indigenous representatives have so far introduced seven legislative proposals, most of them having to do with formalizing cultural autonomy. One also proposes institutionalizing Indigenous judicial norms and procedures for coordination and cooperation with the existing established justice system. But despite the constitutional endorsement of the topic and the number of Indigenous representatives in congress, only one bill—to recognize food “sovereignty”—has passed (and barely that). The remainder have been “distributed,” meaning accepted for debate and introduced to the appropriate committee, but are yet to be debated.

Between 1997 and 2007, three bills relating to Indigenous peoples were introduced by non-Indigenous legislators; none passed. In total, of 15 legislative bills (excluding constitutional projects) proposed by Indigenous legislators during the same period, three were approved: 1) the creation of a fund for development of the Indigenous peoples of Ecuador (1998–2003); 2) the creation of the Intercultural University of the Indigenous Nationalities and Peoples-Amawtay Wasi (2003–2006); and 3) a 1-percent tax on capital outflows abroad (2006–2007).

Two legislative bills affecting Indigenous rights have been introduced by Rafael Correa’s government (i.e., 2007 to the present): a bill on water and a bill on mining. Although both adhere in principle to the constitutional norm of respect for environmental rights and prior consultation, under current law they represent a challenge to Indigenous land rights. The bill on mining, for example, mentions the necessity for prior consultation of the Indigenous peoples, but it does not consider such consultation to be binding.<sup>4</sup>

The National Assembly ultimately approved the bill on mining—despite the opposition of Indigenous groups throughout the country—but it shelved the bill on water until the government

could consult with the Indigenous communities.

## AFRO-ECUADORIAN REPRESENTATION

The 2007–2008 Constituent Assembly marked the first time Afro-Ecuadorians were visibly present in the political process via the seven representatives they elected to the Assembly (an all-time high) and the 500 witnesses who attended plenary debates and votes. In contrast to its Indigenous counterpart, though, the Afro-Ecuadorian movement has never been able to coalesce within a single political party. Its representatives in the 2007–2008 Assembly and current legislative session came from *Alianza Pais*, *Partido Sociedad Patriótica*, *Movimiento Popular Democrático*, *Partido Roldocista*, and others.

**FIGURE 5: AFRO-ECUADORIAN REPRESENTATIVES AND BILLS PROPOSED/PASSED**

REPRESENTATIVE CONGRESSIONAL SESSION	NUMBER OF AFRO-ECUADORIAN LEGISLATORS (AND % OF TOTAL)	NUMBER OF BILLS PROPOSED BY AFRO-ECUADORIAN LEGISLATORS AFFECTING AFRO-ECUADORIAN COMMUNITIES	NUMBER OF BILLS PROPOSED BY AFRO-ECUADORIAN LEGISLATORS AFFECTING AFRO-ECUADORIAN COMMUNITIES THAT WERE APPROVED (AND % OF TOTAL)	HOW AFRO-ECUADORIAN REPRESENTATIVES VOTED ON BILLS APPROVED	SOURCES/ GENESIS OF BILLS ULTIMATELY APPROVED
National Congress 1996–1998	0 of 82 (0%)	0	Not applicable	Not applicable	Not applicable
Constituent Assembly 1998	1 of 124 (0.8%)	1	1 (100%)	100% voted not in favor	Indigenous representatives (Nina Pacari)
Constituent Assembly 2007–2008	7 of 130 (5.4%)	1	1 (100%)	100% voted in favor	Indigenous/Afro bloc
National Assembly 2009–2013	2 of 124 (1.6%)	1	0 (0%)	Not applicable	Executive branch (CODAE)

### National Congress, 1996–1998

No Afro-Ecuadorian legislators were elected to the 1996–1998 session of Congress.

### Constituent Assembly, 1998

The only proposal made during the Constituent Assembly of 1998 that would benefit the Afro-Ecuadorian community was the one made by an Indigenous representative, Nina Pacari Vega (*Pachakutik*), to recognize the “*pueblo negro*.” Members of various Afro-Ecuadorian civil society organizations lobbied

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assembly members to vote in favor of this recognition.

### **Constituent Assembly, 2007–2008**

Though the high level of representation of the Afro-Ecuadorian community during the 2007–2008 Constituent Assembly has not been reached before or since then, Afro-Ecuadorians were only able to secure passage of one proposal important to them—recognition as subjects deserving of collective rights. Though members of the Assembly initially proposed the article as separate from the corresponding one for Indigenous communities, the final text grouped Indigenous, Afro-Ecuadorians and Montubios (coastal people of mixed-race and Indigenous descent) together in its consideration of subjects eligible for collective rights. That article also criminalized racially-motivated acts of violence—a notable victory for the Afro-Ecuadorian community, if only a symbolic one. It wasn't until a reform to the code on penal procedures was approved—in March 2009—by a legislative commission tasked with handling the transition to the new constitution that the guarantee acquired any practical implications or mechanisms for enforcement. (Incidentally, that reform was proposed by a member of the constituent assembly, Alexandra Ocles, who later became a cabinet-level minister in the government of President Correa.) The constitutional article and reform law together have permitted various victims of violent acts to initiate judicial proceedings against their perpetrators.

### **National Assembly, 2009–2013**

The only bill under consideration in Ecuador's current congressional session that would benefit the Afro-Ecuadorian community is one proposed by CODAE. Titled the Organic Law of the Collective Rights of the Afro-Ecuadorian People, the bill sets out to define the collective rights of Afro-Ecuadorians under the most recent constitution, as well as specify the mechanisms by which they can be upheld.



## Unique Representative Laws

Three legislative proposals presented by Indigenous groups encapsulate many of the basic demands that Indigenous communities and organizations have historically made on the Ecuadorian state. These are: 1) recognition of the plurinational character of the Ecuadorian state; 2) official recognition of Indigenous territories with their own juridical, political and administrative functions; and 3) the requirement that local communities be consulted before investment in natural resource extraction (*consulta previa*).

The proposal regarding territorial recognition also affects the Afro-Ecuadorian community, as does the ongoing Law of Collective Rights in its various iterations.

### Plurinational State, 1998 and 2008

The proposal to declare Ecuador a plurinational state has been a consistent issue in Ecuadorian politics for years, boiling over nationally and publicly in the Indigenous protests of 1990. Conservatives and much of the Ecuadorian political class viewed this proposal with suspicion—if not outright fear—believing it would threaten national unity and balkanize Ecuador. In contrast, many Indigenous believed it would help end discrimination and would “strengthen unity in diversity,” as Assemblywoman Nina Pacari Vega said.<sup>5</sup>

Despite the numerous arguments presented by CONAIE and Indigenous assembly members, the 1998 Constituent Assembly settled on calling Ecuador “pluricultural and multiethnic” (Article 1) rather than “plurinational.” Indigenous groups got a second try in the 2008 Constituent Assembly, when CONAIE—with the help of assembly members—placed the need for the recognition of the plurinational character of the Ecuadorian state at the center of the debate.

Following a series of deliberations, and with the support of the majority of assembly members of *Alianza Pais*, the concept of plurinationality was accepted as a defining term of the character of the Ecuadorian state. But the assembly members emphasized unity and the predominance of the central state over territorial autonomy while also declaring that the natural resources belonged to the state.

### Indigenous Territories, 1998 and 2008

The demand for the formation of territorial districts and state recognition of Indigenous territories has been among the most important priorities

for Indigenous communities. Historically, community, familial and civil disputes have been resolved in the community and in its corresponding territory, at the margins of state law—which rarely has offered solutions. For the Indigenous peoples, the recognition of territorial districts would legitimize their possession of the land and administration of justice, strengthen their cultural identity and guarantee their future and integrity.

The question of the Indigenous territories was incorporated into the Constitution of 1998, and in the 2008 Constitution, these appear as territorial districts. However, these territories are not part of the regular territorial organization of the state and as such lack the same rights, such as access to regional and local public (provincial, canton and parish) budgets.

In October 19, 2010 the National Assembly approved the *Proyecto de Código Orgánico de Organización Territorial, Autonomía y Descentralización* (Constitutional Code of Territorial Organization, Autonomy and Decentralization—COOTAD), a bill that would regulate the specific levels of government and indicating the conditions according to which the Indigenous, Afro-Ecuadorian and coastal territorial districts would be established. The law’s objective was “to promote the construction of the plurinational and pluricultural character of the state, as defined in the Constitution, and to recognize the ancestral peoples’ forms of self-government.”<sup>6</sup> The COOTAD is an important juridical tool that in coming years will enable the Indigenous peoples to form territorial districts and constitute an autonomous Indigenous government capable of resolving communal conflicts and to generate public policies.

### **Prior Consultation, 2008**

In response to Indigenous demands and international law—namely ILO Convention 169—the 2008 Constitution, in Article 57, No. 7, declares the “mandatory” implementation of “prior, free, and informed consultation...on plans and programs of exploration, exploitation, and commercialization of non-renewable resources.” Despite this constitutional prescription, Article 408 of the constitution states that the resources of the land, subsoil and water—as well as the biodiversity and its genetic patrimony and the radio-electrical spectrum—are the “inalienable, imprescriptible, and un-seizable property of the state.”

The last caveat has led to tensions between the government and Indigenous organizations.<sup>7</sup> From the government’s point of view, the consultation should be of an informative nature but not binding, but many representatives of the Indigenous movement—including the *Pachakutik* bloc—say “the consultation

has to be binding” to comply fully with the spirit of the ILO Convention.<sup>8</sup> The articles of Convention 169 specify a process for consultation but do not specifically mandate that the outcomes of that process be binding on governments.<sup>9</sup>

### **Law of Collective Rights of the Black and Afro-Ecuadorian Peoples, Resolution R-26-117**

In 1996 Junior León, an Afro-descendant deputy from Esmeraldas, proposed a bill on the collective rights of Afro-descendants. Debate was postponed indefinitely, and then the resolution *Ley de los Derechos Colectivos de los Pueblos Negros o Afroecuatorianos* was resurrected and approved by the National Congress in the 2003-2007 session—though in a largely symbolic form, with no mechanisms for implementation. In September 2011, CODAE proposed a bill, the *Ley Orgánica de Derechos Colectivos del Pueblo Afroecuatoriano* (Organic Law of the Collective Rights of the Afro-Ecuadorian People), to establish principles and practices to protect the collective rights of the Afro-Ecuadorian people; guarantee their territorial rights; establish the means for the reparation, restitution and compensation in the case of violation of rights; and protect and conserve their environment and the border areas. It would also recognize the material and immaterial cultural patrimony, ancestral wisdom and medicine of the Afro-Ecuadorian people. At the time this report went to press, the bill had not yet been approved for distribution for review by the appropriate congressional committees and National Assembly at large.



# ENDNOTES

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