

I. EXECUTIVE SUMMARY AND KEY RECOMMENDATIONS

In light of Ecuador's renewed recognition of Afro-Ecuadorians as a distinct people with individual and collective rights to their ancestral territory in its 2008 Constitution, the Bernard and Audre Rapoport Center for Human Rights and Justice carried out a legal and policy study on the land rights of rural Afro-Ecuadorian communities. The study included a fact-finding delegation that visited Quito, Esmeraldas and the Valle del Chota in spring 2009. This report draws from the Center's research and the delegation's meetings with Afro-Ecuadorian community members, activists, academics, and state officials with whom the delegation met in Ecuador. It examines the situation facing rural Afro-Ecuadorian communities and their struggle for land rights.

Despite the affirmation of their rights in Ecuador's 2008 Constitution, rural Afro-descendants face deeply entrenched obstacles to the realization of those rights. Afro-Ecuadorians struggle against pervasive and historical forms of structural discrimination, reflected in the disproportionate rates of poverty and inadequate access to basic social services that they face. Although Afro-Ecuadorians make substantial efforts to gain collective title and meaningful access to land, the imposition of inadequately regulated commercial development projects, irresponsible public policies, and violence towards their communities actively erodes Afro-Ecuadorians' ability to enjoy their nationally and internationally guaranteed right to property as well as their economic, cultural and civil rights.

Afro-descendants in the province of Esmeraldas face the destruction of their ancestral territories and environment due to aggressive and largely unregulated logging, oil palm and commercial shrimping practices, while land trafficking and violence from the war in Colombia present multiple forms of violence and instability along the province's border. In the Valle del Chota, unequal access to quality land and water resources continue to impede possibilities for community-driven development. In both regions, Afro-Ecuadorians report the impossibility of gaining access to credit, thwarting their attempts at sustainable development even on the land to which they do have access.

Despite its promises, the Ecuadorian state fails to give priority to the land rights of Afro-Ecuadorians, implementing neither the legislation nor regulations necessary for the protection of Afro-Ecuadorians' rights under domestic and international law. Ecuador is in a position to take a leading role in the formulation of economic and social policies regarding its Afro-descendant population, but it can do so only if it takes seriously the rights included in its intercultural Constitution, actively seeks the resolution of land conflicts that specifically attend to the rights of Afro-Ecuadorians, and makes policy decisions with the consultation and participation of Afro-descendant communities.

The Rapoport Center makes the following key recommendations to the Ecuadorian government and other parties whose actions affect the rights, resources, and titling efforts of Afro-Ecuadorians:

- The Ecuadorian government should immediately establish a program and assign institutional responsibility for the identification, titling and protection of Afro-Ecuadorian ancestral lands in Esmeraldas, giving clear priority to the rights of ancestral landowners over commercial interests.
- The Ecuadorian government should develop and assign institutional responsibility for a program to purchase or otherwise provide productive rural lands in the Valle del Chota and redistribute these lands to Afro-Ecuadorian families to ensure a more equitable management of local resources.
- The Ecuadorian government should support and promote local development for Afro-Ecuadorian communities by ensuring fair lending and credit practices to Afro-Ecuadorians and by adopting legislation and/or regulations that provide credit or other forms of assistance that do not require that land be used as collateral.
- The Ecuadorian government should enforce current legislation and adopt new legislation and regulations to ensure environmental protection and remediation for environmental harms, taking into particular consideration the protection of mangrove areas affected by the commercial shrimping industry and the contamination of the water, land, and air caused by the oil palm industry. All new policies and development projects should require environmental impact studies and the prior-consultation of Afro-Ecuadorian communities.
- The Inter-American Commission on Human Rights should conduct a study on Afro-descendant land rights in Latin America, strengthen the role of the Special Rapporteur on Afro-Descendant Issues, and actively promote the finalization of a Draft Inter-American Convention Against Racism and All Forms of Discrimination and Intolerance. This Draft should include strong provisions guaranteeing the collective and other property rights of Afro-descendants.
- International and regional financial institutions such as the World Bank and the Inter-American Development Bank should ensure that all development and micro-credit programs affecting Afro-Ecuadorian communities are planned and implemented with the full participation of those communities.
- The United States government should reduce military and police aid to Colombia, which is increasing the militarization of the border with Ecuador, and increase funding for development projects by Afro-Ecuadorian communities.