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**The Multinational and Intercultural State from the Perspective of the Guarantee of
the Rights of Peoples and Nationalities**

Section 1 of the 2008 Constitution provides that Ecuador is a “multinational and intercultural state.” This definition poses a challenging vision: How can we build this type or model of State in the medium term? What is the path to full multinationality? What role do the government, democratic institutions, and citizenship play in achieving it? The challenge of building the multinational and intercultural state model with sights set on the future, involves understanding the current scenario, examining the necessary conditions for building the model, understanding the complexity of the phenomenon, the political mindsets that are barriers and existing proposals drafted from the Constitution itself and requiring a set of public policies be applied with that goal in mind. In said proposals, the future construction of a multinational State demands certain adjustments in the democratic model, improvements to the development model and rights guarantee mechanisms, but especially, the modernization of the political culture that will foster the country’s cultural diversity as the great agency of the identity of the nation, the state, and its society. This essay intends to present some ideas for prospectively reaching the constitutional mandate of Section 1.

Ecuador’s Cultural Diversity, the Basis for Multinationality

One of Ecuador’s greatest assets is its cultural diversity, composed of an accumulation of identity expressions of its citizens. The 2010 census confirmed the cultural diversity of the Ecuadorian people. According to the *Instituto Nacional de Estadísticas y Censos* (Ecuador’s Bureau of Statistics and Census) in the country, Ecuador’s population amounts

to 14,483,499 people, distributed as follows: 71.9% mestizos, 7.4% Montubian, 7.2% African Ecuadorian, 7% indigenous (Table). The census showed that over 21% of the Ecuadorian population self-identify or feel they are part of said groups and nationalities, understanding this category as those socio-cultural groups that have the characteristic of peoples, from both a sociological standpoint and according to the international system of law. These peoples and nationalities of the country have a strong identity, millenary, and contemporary traditions, and possess countless patrimonial expressions, both material and cultural.

The owners of all these cultural assets are, specifically, indigenous peoples, African-Ecuadorians and Montubians (map), who, according to the Constitution, self-identify as a “people” (pueblo), that is, an ethnic group that shares a set of cultural, social, political, and environmental characteristics specific to them and determined historically.

There are 15 indigenous nationalities in Ecuador: *achuar*, *a'I Cofan*, *waorani*, *kichwa*, *secoya*, *shiwiar*, *shuar*, *siona*, *zapara*, and *andoa* in the Amazonia; *awa*, *ahachi*, *epera* and *tsa'chila* on the coast, and the *kichwa* people in the mountain highlands. In turn, the latter encompasses 16 peoples that preserve their identity in accordance with their customs.

“Individuals of African descent” comprise all peoples and individuals who are descendants of the African diaspora throughout the world. It is a concept with sociological connotations that refers to the various “black” or “African American” cultures that emerged from descendants of Africans who survived the human trafficking of the slave trade in the Atlantic region from the 16th to the 21st centuries. From individuals of African descent stems the concept of “African-Ecuadorian,” which refers to the descendants of Africans who were born in Ecuador since the slave trade and, prior to the current national border demarcation.

Montubians are a people recognized as such in the Constitution. They are a group of mestizo agricultural workers, from the Ecuadorian coastline, specifically in the Province of Manabí, Guayas and Santa Helena. Characterizing the *Montubian* ethnic identity involves

understanding that they are the product of a lengthy historical process of adaptation and hybridization of indigenous peoples, individuals of African descent and whites, during the time period when the colony and republic were structured.

Social Reality of the Peoples and Nationalities

Another reality exists for the indigenous, African Ecuadorian, and *Montubian* peoples and nationalities, very different from their great contributions they've made to building the nation. They experience marked poverty, inequality and exclusion. By merely looking at social indicators, it is evident that these groups of population do not yet fully enjoy their financial, social and cultural rights (see [inequality table](#)).

The poverty indicator (*Unsatisfied Basic Needs Indicator*, or NBI in Spanish) from the 2010 census, reveals their situation: over 88% of indigenous peoples live in poverty, due to unmet basic needs, while the indicator reaches 69.8% for individuals of African descent and 83.6% in the case of *Montubians* – a critical situation when compared to the poverty of mestizos and whites, where percentages are lower, at 55.1% and 46.3%, respectively. The national poverty average is 60.1%. Taking this indicator and others into account, we could claim that in Ecuador, certain peoples and nationalities live in conditions of social disadvantage, where their rights are not met and where few financial, social and cultural rights are guaranteed, especially when compared to the better conditions of other self-identifying social groups.

Despite the Ecuadorian state's efforts, especially during the last six years, to improve social and financial conditions for all citizens, the social gap dividing the peoples and nationalities from other groups who are historically best positioned in the social hierarchy remains wide.

Factors inherited from colonial times, such as racialism, racism, discrimination, and cultural assimilation against individuals of African descent and indigenous peoples, have allowed for these communities to be placed in the lowest positions of the social scale (see [poverty pyramid](#)). The outcome of this situation, which can also be characterized as mestizo racial or social whitening dictatorship, is that over 21% of the Ecuadorian population feels like second-class citizens. But in order to understand this phenomenon we need to identify the root of Ecuadorian citizenship exclusion. It is based on the Ecuadorian

State model and its evolution as such: first, the colonial state; then the confessional, land-based oligarchic state inherited from the era of the independence, which lasted throughout the 20th century, which was then followed by the neo-liberal state until the beginning of the 21st century, despite the historical efforts to destroy this exclusionary state model through the heroic deeds of both the 1895 liberal revolution and the 1924 Julian revolution (See [The Evolution of the Ecuadorian state](#)).

Citizen exclusion is evidenced by the failure of the mono-cultural state model, dominated by privileged social classes, by whiteness and power colonialism. Consequently, history has revealed dialectical shifts, giving way to contradictions and ideological struggles aimed at positioning a dominant colonial trend and a decolonizing counter-dominant trend. Thus, throughout the 20th century, a historical bloc has been created by the struggle between dominant classes holding power and subordinated and counter-ruling class groups seeking to change the established social order.

There are peoples and nationalities that have presented proposals for transforming society, the State and the Nation. Their political agenda was defined by several objectives, the first of which is an attempt to transform State financial and political structures, which, from the time they were established, were based on old oligarchic, colonial and exclusionary regimes. Another major objective has been to build a society free of racism and discrimination. Thirdly, groups have sought human rights guarantees through all means available, even including the right to affirmative action as a concrete measure to repair obstacles standing in the way of development, resulting from an entire history of slavery, racism and colonization. These demands have given rise to the proposed multinational state.

What is the conceptual framework for the Multinational State?

From a classical liberal tradition, a nation is a people sharing a historical tradition, owning a territory, imagining itself as a cultural community, with a sense of belonging called nationalism, and is projected within a political self-determination project known as citizenship. ([Table](#)). When this imagined community seeks to consolidate, self-determine itself, govern itself, organize itself both legally and politically within a territory, it gives

way to the state. Thus, the state allows the realization of the common project of a nation. (Table).

Since the dawn European modernity, the type of state developed was based on a model referred to one state, one nation. This model would be predominant and it would consequently homogenize the cultural diversity of the peoples under one sole nation or superior identity. This concept of the nation-state, while it prevailed during the twentieth century in America, has caused tension between two visions: (a) a state nationalism, which defends state political unity over the nation's diversity, imposes a single cultural vision and generates a kind of class and race supremacy of the governing elites; and (b) a minority nationalism, supported and defended by the dominated national minorities, which feel captive in the nation-state. These minorities resist assimilation and colonization and produce political instability and protests. (Table).

Modern state theorists, such as Will Kymilcka, Charles Taylor, and others, have studied the tensions suffered by the modern state when state nationalism confronts the nationalism of minorities. Said theorists think a third possibility exists for avoiding the destruction of the nation-state and the destruction of the national minorities. This third way of modernizing the nation-state (particularly Latin American nation-states) is based on the principles of respect and recognition of one another, addressing the demands of minorities, maintaining national unity within diversity. This is known as the theory of the multinational state.

In Ecuador the modern state (or the mestizo nation-state) has undergone crises, and in order to preserve it, the state has undergone three constitutional evolutions. First, the mononational Ecuadorian state, that is, that is, the mestizo state, established in 1830, characterized by the non-recognition of cultural diversity, the assimilation of peoples and nationalities and their exclusion. In 1997, a second model emerged, called Multi-ethnic and Multicultural state, designed under the philosophy of neo-liberalism and multiculturalism, which only sought to recognize cultural diversity but without granting any rights guarantees or ways to overcome poverty. With the failure of the neo-liberal model, the Ecuadorian state has undergone a third significant change, and since 2008, under the new constitution, it has evolved into a multinational state.

Based on the interpretation of the new Latin American constitutionalism, the multinational state has emerged as a state model guaranteeing constitutional and human rights to nations, minorities, and peoples under a single political and constitutional design. Pursuant to the hypothesis of the modern democratic liberal theory, the multinational state entails the constitutional guarantee of three types of rights to national minorities:

- (a) The right to self-government, which guarantees territorial and legal autonomy, and the ability to boost its own development model;
- (b) Political representation rights, which facilitate the democratization of political parties, distribute bureaucratic power shares, and directly adjudicate seats in Congress;
- (c) Collective or ethnic rights, which arise from the fact that communities have a right to identity, territory, prior consent, and to non-discrimination. (Table)

In Ecuador, the multinational character of the State referred to in the new constitution of 2008, is based on the aforementioned hypotheses, but primarily takes into account the demands of the peoples and nationalities, which sought the unity of the state from the diversity of the nation – where society and the democratic political institutions acknowledge the existence of peoples and nationalities as political subjects, who, in addition to the individual rights of citizens, enjoy the right to self-government, the right to participate, and collective rights.

The way to create a multinational state lies in the Constitution itself. The rights to self-determination are to be determined by the African Ecuadorian and Indigenous Territorial Divisions (Sections 242 and 257), as well as matters of indigenous justice (Section 171). The rights to political participation are enshrined in Section 65, and in the national equality councils (Sections 156 and 157), affirmative actions and social redress (Sections 11 and 56). Collective rights are addressed in Section 56.

Is it possible to build the multinational state at the present time?

The construction of the multinational state presents a challenge for the Ecuadorian Government. And achieving this utopia requires overcoming social inequities, poverty and racism, all of which have, since colonial times, prevented African-Ecuadorian, indigenous

and *Montubian* peoples and nationalities from acquiring their right to citizenship. In order to come into being, the multinational state requires a set of public policies guaranteeing human rights, and ensuring “Good Living.” But to overcome such a challenge, it is necessary to overcome certain critical problems hindering the building of something resembling multinationality in Ecuador, with regard to guaranteeing the rights of the peoples and nationalities. We can mention at least three urgent problems that must be overcome: **Challenges:** (Table)

- a) **Breaking the colonial situation.** Colonialism remains an underlying phenomenon in the collective conscience, in individuals’ *habitus*, and social structure. This colonial legacy is reflected in a regime of social inequality that owes its roots to deep seeded racism – an inequality gap sourced in exclusion and racial prejudice against the peoples.
- b) **Eradicating state bureaucracy’s racist indifference.** Currently, a great portion of the state bureaucratic system is dominated by a colonial spirit, planted in the minds of officers, who, although they understand the need for change, are resistant to change, and through their actions demonstrate that they reject multinationality.
- c) **The social anomie suffered by colonized subjects.** Anomie is a normalization disease of the colonial situation. Although the peoples attempt to move towards a counter-hegemonic public space they may eventually assume as normal the existence of racism in the institutions and mindsets.

The challenge of building the multinational state ordained by the Constitution, is not only major, but can also be elusive, if at a minimum, there is no attempt *to go beyond attitude changes towards inclusion* by those sectors of society that make up the historical hegemonic bloc monopolizing capital and obtains power strength in the field. An interculturalism education is insufficient. Analysis must go beyond, modifying even the foundation of existing democratic models, development models, and political participation models. That is to say, it would appear that current attempts to transform the state, which

the government is presently trying to promote, re missing ingredients. We wouldn't be capable of building a multinational state if the new interpretations of the democratic field do not overcome citizen monism hindering cultural citizenship, to the subjects of collective rights and new spaces for debate appearing in the public arena. So it is necessary to consider multinational democracy, where citizens' participation is qualified as arising from social foundations, from subordinated, colonized, race-divided, and alienated groups.

How then do we reach an efficient path to multinationality?

It is a public policy broad scheme for inter-culturality and multinationality that, because the Constitution rests on the principles of citizen equality, non-discrimination, social inclusion, redress, and affirmative actions for the historical victims of racial discrimination. But at the same time it also encompasses a set of rights to self-determination, autonomy, and self-government specific to those peoples and nationalities. All these multinational principles are enshrined in the 2009-2013 *Plan Nacional para el Buen Vivir*, which, *inter alia*, had the purpose of "Constructing a Multinational and Intercultural State." In addition to this instrument, inter-culturality and multinationality public policy have been consolidated into other instruments, such as: the National Multinational Plan, aimed at eliminating Racial Discrimination and Ethnic and Cultural Exclusion; and Executive Order 60 of September 2009, to combat racism and racial discrimination.

Based on the preceding guidelines, we propose the following forward-looking vision of public policies the state should incorporate into the next government term, in order to guarantee the rights of peoples and nationalities and progress in building the constitutional mandate of the multinational and intercultural state. (Table)

1. Body of regulations combatting racism, guaranteeing the principle of non-discrimination and the promotion of inter-culturality.

This body of regulations is focused on the approval of a legislative agenda allowing certain constitutional rights to reach applicability: "Law on Affirmative Actions and Redress of

Social Groups Historically the Victims of Racial Discrimination“ (*Ley de Acciones Afirmativas y Reparación a los grupos sociales en situación histórica de discriminación racial*) (Sections. 11.2 and 57.3 of the Constitution); “Law on African Ecuadorian and Indigenous Territorial Boundary Delimitations” (*Ley de las Circunscripciones Territoriales Afroecuatorianas e Indígenas*) (Sections 60, 257); “Law of Collective Rights of Peoples and Nationalities” (*Ley de los derechos colectivos de los pueblos y nacionalidades*) (Sections 56, 57, 58 and 59); Inclusion of penalties for punishing racism and discrimination in the Criminal Code of Ecuador.

2. Ecuadorian National Councils for Equality as constitutional bodies enforcing non-discrimination guarantees.

A law must be passed to launch the Ecuadorian National Councils for the Equality of the African Ecuadorian People, and Councils for the indigenous and Montubian peoples, pursuant to Sections 156, 157 and provisional Clause Six of the Constitution.

3. Efficient social investment to guarantee financial, social and cultural rights.

It is important to propel from the National Councils for Equality, the design of development programs for the African Ecuadorian people, the indigenous and Montubian peoples and nationalities.

4. Affirmative actions and redress for the historical victims of racism.

National Councils for Equality should push a national agenda for equality, taking into account affirmative actions for African Ecuadorians, indigenous peoples and Montubians with regard to education, employment, health, housing and productive development, under the provisions of the Constitution and Executive Order 60 of 2009.

5. The African Ecuadorian and indigenous territorial divisions must be taken into account for State land use planning.

As part of the state's land use planning, creating African Ecuadorian and Indigenous Territorial Divisions under Section 257 of the Constitution should be encouraged, and as a tool to guarantee the self-determination of the peoples.

6. Launch of the National Plan against Racial Discrimination.

The National Councils for Equality, under Executive Order 60 of 2009, shall establish a strategy for enforcing the National Plan against Racial Discrimination, which is understood to be an integral presidential program for inclusion and decolonization.

7. Promote legal pluralism and strengthen indigenous justice systems.

Legal pluralism and coordination between the ordinary and indigenous court systems should be settled on, according to Section 171 of the Constitution.

8. Strengthening civil society and promoting citizen involvement.

The State is to implement public policies for strengthening civil society, ensuring their autonomy, their constitutional right to resistance and the right to demand redress for any incident, interference, co-optation or corporatism.

9. Promote international cooperation for fostering the socio-economic development of African Ecuadorian and indigenous peoples.

The National Councils for Equality, as a fair act of redress, shall work in coordination with the international cooperation system to set up a strategy for channeling and focusing resources for supporting and encouraging the socio-economic development of the African-Ecuadorian, indigenous and *Montubian* peoples.

10. Enactment of a law providing for a free, prior and informed consent.

Under Section 57.7 of the Constitution, and in accordance with the 169 ILO Convention, the National Assembly must approve, in a concerted manner, a law on a free, prior and informed consent to the peoples and nationalities, based on the principle of self-determination as to their destiny.