

## **A Region in Denial: Racial Discrimination and Racism in Latin America**

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Racism (and racial discrimination) is, to a certain extent, alive and well in every society, country and region of the world.<sup>1</sup> It can appear in a variety of forms depending on the culture or context in which it occurs and the period of history during which it rears its head. Nonetheless, one common thread that seems to be woven throughout almost every culture, country and region is that people deny that racism even exists.

In this article, we attempt to delve into the different forms of denying the existence of racial discrimination in Latin America. The crux of our argument is that the people of our region are prone to conceal, twist and cover up the fact that racism and racial discrimination exists in our part of the world. This phenomenon of denial stands in the way of acknowledgement of the problem and, consequently, hampers effective measures that could be taken to eliminate and prevent racial discrimination. In order to identify the best strategies for combating racism, we must first take a close look at the different forms and manifestations of the phenomenon itself.

A kind of presumption of moral superiority vis-a-vis the United States of America is quite widespread throughout our region. Rarely does a conversation on this issue between Latin Americans take place without mentioning the serious incidence of racism and racial discrimination that exists in the land of our neighbors to the north, a claim that is altogether true. As the Brazilian scholar Antonio Sergio Guimarães notes with nationalistic pride, we

point out that racial segregation of the type that exists in the United States does not exist in our countries<sup>2</sup>. We pompously tout how we live in "racial democracies", "racial melting pots", "racial harmony", a complete *mestizaje* or mixing of races, or use other expressions to this effect.

Nothing epitomizes Latin Americans' view on this issue as well as the declaration of the presidents and heads of state of South America that was issued in 2000 at a meeting in Brasilia. This statement reads: "The Presidents [of South America] view with concern the resurgence of racism and of discriminatory manifestations and expressions in *other parts of the world* and state their commitment to preserve South America from the propagation of said phenomenon."<sup>3</sup> Or as the Mexican government put it, "the Government of Mexico opposes any form of discrimination, institutionalized or otherwise, as well as the new forms of discrimination, xenophobia and other forms of intolerance that have emerged in several parts of the world, particularly in the developed countries."<sup>4</sup>

In short, these leaders concur that racism and racial discrimination are practices that take place in other regions and that Latin Americans possess a moral fortitude that cannot and does not allow any discrimination to go on in their countries. Moreover, this statement echoes the widespread sentiment of the region.

Our aim here is to encourage a debate on what we feel is a widespread and outright misrepresentation of Latin America as a region that is respectful of racial mobility and more tolerant toward racial identities than what it really is. These misguided impressions are merely a reflection of the absence of a deep, sincere and open political debate on the issue of race in our region. With regard to this point, the Mexican government is right when it states that "in Mexico, the indigenous issue is never approached as a problem of racial

discrimination but as a matter related to the right to development and to their situation of economic and social marginalization (exclusion)."<sup>5</sup> This same government would also state that racial discrimination "is not even a issue of national debate."<sup>6</sup>

But to point out that this phenomenon is not part of the national debate, or that it is not viewed as racial discrimination, by no means erases or negates the fact that racism and racial discrimination does exist and that the countries of the region refuse to admit it and combat it.

In reality, racial discrimination and racism, like the failure to recognize these phenomena and the absence of a debate on these issues in Latin America, is simply part and parcel of what could be dubbed the "democratic deficit" that we are experiencing in the region. Equality, as it relates to race, gender, ethnicity, or anything else, is still far from being viewed in the region as an essential and basic requirement for democracy. Equality cannot exist without democracy; nor can democracy exist without equality. Hence, the struggle to solidify democracy is a fundamental step in the struggle against racism and racial discrimination.<sup>7</sup>

This article is partly based on a study conducted by Stanley Cohen, which looked at different governments' responses to reports denouncing violations of human rights. In this study, three different types of denial are posited: literal denial (nothing has happened); interpretive denial (what is happening is actually something else); and justificatory denial (what's happening is justified).<sup>8</sup> Sometimes these types of denial appear in sequence; when one type is struck down, it is replaced by another type. For example, literal denial may prove ineffective because the facts may simply bear out that the black population is indeed more

disadvantaged than the white population. Therefore, strategy shifts towards use of another type of denial such as a legalistic reinterpretation or a political justification.<sup>9</sup>

Before delving into the subject at hand, we would first like to make a point of clarification. This article shall focus primarily on the plight of the black or Afro-Latin American population, and very little discussion shall be put forth on racial discrimination against indigenous peoples or other ethnic groups. It is by no means our intent to ignore or fail to recognize that indigenous peoples are victims of racial discrimination as well. We have chosen to center our analysis on this particular social group, for the most part, because blacks have been the most low-visibility victims of racial discrimination in Latin American society today.

### **A Look at the Current Situation in the Region**

We must first make sure that readers understand what we mean by racism or racial discrimination. Even though it is true that forms, types or definitions of "racism" or "racial discrimination" may vary widely, for the purposes of this article, we shall use the definition provided by Article 1 (1) of the International Convention on the Elimination of All Forms of Racial Discrimination (referred to hereinafter as the "Convention against Racism" or the "Convention"):

"In this Convention the expression \*racial discrimination+ shall denote any distinction, exclusion, restriction or preference based on motives of race, color, lineage or national or ethnic origin whose purpose or result it is to nullify or diminish the recognition, enjoyment or exercise, in equal conditions, of human rights and

fundamental liberties in the political, economic, social, cultural or any other sphere of public life."

The true state of affairs in Latin American societies, nonetheless, stands in stark contrast with the objectives pursued by the International Convention. Although very few statistics are available on the phenomenon, the small amount of data we have at our disposal shows how racial discrimination permeates each and every realm of life in our region: from the social to the political, education<sup>10</sup>, labor<sup>11</sup>, cultural and public health sectors.<sup>12</sup> In countries like Colombia, the Afro-Colombian population is disproportionately a victim of political violence.<sup>13</sup> In other countries of Latin America, access to land has eluded the descendents of African peoples.<sup>14</sup> In many countries of the region, judicial<sup>15</sup> and police<sup>16</sup> systems provide less protection to blacks and, at the same time, punish these people more severely.

For example, a recent ECLA (U.N. Economic Council for Latin America) study showed that Afro-Latin Americans have little or no job security, which is proof of racial segregation throughout the region. Racial discrimination in the labor market stems from inequities in the education sector. Consequently, whites have more of a chance of successfully climbing the corporate ladder so to speak, or making it into positions of power or upper management. Distribution of income in the region is revealed to be even more unfair when it is viewed by ethno-racial origin of the inhabitants. The black population has a harder time gaining access to, making progress in, not falling behind and staying in school, and usually attends poor quality schools.<sup>17</sup>

The Government of Colombia, one of the few governments which at least has clearly acknowledged, in written documents, the problem of discrimination, has described the plight of the Afro-Colombian population in the following terms:

They are among the group of Colombians with the highest indices of unmet needs with precarious health conditions sanitation conditions are of the most deficient in the entire nation coverage of education services is poor Housing in Afro-Colombian communities, in addition to [having] poor coverage of public utilities, show problems in the legalization of property and lots, a high rate of overcrowding and poor quality It is estimated that the per capita income of [the members of] these communities is \$500 per year, less than one third of the national average Afro-Colombian women are facing conditions of poverty, high unemployment rates and low quality jobs, deficient health care and high incidence of domestic violence Afro-Colombian teens do not have optimal guarantees and opportunities to gain access to higher or vocational education, good jobs and to development in keeping with their world vision and with their socio-cultural reality the territorial entities where the Afro-Colombian population create settlements are characterized by their poor ability to govern, plan and manage.<sup>18</sup>

This scenario, which is identical to the situation in several countries of Latin America, makes it all the more necessary to take a closer and more honest look at our region in order to be able to adopt the necessary measures to overcome this crisis. Even so, there are still strong currents of thought in political, academic and social circles which deny that racial discrimination even exists or try to explain away these differences as a function of

other variables, rather than as a function of race or ethnic origin. In the following section we shall look closely at some of these variables.

### **"There is No Racism or Racial Discrimination": Literal Denial**

Literal denial is simply to say, "*nothing has happened*" or "*nothing is happening*". What is of concern to us here is that this type of denial is synonymous with saying that there has never been any racial discrimination or racism in the past nor is there any at the present time. Over the past few years, different governments of Latin America have made statements to the Committee on the Elimination of Racial Discrimination claiming, among other things, that "racial prejudice"<sup>19</sup> does not exist, "in our country problems of discrimination do not exist",<sup>20</sup> "racial discrimination does not exist",<sup>21</sup> "today racial problems practically do not exist any longer",<sup>22</sup> "this phenomenon does not appear in our country"<sup>23</sup> or "in society at the present time racial prejudices, are practically negligible"<sup>24</sup>

This type of discourse is not only typical of governments that have a well-known history of being insensitive to racial issues, but also of governments that have a track record of being committed, at least rhetorically so, to racial equality. Paradoxically, these so-called 'racially sensitive' governments are often the ones who most categorically deny the existence of the problem. It would not be entirely farfetched to hear the following argument bandished in discussing the issue with a Latin American: "*Our Government would never allow something like that to happen, and therefore it could not have ever happened.*"

A pseudo sophisticated way of denying that racial discrimination exists is to argue that it could not have taken place because discrimination is illegal in the countries of the region and the governments have even ratified every appropriate international instrument related to the subject. This legalistic version of denial of racial discrimination is based on

the following specious claim: "Since racial discrimination is prohibited by law, our government would never allow it and, therefore, it could not have ever occurred."<sup>25</sup>

The most syllogistic form of literal denial is the widespread myth that the region boasts a racial democracy because the concept of race has been officially rejected by government institutions. This type of denial has many variations but essentially amounts to saying, if races do not officially exist, then racism cannot exist either. Nevertheless, erasing the concept of race from laws and other official documents, by no means, has led to the end of race as a key factor in determining how the benefits of society are distributed, nor does it negate the fact that Latin American society is predicated upon a clearly pyramidal structure with blacks and indigenous people at the bottom and whites at the top.

**"What goes on in Latin America is Not Racism or Racial Discrimination but Something Else": Interpretive Denial**

At this point in time, it is hard, if not ludicrous, to categorically deny that racial discrimination and racism exist in Latin America. This is because groups that have been discriminated against have become more visible and have begun to engage in activism to address their plight. Additionally, a limited, but growing number of studies and statistics, which bear out that racism and racial discrimination still exist in Latin America, are now available. Consequently, people resort to slightly more sophisticated explanations. Instead of denying that economic and social indicators show a wide gap between races, it is now more common to hear reasons other than racism to account for the disparities between

blacks, indigenous peoples and whites. These disparities, attitudes and prejudices are framed in far less pejorative or stigmatizing theoretical terms than racism or racial discrimination.

The true story of the racial issue in Latin America is doctored in many different ways. In the following section, we shall identify some of the ways in which the facts are distorted such that they do not fit the definition of racism or racial discrimination.

a. *Euphemisms*

One of the most common ways of putting a spin on the facts is by using euphemistic expressions to mask the phenomenon, confer a measure of respectability on the problem, or paint a picture of neutrality in the face of discriminatory practices. In order to negate or cloud the racist side of certain social conduct or government policies, a variety of terms are used such as "ethnic minority"<sup>26</sup>, "restrictions on immigration"<sup>27</sup>, "customer screening or selection" (*selección de clientes*)<sup>28</sup>, "reservation of rights to refuse admission" (*reserva de admisión*)<sup>29</sup>, "proper attire" (*buena presencia*)<sup>30</sup>.

Probably the most common euphemism used in Latin America is to deny that racial discrimination exists and to attribute the differences between races to poverty. The syllogism goes something like this: "people don't discriminate against blacks or indigenous people because they are black or indigenous, but because they are poor."

The government of Haiti, for example, cited economic instead of racial reasons for the disparities between whites and other groups, stating that "even though it is true that in the private sphere prejudices related to color are sometimes expressed, in reality its origin lies in the social inequities that exist in Haitian society."<sup>31</sup> Similarly, the government of Peru claimed that "today practically every Peruvian is of mixed blood and a racial problem no

longer not exists. Instead, there exists a problem of economic underdevelopment in certain sectors of the population."<sup>32</sup> Mexico has developed the most explicit arguments on this point. The indigenous issue is not "a problem of racial discrimination;" In Mexico, rather than "the phenomenon of racial discrimination", what is going on are "some forms of discrimination derived from the socioeconomic reality."<sup>33</sup>

The myth of a racial democracy, which is defined as harmony between ethnic and racial groups and, therefore, the absence of racial discrimination, would lead people to believe that any display of racism and discrimination that may occur is usually the result of social and economic rather than racial prejudices. Once again we cite the official version of the Mexican government: "some forms of discrimination are a result of socioeconomic differences more than a distinction between ethnic groups, and they [the differences] have been addressed by means of a variety of government social development programs targeted toward the most vulnerable groups."<sup>34</sup> This way of thinking is so widespread and has endured for so long throughout Latin America that, regardless of a person's race, the population for the most part is unwilling to explain current social disparities between racial groups in terms of racial inequities. On the other hand, our societies quite readily accept explanations based on economic disparities.<sup>35</sup>

These interpretations are marred by faulty logic. They fail to explain why in our region even though not all people of color are poor, almost all poor people are colored.<sup>36</sup> One government did not have any problem acknowledging that "There is a clear correlation between proportion of the indigenous population and poverty and marginalization indices."<sup>37</sup> Secondly, several statistical studies on economic disparities in Latin America have shown

that even when all possible variables are factored out of the equation, including indicators of poverty, one variable, which can only be attributed to a person's race, always carries over.<sup>38</sup> Moreover, according to this specious argument, it would be lawful to discriminate against poor people. As far as we are aware, there is no provision of human rights law currently on the books that legitimizes unequal treatment of persons based on social class or economic status.<sup>39</sup>

Justification of class-based over race-based discrimination, once again, is simply the corollary to the assumption that we live in racial democracies in Latin America. It is also the corollary to the ideological basis for that assumption, which is that societies in the region are monolithically mestizo or mixed-raced and, therefore, allegedly free of prejudice and discrimination. If Latin America indeed lives in racial harmony and there is really only one race in our societies (the mestizo race), then it would follow that any disparities between population groups could never be explained by a person's race, but rather would have to be explained as a function of poverty, social status, or education.

b. *Legalism:*

Most interpretive denials of racism are laced with some sort of legalistic or diplomatic language to negate the existence of discriminatory practices. Many different legal defenses have been used to counter charges of racial discrimination. To take stock of every single one would far exceed the scope of this article, so in this section we offer only a few examples.

One form of legalistic argument is to maintain that racial discrimination is non-existent in Latin America because the laws in the countries of the region do not establish rules of

segregation or apartheid as is the case in other parts of the world. The claim is thus put forth that "never in history has any legal text been in effect that establishes racial discrimination even in a veiled way."<sup>40</sup> The implication of this statement is that discrimination can only exist when it is established by law, and not when sectors of the population are discriminated against by deed or when laws are applied or enforced in a discriminatory way.

Nevertheless, international conventions require our countries to do much more than simply erase discriminatory laws from the books. International treaties call for the adoption of specific laws in support of each particular provision of these conventions, egalitarian and non discriminatory enforcement of laws and conventions and, particularly, the prevention, punishment and elimination of discrimination in all of its forms, whether by law or by deed. The CERD (Committee on the Elimination of Racial Discrimination), therefore, has expressly mentioned the obligation of States to repeal any law or practice whose effect it is to create or perpetuate racial discrimination.<sup>41</sup>

The Convention against Racial Discrimination requires nations to adopt comprehensive legislation to prevent, eliminate, punish and remedy racial discrimination. Such legislation does not exist at the present time in Latin American countries, as the CERD has been pointing out over the past two years.<sup>42</sup> Instead, the respective constitutions contain basic provisions which prohibit racial discrimination; yet the appropriate legislative structures to fully enforce those provisions are not in place.<sup>43</sup> Specifically, the Convention requires enactment of certain criminal laws, which prohibit and adequately penalize any act of racial discrimination that may be committed by individuals, organizations, public authorities or institutions. To date, in many countries of the Americas, such laws yet to be

passed.<sup>44</sup> In other countries, even though legal provisions designed to eliminate unequal treatment based on racial factors may have already been enacted, express provisions making it unlawful to discriminate on the basis of national or ethnic origin have not been written into the laws.<sup>45</sup> Such specificity is necessary because these types of discrimination are the most prevalent forms of intolerance and bigotry in many nations of the region. In many countries in Latin America, there are no laws preventing racial discrimination in the private sector, despite the fact that section 'd', paragraph 1 of Article 2 of the Convention provides that States Parties shall prohibit any racial discrimination practiced not only by public authorities or institutions, but also by private "groups or organizations."<sup>46</sup> Lastly, in many of our countries, legislation currently in force has proven to be inadequate, either because the ban on discrimination does not go hand in hand with the appropriate punishments,<sup>47</sup> or because punishments provided for by law are so lenient that they do not serve as an effective means to prevent, prohibit and eradicate all practices of racial segregation.<sup>48</sup>

Another way people attempt to prove that racial discrimination does not exist in the region is to point to the fact that Latin American courts receive very few complaints of racial discrimination. As the government of Mexico stated, the absence of racial discrimination "can be corroborated by the absence of both domestic and international complaints in the subject matter"<sup>49</sup> --the logic being that an absence of court convictions for racial discrimination means that the phenomenon is non-existent. Nevertheless, this argument ignores important questions such as whether victims of racism are aware of the legal recourses available to them for their defense; whether laws are effective in combating racial discrimination; or whether the courts properly apply anti-discrimination laws. The low number of complaints may very well be attributable to "unawareness of existing legal

remedies available for cases of racial discrimination, and to the public in general perhaps not being very aware of the protection against racial discrimination provided for in the Convention."<sup>50</sup> The small amount of complaints and, consequently, convictions, may also be due to a lack of confidence in law enforcement and judicial authorities.<sup>51</sup> Lastly, the low incidence of racial discrimination court cases may also stem from the fact that judicial or police officers do not rate this type of behavior as a display of racism or discrimination.<sup>52</sup>

The government of Venezuela used a variation of the following syllogism: because no legislation making racial discrimination a crime has been enacted, this amounts to proof of the absence of any racial discrimination, by stating, "even though it is true that very few laws are in force against racial discrimination and any defense or support (*apología*) that may foment it, we can say that there is no practical need to legislate on this subject, given that problems of discrimination or defense thereof do not exist in our country." The Venezuelan government went on to say, "[such a] situation, fortunately unknown in our milieu, would be different if there were violent clashes between ethnic groups or if certain persons were alienated or left out on the basis of physical characteristics, since in explosive situations such as these [situations] would be, the Parliament, which cannot turn its back on the social reality, would issue laws on this subject. It has not done so because there has not been a need for it."<sup>53</sup>

The extreme variation of this strategy is to respond to allegations of racism and racial discrimination by trying to offer as proof that it is not possible for the phenomenon to exist in the country because such practices are prohibited in the domestic bodies of law. Governments usually counter these allegations by rattling off a long list of domestic laws,

international treaties they have ratified, and a host of legal mechanisms that are in place to punish those responsible for discrimination and racism.

### *C. Denial of Responsibility*

Many times governments deny any type of state responsibility for racism and racial discrimination, although they acknowledge that such acts may indeed take place.

The argument is that even though some acts of racism and racial discrimination have occurred, such acts are events that cannot be attributed to the government, are out of its control, and are the product of deeply rooted social practices or private actors. The Dominican government, for example, has only accepted that "there exists the possibility that individually, someone in the country, with the utmost discretion supports racial discrimination."<sup>54</sup> Or as the government of Haiti has stated, in the event that there are incidents of racial discrimination, these "are in no case the work of the State."<sup>55</sup>

In any case, under the International Convention against Racial Discrimination, these arguments are not a valid justification. Every State must guarantee effective application of the Convention. "Inasmuch as the practices of private institutions influence the exercise of rights or the availability of opportunities, the State Party must ensure that the result of these practices does not have as a purpose or effect to create or perpetuate racial discrimination."<sup>56</sup>

### *d. Just Isolated Incidents*

One of the most common ways in which governments respond to charges of racism or racial discrimination is, on the one hand, to accept that a specific act has indeed taken place, but on

the other hand, deny that such acts are systematic, routine or representative of a pattern of similar behavior.

"Such acts arise in an isolated way and are the result of the motivation of individuals or very small groups."<sup>57</sup> Incidents of racial discrimination would occur only "episodically and selectively".<sup>58</sup> "In present day society racial prejudices are practically negligible and are manifested in the most intimate spheres of life."<sup>59</sup>

What occurred was an "*isolated incident*"; such events never occurred in the past, and since they have not happened again, it is unfair to brand our government as racist on the basis of this single event.

### **Justificatory Denial**

Justificatory denial has countless variations. Generally speaking, these variations either involve trying to justify that racism does not exist or go to the other extreme and attempt to show that racism or racial discrimination is justifiable in some hypothetical situations. Some of these denials are offered in good faith, but others are simply excuses, fabrications, attempts at neutralizing allegations, ideological defenses, etc.

#### *Denying that the Victims are Victims of Racism: Camouflaging the Phenomenon*

In this section, we would like to focus on one particular variation of the phenomenon, which is one of the most pernicious forms of denial of the existence of racism and racial discrimination in Latin America. We are referring to pinning the blame on the victims for their situation or making the victims of racism and racial discrimination invisible.

Perhaps the most extreme form of this type of denial of racism and racial discrimination is to say that sectors of the population, and sometimes even a vast majority thereof, are simply not victims of racism. A popular Argentine saying seems to aptly encapsulate this extreme version of denial: "We Argentines are not racist because we don't have any blacks." The collective conscience in that country of the Southern Cone, however, refuses to ask key questions such as why today there is no black population in Argentina while, in 1850, 30% of Buenos Aires' population was black.<sup>60</sup>

Governments throughout Latin America have engaged in a campaign to officially do away with any racial identification by claiming that the population is a mixed race (*mestizaje*). This view is evident, for example, in the way censuses are conducted in the countries of the region. The census of almost every country in Latin America does not include any question on racial identity.<sup>61</sup> The exceptions are Brazil and a few other countries, which are half-heartedly beginning to inquire into these distinctions.<sup>62</sup> This practice only serves to camouflage a highly representative sector of Latin American populations. The void of official statistics on the true make up of the population has a most serious consequence: it prevents the true plight of sectors that are victims of discrimination from being known. This practice also makes it impossible to implement public policies to overcome these inequities.

This drastic negation of any racial distinctions within the population makes it impossible to question the prevailing norm in Latin America of a person's color being a decisive factor in determining chances and opportunities to succeed in society. In Latin America, the whiter you are, the better and greater your chances are; while, the darker you are, the lesser and worse your chances are. The chromatic social scale is blatant throughout Latin America and social surveys have begun to corroborate these disparities.<sup>63</sup>

While it is true that racial categories in Latin America differ from those of other parts of the world in that they are not exclusively of a dual nature, i.e. black and white;<sup>64</sup> this, however, by no means does away with the disparities between races, nor with the fact that the darker the skin, the fewer the economic, cultural, educational, employment and social opportunities. We could say that a "strong pigmentocracy" prevails throughout Latin America, in which a negative value is attached to darker skin color thus relegating races other than the white race to the lower echelons of society.<sup>65</sup>

The idea that we are all *mestizos*,<sup>66</sup> we are all café au lait-colored, we all have some indigenous or black blood in us, is an obstacle to identifying and developing the concept of specific racial groups. This myth is used to prevent non-whites from developing their own identity and demands; however, it is not used to attain a higher degree of equality and social integration for these sectors of the population. The official notion of a mixed race (*mestizaje*)<sup>67</sup> camouflages diversity, denies non whites the right to dissent, while making conditions ripe for excluding anyone who falls outside the "norm" of mestizo or mixed.<sup>68</sup>

Furthermore, the concept of a mixed race or *mestizaje* also undermines or weakens the political and social struggle against racial discrimination. If we are all mestizos, then there are no racial distinctions and mere discussion of the racial issue is therefore viewed by many as a foreign or non-regional issue. By raising such matters in Latin America, the thinking goes, people are only trying to bring problems into the region that belong to other countries.

Moreover, the mixed race theory covers up the official racist policy of whitening or infusing white blood into society, which has been attempted in almost every single country of Latin America. Many Latin American countries made a concerted effort to bring down

the number of blacks and indigenous people in the population and, as a last resort, camouflage these racial groups by encouraging miscegenation or marriage between non-whites and whites to make the population whiter. For example, almost every country in the region has developed at one time or another immigration policies that restrict or deny entry to black people while strongly promoting European immigration.<sup>69</sup>

The mixed race claim not only serves to camouflage or make the black or indigenous population invisible, but is also used as proof that racism does not exist. Mexico has explained the situation in the following way:

Additionally, our historical experience and the make up of the Mexican population, 90% mestizo (mixed race), a product of the mix between Spaniards and indigenous people; gives rise to an indisputable fact, that is that the denial of either [one of these] origin[s] does not take place in our country, that is why there has been no need to legislate in this regard, unlike what goes on in other countries where the phenomenon of *mestizaje* did not occur.<sup>70</sup>

*Mestizaje* is also used as proof of harmony between different racial and ethnic groups. In other words, if there are mestizos (mixed race people in Latin American societies), it is because there are mixed marriages between whites and blacks or indigenous people. As the government of Cuba stated, the fact that there are a high number of racially mixed families on the island is a sign of how limited racial prejudice is.<sup>71</sup> Nonetheless, not even the magical force of *mestizaje* has managed to completely do away with racial prejudice when such marriages take place. Furthermore, many people in Latin America try to keep mixed marriages from ever taking place in their families.

The mixed raced/mixed marriage theory, however, is unable to conceal the fact that the Latin American population in general and, particularly, the black/indigenous population in the region, feel that whitening your lineage is the only route to improving your standing on the social scale. This view is at the root of racism in Latin America; this attitude denies the black or indigenous presence and identity and stresses the "white" side of the mixed race as the essential ingredient to obtain better social, employment, and education opportunities in a white-dominated world.<sup>72</sup> In reality, more than a democratizing force behind society, the mixing of races or *mestizaje* constitutes, for the most part, one of the most masterful forms of racism in Latin America. In order to climb the social ladder, one must be as white as possible and the blending of races is the way to attain it.

In Latin America, as has been correctly pointed out, "the white/mestizo [person] forswears or abjures his or her indigenous [and we add black] part and must constantly demonstrate his or her 'superiority', even when these displays only illustrate that it is impossible for mestizos to accept their white and Indian humanity" [or the black side of their humanity, we add once again].<sup>73</sup>

Even though Latin American governments have officially denied or done away with the different racial identities that exist throughout the region, such an action has not done away with informal racial designations, which in fact have a decisive effect on the social structure in Latin America. Even at the risk of making a sweeping generalization, we feel compelled to call attention to a common fact that has persisted throughout Latin America independently of the social, political, historical and cultural peculiarities of the different countries: there is discrimination based on skin color.<sup>74</sup>

Another way of saying that non-whites are not victims of racism in Latin America is to reduce their sphere of action in society. Accordingly, people in Latin America have a very clear view that it is socially acceptable for blacks to only "excel in the world of sports, music and dance"<sup>75</sup> or that "blacks are only good at soccer or, if you're black, you must be a soccer player."<sup>76</sup> In keeping with this same line of thinking, the victims of racism are excluded from other sectors, for example, from the media, in order to "project the image of a racially white country."<sup>77</sup> For example, the Committee on the Elimination of Racial Discrimination has stated its "concern for the information that the media provide regarding minority communities, including the consistent popularity of television programs in which stereotypes based on race or ethnic origin are promoted. The Committee states that those stereotypes contribute to reinforcing the cycle of violence and marginalization that has already had serious repercussions on the rights of traditionally disadvantaged communities in Colombia."<sup>78</sup> The labor market is another place where there is a clear demarcation of the types of jobs that non-whites may gain access to or not. Non white populations in Latin America usually have access to the lowest level and poorest paid jobs.<sup>79</sup>

The last form of this type of denial involves turning the story around to pin the blame on the victims. This takes place when a black or indigenous person denounces racially discriminatory practices. Many times, the person is branded a victim of unfounded complexes, without even the slightest consideration that he or she may be instead the victim of racial discrimination.

#### *b. Convenient Comparisons*

One of the most common ways of attempting to justify the racial situation in Latin America is to compare the region to other countries of the world. Four countries, South

Africa, the United States, Rwanda or Bosnia, are old standbys that are often used for such comparisons. With regard to each instance, respectively, Latin Americans state, “we never had apartheid in our region”; “nor was there ever any legalized racial segregation”;<sup>80</sup> and “we never had racially motivated, violent armed conflicts.”<sup>81</sup>

In the report submitted by a government to the CERD, the only time the words xenophobia, racism or racial discrimination are mentioned, is to refer to the plight of nationals from that country living in the United States.<sup>82</sup> Discrimination always takes place on the other side of the borders.

The intellectual and political elite, in many ways, has made the United States the paragon of racial hatred against which all other societies must be measured. The specious claim goes something like this: since the segregationist laws and practices of the country to the north have not been applied in Latin America, there is no need to look at other forms of racial exclusion and alienation.

None of the above-mentioned comparisons are untrue and this ought to be a source of pride for Latin Americans. However, the people of the region, or anyone else for that matter, should not read anything more into these facts than what they say on the face of things. It is true that there has been no apartheid regimen in the region; it is true that no racist legislation has ever existed in the region either; and it is also true that no Latin American government has implemented policies of ethnic cleansing.<sup>83</sup> Nonetheless, these are not the only manifestations of racism and racial discrimination. There is a myriad of phenomena that can be found throughout Latin America and fits the definition of racial discrimination and racism.

### **Conclusion: Is there a future without a past?**

A racist way of thinking has endured throughout our region over the years. Today it is not even entirely farfetched to hear out of the mouths of Latin Americans such statements as: "The only solution for Guatemala is to improve the race, bring in Arian studs to improve it. I had a German administrator on my farm for many years and for every Indian girl he got pregnant, I'd pay him an extra 50 dollars."<sup>84</sup>

The existence of racial discrimination and racism, however, continues to be denied or ignored by Latin American societies and governments alike. Very few studies have been conducted on the topic to date, very few statistics have been gathered, and no public debate on the issue is taking place. This grim picture constitutes a roadblock to the development of public policies to combat racial discrimination and racism on the national, regional and international levels.

In recent years, the advent of democratically elected governments in the majority of the countries of Latin America has paved the way for the improvement of the human rights situation of the region in many ways. Most notably, most countries have no policies of serious State-planned violations. Nevertheless, our democracies still have not been successful at fulfilling their implicit promise and the basic tenet of ensuring full, formal and effective equality for all segments of society. Consequently, the consolidation of democracy is looming over us both as an unavoidable challenge in Latin America and as the path we must follow in order to combat racism and racial discrimination effectively.

The World Conference against Racism, Racial Discrimination, Xenophobia and Related Forms of Intolerance,(WCAR) which was convened by the United Nations in 2001,

may yet spur on the inhabitants of the region to deal with an issue that has long been consigned to oblivion.

A regional meeting in preparation for the WCAR was held for the Americas in Santiago, Chile, from December 3 to December 7, 2000. Two parallel meetings were organized: the governmental conference, called the *Americas Preparatory Conference Against Racism, Racial Discrimination, Xenophobia and Related Forms of Intolerance* (Regional PrepCom) and the parallel “NGO Forum,” titled the *Conference of Citizens against Racism, Xenophobia, Intolerance and Discrimination* (Citizen’s Conference).

There were several positive outcomes from these meetings. The massive presence of civil society organizations should be highlighted, on the civil society side. More than 1,700 people participated. There is still some hope that this significant mobilization could give birth to a strong regional movement to fight racism. The Santiago meetings also contributed to enhancing the dialogue among Afro-descendants throughout the region, bringing international attention to the challenges that they face. The Chile meetings represented a unique, and probably the first, opportunity for Afro-Latin Americans to appear as significant actors functioning in regional groups on the international level. Participating with a burgeoning collective identity that demonstrated enormous potential for bringing the fight against racism, they successfully heightened both their own visibility and that of the problems they face throughout the entire hemisphere.

On the governmental side, and at least in the declaratory documents, the Regional PrepCom allowed decisive actions to be taken to fight racial discrimination in the region. For the first time, all the governments of the Americas accepted that racial discrimination

exists throughout the region and that it should be strongly combated. Some themes, which appeared in the Regional PrepCom's Final Declaration, deserve mention as they point to important changes in the official position of many States in the region highlighted through this article. The Final Declaration includes a clear recognition that the history of the hemisphere has often been characterized by racism and racial discrimination, and that these phenomena persist in the region (preamble). Moreover the Governments of the region stated that the denial of the existence of racism and racial discrimination on the part of States and societies directly or indirectly contributes to their perpetuation (para. 2). The documents also included a positive call for governments to include ethnic or racial criteria in order to give visibility to diverse sectors of the population (para. 18).

It is important to note that the Presidents and Head of State of the 34 countries of the Hemisphere expressly endorsed this document. Similarly, the Inter-American Democratic Charter, adopted by the OAS General Assembly in Lima, Peru on September 11, 2001, in its Article 9, established that "The elimination of all forms of discrimination, especially gender, ethnic and race discrimination, as well as diverse forms of intolerance, the promotion and protection of human rights of indigenous peoples and migrants, and respect for ethnic, cultural and religious diversity in the Americas contribute to strengthening democracy and citizen participation."

The WCAR was held shortly after the Regional Prep-Com, during the first week of September 2001, in Durban, South Africa. While the objective of the WCAR was to address issues of discrimination and intolerance around the world and formulate recommendations and action-oriented measures to combat these evils in all their forms, most of the discussions focused on two issues: the conflict in the Middle East and the question of reparations.

Notwithstanding the diplomatic hurdles, the event allowed Afro-Latin Americans to continue raising the level of public awareness on a number of important issues, thus imitating their Chilean success. For Latin America, the most important development is that the governments of the region did not retract from their prior recognition that the region faces important racial discrimination issues.

The mobilization of civil society groups was quite significant, resulting in a number of positive, tangible developments. Beyond highlighting the problems Afro Latinos confront, the Conference also acted as a welcome catalyst to put in motion the long overdue debate on how to effectively address racial inequality. The progress here lies in the discussion itself. Perhaps, for the first time in Latin America, governments and civil society, began to debate racial inequality. At last, the debate over race seemed to have moved beyond the discrete circles of academics and activists to find an incipient place in the region's agenda. As an example, the OAS decided to start discussions on the adoption of an Inter-American Convention against Racism and any other form of Discrimination and Intolerance. For a region that as the first part of this article suggests denies the existence of racism and racial discrimination, this is an important development.

There have been also, some promising institutional developments in the last couple of years in terms of creating public institutions charged specifically with addressing allegations of discrimination or helping in the definition and implementation of public policies for the prevention and combat of racial discrimination. Some examples of this trend are the creation of the National Institute against Discrimination, Xenophobia and Racism in Argentina<sup>85</sup>, the National Council for the Prevention of Discrimination in Mexico<sup>86</sup>, the Presidential Commission against Racism and Discrimination against Indigenous People in Guatemala<sup>87</sup>

and the Special Secretary on Policies for the Promotion of Racial Equality in Brazil<sup>88</sup>. The creation of new institutions, in countries that traditionally did not officially address the problems of exclusion and marginalization in terms of discrimination could signal a departure from some of the positions highlighted earlier in this article.

Perhaps the most important development in the last years is that the Brazilian government has begun imposing racial quotas for government jobs, contracts<sup>89</sup> and university admissions<sup>90</sup>. As expected, these measures have unleashed an acrimonious debate in a country that traditionally prides itself on being a "racial democracy." There is also a Racial Equality Statute pending now before Congress that would make racial quotas obligatory at all levels of government and require them even in casting television programs and commercials. The debate is broad and very complex, covering questions such as the definition of who is black, a puzzling process in a country where more than 300 terms are used to designate skin color. It has also prompted a discussion on national identity where critics of the measures say the government is importing a solution from the United States, a country in which racial definitions and relations are very different<sup>91</sup>. Others say that racial quotas are not needed since racism is not a feature of Brazilian society and conditions for blacks will improve as poverty is gradually eliminated. The issue probably will be partially settled in the near future when the Brazilian Federal Superior Tribunal rules on the constitutionality of racial quotas being challenged by white applicants to federal universities. The decision could have an impact in Brazil and also in the rest of Latin America comparable to that of *Brown v. Board of Education* in the United States<sup>92</sup>.

In order to capitalize on the momentum created by the WCAR it is indispensable to keep race and racial inequality in the forefront of Latin America political and legal debate.

This is not an easy task and the region faces many challenges. While the Latin American governments took a crucial first step by formally acknowledging at the international level the existence of racial discrimination this is just the beginning rather the end of the struggle. Despite some of the positive changes that have taken place in the last two years, it remains to be seen whether Governments will start laying the groundwork for formulation of effective public policies, including legal reforms needed to address racial disparities. There are some signs that some officials in some Latin American governments are slowly incorporating diplomatic recognition of the existence of racism and racial discrimination, into their official domestic discourse. But throughout the region, whether Latin American governments will turn their rhetoric into action remains to be seen.

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<sup>1</sup> The views expressed in this article are solely those of the authors and do not reflect the official position of the Organization of American States nor the Inter-American Commission on Human Rights.. I wish to express my gratitude to Flavia Modell for her support in researching an earlier version of this article. I would also like to thank James Early and Ruthanne Deutsch for their input in a previous version of this article.

<sup>2</sup> Antonio Sergio Alfredo Guimaraes, *Racismo e Anti-Racismo no Brasil* (1999), pg. 37. See also Antonio Sergio Alfredo Guimaraes *The Misadventures of Nonracialism in Brazil*, in *Beyond Racism*, ed. By Charles V. Hamilton, Lynn Huntley, Neville Alexander, Antonio Sergio Guimaraes and Wilmot James.

<sup>3</sup> Meeting of the Presidents of South America, *Communiqué of Brasil*, September 1, 2000, &28.

<sup>4</sup> 10<sup>th</sup> periodical report that the States Parties were required to submit in 1994: Mexico. 30/03/95. CERD/C/260/Add. 1. paragraph 155.

<sup>5</sup> 10<sup>th</sup> periodical report that the States Parties were required to submit in 1994: Mexico. 30/03/95. CERD/C/260/Add.1. paragraph 161

<sup>6</sup> 10<sup>th</sup> periodical report that the States Parties were required to submit in 1994: Mexico. 30/03/95. CERD/C/260/Add. 1. paragraph 157. Nevertheless, there are authors who have begun to conduct studies on the situation of the indigenous peoples from a racial perspective. See Olivia Gall, *Racism, Interethnic War and Peace in Chiapas*, presented at the XXI Congress of the Latin American Studies Association (LASA), 1998 and Olivia Gall, *Mestizaje-Indigenismo and Racism in the Mexican State's Ideology of National Integration*, presented at the XXIII Congress of the Latin American Studies Association (LASA), 2000.

<sup>7</sup> See Romero Jorge Rodríguez, *La Discriminación Racial en la Epoca de la Globalización Económica*, *Mundo Afro*, September, 2000, pg. 8.

<sup>8</sup> Stanley Cohen, *Government Responses to Human Rights Reports: Claims, Denials and Counterclaims*, *Human Rights Quarterly* 18:3 (1996), p. 522. The method used in this study is somewhat limited, mainly because it is

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of a general nature and, therefore, does not cover specific aspects of racism or racial discrimination. The article is not meant to be a complete study on the significance of race in Latin America, on the different manifestations of racial discrimination in the Hemisphere, nor on all of the ways that the existence of racism is denied. We shall use the paper as a preliminary theoretical framework to draw out debate on the persistence of racism in our region.

<sup>9</sup> *Idem*, p. 522

<sup>10</sup> For example, in Uruguay, black people have a lower level of education and a higher school dropout rate. 12<sup>th</sup>, 13<sup>th</sup> and 14<sup>th</sup> Consolidated Report of Uruguay to the Committee on the Elimination of Racial Discrimination, & 203 et seq.

<sup>11</sup> In Brazil, the black population shows a higher level of unemployment than the white population, earns at least 40% less salary, and holds the lowest grade and most unstable jobs on the labor market which also provide the least benefits. See Inter-American Trade Union Institute for Racial Equality, *Map of the Black Population in the Brazilian Labor Market* (2000).

<sup>12</sup> In Nicaragua for example, even though 32.3% of the nation's population has access to potable water, the percentage drops off sharply to 8.8% for the population living on the Atlantic coast, where the majority of the indigenous and Afro-Caribbean populations in the country are concentrated. See International Human Rights Law Group, *Submission to the Inter-American Commission on Human Rights*, March 3, 2000.

<sup>13</sup> See Inter-American Commission on Human Rights, *Third Report on the Human Rights Situation in Colombia*, OAS/Ser.L/V/II. 102, Doc. 9 rev. 1, February 26, 1999, Original: English, Chapter XI

<sup>14</sup> As is the case of the remaining survivors of the Quilombos in Brazil, the Garifunas in Honduras, or the Afro-Caribbean peoples in Nicaragua.

<sup>15</sup> See, for example, Sergio Adorno, *Racial Discrimination and Criminal Justice in Sao Paulo*, in Rebecca Reichmann, *Race in Contemporary Brazil, From Indifference to Inequality* (1999), p 123.

<sup>16</sup> Oliveira, Barbosa y dos Santos, *A Cor do medo: o medo da cor* (1998) ['The Color of Fear: the Fear of Color'] ("together, the civilian and military police apparatus of the State kill three times more blacks than whites"), p. 50.

<sup>17</sup> CEPAL, *Etnicidad, Raza y Equidad en América Latina y el Caribe*, LC/R. 1967, March 8, 2000, pp. 36 et seq.

<sup>18</sup> 9<sup>th</sup> periodical report that the States Parties were required to submit in 1998: Colombia. 17/11/98.CERD/C332/ADD.1. (State Party Report). See on this same topic, *Plan Nacional de Desarrollo de la Población Afrocolombiana*, Departamento Nacional de Planeación, 1998.

<sup>19</sup> CERD/C331/Add. 1, 02/11/99, & 6 (Dominican Republic).

<sup>20</sup> 13<sup>th</sup> periodical report that the States Parties were required to submit in 1994: Venezuela. 13/05/96. CERD/C263/Add. 8/Rev 1, & 77.

<sup>21</sup> 13<sup>th</sup> periodical report that the States Parties were required to submit in 1998: Haiti. 25/05/99. CERD/C/336/Add. 1, & 15 and & 17.

<sup>22</sup> Summary of the minutes of the 1317<sup>th</sup> session: Peru. 16/03/99. CERD/C/SR. 1317, &78.

<sup>23</sup> 10<sup>th</sup> periodical report that the States Parties were required to submit in 1994: Mexico. 30/03/95. CERD/C/260/ADD.1. Paragraph 157

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<sup>24</sup> 13<sup>th</sup> periodical report that the States Parties were required to submit in 1997: Cuba. 07/10/97. CERD/C/319/Add. 4, &16.

<sup>25</sup> Cohen, ob. cit. p. 524.

<sup>26</sup> In order to cover up exclusion of minorities such as indigenous people in Guatemala or the black population in Brazil.

<sup>27</sup> Immigration policies in our region are highly racist. Uruguay, Paraguay, Honduras, Costa Rica and Panama prohibited people of African origin from immigrating. Venezuela and the Dominican Republic placed restrictions on the immigration of individuals of African extraction. Quoted in Carlos Hasenbalg, Racial Inequalities in Brazil and Throughout Latin America: Timid Responses to Disguised Racism, in Constructing Democracy, edited by Elizabeth Jelin and Eric Hershberg, 1998, p. 168.

<sup>28</sup> For example, this was the criterion used by dance clubs or discos in Peru to discriminate. See Law Number 27049, Un Gesto Político contra la Discriminación Racial, Ideele. Lima, February, 1999, No. 115, p. 57.

<sup>29</sup> This is the criterion that is used in Uruguay to prevent entry into certain establishments or clubs. See Mundo Afro, Situación de Discriminación y Racismo en el Uruguay (1999), pgs. 12 and 35.

<sup>30</sup> One of the most widely used devices in Brazil to keep Afro-Brazilians out of the labor market or to make access difficult for them.

<sup>31</sup> 13<sup>th</sup> periodical report that the States Parties were required to submit in 1998: Haiti. 25/05/99. CERD/C336/Add.1.

<sup>32</sup> Summary proceedings of the 1317<sup>th</sup> session: Peru. 16/03/99. CERD/C/SR. 1317, & 78.

<sup>33</sup> Final Observations of the Committee on the Elimination of Racial Discrimination: Mexico. 22/09/95. A/50/18, paragraphs 353-398.

<sup>34</sup> Summary proceedings of the 12306<sup>th</sup> session: Mexico. 21/10/97. CERD/C/SR.1206, paragraph 5. The following day, the same representative of the government would admit that when certain practices act as an obstacle to the application of Articles 2 to 5 of the Convention, that constitutes ethnic, if not racial discrimination. Summary proceedings of the 1207<sup>th</sup> session: Bulgaria, Mexico. 21/10/97. CERD/C/SR.1207, paragraph 3.

<sup>35</sup> Minority Rights Group International, Afro-Brazilians: Time for Recognition, 1999, p. 23.

<sup>36</sup> "In Peru, not every *cholo* (mestizo, mixed race, black or indian) is poor, but almost every poor person is *cholo*," José Oscátequi, Población, crecimiento económico y racismo en el Perú, Actualidad Económica, Lima, Mayo 1998, # 189, p. 31.

<sup>37</sup> 10<sup>th</sup> periodical report that the States Parties were required to submit in 1994 : Mexico. 20/03/95. CERD/C/260/Add.1. paragraph 40. In response to this argument, the CERD stated its "particular concern for the fact that the State Party does not seem to realize that the latent discrimination that the 56 indigenous groups that live in Mexico are experiencing is covered by the definition of racial discrimination that appears in Article 1 of the Convention. The description of the difficult situation of those groups as mere unequal participation in socioeconomic development is inadequate." Final Observations of the Committee on the Elimination of Racial Discrimination : Mexico. 22/09/95. A/50/18, paragraphs 353-398.

<sup>38</sup> See Edward Telles and Nelson Lim, Does it Matter who Answers the Race Question? Racial Classification

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and Income Inequality in Brazil, in *Demography*, Vol. 35 N. 4 (1998), 465474 and Peggy A. Lovell, *Gender, Race, and the Struggle for Social Justice in Brazil, Latin American Perspectives*, Issue 115, Vol. 27 No. 6, November 2000, p. 85 (showing how equally qualified Afro-Brazilians—which are defined as both black and brown Brazilians—earn less than white Brazilians).

<sup>39</sup> The American Convention of Human Rights states that: "The States Parties to this Convention pledge to respect the rights and liberties [that are] recognized therein and to guarantee their free and full exercise to any person who may be subject to their jurisdiction, without any discrimination whatsoever due to reasons of YoriginYsocial, economic positionYor any other social condition (Article 1.1). The International Covenant on Civil and Political Rights states that: "Each one of the States Parties to this Covenant pledge to respect and guarantee all individuals who may be found in their territory and may be subject to their jurisdiction, the rights [that are] recognized in this Covenant, without any distinction whatsoever of YsocialYorigin, economic position,Yany other social condition (Article 2.1).

<sup>40</sup> 8<sup>th</sup> periodical report that the States Parties were required to submit in 1998. Addition, Dominican Republic, CERD/C/331/Add.1, 02/11/99, &27

<sup>41</sup> Compilation of General Recommendations: 11/02/99. CERD/C/365, General Recommendation XIV pertaining to paragraph 1 of Article 1 of the Convention B (42<sup>nd</sup> Period of Sessions. El énfasis nos pertenece.)

<sup>42</sup> See for example, Final Observations of the Committee on the Elimination of Racial Discrimination: Chile. 20/08/99. A/54/18, paragraphs 365-383.

<sup>43</sup> See for example, Final Observations of the Committee on the Elimination of Racial Discrimination: Colombia. 20.08/99. A/54/18, paragraphs 454-481.

<sup>44</sup> See for example, Final Observations of the Committee on the Elimination of Racial Discrimination: Uruguay. 19/08/99. A/54/18, paragraphs 454-435.

<sup>45</sup> See for example, Final Observations of the Committee on the Elimination of Racial Discrimination: Costa Rica. 07/04/99. CERD/C/304/Add.71 and CERD/C/SR/1317, (Peru), 03/16/99, paragraph, 35.

<sup>46</sup> See for example, Final Observations of the Committee on the Elimination of Racial Discrimination: Costa Rica. 07/04/99. CERD/C/304/Add.71.

<sup>47</sup> Final Observations of the Committee on the Elimination of Racial Discrimination: Peru. 12/04/99. CERD/C/304/Add.69 (here on referred to as CERD, Peru)

<sup>48</sup> CERD, Costa Rica.

<sup>49</sup> 10<sup>th</sup> periodical report that the States Parties were required to submit in 1994: Mexico. 30/03/95. CERD/C260/ADD.1. paragraph 157.

<sup>50</sup> Final Observations of the Committee on the Elimination of Racial Discrimination: Haiti. A/54/18, paragraphs 253-271.

<sup>51</sup> A point made in Brazil's report, CERD/C/SR.1157, 10/23/96, paragraph 55.

<sup>52</sup> For example, in Brazil most complaints alleging the crime recognized as racism according to the Constitution, as well as Law 7716/89, amended by Law 9459/97, are described as "crimes against honor". See, *Afro Brazilians*, pp. 27 to 29.

<sup>53</sup> 13<sup>th</sup> periodical report that the States Parties were required to submit in 1994: Venezuela. 13/05/96. CERD/C/263/Add.8/Rev 1, paragraph 77.

<sup>54</sup> 8<sup>th</sup> periodical report that the States Parties were required to submit in 1998 Addition, Dominican Republic, CERD/C331/Add. 1, 02/11/99, paragraph 6.

<sup>55</sup> 13<sup>th</sup> periodical report that the States Parties were required to submit in 1998: Haiti. 25/05/99. CERD/C/336/Add.1.

<sup>56</sup> Compilation of General Recommendations: 11/02/99. CERD/C/365, General Recommendation XX (48<sup>th</sup> period of sessions, 1996).

<sup>57</sup> 12<sup>th</sup>, 13<sup>th</sup> and 14<sup>th</sup> Consolidated Report of the Oriental Republic of Uruguay to the Committee on the Elimination of Racial Discrimination, paragraph 56.

<sup>58</sup> *Idem*, paragraph 34.

<sup>59</sup> 13<sup>th</sup> periodical report that the States Parties were required to submit in 1997: Cuba. 07/10/97. CERD/C/319/Add.4, paragraph 16.

<sup>60</sup> See *The Black Americas, 1492-1992*, Report on the Americas NACLA, Volume XXV Number 4, February 1992, p. 15. Someone once called Afro-Argentines the first "*desaparecidos*" in the history of the country. See Marta Beatriz Goldberg, *Nuestros Negros, Desaparecidos o Ignorados?*, *Todo es Historia*, No. 393, April, 2000,

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p. 36.

<sup>61</sup> There is a widespread sentiment that data collection on racial make up constitutes a form of discrimination. The government of Uruguay, for example, recognized this practice as being discriminatory in its 12<sup>th</sup>, 13<sup>th</sup>, and 14<sup>th</sup> Consolidated Report to the Committee on the Elimination of Racial Discrimination, paragraph 3. To cite examples, Argentina has not included questions on race or color since 1914; Bolivia, since 1900; Peru, since 1961; Ecuador, since 1950; Venezuela, since 1876; Nicaragua, since 1920; Honduras, since 1945; and the Dominican Republic, since 1950. Quoted in Carlos Hasenbalg, *Racial Inequalities in Brazil and Throughout Latin America: Timid Responses to Disguised Racism*, in *Constructing Democracy*, edited by Elizabeth Jelin and Eric Hershberg (1998), p. 166.

<sup>62</sup> For example, Bolivia.

<sup>63</sup> See Telles and Elin, op. cit, in which the authors look at how *pardos* (brown people) are closer in terms of social status to the *pretos* (blacks) than to *brancos* (whites) in Brazil.

<sup>64</sup> In fact, there are over 100 different categories in Brazil. See an interesting article by Eugene Robinson, *On the Beach at Ipanema in the Washington Post Magazine*, August 1, 1999, recounting the experience of an African-American in Brazil in terms of racial identity.

<sup>65</sup> Marta Elena Casáu Arzú, *La Metamorfosis del Racismo en Guatemala*, 1998, p. 138.

<sup>66</sup> For example, an article that appeared in Peru states that "there is a broad spectrum of interpretive possibilities on the origin, function and destiny of black people in Peru, but none of them separates their future from the mixed race (*mestizo*) complex that characterizes the nation", Luis Milones, *Peruanos de Ebano*, *Bienvenida Lima*. December 1996/February 1997, Number 19, p. 16.

<sup>67</sup> In this article, we shall not analyze how the origin of *mestizaje* in Latin America hearkens back to the sexual violence perpetrated by the Spanish and Portuguese conquistadors against indigenous women and later, by slave traders against women brought from Africa as slaves.

<sup>68</sup> Carlos Arocha Rodríguez, *Afro-Colombia Denied*, in *The Black Americas, 1492-1992*, Report on the Americas NACLA, Volume XXV Number 4, February, 1992, p. 28.

<sup>69</sup> See Footnote 20.

<sup>70</sup> 10<sup>th</sup> periodical report that the States Parties were required to submit in 1994: Mexico. 30/03/95. CERD/C/260/ADD.1. paragraph 157

<sup>71</sup> CERD/C/319/Add.4, 10.07.97, paragraph 16.

<sup>72</sup> *Minority Rights Group, No longer Invisible: Afro-Latin Americans Today* (1995) p. 28.

<sup>73</sup> Carlos de la Torre. *La letra con sangre entra: Racismo, Escuela y Vida Cotidiana en Ecuador*, Paper presented at the Latin American Studies Association (LASA), 1997, p. 7.

<sup>74</sup> James Early, *Reflections on Cuba, Race and Politics*, *Souls A Critical Journal of Black Politics, Culture and Society*, Vol. 1, Number 2, Spring 1999.

<sup>75</sup> *Caras de Color*, *Bienvenida Lima*. December, 1996/February 1997, Number 19, p. 41.

<sup>76</sup> "Los Grones" *El Corazón de Alianza*, *Bienvenida Lima*. December 1996/February 1997, Number 19, p. 53.

<sup>77</sup> José Oscátegui, *Población, crecimiento económico y racismo en el Perú*, *Actualidad Económica*, Lima, Mayo 1998, Number 189, p. 31.

<sup>78</sup> *Final Observations of the Committee on the Elimination of Racial Discrimination: Colombia*. 20/08/99. A/54/18, paragraphs 454-481.

<sup>79</sup> Santiago Bastos y Manuela Camus, *La exclusión y el desafío. Estudios sobre segregación étnica y empleo en la ciudad de Guatemala* (1998).

<sup>80</sup> María Marta Mijares, *Racismo y Endoracismo en Barlovento* (1997) ("to speak of racism in Venezuela is somewhat complex, since it is not a very accepted topic, especially if we use the forms of racism that exist in the United States, Germany or in the republics of South Africa as a point of reference"), p. 52.

<sup>81</sup> It would be possible to take exception to this statement by taking the cases of the *política de tierra arrasada* (scorched earth policy) in Guatemala or the many policies of extermination that were implemented against indigenous populations in different countries of Latin America.

<sup>82</sup> 10<sup>th</sup> periodical report that the States Parties were required to submit in 1996: Mexico. 30/09/96. CERD/C/296/Add.1. Paragraph 73 (feeling of xenophobia and racial discrimination in some sectors of American society") and paragraph 75 ("at the present time, it is relatively easy to inflame racist and xenophobic sentiments in some sectors of American society, against the streams of migrant labor or refugees"). The report only mentioned the indigenous people as constituting one of the most vulnerable groups to violations of human

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rights (paragraph 5) or migrant workers on the southern border who face the prospects of fear and uncertainty and, on a few occasions, it mentioned the situations of violence, corruption and vulnerability; (paragraph 59) but never did it mention discrimination [within its borders].

<sup>83</sup> Of course, with the exceptions noted in the footnote above.

<sup>84</sup> Response given in a survey conducted in Guatemala among traditional families in that country, quoted by Marta Elena Casaús Arzú, *La Metamorfosis del Racismo en Guatemala*, (1998), p. 130.

<sup>85</sup> Ley creación del INADI Instituto Nacional contra la Discriminación y la Xenofobia y el Racismo Nro. 23.515, Promulgada de hecho 28-07-95 Ley 24.515.

<sup>86</sup> Decreto por el que se expide la Ley Federal para Prevenir y Eliminar la Discriminación, 11 de junio de 2003, Diario Oficial de la Federación.

<sup>87</sup> Acuerdo Gubernativo 390-2002 de creación de la Comisión Presidencial contra el Racismo y la Discriminación contra los Pueblos Indígenas.

<sup>88</sup> Lei No 10.678, May 23, 2003, Cria a Secretaria Especial de Políticas de Promoção da Igualdade Racial, da Presidência da República, e dá outras providências.

<sup>89</sup> Decreto presidencial 4.228, de 13 de Maio de 2002 que institui o Programa Nacional de Ações Afirmativas.

<sup>90</sup> Lei 3.708 of Rio de Janeiro, 09/11/2001, (it establishes a quota system of 40% of all the admissions slots for “blacks and brown” students in the local universities of Rio de Janeiro).

<sup>91</sup> Sueli Carneiro Amicus Curiae in *Correio Braziliense*, Coluna Opinião, 1/08/2003 arguing for what are the examples from the US that can be helpful for the Brazilian experience.

<sup>92</sup> Larry Rohter , *Racial Quotas in Brazil Touch Off Fierce Debate*, *New York Times*, April 5, 2003, Late Edition - Final , Section A , Page 5 , Column 1