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From Black Invisibility to Afroperuvian Citizenship
The Building Process of Black Political Subjectivity
in Peru

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From Black Invisibility to Afroperuvian Citizenship
The Building Process of Black Political Subjectivity in Peru

by

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A thesis submitted in partial fulfillment of the requirements for the degree
Master of Arts
with a concentration in Africana Studies
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Dedication

To the slaves of yesterday and their descendants today, and to the many women that made it possible for me to have the rights that I enjoy today.
Acknowledgments

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Abstract

The World Conference against Racism, Racial Discrimination, Xenophobia and related intolerance celebrated in the city of Durban in 2001 was not the first international forum addressing the topic of racism in different countries of the world. However, it marked a pivotal before and after in the arena of racial politics in some countries of Latin America. With a special focus on indigenous communities and peoples of African descent, this international platform brought together governments, civil society organizations, and stakeholders alike urging them to recognize the pervasiveness of racism and racial discrimination in their countries. In the specific case of Peru, the Conference was followed by the creation of a number of national institutions for the advancement of Afrodescendants and other ethnic minorities, and the integration of the existing legislation on racism and discrimination. This work seeks to analyze the political shift experienced by Afrodescendants in Peru that took them from an unrecognized demographic group to a racial minority protected by the law and with an affirmed political subjectivity.
Chapter 1
Introduction

Blackness, Racial Order, and Black Public Policies in Peru

What is Blackness? More importantly, what determines one’s Blackness? Moreover, what is the role of governments and legislative institutions in the determination of one’s Blackness, if any? The answer is as complex as it is personal, as well as context specific, in most cases. The history of the American region has shown us that “Black” (Negro) was a legal and political category imposed on a certain group of people at a point in time. In the case of countries like Peru, for instance, an Andean country with a majority indigenous population at the time, the government would refrain from nominating the different ethnic and racial groups that made part of its territory. The Latin American countries would follow through initially, but after the independence of different countries and establishment of republics, it would adopt some nation formation ideologies that would retract this explicit classification. Rather, the Peruvian government opted to exalt the mestizo citizen as the image of the Peruvian subject. Further, erasing any racialized language from its institutional discourse and legislative body. Not only would this decision enact a type of “color-coded legislation,” but it would not make any mention whatsoever of the different racial and ethnic groups composing the national fabric of the country.

Of course, once this group of Peruvians were classified, socialized and determined to be Black, the silence about said racial classification did not erase its consequences. Maybe Black
people in Peru were not legally or politically classified as Black anymore, but the implications of that historic classification still resonated socially, determining the livelihood, and social status of this group of people. In addition, the silence in the law and public policy engendered a “blind eye” to their precarious social situation by rendering them invisible before the law and society at large. By asserting that every Peruvian citizen was equal and deserving of the full scope of legal protection, without taking in consideration the situation of certain racialized groups, institutional forces assured the continuation of the social status quo and the country’s racial order. That is, if the prevalent social dynamic in place in Peru dictated that the white (and whiter groups) were ranked higher in the social hierarchical order, while the darker (and Blacker) groups were placed at the bottom, opting for legal color-blindness not only contributed to the survival of this order but masked the actual and symbolic barriers faced by the non-white population to exercise their basic rights in equal condition to their white counterparts.

Still, as “race is eminently embodied and visual” (Hooker, 2009, p. 5), it is possible for legal, political or socially constructed classifications to survive even before the absence of an official one. Navigating then between their social hypervisibility due to their “difference” and their institutional invisibility, the Black population of Peru saw itself, from republican times until recently, in a legal vacuum where some of their most basic rights were not, and could not, be protected. Furthermore, their social status followed the structure of their original classification. Black Peruvians were confined to certain types of jobs, and certain spaces, as well as continual subjects of racist stereotypes. That is, they made up a part of an overall racist culture that limited their full social inclusion and further development. In addition, as they were not considered a separate class of people, no special protections could be granted for them. With that, legal protection against racism or racial discrimination was also impossible.
The turn of the century would bring with it a very important change in the racial politics in the country. Due to many elements such as a regional trend towards democratization and the recognition of minorities, supported by the international human rights agenda, Peru started a political path of enacting a number of ethno-racial legislation recognition, promoting and overall, protecting the rights of its Black population. A demographic that would come to be classified by this same legislative framework as Afroperuvian.

All these recent legislation and political measures created “a more pluralistic model of citizenship” (Paschel, 2016, book cover), insofar as they created a new protective framework for the rights of the Black population of the country. Also, with the inclusion of the Afrodescendant population as subjects of protection, or otherwise, at their inclusion in the language of the laws and national public policy, their presence in the country and as a demographic group was made explicit. Currently, however, it is pertinent to ask if this acknowledgement is enough to better the situation of the Black population in Peru, or sufficient to eliminate racial disparities and resolve social inequalities. Of course, the inclusion of the call “Afroperuvian” in the legislation and public policy body did not create the Afroperuvian as a demographic. Black people in Peru, despite what the national statistical information provided until very recently, already existed. But their recognition of this existence is fundamental. The recognition of Afroperuvian existence would mean moving away from a colorblind system where their absence included a lack of legal and political instruments towards one that would protect them from discrimination based on their race. It gives this population a platform to politically organize and assert their personal, and collective rights, if any. However, in many countries of the Americas that have implemented these kinds of normative bodies, the expected structural changes have not followed (Wade, 2011). Indeed, ethnic minorities remain at the bottom of the social scale in the region, and even
though a transition for the better is not automatic smooth process, this kind of protective framework constitutes a considerable first step (Yashar, 2015) as it lays the foundations for true social change.

The Objective of this Study, Hypothesis and Methodology
As I delve into the specific characteristics of the process of formulation and implementation of ethno-racial instruments in Peru, I rely heavily on the work of Tianna Paschel (2016) who in her work *Becoming Black Political Subjects: Movements and Ethno-Racial Rights in Colombia and Brazil* develops the idea that the political shift of Latin American countries towards the recognition of their racial and ethnic minorities responds to the alignment of all the necessary factors at the national and international level (Paschel, 2016). Consequently, I depart from the hypothesis that the shift in the racial politics regarding the Black population in Peru was the result of the confluence of a multitude of elements. Namely, it was promoted by the Black movement, but facilitated by the III World Conference against Racism. At the same time, the political shift was accelerated by different international institutions, the regional trend of multiculturalism, and the implementation of ethno-racial legislation to promote and protect the rights of racial and ethnic minorities. Out of this multilayered process, Peru adopted the decision to recognize its Afrodescendant population, and embarked on the process of enacting a number of ethno-racial measures of different normative reach. Namely, national public policies, and legislative integration. These instruments forged the creation of the political subjectivity of the “Afroperuvian” and guaranteed legal protection of the rights of this population. However, as I will argue in this work, the legal and political status shift, albeit a major first step, is still insufficient to substantially better the lives of Afrodescendants in Peru. Consequently, in this
thesis I will analyze the extent of the sociopolitical changes created by the new political
subjectivity of the Afroperuvian and explore some of the key issues preventing their full social
inclusion and political development.

To answer that complex inquiry, my research design includes two levels of analysis. I
turn to secondary sources to establish the socio-political situation of the Black peoples of Peru,
from their arrival to the country to now. I include in the narrative the writings of Peruvian writer
Jose ‘Pepe’ Luciano (2012), anthropologist Rodrigo Chocano Paredes (2016), the historians
Maribel Arrelucea Barrantes and Jesus Cosamalon Aguilar (2015), as well as the lawyer and
museologist Augusto Zavala Rojas (2013) to better describe the processes of racial formation
and racialization in Peru. Similarly, I rely on authors such as Tianna Paschel (2010), Christina
Sue and Tanya Golash-Boza (2008), Peter Wade (2008; 2010), Edward Telles and Denia Garcia
(2013), as well as Tanya Kateri Hernandez (2013; 2014), among others, to reconstruct the notion
of *mestizaje* (miscegenation) and its significance in the colonial Peru. Following this theoretical
review, I turn to the use of primary sources, such as published legislation and policy instruments
that make part of the ethno-racial body of norms and briefly describe their content and
objectives. Finally, to comprehensively analyze the extent of the change posed by ethno-racial
legislation, I refer to literature about the Black experience in Peru in modern times as referenced
in the works of Nestor Valdivia Vargas (2013), Alicia Quevedo Canales (2014), and reports from
the National Ombudsman Office, and the Ministry of Culture. In addition, I refer to reports of the
Ministry of Women, and the work of Tanya Golash-Boza (2011) to evaluate the affectation of
this normative measures on diverse Afrodescendants.

My goals with this thesis are threefold. First, I want to contribute to the studies of
Blackness in Latin American countries with relatively small Black populations, and/or where
Blackness, despite its presence and contribution to national development, is not part of the discourse on national identity. Secondly, I seek to contribute to the literature explaining the effects of the III World Conference against Racism in Andean countries for its Afrodescendant populations, since most of it has focused on indigenous populations (Paschel, 2010). Lastly, I want to contribute to what is currently a paucity of scholarship about Afroperuvians.

**Preliminary Findings**

After the analysis of secondary materials, I arrived at my anticipated conclusion, that the process of recognition of Afrodescendants as a subject of public policy was complex and multilayered, with various actors at play. The road to Durban, which is the name given to the preparative process of the III World Conference against Racism, was fundamental to the racial politics shift undertaken by Peru, as was the role of Black civil society organizations, and their advocacy efforts before and after the Conference. In fact, after the International Conference, national NGOs changed the master frames from a social justice one to a human rights framework. With that, they made their claims not only more effective but extremely difficult to dismiss without political repercussions. Although to a lesser degree, but still significant, was the influence of international actors such as international human rights organizations and bodies like the United Nations Commission for the Elimination of Racial Discrimination. On the other hand, funding agencies such as the World Bank, or the Inter-American Development Bank also played a key role in the change of the political agenda of the country.

Notwithstanding, despite the level of influence of each actor, what should be recognized is that before this process in the country, there was no measure to be found as a matter of public policy or within the legal framework that protected or promoted the rights of peoples of African
ancestry specifically. In fact, the only national Act that I could find after Peru became a Republic in 1821 was the Emancipation Declaration of 1854. After the political shift in 2001, at least 15 national policies and diverse executive decisions have been enacted, including: the creation of the Afrodescendant Women Task Force within the Ministry of Women in 2001, the Establishment of the Day of Afroperuvian Culture in 2006 (extended to a month in 2014), the creation of the Congressional Working Group on Afrodescendants in 2008, and the creation of the Office of Public Policy for the Afroperuvian Population within the Ministry of Culture in 2013, among others. Moreover, in November 2009, the Peruvian government offered a “historic public apology” to the Afroperuvian population for “the abuse, exclusion, and discrimination committed against this population from the colonial times to date, recognizing its efforts and contribution to the national identity, the culture and the defense of the territory.”¹ In 2013, the government established the Technical Inter-Agency Committee about Ethnic Statistic and the national census of September 2017 is the first one on which the government asks a question about ethnic identity that includes the option of “Black” classification, at a national level. In July 2016, the Peruvian government enacted the National Plan of Development and Inclusion for the Afroperuvian Population, which consists of measures specifically targeting Afroperuvians and recognizing that they still suffer from daily racial discrimination that prevent their full enjoyment of basic human rights.

All these norms have helped build the political subjectivity of the Afroperuvian as a subject of protection of public policy and legislation, however, although well intentioned, this

¹ Resolución Suprema 010-2009-MIMDES. Expresan Perdón histórico al Pueblo Afroperuano por abusos, exclusión y discriminación cometidos en su agravio y reconocen su esfuerzo en la afirmación de nuestra identidad nacional, difusión de valores y defensa del suelo patrio (Expression of Historic Apology to the Afroperuvian Population for the abuses, exclusion committed against them and recognize their efforts in the affirmation of our national identity, sharing of values and defense of peruvian soil).
new status does not impact the day-to-day lives of many people. This is especially true for unaffiliated Afrodescendants, or the ones removed from the capital cities, where racism and racist ideas are still part of the overall culture. Further, although aimed to protect the Afroperuvian population at large, this protective framework, in combination with others fosters negative spaces of protection. For instance, by not creating a specific provision for the protection of women, it has left Black women without adequate protection. The predicament of Black women in Peru is aggravated by the fact that the gender equality framework in the country does not contemplate a provision for the protection of the rights of Black women, either.

**The Organization of the Work**

My task is to explore the extent to which the lives of Afroperuvians have been affected by the emergence of their new political subjectivity, as constructed by the ethno-racial legislation and body of policies. Therefore, the following chapters are organized as follows: In the second chapter, I provide context about Blackness in Peru in relation to the republican efforts and processes of racial formation in the country after its independence. I follow this with an exploration the construction of a national identity paradigm that does not include Black people, to the extent of leaving them outside of the legal protection paradigm as an unseen group. Indeed, the post-colonial racial formation process in Peru, out of which we inherit a racialized system of power, provides a context to understand the precarious position of Black people in Peruvian society. Chapter two aims to present the condition of Black people in Peru before they became Afroperuvians and were not a protected group, but an unmentioned one. To meet this aim, I shall present information not only about their legal and political situations but also
information about their livelihoods and overall conditions. As a result, a baseline is established, upon which the argument about the extent of the change the new paradigm created can be used.

In the third chapter, I explore the political shift that initiated a paradigm shift for Afroperuvians from a legal and political invisibilization to the "sudden" promulgation of a robust body of legislation and public policies that promoted and protected their rights. In this chapter, I argue that the political and legal recognition of Afroperuvians, albeit an insufficient mechanism on its own, was pivotal since it built the political subjectivity of the population to make it part of the current and future national projects. In other words, the adoption of ethno-racial legislation, which left behind the color-blind legal system, is the legal and political structure out of which Black political subjectivity has developed. In this chapter I explore some of the forces (national and international) that played a role in the racial politics shift in Peru.

Finally, as my main argument focuses on the extent of the change created by the new political subjectivity of the Afroperuvian, in the fourth chapter I explore what it means to be Afroperuvian now, and what positive effects the ethno-racial legislation has created, if any. Indeed, there are a number of public policy instruments now that promote and protect the rights of Afroperuvians, in other words Black people in Peru are full citizens now. In the fourth chapter, I will argue, however, that not only is the situation for Afrodescendants roughly the same, particularly for Black Peruvian people that unaffiliated with civil society organizations, but that the legislation enacted, albeit well-intentioned, has left behind important groups of Afrodescendants; namely, women and Black people that lives in rural areas.
Important Aspects to Consider

Racialized language.

There are several important caveats that I would like to put forth before continuing. When I refer to “Afrodescendants,” I do so recognizing that not all the people of African descent in Peru share the same characteristics, nor are they affected by the same social determinants. Indeed, I refer to the political category *Afrodescendants* or *Afroperuvian* to include all people, affiliated or otherwise, of African descent in the country, understanding that said umbrella contains an unbounded group of people who experience their Blackness in different ways as affected by different and conjoined factors, and who respond to different interests and purposes. Notwithstanding, I understand that Blackness is not a unique or unitary experience as it includes different practices, the adoption and following of diverse idiomatic codes and symbols, and otherwise diverse social frames that are adopted and realized by different members of society in different manners.²

Furthermore, I have tried to limit the use of the word *Negro* or *Black* as much as possible and instead use *Afroperuvian* or *Afrodescendant*. In no manner do I believe that *Negro* or *Black* are negative words, yet, these are not social categories that the peoples of African descent in Peru created for themselves, but political categories imposed on them. The last ones, *Afrodescendants* and *Afroperuvian*, to the contrary, are political labels constructed by peoples of African descent to name themselves. In that sense, and in full respect of their agency and humanity, I try to use the former categories as much as possible when referring to them.

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² For an expanded understanding on “groupism,” or the trend to take racial groups as homogeneous unit of analysis, and its implications, see Brubaker, R. (2004). *Ethnicity without Groups*. Cambridge: Harvard University Press.
The use of transnational scholarship.

An important aspect to consider is that in my narrative I have integrated many sources that were published in Spanish. As I have a native fluency of the language, I have personally translated the references used. Although I initially considered providing translations for all the quotes and references used in a language other than English as footnotes, my plan proved to be not only impractical but also condescending to the reader. It was, not to mention, an unnecessary differential treatment to the (mostly) Peruvian authors used. In that sense, and because I do not want to abide by colonial ideas that would deem the work of authors from the global south outside of the acceptable realm of academia, or otherwise less valuable, I have provided translations only when the nature of the source makes it necessary. Notwithstanding, my analysis intends to interweave the work of the American and Peruvian authors alike, albeit in English. Further, when the use of words in Spanish is pertinent, I have italicized them and provided a translation.

Unintended silences.

I cannot leave out of this work, an account of the privileges that I enjoy. I am a Black woman. I am also a Peruvian trained lawyer with advanced academic and legal training in an Ivy League University in the US. I worked for the Peruvian government for a number of years and have lived in and out of my country of origin for years at a time. Consequently, from some perspectives, my personal experience might be considered far removed from the common Black experience in Peru, particularly if compared with the lives of Afroperuvians in rural areas.

Still, I would argue that though when my class privileges have granted me some advantages that have minimized the effects of my racial identification, I am not only Black, but a Black woman. Despite any other type privilege, being a Black woman presents its own set of
disadvantages as will be explored later in reference to the situation of Black women in Peru, vis-à-vis the new ethno-racial legislation and the gender equality framework. In sum, if my experience as a Black Peruvian is not generalizable, nor is my experience as a Peruvian woman, my Black Peruvian womanhood provides me with a particular perspective to undertake this study.

Notwithstanding, and perhaps inevitably, this work will contain silences that are important to identify, even if I do not. Those silences respond to the blind spots that my privilege and/or my positionality do not allow me to see: peoples and experiences that are so different from mine that they might not even be on my radar. Still, I have done my best for this work to be a platform of resonance of what it means to be Black in Peru today, but I would like to apologize for those silences in advance.
Chapter 2
The “Black Race” in Peru

Introduction
The narrative about the construction of race in Latin America, which most authors would agree with, rests on an illusion of racial exceptionalism (Paschel, 2010; Paschel and Sawyer, 2008), wherein miscegenation and racial mixing seemed encouraged in the post-colonial history of the region, facilitating the amalgam of skin colors and complexions that is so “characteristic” of Latin Americans. However, that is a partial and overtly reductive view of the history of racial politics in Latin America. The other half is completed by the region’s heritage of colonialism and diverse national modernization projects that resulted in the extreme devaluation of its indigenous culture, and peoples, and the negation or invisibilization of the descendants of African slaves (N’gom, et al., 2011; Sue & Golash-Boza, 2008).

Indeed, different typologies have been created to broadly identify the racial politics in the region. In this context, Spanish Latin America and Portuguese Latin America have produced distinctive racial regimes in their prospective dominions, leading to a clear distinction between Brazil and all the other countries in the region. This clear-cut typology, however, is overtly reductive as it does not account for the reality of some Caribbean countries, as well as the nuances created by other factors affecting the racial politics of the Latin American countries with a history of subsequent colonization efforts. More recently, Christina Sue and Tanya Golash-
Boza (2008) introduced a different categorization effort to inform the study of race in the region. These scholars identified two sub regional blocks: Afro-Latin America and Mestizo America (Sue & Golash-Boza, 2008). The first one includes Brazil and the Spanish Caribbean (Caribbean countries where Spanish is the native tongue, such as Cuba or the Dominican Republic). These countries, the authors assert, “exhibit a Black/white racial continuum and have a history of plantation-based slavery” (Sue & Golash-Boza, 2008, pp. 32-33) with Blackness being part of their national identity project (Sue & Golash-Boza, 2008). On the other hand, the denomination Mestizo Latin America includes countries such as Mexico, Guatemala, El Salvador, Ecuador, and Bolivia. According to the authors, these are countries, “where the primary ethnic or racial dynamic involves the Indian/mestizo (mixed-race person) distinction” (Sue & Golash-Boza, 2008, pp. 32-33) and “where the indigenous narrative have been dominant” (Sue & Golash-Boza, 2008, p. 33).³

Part of mestizo Latin America as well, is Peru. A coastal nation in South America, and historic center of the Spanish colonization in the Americas; a heritage that affects its official identity discourse deeply. Holding a rhetoric that was sustained in a narrative of the coexistence

³ The discussion about the functionality of this typology is outside of the scope of this work. My position however, is that albeit still reductive, this typology encourages academia to realize two very important, and historically underestimated, facts. First, that the Black experience is not homogeneous across the Latin American countries; and second, that neither Brazil nor Colombia can be considered exclusively reflective of race relations in the region. Indeed, the typology proposed by Christina Sue and Tanya Golash-Boza (2008) consider the very relevant factor of the existence of Blackness in the context of indigeneity as national identity discourse, broadening the scope of the understanding of race in the Americas. An even broader approach to the understanding of race in the region that would include the understanding of the Black experience in different countries of the block, would include elements such as whitening policies and European Immigration, to include countries in the south of the southern cone, such as Chile, Argentina, Uruguay and Paraguay, the U.S. intervention and the exportation of racial ideologies, to include countries in Central America, as well as the Dominican Republic, and an approach that allows the understanding of the Black experience in the countries of the Caribbean basin.
of criollismo⁴ and indigenous culture, while indigenous peoples were excluded, and the Black population was made to be invisible, the racial politics of the country incurred a major shift around the year 2000. Whereas before the turn of the century, the legislation and body of policies of the country did not recognize its multiculturality, or the political subjectivity of any ethnic or racial minority, the Peruvian society saw the emergence of a robust body of ethno-racial legislation and policy instruments after the World Conference against Racism, Racial Discrimination and Other Forms of Intolerance of 2001.

In this chapter I aim to showcase some of the elements of the post-colonial racial formation process in Peru, out of which the country inherited a racialized system of power that serves to understand the precarious social and political situation of Black people in Peru today. Since my intention is to ultimately establish the extent of the effect of the III World Conference against Racism on the racial politics in Peru and its Black population at large, I shall limit my analysis of the legal and political system that the Black population in the country navigated from 1600 to the year 2000. Nevertheless, as the changes in the legal and political arena do not entail automatic social changes, I will make references to the social situation of Afroperuvians beyond this time frame. Accordingly, in this chapter I first, establish some historical facts regarding the arrival of the first African slaves to Peru, and their fundamental role in the national economy. Later, I explore the pillars that conform the construction of the Peruvian nation, and the role of Blackness in the racial formation process of the republic. Finally, I delve into the correlating

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⁴ The criollo subject is the one born in Peru of European parent(s). Gonzalo Portocarrero, Peruvian sociologist, affirms that the criollo effect or criollismo is identified as a local reality defined from the point of view of its foreignness. In that sense, this foreignness is at the root of the new citizen’s self-identification and self-esteem as members of the new republic. Meanwhile, demarking a clear distance with the indigenous aspect of the countries past. That is, vindicating the European (white) origin while diminishing the indigenous origin of the nation. See: Portocarrero, G. (2015). La Urgencia por Decir <Nosotros>. Los Intelectuales y la Idea de Nación en el Perú Republicano. Lima: Fondo Editorial de la Pontificia Universidad Católica del Perú.
legal system that while color-blind does not affirm a Black subjectivity. In the next chapter, I shall explore more concretely the change in the racial politics that emerged after the year 2000, the role of the Black organizations of civil society and the renewed legal and political regime that rules the promotion and protection of the rights of Afrodescendants.

The Origins of the Black Population in Peru

The arrival of the first African slaves to the country.

Many of the first Africans to arrive in Peru did so with the European conquistadores around 1532. They were the *Negros Ladinos* (Mariategui, 2001; Golash-Boza, 2011; Chocano Paredes, 2016). According to Jose “Pepe” Luciano (2012), the *Negros Ladinos* already had a robust experience with the European conquistador and their culture since it had been acquired in the old world and reinforced during in the conquest enterprise (Luciano, 2012; Chocano Paredes, 2016). Regarding those imported later, most came from different countries in the African continent. Upon arrival in the Viceroyalty of Lima they were considered *Negros bozales.*

Despite the difficulty in the identification of the different national origin of the enslaved population of the Peru of the time, Maribel Arrleucea Barrantes & Jesus Antonio Cosamalon Aguilar (2015), important Peruvian historians, have concluded that during their first arrival waves, Africans arrived in Peru from areas as diverse as Guinea, Angola, and less from Biafra

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5 The enslaved population in the country, if based on their origin, were considered “bozales,” “ladinos” or “criollos.” The first group were the ones brought to the country directly from an African country. The second group had been previously traded into another Spanish colony, hence this cohort had a better understanding of some European/American culture, language, and traditions before arriving in Peru. The criollos, on the other hand, were the offspring of the bozal or the ladino born in the country. Conversely, they were more easily assimilated to the ways of being, language and culture of the colonial territory. See: Arrelucea Barrantes, M. & Cosamalon Aguilar, J. (2015) *La Presencia Afrodescendiente en el Peru. Siglos XVI-XX.* Lima: Ministerio de Cultura.
and Congo. Around the 18th century, however, more important areas of extraction were Mauritanian, Canary Islands, Guinea, Cape Verde, Senegal, Ivory Coast, Sierra Leone, Saint Tomé (in the current Cameroon), and Angola (Arrelucea Barrantes & Cosamalon Aguilar, 2015), as well as other colonies (Golash-Boza, 2011; Chocano Paredes, 2016).

**The importance of Black labor in the colonial economy.**

During the first year of the Spanish colonization efforts, Black labor became fundamental, both as an economic system in support of the national economy, as well as military aid. Arrelucea Barrantes & Cosamalon Aguilar (2015) identify this duality in social roles finding that Africans and Afrodescendants of the time were not only servants (Chocano Paredes, 2016), but also made active part of the conquest endeavors as pilots, soldiers, and arquebusiers, as well as more specialized roles such as spies, vigilantes, and explorers. As a case in point, Francisco Pizarro’s expedition into Tumbes in 1528 was confirmed by Spaniards, indigenous auxiliaries from the Caribbean, and enslaved Africans (Golash-Boza, 2011; Arrelucea Barrantes & Cosamalon Aguilar, 2015). The enslaved in the country fitted within two different legal categories: *bozales* or *criollos* (Arrelucea Barrantes & Cosamalon Aguilar, 2015). The *bozales* were African and as such perceived as less intelligent than the *criollos* (Green, 2010). This perceived lack of intelligence, of course, was based on them not being accustomed to the colonial rules and ways of being in the Peruvian colony, nor its language, or religion. The *Negros criollos* were the offspring of the *bozal*, they were considered more intelligent and held a better reputation as they were better acquainted with the fashion, religion, language and social mannerisms of the time (Arrelucea Barrantes & Cosamalon Aguilar, 2015). Their familiarity was due to their having been born on Peruvian soil (Arrelucea Barrantes & Cosamalon Aguilar, 2015).

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The arrival of enslaved Africans into the viceroyalty of Peru was limited during the 16th and 17th centuries. Meanwhile the 18th century saw an increase in the importation of Black slaves following the need to secure a labor force to cultivate sugar, and produce distilled alcohol (Arrelucea Barrantes & Cosamalon Aguilar, 2015). During this time, the dynamic of using enslaved Africans as overseers was also established, expanding the labor model of Africans in the country beyond the fields of land holdings and domestic work (Arrelucea Barrantes & Cosamalon Aguilar, 2015). Conversely, other area of labor entrusted to Afrodescendants at the time were public and private security (Rodriguez Pastor, 2008). Not all the Black population in the country, however, was enslaved. Indeed, “of the approximately 80,000 Blacks and mulattoes in Peru in 1591, only 40,000 were enslaved” (Sue & Golash-Boza, 2008, p. 35). This suggests that Africans and Afrodescendants were active participants in the construction of the Peruvian nation at every stage, including its culture and economy, from their arrival with the Spanish conquistadores, on (N’gom, et al., 2011). In fact, both the enslaved and the free Blacks in Peru at the time, were part of the active economic population of the urban settings, as “cooks, servants, butchers, wet nurses, bricklayers, Blacksmiths, tailors, laundress, and in other occupations” (Sue & Golash-Boza, 2008, p. 35). At this time, Black women became the epitome for family nurturing and reproduction via their cooking and roles as caretakers of infants and children (Rodriguez Pastor, 2008).

The Construction of a Peruvian Nation

The fragmented demographics of the post-colonial times.

By 1821, the year of its independence, Peru had been the recipient of more than 100,000 enslaved African people (Sue & Golash-Boza, 2008; Golash-Boza, 2011) imported to fulfill
mainly agricultural needs in the coastal haciendas in Peru (Golash-Boza, 2011; Arrelucea Barrantes & Cosamalon Aguilar, 2015). According to a 1790 census taken of Lima and its close localities (not considering the whole Intendancy of Lima), the total population was 52,547. Of that number, the population of Blacks and Afrodescendants was 20,918 (Anna, 1975). This number, 20,918, categorizes various groups by “quality” (Anna, 1975). Indeed, it includes (in a qualitative order) Blacks, Mulattoes, Quarteroons, Quinteroons and Zambos (Anna, 1975). This census record also records the number of Spaniards as 17,215, Indians as 3,912 and mestizos as 4,631 (Anna, 1975). This number is in agreement with Christina Sue and Tanya Golash-Boza’s (2013) assessment that Afrodescendants made up between 30-40% of the capital city’s total population (pp. 76, 79). The end of the colonization period in the country, then, is met with a mixed demographic account. At this time, the capital city of Lima, was mainly inhabited by criollos (population of direct Spanish heritage born in the Americas), mestizos, and Blacks. Meanwhile, in the Andean region there was a robust indigenous population.

Having the city of Lima as the center of power ruled by the criollo elite, indigeneity was a symbol of lesser development (atraso), and consequently, indigenous peoples as an inferior and exploitable group (Ministerio de Cultura, 2015). In the designation, then, of the demographic groups that would become part of the national fabric of the country, and part of the national

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6 This number does not contain those who may have been living as religious persons, the clustered or the ones living in religious communities.
7 The spice quest that brought Christopher Columbus to the Americas instead of India, as it was his original intention, marks the origin of the category of “Indian” to refer to the native peoples of the continent. The term imported a double function for Peruvian “Indians” during colonial times. It was both a legal term and a social one. Legally, it implied the entitlement of a number of rights as well as obligations as subjects of the Spanish colony; whereas, as a social category, it was a used as a racial classification marker (Espinosa de Rivero, 2010). As a result, a number of indigenous populations, even ones that did not share common elements and that otherwise defined themselves in different ways, were grouped under said label (Remy, 2014). This political decision consolidated the homogenization of different native groups and the Indian status before the colonial crown (Remy, 2014), thus reinforcing a unitary system of social and territorial organization for this population.
identity project, the indigenous peoples were overlooked while the Black population was explicitly excluded.

**The exclusion of Blackness from the idea of nation and the Blacks’ social status.**

The exclusion of Black peoples from the national project in Peru was facilitated by several factors, as identified by different scholars. Sue and Golash-Boza (2008) affirm that imagining the Afrodescendant population out of the nation-building project was easy due to an active tendency of Peruvian officials to downplay “the numbers of Blacks in Peru” at the time of the consolidation of the republic (p. 35). Shane Green (2010) asserts that, precisely because of the logic of colonization, the victims of the transatlantic slave trade, had been perceived as “cultureless” individuals (p. 118). According to this view, they had nothing to contribute to the national identity enterprise. A related contributing factor might have been the ethnic diversity found among the African and Afrodescendants themselves. In fact, one of the characteristics of the slave commerce into Peruvian soil was that the enslaved population was not fully under the control of the Spaniard conqueror. Indeed, except for the period, 1580-1640, or the commerce for specific families or landholdings, the demand for enslaved labor in Peru was met through the acquisition of enslaved peoples traded into the Americas by the Portuguese, the English, the French and the Dutch (Luciano, 2012). Thus, since the origin of the enslaved population in Peru was as diverse as the colonies from which they were acquired, the Black population could not relate to one another culturally. As a result, it is possible that the only element that bonded them, as a specific demographic group, was the color of their skin, because their language, culture, religious practices and other ethnic markers were, often, different. As a result, the Black population in Peru was not in a position to contribute to the Peruvian society with a unified or homogenous African/Black culture (Chocano Paredes, 2016). Similarly, the possibility of
relatability among each other and integration among themselves, was not to be taken for granted (Luciano, 2012).

Moreover, in studying the literature from that time, Arrelucea Barrantes & Cosamalon Aguilar (2015) found that the controlling images of the Black population highlight their sensuality and passion while diminishing their capacity for reason. The Peruvian poet and social commentator, Abraham Valdelomar (1915), for instance, noted the Black person’s inability to speak that era’s Spanish well as evidence of their inferiority. In his work about *El Señor de los Milagros* (The Lord of the Miracles), Valdelomar also compares the Black person with devil-like creatures or demons. Other Peruvian thinkers situated themselves and their writing within this framework. Jose Carlos Mariategui (2001), for instance, referred very negatively to the persona of the Afroperuvian and their contribution to the nation:

The Black contribution became like a slave, almost like merchandise, appears as hopeless and negative as ever. The Black man brought his sensuality, his superstition, his primitivism. There were no conditions to contribute to the creation of a culture, but rather to obstruct it with the crude and lively influx of its savagery (N’gom et al., 2011, p. 287. See also: Mariategui, 2001).

These kind of ideas, of course, were added into the collective imaginary that depicted the Black person during colonial times as savages, super humanly strong, capable of longer work hours, and animalistically sexual (Arrelucea Barrantes & Cosamalon Aguilar, 2015).

Further, the strained relationship between Afrodescendants in the country and the indigenous population was another factor hampering the social inclusion of Afrodescendants into the national agenda building project. That is, although the descendants of African slaves taken to Peru “played their part in the molding of a unique national identity” (Minority Rights Group,
1995, p. 274), they were perceived, similarly to the white conquistadores, as invaders, insofar as they were brought by the first ones on the same vessels (Minority Rights Group, 1995; Chocano Paredes, 2016). Further, because they arrived with white conquerors, they were also perceived as dangerous (Minority Rights Group, 1995). Luciano (2012) however, offers a different reading. The scholar argues that Africans involved in conquest trips, having been extracted peoples themselves, saw themselves as forcibly integrated into these kinds of journeys without any agency, and in an inferior situation of servitude that turned them into “de facto” conquerors that were war prisoners (Luciano, 2012). Be it as it may, the presence of Black people in the Peruvian territory was not a welcomed one in any front when it came to racial relations. Since they arrived with the white conquerors (Chasteen, 2005), they were perceived negatively because they reportedly “both took over the land and criticized the indigenous gods” (Minority Rights Group, 1995, pp. 271-272). And indeed, “many years passed before this indigenous view of Afro-Peruvians began to change” (Minority Rights Group, 1995, pp. 271-272).

Neither the establishment of the Republic in 1821, nor the abolition of slavery in Peru in 1854 modified the social status of the Black people in Peru. Indeed, despite the change of their legal status, the Black population continued to be subjected to marginality and subordination. The emergent Peruvian society of the time was aristocratic and feudal and did not move away from its founding colonial pillars, nor its caste and color privileges (Luciano, 2012). Following the Freedom of Wombs Decree, enacted along with the independence of the Republic of Peru, the born free ought to remain under the care of their parents’ master until they reach twenty years of age (Golash-Boza, 2011). In 1839, Marshal Agustin Gamarra\(^8\) extended this mandate until 50 years of age (Golash-Boza, 2011), at the time, the life expectancy for Peruvian citizens (Zavala

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\(^8\) President of the Republic of Peru between 1829 and 1833, and between 1839 and 1841.
Rojas, 2013). The manumission of the enslaved labor force occurred in 1854 but did not result in a sudden change in their condition (Ministerio de Cultura, 2015). In fact, after its passage, the Black population in the country continued to engage in the same, if not similar, activities as before. Luciano (2012) writes that if the Black person was before the chauffeur for the white master, now it was the driver for the white employer (Luciano, 2012). In fact, the formerly enslaved Black population that once was in shackles, continued to do the same labor, only after manumission, except now they received a survival wage. Indeed, the Black population of the post Republican era was mainly employed as bricklayers, street vendors, and overall unskilled laborers, while women were mostly employed in domestic service. The material conditions of Black people then, although they held a formal status of liberty, did not differ drastically from their pre-manumission conditions.

Still mostly concentrated in coastal cities, the now manumitted Black population in Peru continued to live in depressed conditions, or in “callejones” at the outskirts of the city (Luciano, 2012). The cultural practices formed and exercised by this group was estranged and marked as othered from the emerging national culture (Luciano, 2012). For example, the Black population joined the illiterate majority in the country (Luciano, 2012) and those living below the poverty rate (Rodriguez Pastor, 2008).

Despite having been pivotal to the economic sustenance of the urban economy in the coast, and contributing to the country’s independence, the Black population was subjected to a “political, economic, social, and official cultural invisibility (...) based on a Eurocentric vision of modernity prevalent among many young Hispanic American nations in the nineteenth century” (N’gom et al., 2011, p. 287). In the particular case of Peru, said invisibility was made possible by a system of race regulation that involved blanqueamiento and mestizaje as guiding principles.
That is, favoring whiteness and white-like groups, to the detriment of the indigenous and Black groups (Wade, 2008; Zavala Rojas, 2013). This dynamic did not last forever as the Black population, eventually gained citizenship and become acceptable candidates for racial intermixing. Unfortunately, their situation in relation to the Peruvian society at large, would not significantly improve.

**Peru: A Country of Mestizos**

The historical establishment of a reductive racial system of classification as part of the emergent national project seems incongruent with the notion of a multicultural country that today is inhabited by indigenous peoples, including people of Asian ancestry, Afrodescendants, mestizos and other populations. Yet, this was the political project that infused the original nation formation process in the post republican era. While indigenous peoples and the Black population were excluded from the national identity formation process, only the white, criollo and mestizo population were included (Zavala Rojas, 2013).

This idea, however, is more easily grasped if it is understood that the Chinese population was brought to the country in an enslaved condition, towards the end of Black slavery, (Mariategui, 2001; Arrelucea Barrantes & Cosamalon Aguilar, 2015) hence they were not formally considered part of the national identity construction process either. Meanwhile, the Japanese population that arrived in the country did so towards the end of the nineteenth century.9

In sum, the populations that would have been considered foundational to the republic after its

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9 The third day of April of 1899, the first embarkment of Japanese immigrants arrived at the port of El Callao in Peru after the government had signed a treaty of commerce, navigation and collaboration with the then Japanese Empire in 1873. The destination of most of the 790 men were the haciendas and latifundios on Peru’s coast, where they would dedicate themselves to agricultural work, and later the establishment of small and community commerce. See: The Peruvian-Japanese Association. The Japanese Immigration in Peru:  [http://www.apj.org.pe/inmigracion-japonesa/historia/cronologia-inmigracion](http://www.apj.org.pe/inmigracion-japonesa/historia/cronologia-inmigracion)
independence in 1821, were only the European, criollos, mestizos, and the indigenous peoples. Meanwhile, the national project, based on the logic of racial distancing, rendered the Black population invisible; and yet simultaneously hyper-visible (Tate, 2016; Smith, 2014). This vision of the Peruvian nationhood then, was fragmented (N’gom et al., 2011).

**Mestizaje as a national project.**

Mestizaje ideals emerged as official projects in Latin America early in the 20\textsuperscript{th} century became central to the nation formation projects (Telles & Garcia, 2013). In accordance with the aforementioned realities of a fragmented Peru however, mestizaje discourses rarely incorporated all ethno-racial groups (Paschel, 2010). The case of the Black and the indigenous populations is very particular, especially as it relates to each other. For instance, while the indigenous peoples represented an ethnic group that was socially rendered submissive, they were still candidates for amelioration or elimination by mestizaje. The Black race, however, had not only a lesser status, but was excluded from the mestizaje equation generally and “imagined out of the nation” (Golash-Boza, 2001, p. 63). In that sense, “the indigenous contribution to race mixture and national culture has been central to narratives of the nation, oftentimes coinciding with the exclusion of the African element” (Sue & Golash-Boza, 2008, p. 33; see also: Kegan, 2014). Along the same lines, Telles and Garcia (2013) affirm that “while mestizaje ideologies often have exclusionary implications for both indigenous and Black people, most countries (Brazil excepted) tend to privilege past indigenous contributions to the nation over those of Africans in their nation-building narratives” (p. 136). As a result of the implementation of this national project in the region, the fate of the Black Latin American population has followed different paths. In some countries, such as Bolivia or Argentina for instance, the Black population is assumed to have disappeared (Sue & Golash-Boza, 2008). In the particular case of
Peru, as recounted by Tanya Golash-Boza (2011), “mestizaje is described as the process by which Indians can be included in the nation through an abandonment of indigenous cultural forms” (p. 60), excluding Blackness from this model since their involvement in mestizaje imported a process of “intergenerational whitening” (p. 60).

A new type of social hierarchy: whiteness and mestizaje.

The racial mixture at the root of the mestizaje ideology led to a double effect impact/consequence? On the racial demographics of a nation: the creation of a color-less/race-less citizen and a platform for racial inequality to thrive. As mestizaje aimed to blur racial divides, it was supposed to create a new race-less citizen to become the epitome of the new political subject (Telles & Garcia, 2013). This new citizen would not only be the product of racial mixture but be a bridge that combined cultures (Paschel, 2010). Notwithstanding the “apparent race-lessness (of this individual) allows a blindness to racial difference and inequality, permitting these to be evaded” (Wade et al., 2014, p. 503). Indeed, mestizaje was supposed to eliminate racial hierarchies among groups fostering a unified sense of nationhood (Paschel, 2010). This objective, however, was not to be achieved, as following a mestizaje ideology led to the drawing of new –albeit informal- racial classifications among the inhabitants of Peru. A fundamental aspect to consider in this racial equation of any Latin American country is the relationship between whiteness and mestizaje.

Albeit the notion of mestizaje would seem to respond to the logic of unrestricted racial mixture, in any region, especially one as diverse as Peru. However, not all races were candidates for the process of miscegenation. Indeed, mestizaje did entailed the unrestricted mixing of races, however not all races would become mestizos as a result. Moreover, the rules of mestizaje were different according to one’s original racial or ethnic identity. Insofar as the objective was to close
the racial gap between Peruvians and white Europeans, the indigenous subject ought to abandon its indigenous ways through acculturation and western education, while the Black subject ought to achieve the whitened ideal through the liquidation of their Blackness by interracial sex and marriage (Golash-Boza, 2011). A result that could be achieved for Blacks, only after several generations of interracial mixing.

These rules, however, were not positive legislation but socially enforced ideals and customs of the time. As a result of these social values that favored white Europeans, the criollo subject, the European offspring born in the Peru had the most status and social capital. The mestizo subject, representative of the miscegenation between people of European ancestry and indigenous peoples, was the “next best thing.” Later and with the unsustainability of the criollo reproduction, times would see the rise of the mestizo as the prototype of the Peruvian citizen. Always striving towards whitening the race, the “elites in Peru would come to embrace a mestizaje that glorified an indigenous past (despite seeing) Hispanismo as the dominant element into which indigenous people could and would assimilate” (Telles, 2014, pp. 19-20).

The establishment of this color-coded hierarchy, created by the Spanish colonization in Peru, established whiteness as an asset in many areas of society that still affects the country. Beyond mere ideology, Edward Telles and Rene Flores (2013) affirm that “in social interactions today as in the past, persons deemed white have been bestowed with formal and informal privileges, social deference, and positive attributes” (p. 411). Likewise, “for individual Latin Americans, it is used as a form of social capital that symbolizes and often entitles its bearers to privilege and status” (p. 411). Following this logic, the Spaniards were the only ones considered ‘pure-blooded’ (Telles & Flores, 2013) thus they enjoyed the privileges of a higher social status such as, “full legal and social rights, which granted them access to elite jobs, schools,
occupations, and various economic opportunities” (p. 415). Every other nonwhite population was considered an impediment for national development and modernity, hence the need to whiten it (Telles & Garcia, 2013; Rojas, 2017). An “improvement” that would be achieved with the dilution of non-white races (Yelvington, 2001). Indeed, according to Edward Telles (2014) “mestizaje implied a cultural or statistical genocide of Black and indigenous people” (p. 21) as demographic groups that compose a national fabric. The promotion of mestizaje, then, with a whitening undertone, at last, fed an ideal for a modern national future that would be less Black and less indigenous (Wade, 2008).

Towards the end of the 20th century, the result of the post republican mestizaje ideology and the whitening ideals of society had assured a color-blind social system. That is, while informally asserting the prevalence of whiteness in society to the detriment of the Black and indigenous population, a new racial order had been established. Despite the diverse demographic composition of the country, as the white and criollo population had significantly declined, the indigenous and Black populations were placed at the bottom of the racial hierarchy (Telles, 2014). At the time, the country included a strong Asian population (mainly Japanese and Chinese), a minimal but strong white population, as well as a socially marginalized indigenous and Black one. Completing the demographic fabric of the republic was a robust mestizo population. As a result, the “mestizo,” became the default citizen of the nation. In addition, as a byproduct of racial mixing, a layer of racial ambiguity would always be one of its core features. This ambiguity could augment or decrease the social capital of the subject. Insofar as white is the ideal and allows its bearer access to more social opportunities and political acumen, any whitening feature could be exploited to the benefit of their benefit. Furthermore, “intermediate categories such as “mestizo” simultaneously emphasize social values of race mixture and
proximity to whiteness. This feature paired with a certain embrace for ambiguity, has been shown not only to permit but to encourage self-classification in lighter categories” (Telles & Paschel, 2014, pp. 870-871). Of course, this paradigm responds to the reality that, in the country, “whites or lighter-skinned mestizos, tend to be privileged, while indigenous peoples, Afrodescendants, and dark-skinned persons [whatever their racial identity is] are often seen and treated as less deserving” (Telles, 2014, p. 29). The possibility of self-classification, and the option to whiten oneself, is precisely the result of said ambiguity.

The mestizo, as the product of Spanish and indigenous miscegenation, and later other races, including Black, has become the symbol of the national identity in Andean countries such as Peru (Wade et al., 2014). However, “any hint of whiteness, such as a narrow nose, a white ancestor, or perhaps high social status, has been used to whiten one’s racial classification” (Telles & Paschel, 2014, pp. 870-871). This is possible because of one major factor: the color-blind political nature of the country, and its traditional identity discourse of Peruvians being the product of “every race.” Since there is no formal system that racially classifies individuals as being part of any race, racial classification is left to be determined by society through an informal process. In that sense, racial classification is affected by the reality of racial inequality, racial capital and the socially constructed status of races in the country. As a result, racial ambiguity is the standard,

As it is not exclusively a Peruvian dynamic, scholars of race in Latin America, such as Edward Telles & Tianna Paschel (2014) have developed a typology of ambiguity that can be applied to mestizo citizens asserting their racial ambiguity in varying conditions. Deborah Yashar (2015) added that, based on the mestizaje phenomenon, “Latin Americans are not constrained by the race or ethnicity into which they are born” (Yashar, 2015). Temporal
ambiguity is exercised by the citizen that changes its racial classification over time. Moreover, contextual ambiguity can be exercised by a person that asserts a different racial classification depending on the context (geographical or otherwise) it is in. For instance, an indigenous person can assert a racial classification when in their own indigenous community, and a different one when in the city. The last two, referential and categorical ambiguity are related to the effective fitting of specific people in racial categories, be it by self-ascription, or by different people (Telles & Paschel, 2014). Telles (2014) for instance, explains that the “mobility out of the mestizo category [can be] achieved through demographic, cultural, or status change as indigenous is often understood on the basis of community, language, a low socioeconomic status” (p. 32). In that context, internal migration from rural to urban areas, the adoption of the mainstream language, and social upward mobility are factors that can “whiten” an indigenous person (Telles, 2014). The same dynamic is possible for Afrodescendants but only up to a certain extent (Telles, 2014).

In sum, in the color-blind Peruvian society of the 20th century, the racially ambiguous mestizo, becomes not only the quintessential image of the Peruvian citizen but evidence of the uncontested racial mingling in the country. As Ariel Dulitzky (2005) asserts, “if there are mestizos, it is because there are mixed marriages between whites and Blacks or indigenous peoples” (p. 49). Racial mixture, however, did not eliminate Peru’s racial hierarchies.

**The space for Blackness in the white/mestizo equation.**

The informality of racial classification and identification, and the tendency towards the preference of whiteness has historically led Peruvian citizens to avoid self-classification labels such as *Black or indigenous*, precisely because of their reduced racial capital (Telles & Paschel, 2014). Further, the color-blindness of the racial framework in Peru provided a protective blanket
for a system of racial classification to thrive where Blackness was placed at the bottom, hence fostering a dynamic of color-blind racism where anyone can be prejudiced against someone else for a number of reasons, yet “not because of their race/color” (emphasis is mine). The evidence, however, shows that the Black and indigenous populations are the main recipients of this kind of racial discrimination on a constant basis. The National Ombudsman Office (Defensoría del Pueblo, 2013) concluded in its report: *La Lucha contra la Discriminación: Avances y Desafíos* that a system of historical and structural discrimination against the Afroperuvian population had translated into multiple barriers that affected their economic, educational, political, cultural and social development.

Still, there is no official information or data that exposes specific and disaggregated data about the characteristics and social demographic information of the Afrodescendant population in Peru (Valdivia Vargas, 2013). This is particularly relevant as it prevents official agencies from assessing the real scope of the problems and social determinants that affect the livelihoods of Afroperuvians. Similarly, it limits the possibility of adopting evidence-based measures to address social issues related to health, housing or education. These measures, however, are greatly needed because although the economic growth of the country has increased, Afrodescendants have been left with stagnated living conditions (Quevedo Canales, 2014).

This kind of neglect, as occurred in quotidian interactions and spaces, is accounted for by Peter Wade (2006) in his work *Etnicidad, Multiculturalismo y Políticas Sociales en Latinoamérica: Poblaciones Afrolatinas (e Indígenas)*. The author finds that these dynamics manifest themselves through the informal exclusion of Black people from admittance into certain public places, or the phrasing of job postings that call for “good presence,” a symbolic phrase that has come to mean light(er) skin and white-looking appearance. Likewise, micro-aggressions
and negative controlling images, as well as stereotypes regarding the capabilities of Afroperuvians, reduce their skills to “only” dancing, cooking and playing sports. This public imaginary that privileges lighter skinned people makes up part of the racial dynamics in which Afroperuvians live their own lives? (Wade, 2006). Blacks are also exposed to public insult, assumptions about their labor and class status, and receive a lack of representation in media except in areas such as sports, dance and music (Wade, 2006). The Defensoria del Pueblo’s report (2013) echoes this assertion concluding that these types of discriminatory practices are most pervasive in quotidian spaces and then acutely picked up by mass media reinforcing a cycle that strengthen the negative stereotypes and prejudices against Afrodescendants (Defensoria del Pueblo, 2013).

Offering an explanation, Golash-Boza (2011) describes the situation of Afroperuvians as follows:

Black are notably under-represented in the Peruvian oligarchy that runs the country, but over-represented in the doormen that open the doors to the luxury hotels that accommodate them, in the cooks that prepare their fine meals, in the musicians that entertain them, and in the pallbearers that take them to their final resting place. Peruvians are not apt to deny the presence of Blacks in Peru, for they are quite visible in certain aspects of Peruvian society, although notably absent in others (p. 291).

For instance, television series and major advertisements still rely on white—often blonde—artists to serve as protagonists, thus creating a marker of what is socially ideal for the population at large (Telles & Flores, 2013). Indeed, in the Peruvian context, to be Black still entails the expected experience of a set of disadvantages that affects one’s livelihood in a negative way. It
limits one’s mobility in society, and most importantly, significantly affects the enjoyment of basic rights and access to opportunities in equality of conditions.

**Inexistent Black Political Subjectivity**

Along with the ideas of mestizaje and the national projects that featured mixed citizens as an archetype (Wade et al., 2014) with an undertone of whiteness as a national ideal (Sawyer, 2005), the legal system of post-independence in Latin America followed the same path. Hence its system of legal classification resembles this order. In her work *Racial Subordination in Latin America: The Role of the State, Customary Law, and the New Civil Rights Response*, Tanya Kateri Hernandez (2013), argues that before the inexistence of a written body of explicit legal segregation, the Latin American region adopted a customary body of legislation that sustained its system of racial hierarchies. Further, her argument questions the region’s “racial innocence,” a rhetoric that assumes the inexistence of racism based on the absence of a system of legal segregation. Indeed, this argument follows the assumption that “the absence of Jim Crow-like laws in Latin American countries [were a] testament to its harmonious, and thus superior, race relations” (Paschel, 2010, p. 732. See also: Hernandez, 2014 and Sawyer, 2005). For societies that argue that legal racist hierarchies are constructed only with the explicit involvement of governmental forces, as was the case of the United States Jim Crow legislation and South Africa’s Apartheid regime, their own structural –yet unwritten- system of oppression is cannot be recognized as a racist one.

Despite the absence of racism, as constructed in relational terms with the U.S. and South Africa, informal systems of classification in the Latin American countries allowed color-coded social inequality to thrive. Further, in most Andean countries, the construction of its “national
identity” projects were rooted in the dissolution of “non-national identities (the withdrawal of legal recognition for indigenous territories and communities, -and- forced assimilation into the ‘national’ culture, language and faith)” (Van Cott, 2000, p. 2). This phenomenon, of course, did not only affect the indigenous but the Black populations of the Americas. In Peru, the early period of republican construction saw social and legal benefits concentrated in the aristocratic families and their descendants (Luciano, 2012). While the indigenous peoples were classified in lesser categories of citizenship, be it under a tutelage paradigm or by deeming them second class citizens. At the same time, the Black populations were left outside of the social equations altogether (Telles & Garcia, 2013; Green, 2010; Sue & Golash-Boza, 2008; Wade, 2006) or placed behind their indigenous peers (Luciano, 2012).

**Color blind legalism in Peru.**

At the outset, the scenario dictated that blanqueamiento and mestizaje, as pillars of the Peruvian national project, as well as the exclusion of the Black race from the enjoyment of the fruits of the development of society, are the main customary principles that have become fundamental to the racial identity formation in Peru (Wade, 2008; Van Cott, 2000; Telles & Paschel, 2014). Customary because, as a rule, Peru did not implement any kind of color-coded legislation in their republican history. In fact, the political efforts were put in the elimination of racial and ethnic categories from the normative body. The first evidence of this would come in August of 1821. Just a month after the declaration of its independence, General Jose de San Martin, liberator of the country and first president of the new republic, decreed that the indigenous peoples of Peru ought not to be called natives or Indians¹⁰ but should all be known as

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¹⁰ The significance of the term Indian during colonial times was related to the legal and fiscal obligations of this population before the Spanish crown. See: Mariategui, J.C. (2001). *Los 7 Ensayos de Interpretacion de la Realidad Peruana.* Lima: Empresa Editora Amauta; and Sulmont, D. and Callirgos,
Peruvians (Telles, 2014). As later the use of Indian, as it marked a clear difference with the criollo subject, was still in use despite authority’s efforts to repeal it, which led to the decree having to be repeated. During President Juan Velasco Alvarado’s rule,\(^{11}\) he banned the term ‘Indian’ from the official national discourse on policy and legislation (Yashar, 2015). Moreover, in 1969, he dictated the change of the then, national holiday, “Day of the Indian” to the “Day of the Peasant.” With no political label, and hence striped of any kind of political subjectivity, Peruvian indigenous peoples had to assert other kind of identities when making class claims (Yashar, 2015). Indeed, the elimination of ethnic and racial categories from the legal and political language of the country, as well as the expectation of its elimination from the common language of society, revealed the ulterior objectives for the social assimilation of ethnic minorities and civil homogenization of the Peruvian society (Telles, 2014). Further, the law states that “everybody is equal” then inequalities among different ethnic groups, that could be observed empirically, had to be provoked by other factors other than race. That is, charges of discrimination could not be attributed to racism. This colorblind system actively maintained the status quo and supported a system of racial and social inequality that relegated indigenous and Black people to the bottom of the social scale. This was possible because of several factors. First, by turning a blind eye to the social dynamics that kept racial and ethnic minorities at the margins of society, the government allowed the system of racial and social inequality to thrive unchallenged. Further, even though the legal system claimed to protect all citizens, without an active strategy to better the situation of these populations, they left marginalized citizens outside of the effective scope of protection of the law. In the case of the Black population of Peru, they

\(^{11}\) President of the Republic of Peru between 1968 and 1975.
became statistically invisible outside of the language of the public policies and national discourse.

**Color-coded inequality as a result.**

In his work *Race in Another America*, Edward Telles (2004) develops the seemingly contradictory notion that mestizaje could coexist with Black exclusion and how this dynamic can be a staple of a color-blind society. The author focuses mainly on South and Southeast of Brazil, after the 1950s and although he is referencing Brazil, his words could very well be extrapolated to understand the racial dynamics at play in Peruvian society after the formation of the Republican state. Racial inequalities, Telles concludes, and in particular, the ones related to the economic pyramids and social mobility dynamics, are rooted in three main factors that are constantly being reproduced and replicated by social values: “Hyper inequality, a discriminatory glass ceiling, and a racist culture” (p. 220). These values or dynamics cultivated in the context of color-blindness and be actively upheld in the context of a color-blind legalism.

The first one, hyper-inequality, refers to the level of inequality found not only in the economic and social sphere, but in any other kind of social development or interaction. Namely, power relations, justice, work, education, and health among others (Telles, 2004). Instances that permeate all aspects of social life and consistently pushes Black and brown communities into poverty and extreme poverty are also examples of hyper-inequality at play (Telles, 2004). For instance, in Peru, the latest unofficial surveys indicate that less than 2% of the already low percentage of Afroperuvians that have access to higher education finish college and obtain a bachelor’s degree (Ministerio de Cultura & Grupo de Analisis para el Desarrollo, 2015). The main reason for the academic desertion are both the exchange of schooling for the premature entry into the work force, and the lack of structural incentives to continue further studies.
The precariousness, then, in Black people’s academic formation is a barrier for their development and social mobility since our current world has adopted an increasing tendency to privilege information-based work over manual labor (Quevedo Canales, 2014). The latter reason is also related to the lack of professional Black men and women in high profile positions serving as a social reference for Black success. Because the overall placement of the Black labor force is in low-wage jobs, those seeking social references only find them there. Further, “Afro-Peruvians do not generally hold leadership positions in government or business, and it is widely believed that the navy and air force follow unstated policies that exclude Blacks from the officer’s corps” (Hernandez, 2014, p. 28). Telles (2004) further explains that this phenomenon hinders the possibility of Afrodescendants to access to better and higher paying jobs, which as a result limits their upward social mobility. Consequently, creating a glass ceiling, second element, for the Black population that forces them into a cycle of poverty.

Finally, Telles identifies an overall racist culture as the third reinforcing element of racial inequality. This culture is reflective of the social values created by controlling images and negative stereotypes which burden the Black race and sustain racial inequality. In fact, blatant and active or aggressive acts of racism are not necessary to maintain a racist culture. In the case of Peru, society inherited neglect or subtle negative social ideas about Black people is all that is needed to support a system where Blackness is marginalized. As an example, the absence of the Afroperuvians in the national instructional curriculum of the country is of notice. African American historian Carter Godwin Woodson (1933) questioned the role of education in the development of a whole race arriving to the conclusion that in the case of the Negro community, the exposure to mainstream education might not be the angular stone of development. Indeed,
Woodson found that exposure to instruction negated the richness of the Black experience and contributions of the race and had an adverse effect on Black students. In fact, as they received an education that did not acknowledge them or highlight their communities’ contribution but rather identified them as problems, a sentiment of inferiority was installed in them. That sentiment in turn was reinforced and recreated continually by the social reinforcements that portrayed the Black race negatively (Woodson, 1933). Woodson’s analysis of 1930s U.S.A. still holds merit to analyzing the contemporary situation for Afroperuvians. Formal education in Peru is not meant to highlight the multicultural richness of the country, nor its cultural gravitas. The national curriculum adopted uniformly across coasts, the highlands (Andean region) and the Lowlands (Amazon region) is based on basic math and science instruction, along with literary and history content. Historic references cover the Andean culture and Inca history, colonization efforts by Spain in the country and the Americas, as well as civic education. Neither industrial nor entrepreneurship education are part of the national curriculum in Peru. The same fate is followed by education about other cultures of the world aside from South America and Europe. In fact, the national education curriculum does not contain references to the contributions of the Asian nor African cultures in the country. Hence, Peruvian children are not exposed to this type of knowledge during their basic instructional period. Additionally, this instructional content has not been included in the most recent update of the national rubric.12

Afroperuvian youth then are taught that their history is composed mainly of sporadic landmarks that began with cultureless people brought to the country in slave ships, while Peruvian children at large learn that the highlight of Afrodescendency is rooted in the emancipation declaration of 1854. Further, both groups of children learn that the only

12 Ministerial Resolution 281-2016-MINEDU, of June 2nd, 2016.
contribution of this group to the nation is based on the way they dance, sing and cook. Indeed, the formal education received by Peruvian children at large “does not validate multiple knowledges, [alternate] educational practices, and ways of life or [different] worldviews” (Aikman, 1997, p. 180). It must be recognized that “schools do not merely produce children as racial subjects – they produce racial disparities in life outcomes” (Martinez Novo & De la Torre, 2010, p. 1). With that mental framework and a social and cultural environment that expects close to nothing from Afrodescendants, these men and women are not made to feel a part of the social fabric in Peruvian society, which constantly reproduces the process of social exclusion.

Furthermore, Afrodescendant children in Peru are not exposed to a system that deems them worthy, that highlights their achievements, or the ones of their ascendants. They learn early on that they are not making history happen and therefore, have no promising future... When it comes to education, to maintain the status quo means keep negating Afroperuvian children and by extension, the next generations of Afroperuvians limiting their chances of social development and social mobility. Indeed, not being part of history is not as innocuous, as it may seem. The fact that these children do not have historical references that give them a sense of belonging also detaches them from the national project and instills in them a notion of irrelevance that is only exacerbated by the poor condition of Afrodescendant communities in Peru.

In sum, the social structure that Peruvian society has created for itself reinforces a system of structural racism best evidenced by unequal outcomes “in the labor market, in the educational system, in the justice system, in media representations, and in daily interpersonal relations [among others]” (Martinez Novo & De la Torre, 2010, p. 4). Perhaps more importantly, Peru’s social structure assures a limitation of the full enjoyment of their rights as citizens of Peruvian citizens.
Eduardo Bonilla-Silva (2014) offers a contribution to Telles’ model of hyper-inequality. In his work *Racism without Racists*, the author echoes Telles’ arguments about racist culture. His contribution, however, lies in his exploration of the color-coded inequality that results from color-blind societies, like the Peruvian one. For instance, the author identifies Wade’s instances of subtle racism, such as the one exercised on job hiring and access to public spaces, which have tended to be limited to Afrodescendants in Peru (Wade, 2006) as practices of “new racism” in the United States. It is new because unlike the overt racism of the past, it is “subtle, institutional, and apparently nonracial” (Bonilla-Silva, 2016, p. 27). As a systematic and structural problem (Bonilla-Silva, 2016), Bonilla-Silva’s notion of racism, and a supportive racist culture, can explain phenomena such as an ethnic-conscious distribution of income and overall sustained social inequality based on “ethno-racial stratification processes” (Bailey, Fialho & Penner, 2016, p. 538). Indeed, this kind of ideology justifies racial inequality with the very same negative images that support it.

Bonilla-Silva (2016) identifies four frames that are central to color-blind racism: cultural racism, minimization of racism, abstract liberalism, and naturalization of racism. For instance, colorblind racism might be used to support an argument like, Black people in Peru do not finish higher education because they are lazy and do not work hard (cultural racism). Or, Peru does not have racism and the little that we have does not oppress Afro-Peruvians that much (minimization of racism). An example of abstract liberalism would be, everyone should be treated equal which is why there should be no legislation to support the Afro-Peruvian population. Lastly, the comment that and every country has social challenges, so we should let it resolve itself naturally is the naturalization of racism.
These arguments, however, ignore that the structural conditions under which Afrodescendants live in Peru are not organized in a way where working and studying is a real possibility for Black youth. Whether they are the sole breadwinners of their households, or because the job offers available to them tend to be low-paying that would not allow them to support themselves if only working part-time while attending further schooling, obtaining an education is difficult for Afrodescendant youth. These color-blind explanations do not take into consideration that prospective Black students have a harder time obtaining access to quality education (Dulitzky, 2005). Most revealing, are the often unaccounted for psychological effects of racism and racial discrimination they might face when attempting to enter? For example, The National Report La Lucha contra la Discriminación: Avances y Desafíos (Defensoria del Pueblo, 2013) references a 2011 survey undertaken by the Van Leer Foundation and the Grupo de Analisis para el Desarrollo (GRADE) that indicates that 22.1% of Afroperuvians had experienced some form of discrimination during their schooling, in comparison to the 16% of their non-Black peers. While 50% of the surveyed asserted having been the object of racialized nicknames or “casual jokes” that refer to their skin color in comparison to the 26.7% of their non-Black peers (Defensoria Del Pueblo, 2013). Meanwhile,

Not only do wage differentials between whites and non-whites persist even after controlling for education and experience, the income gap between whites and non-whites tends to widen as educational achievement increases, which points to active racial discrimination in the labor market as the cause of income disparities, not simply differences in educational achievement or work experience (Hooker, 2008, p. 282). Furthermore, the report concludes that the overall invisibility and vulnerable situation Afrodescendants are subsumed in, is related to their statistical invisibility. Their apparent
absence from the institutional radar obscures the possibility of the state to identify where are they located, and what their social determinants are, advancing the vicious cycle in which they are absent from national public policies and political benefits (Defensoría del Pueblo, 2013). At the same time, the agency makes the case for a system of structural discrimination that limits their enjoyment of fundamental rights while affirming that commonly-used racist language reinforces racial stereotypes, as well as social mockery and ridicule (Defensoría del Pueblo, 2013). Using Telles’ rationale, and Bonilla-Silva’s formulation of color-blind racism, it is possible to see how the color-blindness in Peru provided a convenient protective blanket for a system of racial classification based on hyper inequality, a discriminatory glass ceiling, and allowed a racist culture to thrive, even in the absence of an explicit legal system of racial classification.

**Conclusion**

In this chapter, I argued that the post-colonial racial formation process in Peru, out of which a particular racialized system of power developed provides context for understanding the precarious situation of Black peoples in Peru, and their place in society today. With the intention of measuring to what extent their socio-political situation changed after the enactment of protective legislation on their behalf, I traced the historical context out of which the current Black experience in Peru arrives in an order to present the reality of Afroperuvians as subjects left outside of the law and public policies.

The Peruvian nation did not develop into a location where “the Black race” was included, despite their having been pivotal in the economic development of the country during its colonial period. As referenced, miscegenation, an opportunity to “better ones race,” was only an option for indigenous peoples, so long as they assimilated to European cultural standards through
education and the stripping of their cultural traditions, left Afrodescendants outside of Peru’s idea of a nation. Indeed, as the only way for them to be included in the notion of a modern nation was through their intergenerational whitening, they were not granted the opportunity to participate in the nation formation processes as full citizens of the then emergent nation, Peru. Moreover, the political decision of adopting a legal model of color-blindness did very little to better Afrodescendants situation. In fact, as it provided a platform for social inequality to thrive, the social inclusion and development gap between Black peoples and the rest of the population widened. Furthermore, without an acknowledgement of structural racism as a socially pervasive phenomenon, or the eradication of racial discrimination as a matter of legal urgency, people of African descent in Peru found no legal protection for any acts or omissions that they would consider discriminatory against them. Their socio-political situation then, remained precarious as evidenced by the data on their lower rates of school graduation, lack of participation and representation in decision-making spaces, and their constant negative media representation.

The emergence of ethno-racial law, which aimed to promote and protect the rights of Afrodescendants while leaving behind the color-blind legal system, had the objective to alleviate the situation of the Afrodescendant population in the country and provide them with mechanisms to assert their rights. In the next chapter, I will explore in detail the context of this political shift, as well as the social and political actors and institutions that facilitated it. Further, I reference all the instruments that make up the body of ethno-racial legislation in Peru, dividing them by their nature and objectives.
Chapter 3

The Political Shift: A New Paradigm of Protection for the Afroperuvian

Introduction

People of African descent are among the most vulnerable populations in the world (OAS, 2017). The existence of structural limits to their ability to enjoy basic civil rights such as education, work, health and sanitation, as well as blatant and subtle social inequalities are at the root of their precariousness; this situation is only made worse by racism, racial discrimination and other forms of intolerance. In the case of the Latin American region, these limitations, albeit structural, were not formally legislated. In fact, the lack of ethno-racial legislation in the region, or one that positively recognized the multiple minority populations that made up part of its demographics, was a staple of Latin America. Further, the absence of segregationist or punitive legislation against the Black population of the region was an argument used to support the idea of a Latin American exceptionalism (Paschel, 2010; Sawyer 2005). Indeed, Latin American states, for most of the 19th and 20th centuries, asserted the absence of racism in the region and attested to “cordial” race relations (Tannenbaum, 1992). They constructed this argument by using a notion of racism as understood in countries like the United States or South Africa (Hernandez, 2014; Wade, 2011). Indeed, as nations with strong racialized regulations that established legal differences between their Black and other ethnic populations, no country in the Latin American region could relate since they had never established a racially separatist legal system. However,
before the absence of a legal segregationist system, it was the use of policies of that provided Latin American nations with the tools for racial and ethnic differentiation. As a result, racial and ethnic discrimination, and social exclusion (Wade, 2008; Telles & Paschel, 2014; Paschel, 2010) was also prevalent.

In the previous chapter, I explored the social and political consequences of the color-blind legal system implemented in Peru until the year 2000. Under this kind of system, where racial differences were not acknowledged and hence never remedied, color-coded inequality became the status quo. Indeed, since racial inequality could not be addressed because of a lack of mechanisms to do so, it thrived and deepened social, political and economic gaps to the detriment of the Black population. In the year 2000, the government of Peru shifted its racial politics directives and started the formulation and promulgation of several ethno-racial instruments that recognized the political subjectivity of “Afroperuvians,” as well as their status as a demographic that made up part of the fabric of the nation. Most importantly, it promoted and protected the rights of the Afrodescendant community in Peru. This shift was facilitated by the III World Conference against Racism held in the city of Durban in 2001. The attendance to this conference resulted in a number of international racial obligations that the Peruvian government was now bound by. The international event, however, was not the only element that played a role in this governmental shift. Indeed, the regional trend towards democratization and multiculturalism, as well as the advocacy efforts of the national and regional Black movement, played a fundamental role in creating the window of opportunity out of which the Durban’s successful results had come would be seen in Peru, and sustained after the conference.

Insofar as the intention of this thesis is to analyze what the extent of the change created by Afroperuvians newfound political subjectivity, this chapter will be organized as follows. First,
I will describe the regional context that provided the platform for political change in Peru. That is, I will explain the regional turn to multiculturalism and the emergence of ethno-racial legislation as a political trend that started around 1970 which facilitated the collaborative synergies of the transnational Black movement. Within this context, I will explore the political organizational efforts undertaken by Black organizations in Peru, arguably, the agents responsible for the successful participation of the Peruvian delegation before the World Conference against Racism in 2001. Later, I will describe and contextualize the details of the Conference itself and its significance for the Peruvian racial politics. At this point, I will reference not only the legal obligations assumed by the Peruvian government following the conference, but also some of the regional consequences. After this, I will reconstruct a detailed list of ethno-racial public policies and legislation enacted by the Peruvian government, as they are the instruments that the State considered pertinent in recognizing Afroperuvians as well as promoting and protecting their rights. Finally, I will reflect on the new understanding of Afroperuvians as subjects of public policy, and what this means for Black people that are not affiliated with civil society organizations. Overall, in this chapter I argue that the adoption of ethno-racial legislation, which left behind the color-blind legal system, is the legal and political structure out of which Black political subjectivity developed. In the next chapter, I shall dive deeper into this point, while exploring some of the shortcomings of this model, including the vulnerable state it created for Black women and Black people living in rural Peru.

**The Emergence of Ethno-Racial Legislation**

In the 1970s, the political transition of Latin American countries was towards democratization, as well as internalization efforts of the ethnic and race-based national movements in the region
In light of this transition, a political shift was being born in Latin America. In her most recent book, *Becoming Black Political Subjects: Movements and Ethno-Racial Rights in Colombia and Brazil*, Tianna S. Paschel (2016) explores the shift in the racial politics in both countries, as well as their causes and implications for the national imaginary and citizenship. Despite its context-specific characteristics, I will borrow the author’s theoretical and conceptual framework to reconstruct the process of formulation and implementation of ethno-racial legislation in Peru.

In alignment with Edward Telles and Stanley Bailey (2013), as well as Tanya Golash-Boza and Eduardo Bonilla-Silva (2013), Paschel (2016) refers to the concept of “multicultural constitutionalism” to demarcate the end of 1980s, as the period wherein some countries in the Latin American region started the process of recognizing their Black populations in public policies and legislation, hence building a model of Black citizenship (Telles & Bailey, 2013; Golash-Boza & Bonilla-Silva, 2013). This time, the author argues, was characterized by the consistent integration of national constitutions with references to their Black and indigenous communities, or with the constitutional recognition of their ethnic and racial diversity (Telles, 2014). In some cases, public policy included the acknowledgement and recognition of “indigenous forms of organization, data collection on indigenous people and Afrodescendants in national census” (Telles & Bailey, 2013, p. 1561. See also: Telles, 2014). Likewise, with the adoption of ethno-racial legislation (Paschel, 2016); a normative body that moved away from colorblind legalism, and into the recognition of collective rights, or otherwise, affirmative measures for indigenous and Black peoples multiplied (Paschel, 2016). The transition from color-blind legalism to the adoption of ethno-racial legislation, along with the aforementioned (Yashar, 2015), to the response of indigenous movements to the adoption of neoliberal policies
and the massive liberalization of markets in the region. In addition, these changes were facilitated by the international human rights agenda and international lending institutions (Telles & Bailey, 2013) that turned their focus to the rights and development of minority and ethnic populations towards the end of the century.

Paschel (2016) identified a second moment between the 1990 and 2000, where Brazil, Colombia and other countries further adopted a number of policies to combat racial inequality and racial discrimination. Those policies varied from country to country but included measures like the establishment of national institutions “designed to either combat racial discrimination against Afro-descendants or to promote their rights, (as well as) laws guaranteeing equal access to public establishments” (Hooker, 2008, p. 284).

Arguing that the adoption of ethno-racial legislation left behind the political colorblindness in the Latin American countries (Van Cott, 2000), Paschel recognizes that these changes, despite not having been consistent across all countries in the region, respond to the alignment of national political fields and the global ethno-racial field. The facilitating elements within the national political fields are the governmental shifts towards democracy, and the strength of the Black social movements (Paschel, 2016). Meanwhile, the global ethno-racial field is constituted by a group of international networks, and institutions that facilitated the shift in the racial politics (Paschel, 2016). The III World Conference against Racism, for example, is one of the global ethno-racial fields, its elements, as is the transnational alliances held by Black NGOs across the region (Paschel & Sawyer 2008), and the prioritization of indigenous issues in the global human rights agenda enforced by the United Nations. Paschel then argues that the regional political shift regarding its race and ethnicity politics is explained by the alignment of the global and national ethno-racial fields (Paschel, 2016).
Although Paschel acknowledges (2016) that her periodization can be problematic as not all the countries in the region followed the same timeline, there is registry of anti-racist legislation well before 1980.\(^\text{13}\) Her proposition that facilitating factors opened a window of opportunity out of which the rights of Afrodescendant peoples in the region could be recognized, however, is useful for our analysis. In the case of Peru, for instance, would not be until the year 2001 that the country joined its fellow neighbors in the formulation and implementation, of both kinds of legislations as explained by Paschel (2016). According to Paschel, these legislations are: (1) protective legislation for the promotion and protection of the rights of Afrodescendants and (2) criminalization or otherwise prohibitions of racial discrimination. In 2001 Peru started the process of recognizing its Afrodescendant population in the law and public policy, while implementing protective measures against racial discrimination at the national, regional and local level. In fact, even though the country did not amend its constitution, it implemented a number of measures of major political significance, such as the expression of an apology to the Afrodescendant population, as well as an amendment to its Multi-party National Political Agreement,\(^\text{14}\) to include the protection of this population as a matter of State policy. This process was, as Paschel (2016) formulates, the result of the alignment of the global ethno-racial field and the national political field (Paschel, 2016).

\(^{13}\) The “Ley Afonso Arinos” (Law 1.390/51) promulgated on July 3\(^{\text{rd}}\), 1951 criminalized the segregation of peoples based on their race, and the limit to their access to public institutions and accommodations based on the same reason.

\(^{14}\) The Multi-party National Political Agreement is a multi-partisan aspirational public policy instrument elaborated originally in 2001 and revised periodically by all the political forces in the country. It lays out the Peruvian’s State major points of policy and hence, is supposed to be respected and used by every new administration as a guide of the State position is before different topics.
The Global Ethno-Racial Field

The most important elements that facilitated the process of adoption of ethno-racial legislation in Peru, from a global standpoint, were the internationalization and transnational synergies achieved by the local Black movement, and the III World Conference against Racism’s sympathetic global human rights agenda.

**Transnational cooperation and the internationalization of the Black movements.**

Social ethnic movements are not new in Latin America. Indeed, their rise can be identified between the years 1980 and 1990 as the demise of authoritative governments and dictatorships gave space to democratic regimes where certain sectors of the population could finally be heard (Escobar, 1992). This mobilization, that at its time generated a reshaping of state and popular discourses regarding race (Golash-Boza & Bonilla-Silva, 2013), had as the center of its demands, a recognition of the contribution of racial and ethnic groups to the ideas of nation, citizenship and nationhood in the Americas. To this end, they focused on the put in value of their cultural traits and/or the generation of respect for their unique culture as a major contribution the national one. With time, ethnic-based movements in the region have come to redefine their own standing in society, and further social inclusion for all ethnic minorities with an impact beyond national territories affecting the region at large (Van Cott, 2000). Moreover, “Black and indigenous social movements draw symbolic and material strength from a transnational network of multilateral organizations, NGOs, and other social movements” (Wade, 2010, p. 114) they participated in. As a result, today, Black organizations in Latin America bear a quantifiable power in fostering policy and social change in their countries of origin (Paschel & Sawyer, 2008) while supporting each other. The internationalization of the Afrodescendant political movement
rather than debilitating the internal forum, has strengthened the national human rights agenda in the region (Paschel & Sawyer, 2008).

An important event that consolidated the Black movements’ solidarity was the Preparatory Conference for the Americas before the III World Conference against Racism held in Santiago de Chile in 1999. Hosting more than 1,700 Afro Latino activists (Hernandez, 2014), this forum became the platform where the transnational Black movement finally came to fruition. Professor J. Michael Turner (2002) affirms that the process leading up to said Conference strengthened the Black social movement all over the world and in the Americas in particular. Indeed, the international summit showcased the power of civil society in the convocation of government officials, and their ability to set the tone on international discussion by highlighting the pervasiveness of racism and discrimination faced by Afro Latinos. At the same time, the conference facilitated a regional conversation among Afrodescendants of different backgrounds, increasing their visibility and raising their political capital as a result (Dulitzky, 2005). This forum also provided them with space to share their best practices at the local level and organizational experiences in order to create synergies and alliances. This created a regional momentum of political opportunity (Hollands & Vail, 2012) allowing Black organizations in the region to be more involved in the process of cultural recognition and normative change, including Constitutional changes and recognition of their collective rights in many countries.

In fact, the process of “getting to Durban” ended up being just as if not more important than the Conference itself (Turner, 2002). After it, not only did the regions governments recognize the pervasive and often disregarded racial inequalities that stratified the social relations in each country (Paschel & Sawyer, 2008), but Black civil society and non-governmental organizations (Turner, 2002) were being finally recognized as valid political actors.
The III world conference against racism.

Held at a time when the United Nations and other international actors had started to turn its focus towards national and international population issues, the III World Conference against Racism, Racial Discrimination, Xenophobia and related intolerance became the platform that would finally achieve serious attention from the Peruvian government, a decade’s long desire of the national Black movement. This attention included the Peruvian state’s participation in the international agreement of understanding the need for the promotion and protection of the rights of its ethnic and racial minorities as a matter of human rights.

Durban, as the process is called by Afrodescendant activists, was not an isolated event as it followed a number of Global Conferences addressing population problems such as poverty, children, women and environmental issues. Durban came at a time when countries in the region, and the world, had finally come to the agreement that minority issues, and, ethnic and racial minorities, were to be understood as human rights issues. This is particularly relevant and fundamental to the change of the national racial politics in Peru because it meant that the promotion and protection of the rights of Afrodescendants was to be considered an international –and unavoidable- human rights obligation.

The preparations for Durban: the point of no return.

The preparatory process to the World Conference was as important and significant as the Conference itself (Turner, 2002). As the United Nations proceedings were modified to allow a more representative participation of civil society, including think tanks and stakeholders working alongside governments’ representatives (Amin, 2001), the Conference was extraordinarily inclusive. Moreover, it hosted several multilevel meetings and negotiations aimed at the structure and proposition of programs and agreements regarding measures to eradicate racial
discrimination and social marginalization on member states territories (Turner, 2002). The preconference for the Americas held in Santiago de Chile in 1999 served to facilitate the dialogue between affiliated Black activists and advocates, as well as to give them a platform to share their concerns and most pressing demands (Dulitzky, 2005). In fact, Dulitzky (2005) cites this time as the first opportunity Afro Latino peoples had, at the international level, acted as a regional block or a united voice. He believed Afrodescendant activists and political leaders “successfully heightened both their own visibility and that of the problems they face through the entire hemisphere” (p. 51). Furthermore, the process showed all the actors involved, and the world, the complexities of racial inequalities in the region (Telles, 2014).

The strong articulation of the Black civil society was fruitful and the road to Durban established itself as a point of no return in the history of international politics. First, the Black peoples of the world would come to be named Afrodescendants during this process. Afrodescendant is a political label that they would adopt for themselves as the evidence of their commonality and their political bond, as well as their relation to the African continent and the African diaspora, without denouncing their national identities (Paschel & Sawyer, 2008). This denomination would give peoples of African descent in Peru, and other countries, the opportunity to see each other and recognize that they would now have something in common, that they were now part of a unified diaspora. Second, it set in motion a necessary conversation about racial inequality in the Americas, that was finally being held outside of the offices of Black organizations, and that included the participation of government actors, the member states agreed with the notion that Afrodescendants were to be a protected group in accordance to human rights standards. That is, Afrodescendants political recognition at the international level was completed. As a matter of human rights, governments would recognize the person of African descent as a
political subject to be protected from racism and against racial discrimination by national legislations, public policies, and other concrete institutional mechanisms.

The organizational scenario before the Conference counted a few organized institutions constituting a social block that only grew after it. This strengthened Black collective was not always in agreement with what the priority areas deserving of a governmental response should be after the Conference, yet, despite their occasional disagreements (Valdivia Vargas, 2013), they became even more active in furthering the overarching goal set by the Program of Action of Durban. The Black movement collective political capital today lies in their capacity to present themselves before the government and articulate their demands in accordance with a human rights discourse\textsuperscript{15}, and support the government in its process of formulation and implementation of ethno-racial legislation. Moreover, the national Black movement maintains a pivotal role in the promotion and protection of their own rights as by continually engaging with governmental agencies to review the executive decisions affecting Peruvians of African descent and proposing further changes and improvements. Furthermore, as a new territory for public officials, the Black movement has grasped the opportunity to not only oversee the fulfillment of the countries international obligations towards them, but also to position itself to access aid and fill key governmental positions that would further these commitments.

\textsuperscript{15} Along with the new understanding of “Black issues” or the demands of Black organizations as human rights demands, there was also the state response, and the framing process of the Black movement’s main claims. Indeed, the grievances expressed by the Black movement were “no longer a demand being made for special treatment by a culturally distinct group of people; it (was) a demand to be treated as human by people who just happen to be culturally distinctive” (Wade 2010, p. 115). That is, their claims transitioned from being rooted in social justice to being part of the standards of human rights. The language on which said grievances would be formulated, then, shifted accordingly. Further, the newly adopted language –human rights discourse- which allowed the Black movement to express their demands to the government and its audience, proved to be more effective and aligned with the international responsibilities of the state. As a result, their demands were more difficult to refuse or disregard. By transitioning into the use of a human rights frame that could adequately contain the demands of the Black movement also served as an interpretative framework under which their demands could be explained, justified, rationalized and aligned to and by the government.
A sympathetic global human rights agenda.

As mentioned before, the III World Conference against Racism was not the only International Summit or mechanism on the matter. Indeed, it followed three proclaimed International Decades for the combat of racism and racial discrimination, and many other attempts to get United Nations’ member states to commit to ending this world phenomenon. Whether because this time around all the national conditions were in place for its success (the regional trend towards democratization and recognition of ethnic minorities), or other international financial actors were committed as well (international NGOS, and funding agencies such as the World Bank and the Inter-American Development Bank), the III World Conference finally achieved what the Black organizations worldwide were looking for: a concrete commitment from member states to undertake effective measures to address and eradicate racism and racial discrimination in their territories.

As a matter of international human rights, the states were committing to realizing the objectives of the Durban Declaration and the fulfillment of its Program of Action. With the adoption of the first document, the states strongly rejected any doctrines of racial superiority while acknowledging how their failure to addresses them previously has contributed to its prevalence today (United Nations, 2001). In addition, they reaffirmed the notion that the transatlantic slave trade, apartheid and similar actions constitute crimes against humanity and unequivocal violations of international human rights law (World Conference against Racism Declaration, 2001). At that time, by adopting the Conference’s program of Action, the countries committed themselves to allocating appropriate resources to end the “sources, causes, forms and

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16 At the time, Afrodescendant Organizations were also receiving international funds from organizations such as the Ford and Kellogg Foundations, the United States Agency for International Development (USAID), Diakonia, and OXFAM Canada (See Thomas, 2011; Valdivia Vargas, 2013).
contemporary manifestations of racism, racial discrimination, xenophobia” and other types of related intolerance (World Conference against Racism Declaration, 2001).

The National Political Field

Recognizing peoples of African descent as particular victims of detrimental racial differentiation, states like Peru were urged to generate specific mechanisms to promote the participation of Afroperuvians in all aspects of society; especially the “political, economic, social and cultural” ones (World Conference against Racism Declaration, 2001). Similarly, they were encouraged to formulate comprehensive political instruments to assure the promotion and protection of the rights of this population and ensuring that their education and health become a major priority (World Conference against Racism Declaration, 2001). In sum, the program of action called upon states to take all and every concrete institutional measure possible to assure the full inclusion and development of its Afrodescendant populations.

Due to the prolific development of policies and creation of executive institutions tasked with the promotion or protection of the rights of Peruvians of African descent at the outset of the Conference, one can only assume that the road to Durban raised a more concrete awareness of racial inequality in the Peruvian government and a commitment to address it at an institutional level, in clear alignment with its international obligations. This commitment was translated in the consistent and progressive recognition of the “Afroperuvian” as a present subject in policies and legislation specifically designed to advance their rights, and to sanction racial discrimination.17 Indeed, after the Conference, the political racial framework shifted from a color-blind stance that did not acknowledge the Afrodescendant population, nor did it provide any kind of color-coded

17 There is no record of an official document, policy document, and institution or legal instrument using the label “Afroperuvian” referring to Peruvians of African descent dated before 2001.
legislation (protective or otherwise) to the implementation of a differentially ethnic/racial approach. It is from this approach that a robust body of ethno-racial legislation was promulgated, not only acknowledging but promoting the rights of Afroperuvians and Indigenous peoples.

This political change could have allowed for a concurrent alignment of the actors in the global field, as well as the national political field. Such elements of the national field were a fortified Black movement and a string of democratically elected governments that, albeit not very adamant to consider indigenous issues as ones of importance, potentially saw in the Black movement a “safe” or non-contentious social collective whose protection could also signify raising their political capital in the international arena.

**The contemporary Black movement in Peru.**

The history of the Black population in Peru has been characterized by a constant struggle against social injustice. Arguably, their first collective political concern, upon arrival in the American territory, was focused around the betterment of their living conditions and the conditions of their own livelihoods. Most recently, the Black struggle in the Americas follows claims of social and political equality, that seek to overcome dynamics of social invisibilization and exclusion. Today, the struggle of the Black population in Peru, responds to the elimination of the actual and symbolic barriers that keep them from the full enjoyment of their status as citizens of Peru (Arrelucea Barrantes & Cosamalon Aguilar, 2015). In that scenario, the organizational agency of the Afrodescendants was reflected in multiple efforts that continue today.

Notwithstanding, instances of Black agency can be recorded as far back as the period of enslavement of Black peoples and the current Black movement in Peru traces its civil
organizational structures to the early 1950s (Thomas, 2009; Valdivia Vargas, 2013). The first organizations publicly recorded, however, would not be created until the 1980’s. While the first groups were focused on the “put in” value of the arts, music, Black folklore and overall cultural identity, the groups of the 60’s were politically influenced by the Civil Rights and Black Power Movement in the US (Thomas, 2009) as well as the collective agenda of the Black Panthers in the U.S. and the writings of Frantz Fanon (Valdivia Vargas, 2013). Towards the 1970’s and infused by a younger generation of thinkers, the organizational landscape shifted towards the reflection of issues of identity, Blackness and Pan-Africanism to later focus on social inequality, racism and social inclusion (Thomas, 2009) aligned with a current human rights discourse.

Political scientist, John Thomas, a student of the Afroperuvian social movement identifies the trajectory that I will lay out next. I end this trajectory at the year 2000 to highlight the organizations that made up part of the national ethno-racial field at the moment of its alignment with the global ethno-racial one. Having as a point of reference the recent decolonization of many African countries, and the acknowledgement of figures such as Patrice Lumumba, Kwame Nkrumah, and Martin Luther King, the group Los Melamodernos was founded by lawyer Juan Tasayco in the city of Lima (Thomas, 2009). The objective of this organization (that congregated mainly academics) was to apply the legal expertise of its legally

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18 Before and around the time of the formation of Black civil society and Black academic institutions, a select few Black artists gained important social notoriety, mainly through the revalorization of the traditional Black art expressions. These individual figures. Who founded important dance and music troops, also became visible representatives of the Black race and positive references of the social group. We find for instance between the 1960's and the 1980's: Nicomedes Santa Cruz, Carlos Hayre, Victoria Santa Cruz Gamarra, Amador Ballumbrosio, Ronaldo Campos Sr., and Pedro Carlos "Caitro" Soto De la Colina. All of them, responsible for bringing traditional Black expression, music and dances, to mainstream Peru. Other figures would follow towards the 1980's. Namely Eusebio Sirio "Pititi," Ronaldo Campos Jr., and Julio “Chocolate” Angeldones. See: Feldman, H. (2009). Ritmos Negros del Perú: Reconstruyendo la Herencia Musical Africana. Lima: Instituto de Estudios Peruanos.
trained members to the fight against racial discrimination (Thomas, 2009). Along with the Grupo Harlem, these two groups pioneered the civil engagement of Afrodescendants in Peru. Still, the lack of resources and their centrality in the city eventually lead to their dissolution (Thomas, 2009). In the early 1970s the young people found a space of congregation and debate about identity with the formation of the Cultural Association for Black Peruvian Youth (Asociacion Cultural para la Juventud Negra Peruana-ACEJUNEP) in 1972 (Ministerio de Cultura, 2015), and The Tribu around the same time (Thomas, 2009); Sister organizations that through their “soul parties” affirmed Black culture and Pan-Africanism (Thomas, 2009, p. 27). ACEJUNEP, founded by Jose “Cheche” Campos, Oswaldo Lecca and Nestor Lay, rallied around thirty young adults that would debate and problematize issues of Black identity and their position within the Black diaspora (Valdivia Vargas, 2013). In 1983, a number of Afroperuvian academics, some of them ex-members of ACEJUNEP and The Tribu, developed the Institute for Afro-Peruvian Studies (Instituto de Investigaciones Afroperuanas-INAPE) (Ministerio de Cultura, 2015). With the help of Cheche Campos, Jose Luciano, Susana Matute, Andres Mandros, and Juan Jose Vazquez, this research-oriented center, founded in Lima in 1983 (Quevedo Canales, 2014), aimed to produce knowledge and scholarship on the situation of Black people in Peru as well as open academic spaces in the country for the discussion of the matter (Valdivia Vargas, 2013).

One of the biggest challenges of INAPE however was its membership. Although, the Institute contributed to a larger conversation in academic spaces in Peru and abroad, it was only composed of university students and professors, which made its work inaccessible for the Black population at large. The institute did embark on a project to compile the oral experiences and stories of Afrodescendants on the country’s coast to create a “geo-ethnic map of Afroperuvian population its centrality in the city created a distance from the authors as producers of knowledge
and the community at large (Thomas, 2009, p. 29). Another of its problems was regarding its limited funding. At the beginning of its operations, INAPE received funding from the Ford Foundation, as well as a small research grant from the National Council of Science and Technology (Consejo Nacional de Ciencia, Tecnologia e Innovacion Tecnologica – CONCYTEC) (Thomas, 2009; Valdivia Vargas, 2013). Later, multilateral organizations would shift their funding away from civil society organizations doing research to those undertaking civil organizing and development programming. This limitation in funding marked the extinction of INAPE as an institution by 1987 (Thomas, 2009). Nonetheless, what emerged was the birth of a stream of Black organizations with various levels of civic engagement and focus. These institutions that are led today by ex-members of ACEJUNEP, INAPE, and La Tribu constitute a fairly well articulated Afroperuvian movement (Thomas, 2009). Together they constitute an engaged collective that will problematize the “Afroperuvian identity” and “articulate a discourse around racial discrimination” as a strategy of political advocacy (Thomas, 2009, p. 30).

The first Black modern political organization was the Black Movement Francisco Congo (Movimiento Negro Francisco Congo - MNFC), created in 1986 (Valdivia Vargas, 2013; Quevedo Canales, 2014; Ministerio de Cultura, 2015). This organization was founded in Lima by Andres Mandros, Luis Roca Torres, Guillermo Munoz, Jorge Ramirez, and other Afroperuvians and mestizo individuals (Thomas, 2009). MNFC became an umbrella organization that with regional branches and a considerable influence, affirmed itself as “a symbol of Black resistance and cultural affirmation in Peru” (Thomas, 2009, p. 32). One of the fundamental characteristics of this collective, different from its predecessors, was the open membership to people with different racial identifications (Thomas, 2009) and its objective of being a representative forum for the interests of Afroperuvians nation-wide (Valdivia Vargas, 2013). Their initial activities
were focused on the put in value of the cultural contribution of Afrodescendants to the national culture, as a way of highlighting the group’s value in society (Thomas, 2009; Valdivia Vargas, 2013). Towards 1992, with the confluence of international funding and the particular interest of some members of MNFC, the organization shifted its focus away from Lima to other Black communities along the coast of the country (Thomas, 2009). In 1996, the organization formally became national by incorporating affiliates from different provinces and regions of the country with Afrodescendant presence (Thomas, 2009). The MNFC, which is still active today, would later create the Black Association of Human Rights (ASONEDH). Founded by Jorge Ramirez in 1990, the organization had an important focus on the international audience (Thomas, 2011; Valdivia Vargas, 2013). Out of this organization, two former members, Eduardo Palma and Cecilia Ramirez would later find the Ebony World Youth Center (Centro Juvenil Mundo de Ebano), and the Center for the Development of the Black Peruvian Woman (Centro de Desarrollo de la Mujer Negra Peruana - CEDEMUNEP) respectively, in 1993 (Valdivia Vargas, 2013). Organizations that focus their efforts on the youth and women, respectively. This organizational arena would be joined by the Center for Ethnic Development (Centro de Desarrollo Etnico - CEDET) in 1998; an organization led by Oswaldo Bilbao (Thomas, 2011; Valdivia Vargas, 2013).

All the organizations referred to above, except the MNFC, focused their efforts mainly in the capital city of Lima. Consequently, they were the most visible and held an increased political capital for the government agencies that changed part of the ethno-racial field. Albeit, there are Black organizations in the rural areas of north and south Lima whose existence precedes the year 2000. However, the efforts of those Black organizations were narrowly focused on their specific locations and hence, were less visible and influential vis-à-vis their city counterparts (Thomas,
2011). Incidentally, both their efforts are legal and political recognition (and the construction of a body of ethno-racial norms); and, 4. The revalorization of the Black culture and its contribution to the nation-building project (Valdivia Vargas, 2013). The binding element among the organizations’ categorical claims, and one on which they are all in agreement, is the invisibilization of the Black population: *Black invisibility* (emphasis mine). Indeed, this invisibilization has come as a result of the social exclusion generated from colonial beliefs, the national mestizaje project that excluded the Black population and the “non-racialized” or color-blind official discourse held by most of the governmental regimes until the turn of the century. The consequences of which is a system that ignored their problems and obscured the conditions under which the Afroperuvian population lived.

Still, as could be expected, the broad understanding of racism held by affiliated Afrodescendants is in contradiction with the reductive understanding held by society at large, and even Afrodescendants that are not critically engaged. Indeed, “popular understandings and discourses of racism in Peru are still very underdeveloped and do not coincide with those of activists. For example, in contrast to activists who define racism broadly (e.g. perceiving media portrayals of Afroperuvians as racist), many Peruvians define racism more narrowly, equating it with the use of racial slurs and denial of entry of Afroperuvians into certain neighborhoods” (Sue & Golash-Boza, 2013, p. 81). Which is to say, that Peruvian society does not understand the phenomenon of racism as a structural system, but as active acts of racist aggression. That is, with racism being normalized in Peruvian society, it is not uncommon to deem Black organizations as racist themselves when they assert their claims (Wade, 2008; Paschel and Sawyer, 2008).
The Peruvian government at the turn of the century.

In their work *How Social Movements Matter*, Marco Giugni, Doug McAdam, and Charles Tilly (1999) affirm that “movements not only challenge state structures but also aim at redefining the sets of social relations that presuppose such structures, and the symbolic elements that justify them” (p. xxx). In the case of Peru, the active participation of the Black movement on the Conference preparation process made a significant difference in the standing of this collective before the government. Studying the implementation of ethno-development policy in Ecuador and Peru, Professor Sarah Chartock (2011) makes a point in asserting that the fortitude of social movements is the major catalyst to the implementation of social policies favorable to ethnic minorities. She continues, “Strong social movements are a deeper cause that can create these proximate implementation-facilitating factors where they do not exist” (p. 300).

At the theoretical level, a public policy decision, such as every ethno-racial political instrument promulgated in the country, follows the identification of a social problem that needs a solution (Lindblom, 1991). Hence, the argument that the government finally realized the urgency of tending towards social demands or at least the ones of the Black movement can be made. Still, there are other elements to consider when analyzing the national political field. For instance, the fact that the government under president Fujimori had a strong-arm policy against certain pockets of the population that happened to be located in indigenous areas, and a history of enacting policies and political decisions that were later ruled abusive, illegal, and against humanity. Then, considering that the process of the Durban Conference also carried the demands of indigenous peoples, makes understanding the compliance of the government less clear. That is, on its face, it does seem unusual that the government would have been willing to respond to ethnic based claims without contention.
An explanation, however, may lie in the political leverage of the Black movement as a historically non-contentious movement, or precisely, the pressure of the global ethno-racial field in the Peruvian government. Indeed, the history of the contemporary Black movement in the country does not record any kind of public stance, protest or mobilization before the government. In fact, the movement held a shy relationship with the state, and an even more conservative stance about the pursuit of organized political activity (Thomas, 2009). On the other hand, the path to democratization assumed by the majority of Latin American countries followed a very consistent trend towards the alignment of national legislation with international human rights standards. A political position that served the government later when being observed for its human rights violations.

Although it was not necessarily powerful enough to shift governmental trends, the Black movement secured the power to influence the internal agenda, setting political processes and affecting the processes of policy implementation. Their power lied precisely in their capacity to present themselves before the government and articulate their demands in alignment with the human rights discourse that the government was being pressured by. This position, met with the political will (or strategic decision), and the opportunity structures (Hollands & Vail, 2012) created by the alignment of the global and national ethno-racial fields, were the catalysts to the promulgation of a number of ethno-racial instruments in the country.

The Adoption of Ethno-Racial Instruments in Peru

Placing Peru in the context of the region and the two phases identified by Paschel (2016) the first of which is the regional recognition of the rights of Afrodescendants, such as the recognition of their existence in the law and public policies and the second being criminalization of racial
discrimination, is of particular relevance for this work. This contextualization provides a basis for understanding the perspective shift in the racial politics of Peru. Throughout its republican history, the protective framework for Afrodescendants, or the body of normative instruments that promote and/or protect the rights of the Black population of Peru was integrated for only two political instruments: The Declaration of Independence, and the Decree of Manumission, this situation changed with the turning of the century.

The Declaration of Independence of the Republic of Peru was signed on the 15th of July of 1821 by a group of nobles and aristocrats in the city of Lima (Anna, 1975). The Official document records these men as having convened in the Ayuntamiento (today, the palace of the city’s Municipality) under the directive of Don Jose de San Martin, liberador of the Republic (Anna, 1975). The proclamation of Liberty, however, was left for the morning of the 28th of July. On August the 3rd, San Martin assumed the title of Protector of Peru, establishing his rule over the freed Departments of the country (Anna, 1975). As Protector of Peru, he abolished the tributo indigena, and declared the liberty of wombs for all offspring of the enslaved born after July 28th of 1821, as well as for the enslaved that enrolled in the military (Zavala Rojas, 2013; Arrelucea Barrantes & Cosamalon Aguilar, 2015).

In 1854, President Ramon Castilla declared the manumission of all remaining Black slaves. Paying 300 pesos for each freed slave, the government bought the freedom of the (roughly) twenty-six thousand people still enslaved at the time. It is important to know that this measure formally marked the end of Black exploitation and slavery in Peru. However, it did not put an end to other kinds of slavery in the country, since after it, a new system of slavery was implanted with Chinese labor (Mariategui, 2001).
Coming out of the III World Conference and all its processes, and after a long political and legislative silence on the issue, the government of Peru embarked on a conscious path towards the recognition of its Afrodescendant population. It did so with the creation of a number of political institutions and instruments, aimed at the promotion and protection of their rights (see in Appendix: Table 1: Ethno-Racial Law for the Promotion and Protection of Afrodescendants in Peru).\textsuperscript{19}

**National institutions and political mechanisms.**

One of these agencies is the Afroperuvian Women Working Group (MTMA).\textsuperscript{20} This institution created under the mandate of the Ministry of Women and Social Development (today Ministry of Women and Vulnerable Populations) was the first entity within the executive branch that introduced the label “Afroperuvian” in reference to a population group; in this case, the women of African descent. Indeed, it was conceived as a mechanism for the interaction between the Deputy Ministry of Women and the women division of the most representative Black organizations. The objective of this civil society mechanism, still active today, is to formulate public policy proposals to promote and protect the rights of Afroperuvian women, along with initiatives geared toward the eradication of racism and sexism against women and girls. In October of the same year, the Commission for the Indigenous Peoples, Andean Population and Afroperuvians (CONAPA)\textsuperscript{21} that would later be replaced by the National Institute for the Development of the Indigenous Peoples, Andean Population and Afroperuvians (INDEPA)\textsuperscript{22} was

\textsuperscript{19} Table description: Compiled by the author based on data collected from different Executive and Administrative Agencies of the Peruvian Government. The table provides the legal reference to all the norms that make part of the ethno-racial law that seeks to protect and promote the rights of peoples of African descent in Peru.

\textsuperscript{20} Ministerial Resolution 294-2001-PROMUDEH, July 2001

\textsuperscript{21} Executive Order 111-2001-PCM, October 2001

\textsuperscript{22} Law 28495, April 2005
created with the objective of formulating national policies with these three populations as its main beneficiaries.

In July of 2002, a Multi-party National Political Agreement was signed. This document, still a principle of social public policy to date, was intended to show the commitment of the government, active political parties, and civil society organizations towards the promotion of equal opportunities for all, and consequential anti-discrimination efforts. Later, in 2007, an executive order, enacted the national policies to be followed by all the entities of the national government.\textsuperscript{23} These measures contemplate a number of issues including the mandate to undertake concrete measures to accelerate the development and integral social inclusion of the indigenous and Afroperuvian peoples, along with other protected groups. Further, in 2008,\textsuperscript{24} the National Congress ratified the Congressional Working Group on Afrodescendants. This organization integrated by legislators and representatives from Black organizations were mandated to review the existing legislation and propose legal alternatives to the promotion and protection of the rights of Afroperuvians. Later, in 2010 the Ministry of Culture would be created\textsuperscript{25} and in 2013 after an update of its legal mandate would establish a Directorate of Public Policy for the Afroperuvian Population.\textsuperscript{26} This office would absorb most of the legal and institutional mandates held by INDEPA and CONAPA, will be assigned with the formulation of specific public policy geared towards this population, as well as supervising and advising power over every other governmental agency enacting specific instruments or decisions regarding Afrodescendants. In accordance with this mandate, the Directorate undertook a specialized study to identify where the Afroperuvians were located within the territory, and what their

\textsuperscript{23} Executive Order 027-2007-PCM, March 2007
\textsuperscript{24} General Board Agreement 137-2007-2008/mesa-CR, June 2008
\textsuperscript{25} Law 29565, July 2010
\textsuperscript{26} Executive Order 005-2013-MC, June 2013
sociopolitical and economic, situation was. This study, done in collaboration with the National Institute of Statistics, served as the foundation for the official document, Orientations for the Implementation of Public Policy for the Afrodescendant Population;\(^\text{27}\) policy document that was promulgated by Executive Order in 2014.

The National Commission against Discrimination (CONACOD) was created in 2013, as well.\(^\text{28}\) This multi-agency office has the mandate of advising the National Offices of the Executive Power in the design and formulation of policies against discrimination or the ones promoting equality. Incidentally, the Human Rights National Plan 2014-2016\(^\text{29}\) dedicates an exclusive chapter to the situation of the Afrodescendants in Peru establishing a number of policy objectives and assigning political responsibility to a number of executive agencies to achieve these goals before the end of the document’s mandate. Also, in 2013, the National Interagency Committee of Ethnic Statistic was formed with the objective of reviewing the strategy to be put in place vis-à-vis the national census of 2017, as well as generate communicational strategies to raise consciousness in the Peruvian population about racial identification. Two years later, directing to the attention to the Afroperuvian Population would be declared a National Interest, the first step for the enactment of a National Plan or Political Development Strategy regarding the issue of interest. Later, in April of 2016, the Ministry of Culture presented the Geo-Ethnic Map. Political instrument that estimates the concentrated presence of Afrodescendant communities in the territory of the country.\(^\text{30}\)

Later, two important instruments were promulgated in June and July of 2016, respectively: The Strategic Political Development Plan of Peru towards it Bicentenary 2021, and

\(^{27}\) Executive Order 339-MC-2014, September 2014
\(^{28}\) Executive Order 015-2013-JUS, December 2013
\(^{29}\) Executive Order 005-2014-JUS, July 2014
\(^{30}\) Executive Order 162-2006-MC, April 2016
the National Plan for the Development of the Afroperuvian Population 2016-2020. Finally, in October of 2015, the Ministry of Culture decreed the National Policy for the mainstreaming of the intercultural approach\textsuperscript{31} urging all Executive Offices to adopt this approach within their public policy formulation and management.

**Symbolic measures, and cultural recognition.**

The process of recognition of the Afrodescendants in the country was not only reduced to the enactment of protective legislation and political decisions to promote and protect their rights. It also included the promulgation of some symbolic measures that expressed the value of the contribution of Afrodescendant peoples to the Peruvian culture at large.\textsuperscript{32} In 2009, and by executive order, the Peruvian government offers its historic apology to the Afroperuvian people for “the abuse, exclusion, and discrimination committed against this population starting during colonial times, until today.”\textsuperscript{33} The same instrument recognizes its efforts and its contribution to the national identity, the Peruvian culture as well as the defense of the territory.\textsuperscript{34} Meanwhile, on

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\textsuperscript{31} Executive Order 003-2015-MC, October 2015
\textsuperscript{32} We are convinced that this type of recognition is very valuable on its face. The Ministry of Culture itself, however, recognizes that the mass publication of this measures has been insufficient (see: Ministerio de Cultura (2016). *Patrimonio Cultural Inmaterial Afroperuano*. Lima: Ministerio de Cultura)
\textsuperscript{33} Executive Order 010-2009-MIMDES, November 2009
\textsuperscript{34} The official text reads as follows:

“Artículo 1º.- Perdón histórico y reconocimiento.
Exprésese Perdón Histórico al Pueblo Afroperuano por los abusos, exclusión y discriminación cometidos en su agravio desde la época colonial hasta la actualidad, y reconózcase su esfuerzo y lucha en la afirmación de nuestra identidad nacional, la generación y difusión de valores culturales, así como la defensa de nuestro suelo patrio.
Artículo 2º.- Acto Solemne.
El perdón y reconocimiento al Pueblo Afroperuano se llevará a cabo en una ceremonia solemne y pública, en la cual se elevarán votos por la equidad y la justicia como valores fundamentales para la construcción de una sociedad más justa y tolerante con la diversidad existente en nuestro país.
Artículo 3º.- Políticas Públicas.
El Ministerio de la Mujer y Desarrollo Social, en coordinación con los sectores competentes, dictará políticas públicas específicas para el desarrollo del Pueblo Afroperuano.
Artículo 4º.- Refrendo.
La presente Resolución Suprema será refrendada por la Ministra de la Mujer y Desarrollo Social.”
February of 2011, the National Ombudsman Office presented the first, ever, diagnostic document about Afrodescendants in the country: *Los Afrodescendientes en el Perú: Una Aproximación a su Realidad y al Ejercicio de sus Derechos.*\(^3\) This exercise would be repeated by the agency in 2013, and replicated by the Ministry of Women in 2014 with the publication of *Afroperuanas: Situacion y Marco Legal de Proteccion de sus Derechos.*\(^4\) Later, in January 2016, the Ministry of Education resolved to include new holidays within the national civic calendar to be upheld by all public and private institutions of regular education.\(^5\) These are: the international day for the elimination of racial discrimination (March 21\(^{st}\)), Day of the Afroperuvian culture (June 4\(^{th}\)), Day of the Indigenous Populations and Intercultural Dialogue (October 12\(^{th}\)), and Day of the abolition of slavery (December 3\(^{rd}\)).

Furthermore, there is one more institutional decision that is worth highlighting. Indeed, even when the Afrodescendant population was not a numerical or qualitative population majority, they had a significant impact on the national culture (Chocano Paredes, 2016). For instance, different Black cultural expressions are now practiced by the population at large, and so, adopted as part of the national folklore (Chocano Paredes, 2016). Accordingly, some Black artifacts have been included within the Peruvian national repository of Culture Case in point, in August 2001, the resolution that declared the Cajon Peruano (traditional instrument of Black Peruvian music) as cultural patrimony of the country.\(^6\) Similarly, in 2004, we have the inclusion of the Afroperuvian Museum of Zaña, an initiative that was born as a private-community

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37 Executive Order 003-2016-MINEDU, January 2016

38 Directorial Resolution N° 798/INC-2001, August 2001
initiative, to the national system of Museums.\textsuperscript{39} The same year, the National Institute of Culture declared national patrimony the Cumanana, traditional Black poetic compositions.\textsuperscript{40} In October of 2005, the festivity of El Señor de los Milagros (The Lord of the Miracles) is also declared national patrimony of the nation.\textsuperscript{41} The history of this deity is particularly important for the Afrodescendant community as his image was painted by a Senegalese slave in the country, and no natural disaster or intentional human efforts to erase this image in the post-colonial period were successful. Also, this deity is important because, the complexion of the Christ depicted is Black. As for additional symbolic measures, the Ministry of Culture established in June of 2006, the Day of the Afroperuvian Culture.\textsuperscript{42} A day to be commemorated is every 4\textsuperscript{th} of June, in remembrance of the nativity of Nicomedes Santa Cruz, reputed Black poet whose family’s efforts placed tremendous value on Black contributions to national culture while highlighting its richness and diversity. It is important to mention that this celebration was extended in 2014 with a Ministerial Resolution that mandated that it be celebrated during the whole month of June, annually.\textsuperscript{43} Finally, in December of 2007 the National Institute of Culture declares as national patrimony another Black instrument, the Cajita Ritmica Afroperuana.\textsuperscript{44} Most recently, in 2015, it recognized the community of Zaña as a live repository for the collective Black memory and a place for the preservation of Black identity.\textsuperscript{45}

\textsuperscript{39} Directorial Resolution 031-2004-IC, 2004  
\textsuperscript{40} Directorial Resolution N° 1255/INC-2004, November 2004  
\textsuperscript{41} Directorial Resolution N° 1454/INC-2005, October 2005  
\textsuperscript{42} Law 28761, June 2006  
\textsuperscript{43} Executive Order 182-2014-MC, June 2014  
\textsuperscript{44} Directorial Resolution N° 1765/INC-2007, December 2007  
\textsuperscript{45} Executive Order 187-2015-MC, June 2015
The criminalization of racial discrimination.

As was mentioned before, the political shift in Peru was accompanied by a change in the legislation against racial discrimination. Since then, the penal code has been continually amended to cite discriminatory acts as a criminalized conduct. The original inclusion of the criminalized conduct was in May of 2000, and was modified several times thereafter.\(^\text{46}\) The last amendment is dated in 2014 and identifies criminal conduct in the following terms: *Article 323: Will be punished he whom discriminates, or abides de discrimination, of one or groups of persons, or incites or promote publicly discriminatory acts based on race, religious, sexual, genetic, age, physical ability, language, ethnic and cultural identity, (...) with the aim of restricting the recognition or enjoyment of rights of the victim.*\(^\text{47}\) The sanctioned conduct carries a suspended sentence of two to three years for civilians, and a sentence of two to four years if the agent is a public server along with the prohibition to ever serve in public office again.

Furthermore, November of 2015 saw the first sentence for racial discrimination prompted by Ms. Azucena Angeldones after having been discriminated against in her place of employment. In addition, at the local level, different municipalities and regional governments across the territory

\(^{46}\) The first norm that introduced the criminalized conduct into the Penal code was Law 27270. This was modified by the Law 28867 in August 2006, and subsequently by Law 30096 on September 2013. Current sanctionable conduct was dictated by the last modification of Law 30171.

\(^{47}\) Penal Code of Peru, August 1991. The original legal instrument reads as follow: Ley 27270. *Artículo 323. Discriminación e incitación a la discriminación. El que, por sí o mediante terceros, discrimina a una o más personas o grupo de personas, o incita o promueve en forma pública actos discriminatorios, por motivo racial, religioso, sexual, de factor genético, filiación, edad, discapacidad, idioma, identidad étnica y cultural, indumentaria, opinión política o de cualquier índole, o condición económica, con el objeto de anular o menoscabar el reconocimiento, goce o ejercicio de los derechos de la persona, será reprimido con pena privativa de libertad no menor de dos años, ni mayor de tres o con prestación de servicios a la comunidad de sesenta a ciento veinte jornadas. Si el agente es funcionario o servidor público la pena será no menor de dos, ni mayor de cuatro años e inhabilitación conforme al numeral 2 del artículo 36. La misma pena privativa de libertad señalada en el párrafo anterior se impondrá si la discriminación, la incitación o promoción de actos discriminatorios se ha materializado mediante actos de violencia física o mental o a través de internet u otro medio análogo.*
have enacted Directives and Municipal Orders against discrimination in public and governmental premises.

**Conclusion**

In this chapter, I explored the elements that provided a window of opportunity for the emergence of ethno-racial legislation in Peru, and the protective instruments promulgated thereof. Indeed, as the national and global ethno-racial field aligned, the Peruvian government made the political decision to shift its racial politics away from color-blindness and lean towards enacting color-conscious legislation that would promote and protect the rights of peoples of African descent, also known as ethno-racial law. As a result, numerous measures were formulated and promulgated asserting the political subjectivity of the “Afroperuvian” as a subject of law and public policy. In the next chapter I analyze the nature and objectives of these instruments by providing an evaluation of their pertinence to fulfill their original goal. That is, if the body of ethno-racial legislation promulgated in Peru is pertinent to better the situation of Afroperuvian peoples. Similarly, I ask what the effects (if any) of their newly acquired legal and political subjectivity are?
Chapter 4
A Critical Evaluation of Ethno-racial Legislation in Peru

Introduction

With the adoption of a robust body of ethno-racial legislation, Peru is seeking to redeem its debt to the indigenous and Black population. The norms that took the racial politics in the country from color-blind to racially-specific are expected to usher the population of African descents in Peru to a third stage in their political positioning in the country. While they were enslaved during colonial times, later freed but left outside of the social and political dynamics of the country, they are now recognized as subjects of the law and public policies and their rights are protected. In this chapter, however, I will argue that after the adoption of this type of protective legislation, the situation of most Afrodescendants in the country has not changed significantly. Further, I explore some of the ways in which this legislation fails the collective group it is supposed to protect. For instance, I examine how the law’s “essentialism” reinforces the idea of a specific type of protected subject to the detriment of its subjects that do not fit that narrow model. In this regard, Afroperuvian women and Afrodescendants living in rural areas are not specifically addressed. Similarly, I explore how the legal framing of the ethno-racial legislation and its lack of discussion of Blackness as a “racial” or “ethnic” group has fundamental implications for its effectiveness moving forward. The chapter ends by evaluating other unaddressed legal and political considerations that this legislation does not contemplate such as the legal status of
Afroperuvians, the types of rights’ that ethno-racial law will guarantee and recognize, and it assesses the legislation’s main objectives. I highlight the extent to which current ethno-racial legislation offers a strategy to combat structural racism, alongside (explicit) racial discrimination in Peru.

**Ethno-racial Legislation in Peru**

A process that originated regionally in the 1970s (Paschel, 2016), the adoption of ethno-racial legislation is a trend that was adhered to by the Peruvian government shortly after its participation in the III World Conference against Racism. In fact, as described in the last chapter, to this date, the government has enacted multiple national and regional political and legal instruments and mechanisms that promote and protect the rights of Afroperuvians. Aside from the social implications of ethno-racial legislation, and the question of how it affects the social dynamic of the countries they are enacted in, there are a considerable number of purely legal potentialities to take in consideration. These specifications are not only important because they feed the intellectual discussion about the topic, but also, because they shed some light on the intention of the legislator and their foundational objectives when formulating these measures. These discussions are seldom purposefully started by the lawmakers who are typically not lawyers (at least in Peru), but by the legal instruments they produce and pass. That is, despite the intention of the legislator, the legal analysis of current legislation departs from an assumed intentionality in the letter of the law and of its silences.

**Legal considerations.**

The process of enacting ethno-racial legislation in Peru was not planned or articulated by one agency. Indeed, this legal body is composed of several measures enacted by different
agencies at contrasting times (see in Appendix: Table 1), often without a notion of cohesion or complement intention which raises interesting legal issues. The first measure was enacted by the Ministry of Women, who did not consult with any one, then came the présidence of the Minister Cabinet, who saw fit to enact a different legal instrument on its own. Later came more legal instrumentation, thus there were a number of policies and laws being enacted that did not support or converse with each other. Indeed, some of the legal discussions that the ethno-racial legislation in Peru raises are related to the legal status of the group, the types of rights and claims they are based on, the types of rights they would agree that Afrodescendants are entitled to, and finally, the scope of the objectives of the law.

Afroperuvians: a racial group.

Understanding a collective as a racial group, means the recognition of a particular demographic that shares certain markers that identify them as part of this group. However, outside the recognition of their phenotypic characteristics as similar, or the eventual recognition of a common historical past, this group is not considered different from the population at large in terms of its characteristics, and even less in the assignment of specific rights. That is, to consider a collective as a racial group, implies recognizing its characteristics (and eventually its specific needs) but it does not consider these as distinct from the majority of the population. In this sense, racial groups are not beneficiaries of additional rights above others in a given society, but rather, they are considered groups whose substantial equality in society must be guaranteed. Ethnicity,

48 The notion of substantial equality is constructed vis-à-vis the notion of formal equality within the law. A way of illustrating the difference between these two levels of equality could be made with the assertion of equal subjects before the law. A formal equality assertion would be: “all citizens are equal before the law.” Strictly speaking, the nominal sentence seeks to include all citizens, hence fulfilling the basic requirements for the affirmation of equality among all citizens in a country, even if true equality is not realizable. On the other hand, an affirmation that could be operationalized by any citizens in search of equality and recognizes that not all citizens experience the same barriers before the exercise of their rights
on the other hand, imports an elevated level of legal protection and legal status within the legal structure of Peruvian law. As an example, the Political Constitution recognizes the legal personhood of native and peasant communities, including their structural autonomy and their property rights over ancestral lands, as well as their cultural identity. While ethnicity is understood as an articulating element based on a culture of its own, ancestry or connection with the land or territory, classifying a demographic as an ethnic group requires the legal production of norms that not only protect the individual part of the group ethnicity but also to the elements that form the basis of their ethnicity. That is, norms that protect their language, territories, ancestral knowledge, and cultural artifacts.

In the Peruvian case, for example, while the Afroperuvian population has been considered a racialized group, the indigenous population (both Andean and Amazonian) is considered an ethnicity. The consequences of the political option for one or the other (denominating a population group as a racial group or ethnic group), then, highly impacts the legal basis on which the rights of each group are demanded.

will be one that promotes the true (substantial) equality among citizens. A legal assertion like: “All men and women, regardless of their race, ethnic origin, age, sex, sexual orientation, level of ability, and any other consideration that may limit the exercise of their rights, are equal before the law” is a more comprehensive instrument that can be operationalized and realized by any citizen in seek of equality. Further, since it holds less room for interpretation, is less likely to suffer from an application bias by the public servant or legal operator.

The article 89 of the Political Constitution of Peru (1993) reads as follows:
Artículo 89°. - Las Comunidades Campesinas y las Nativas tienen existencia legal y son personas jurídicas. Son autónomas en su organización, en el trabajo comunal y en el uso y la libre disposición de sus tierras, así como en lo económico y administrativo, dentro del marco que la ley establece. La propiedad de sus tierras es imprescriptible, salvo en el caso de abandono previsto en el artículo anterior. El Estado respeta la identidad cultural de las Comunidades Campesinas y Nativas.
It is important to make the following annotation. Article 89 is titled: Of the Agrarian Regime and the Native and Peasant Communities. This language follows the one used in the agrarian reform of 1969 in Peru hence referring to what the Ministry of Culture calls today indigenous communities (Pueblos Indígenas) as native and peasant communities.
This discussion is important because it has not been discussed or defined by legislation. In fact, according with some of the elements that I explore and explain in the next points, it can be argued that Afroperuvians are considered a racial group, yet, that is not a determination that has been made indubitably by the law. As a result, the official discourse regarding this issue is ambiguous. Evidence of this is the nominal (and unnecessary) inclusion of Afrodescendants in the motivation section of some of the legislation that establishes some protections based on the ethnic identity of indigenous peoples (such as language, bilingual education, and the recognition of indigenous ways in health), or that mandate the adoption of an intercultural approach in public policies without further reference to Afrodescendants or Afroperuvian culture.50

The right to difference vs. equality.

As introduced by Paschel (2016), the right to difference versus the right to equality is the legal and theoretical discussion that has followed the study of ethno-racial legislation in the region (Paschel, 2016). This discussion mainly refers to the correct type of ethno-racial laws should be based the positionality of the protected group. That is, in the case that the Afrodescendant population, the debate centered on whether they were to be considered an ethnic group, with a specific (and to be considered, separate) culture and cultural artifacts, traditions, systems of justice, folklore and overall social order, or as a racial group.

If understood or defined as an ethnic group, the ethno-racial legislation in a country would need to recognize the uniqueness of this group and protect this uniqueness with tailored

50 Such as the law for Intercultural and Bilingual Education, that focuses on strategies to put in value Quechua, Aymara and other indigenous languages in regular education particularly in areas where these languages are prevalent, and that in general, do not have Afrodescendant populations. Another example is the National Guide: “Public Services with Cultural Pertinence”. A guide for the application of an intercultural approach in the management of public services that accounts for the indigenous people’s cosmology but neglects a serious engagement with the needs of Afrodescendants. A similar example is posed by the Sector Policy for Intercultural Health, among other political instruments.
legislation that protect its difference. If considered a racial group, the assumption of the law is that the population to be protected is limited in their access and opportunities to the enjoyment of their already recognized rights as citizens, and so the legislation is tailored to either the elimination of barriers or the guarantee of access to these rights, from the position of their equality before the population at large. The case of Brazil and Colombia, as Paschel’s work notes, illustrates this point clearly. After its process of recognizing minorities, Colombia’s Afrodescendants were recognized as a protected group with its own cultural identity.51 With the promulgation of the Law 70 in 1993, the government fulfilled its constitutional mandate and recognized Afrodescendants in Colombia as an ethnic group. In addition, it recognized their ownership over the rural lands in the Pacific river coast.52 One of the main assumptions of the

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51 The Constitutional mandate of the article 55 (transitional) reads as follows:
Artículo Transitorio 55.
Dentro de los dos años siguientes a la entrada en vigencia de la presente Constitución, el Congreso expedirá, previo estudio por parte de una comisión especial que el Gobierno creará para tal efecto, una ley que les reconozca a las comunidades negras que han venido ocupando tierras baldías en las zonas rurales ribereñas de los ríos de la Cuenca del Pacífico, de acuerdo con sus prácticas tradicionales de producción, el derecho a la propiedad colectiva sobre las áreas que habrá de demarcar la misma ley.
En la comisión especial de que trata el inciso anterior tendrán participación en cada caso representantes elegidos por las comunidades involucradas.
La propiedad así reconocida sólo será enajenable en los términos que señale la ley. La misma ley establecerá mecanismos para la protección de la identidad cultural y los derechos de estas comunidades, y para el fomento de su desarrollo económico y social.
(Transitory article 55 (Extract)
Within two years of the promulgation of this Constitution, Congress will promulgate a law that recognizes collective ownership rights to the Black communities that have been occupying the empty lands in the rural areas of the Pacific river coast, in accordance to their traditional production practices (...) The same law will establish mechanisms for the protection of their cultural identity and the rights of these communities, as well as for the promotion of their economic and social development.)

52 The first article of the Law 70 reads as follows:
Artículo 1. La presente ley tiene por objeto reconocer a las comunidades negras que han venido ocupando tierras baldías en las zonas rurales ribereñas de los ríos de la Cuenca del Pacífico, de acuerdo con sus prácticas tradicionales de producción, el derecho a la propiedad colectiva, de conformidad con lo dispuesto en los artículos siguientes. Así mismo tiene como propósito establecer mecanismos para la protección de la identidad cultural y de los derechos de las comunidades negras de Colombia como grupo étnico, y el fomento de su desarrollo económico y social, con el fin de garantizar que estas comunidades obtengan condiciones reales de igualdad de oportunidades frente al resto de la sociedad colombiana.
law, as referred to in its third article, is the autonomy of the Afrodescendant population in Colombia. In that sense, the norms seek to guarantee their rights assuming the uniqueness of this group before the general population. A uniqueness and exclusive culture that makes the members of this group different from Colombians at large.\textsuperscript{53}

At its time, Brazil showcases the scenario where the Afrodescendant population is not considered ethnically different but rather a racial group (Paschel, 2016). In this country, it is recognized that Afrodescendants have a number of limits and barriers to exercising their rights; yet, the status of the group is not considered separate from the population at large, hence the need for assuring their substantial equality. In this dynamic, the ethno-racial legislation would not recognize “new” rights for this population but rather enact strong regulations to guarantee the elimination of barriers (symbolic and legal) so they can exercise their rights as citizens of the country. That is, their claims are formulated from the standpoint of their equality, rather than from their difference. Indeed, the group is not conceived as a collective that requires a particularly differentiated protection but as an aggregated group within society that requires a

\textsuperscript{53} The third article of the Law 70 reads as follows:
Artículo 3. La presente ley se fundamenta en los siguientes principios: 1. El reconocimiento y la protección de la diversidad étnica y cultural y el derecho a la igualdad de todas las culturas que conforman la nacionalidad colombiana; 2. El respeto a la integralidad y la dignidad de la vida cultural de la comunidades negras; 3. La participación de las comunidades negras y sus organizaciones sin detrimento de su autonomía, en las decisiones que las afectan y en las de toda la Nación en pie de igualdad, de conformidad con la ley.

(Article 3. The present law is supported in the following principles:
1. The recognition and the protection of the ethnic and cultural diversity, and the right to equality of all cultures that make part of the Colombian nation; 2 The respect to the integrity and the dignity of the cultural life of Black communities; 3. The participation equal of Black communities and its organizations, while respecting their own autonomy, in the decisions that affect them and the ones of the Colombian nation at large), the emphasis is ours.
heightened need of the same legal protection all Brazilian citizens are entitled to. The legal model adopted in countries such as in Brazil tends to include a strong body of legislation geared towards the elimination of racial discrimination, and some combinations of quotas or otherwise mechanisms to guarantee the exercise of rights of Afrodescendant citizens.

An evaluation of the consequences of this political option, however, must be undertaken. Particularly, regarding what it means to be "legally different," and its consequences at the social level in highly unequal societies like Latin American ones. Even recognizing that there is an additional layer of legal protection for ethnic group’s vis-à-vis racial groups, it is pertinent to evaluate whether there should be any social or political downside to hold this heightened level of legal protection. While it is true that the legal position of being protected based on one’s own difference could arguably be more effective as it provides concrete and actionable remedies to historic discrimination and social inequalities, it is also important to take into consideration whether public servants and government officials are able to recognize these differences in a positive way, instead of reinforcing negative stereotypes in the application of the law. By the same token, it is important to verify how these measures be received by society at large and if an eventual pushback could legally be contained or if it would generate further backlash or violence against the protected communities.

The instruments enacted in Peru would indicate that the protection of Afrodescendants departs from their right to equality. Indeed, the Afroperuvian population has not been recognized with an additional or specific set of rights or their culture denominated separate from the national one. Further, they are not considered a separate social group within the nation borders, nor a separate culture within constitutional regulations. In that sense, they are protected by the same body of legislation that protects all Peruvian citizens. The need for special protective legislation,
then, is based on the notion that endemic and structural racism has made their ability to exercise their rights particularly difficult. Indeed, as much can be read in the motivation section of the majority of the norms that make part of this body of laws, such as the National Plan for the Development of the Afroperuvian Population 2016-2020, the Orientations for the Implementation of Public Policy for the Afrodescendant Population, and the expression of the historic apology.

In other words, as Afroperuvians are not considered a separate cultural group from the mainstream one, their special legal protection is not rooted in their difference from society but rather on the need to guarantee the full enjoyment of their rights and their equality. That is, without any kind of racial discrimination that would hinder or limit this equality.

**Collective vs. civil rights.**

Directly in relation to the last two points, the discussion regarding the nature of the rights recognized, collective or civil, is a legal precision that should be elaborated on. Civil rights are ones that protect the liberties of individuals and that guarantee their participation in the political life of the states in which they live. These rights are guaranteed to all people, under equal conditions and without discrimination. Examples of these rights are the ones contained in the International Covenant on Civil and Political Rights, such as the right to participate in political life, to vote and assemble, as well as the right to equality before the law, personal security, and freedom of speech and worship. Moreover, according to the same international document, the right to equality and non-discrimination is a civil right (art 26). Further, as human beings, all peoples are subjects of law.⁵⁴ Collective rights, on the other hand, are rights that are recognized by collectives or social groups to protect their interests or their particular identity within the

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⁵⁴ See also, personal legal subjectivity.
national states. Of the more recent developments in the international human rights laws, the collective rights have been based mainly on the right to the self-determination of the indigenous or tribal peoples (UNRIC, 2017). In this sense, they relate specifically to the rights granted to "peoples" in multi and pluricultural states (ILO, 1989). These are those related to the specific protection of the characteristics that make up these groups and ethnicities. That is, ethnic group membership entitles them to a differentiated type of justice, different worldview and medicine, language, territory, cultural identity, and so on. In the case of collective rights, these are granted not to individual persons but to collective subjects of law. That is, the beneficiaries of these rights are the members of a specific group, precisely because of their membership to said group.

In the case of Peru, Afro-descendants, as a racialized group that do not enjoy the status of an ethnic group, can only resort to the individual exercise of their civil rights. That is, the claims of Afrodescendants, are always of individual rights, even if claim collectively. On the other hand, the indigenous population in Peru, understood as an ethnic group, enjoys collective rights that the ethno-racial legislation guarantees and recognizes (see in Appendix: Table 2: Ethno-racial Institutions and political mechanisms for the protection of indigenous peoples in Peru). In their case, for instance, we can find technical health standards for the recognition of their ancestral traditions, protective legislation of their languages, specific rules for the protection of certain indigenous communities, as well as rules to establish consultation processes on the use of their territories.

The legal distinction is important, which is why the political decision should be made explicit. For instance, although intuitively racial groups have tended to have protections

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55 Table description: Compiled by the author based on data collected from different Executive and Administrative Agencies of the Peruvian Government. The table provides references to some of the norms that make part of the ethno-racial law that seeks to protect the indigenous population in the country, from 1975 to the present.
recognized based on their civil rights alone, such as the case of Brazil, and ethnic groups would be recipients of collective rights, as in the case of Colombia, the creation of legal exceptions is possible insofar as they are made explicit. Bolivia is a fitting example of this. Bolivia is an Andean country with a minority Afrodescendant population such as Peru. Similarly, while the indigenous population of this country enjoys constitutionally recognized collective rights based on their ethnicity, these rights have been extended "in what is applicable" to the Afrodescendant population in the country. In other words, it is possible to grant collective rights (specific and exclusive protection) to Afrodescendant populations without recognizing them as an ethnic group or as self-determined people. However, this distinction must be made explicit in the national legislation.

Currently, in the case of Peru, Afrodescendants are recipients of a heightened protection of their recognized civil rights, based on their equality and treatment as a racial group. That is, they enjoy the same types of rights that every Peruvian citizen enjoys just because of their nationality. Meanwhile, indigenous peoples are collective subjects of law and have a special regimen of protection for the elements that make them an ethnic group (see in Appendix: Table

56 Political Constitution of Bolivia, 2009. Articulo 2. Dada la existencia pre-colonial de las naciones y pueblos indigena originario campesinos y su dominio ancestral sobre sus territorios, se garantiza su libre determinación en el marco de la unidad del Estado, que consiste en su derecho a la autonomia, al autogobierno, a su cultura, al reconocimiento de sus instituciones y a la consolidación de sus entidades territoriales, conforme a esta Constitución y la ley.
(Article 2. Given the precolonial existence of the nations and indigenous, natives and peasant peoples and the ancestral ownership of their territories, their self-determination if guaranteed in the context of a unitary state. That is, the guarantee of their right to autonomy, self-governance, their own culture, and the recognition of their institutions and the consolidation of their territorial entities, in accordance with this Constitution and the law)

(Article 32. The Afrobolivian peoples enjoy, in everything that is applicable, of the economic, social, politics and cultural rights recognized in this constitution to the nations and indigenous, natives and peasant peoples.)
2). Adopting a case like the legal formulation in Bolivia would not only make the protection of Afrodescendant culture sustainable in time, but it would support Afroperuvian culture and recognize its contributions to the national fabric of Peru. It is important to note that my mention of culture does not suggest that Afroperuvians should not be framed as a mere “cultural” group. But rather, I use this language to illustrate that the support of ethno-racial legislation has a two-fold impact both on the group’s collective rights, as well on the increased visibility of the group’s diverse practices, history, and contributions.

**Racism as a social barrier to the law.**

At the public and private institutional level, the Afro-descendant population continues to be in a situation of special legal, social and political vulnerability mainly due to a historical racism has permeated all areas of society (Defensoria del Pueblo, 2013). Negative stereotypes that reduce Afroperuvians to their “superior performance” in sports or arts, to the neglect of their contributions to scientific or intellectual production reflect long-internalized stereotypes in Peruvian society. Similarly, the lack of representation in the media or their characterization as "fun," or otherwise lazy, are also manifestations of the structural racism that persists in Peru, even after the promulgation of the first ethno-racial instrument. These racist characterizations are further institutionalized because Afro-Peruvians and their contributions to diverse areas of society are not part of the basic education in the national regular curriculum. This exclusion represents a racist bias towards this population, that has not been resolved with or by the emergence of ethno-racial law, and further that hinders its potential effectiveness.

Indeed, racism is all too common in Peruvian society and makes up part of the regular lives of all Peruvian citizens, all around. Eduardo Bonilla Silva (2016) argues that racism is a structural and systematic phenomenon under which all members of society live and actively
participate. In the case of Peru, specifically, a racist ideology of Black inferiority still permeates all aspects of public and private life for Afroperuvians, with its expression being lived and felt rather frequently, even after the enacting of ethno-racial legislation. It is evident while walking down the street, through the mass media representation of Blackness, at social, sport or family events, and always in reproduction on the collective imaginary. In fact, even the language used in the quotidian interactions of Peruvian citizens use racialized remarks that are rooted in racial stereotypes (Munoz Flores, 2010), or in a colonial condescending paternalism where the racial identity of the respondent is used as a term of endearment, such as *negrito* or *negríta* (little Black men/woman) (Hernandez, 2014). These remarks infuse the language of radio and television, reproducing and amplifying their effects (Defensoria del Pueblo, 2013) while creating synergies with other systems of oppression such as classism, sexism and heterosexism (Munoz Flores, 2010).

Further, the absence of a historical memory that recognizes all the groups that made the Peruvian nation what it is today has allowed for the reduction of the contribution of the Afrodescendant populations in the country to the capital city’s culture (rather than the national one that is still mainly rooted in the indigenous Peru). Afro-Peruvians add to the cultural ‘flavor’ of the capital city but their contributions to rest of the country remain ignored or discounted. As a result, although their artistic contribution is recognized, as well as their contribution to Peruvian cuisine (Zavala Rojas, 2013), their knowledge production, and their contributions in the sciences is dismissed. As a result, society at large has adopted the idea that Afrodescendants are not necessarily entrepreneurial or academically inclined but rather their value is limited to certain specific arenas in life. For example, in their study about social perceptions of Afrodescendants, Gina Pancorbo, Agustin Espinosa and Rosa Maria Cueto (2011) observe that Afroperuvians are
referred to as “happy people,” but also lazy, uncultured, untrustworthy, conformist, and loud (Pancorbo, Espinosa & Cueto, 2011). Evidently this type of social mentality influences the population at large, and their interactions with Afrodescendants. Which at its time influences how legal operators and public servants interact with them in their official and unofficial capacities.

This mentality affects the relationships Afrodescendants form among themselves, and how they police their actions in this society. For instance, in her study of Afroperuvian professionals, Liuba Kogan (2014) finds that young students at the university level still are subjected to explicit and implicit messages that discredit their academic and intellectual abilities (Kogan, 2014). Further, the author speaks to the policing Afroperuvians exercise on themselves, their performance and looks, to be perceived as “more professional” in the labor market. This includes the straightening of the hair, and the adoption of other westernized affects, while minimizing or hiding their Afroperuvian features (Kogan, 2014). In fact, the study, that includes interviews with headhunters and employers highlights the fact that, in general, employers prefer to hire lighter people under the strong assumption that Black Peruvians lack not only a basic professional inclination but display a lack of cultural and social competency that would prevents

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58 The effects of racism in Peruvian society are extremely complex and multilayered mainly because the racial dynamics in the country and its main pillars are too. On one side, because being a highly racialized society, its racial order is not reduced to the fundamental dichotomy of Black/White as would be the American case, but includes a strong indigenous element to be considered. Indeed, as a country that is geographically fragmented, the territory itself has created a platform where the indigenous peoples are geographically marginalized from the city. As a result, the dynamic between mestizos, peoples of African descent and indigenous is highly complicated. While the indigenous is a discriminated group that nonetheless is considered an ethnic one and that in the rights negotiation process strives for their right to difference, the Black population is in a different position. Still marginalized but living in coastal cities and geographic centers of power, they are constantly othered despite their claims being rooted in their equality. As this work is mainly focused on the role of ethno racial legislation in the betterment (or lack thereof) in the lives of Afrodescendants, I will not delve into the effects of racism in the Peruvian society, but I do recognize that the topic is particularly extensive and complicated as well as full of aspects and actors to consider.
them from being “comfortable” in managerial positions (p. 48). Incidentally, the national socioeconomic indicators that measure the economic growth of the country evidenced that despite the consistent economic growth, sustained for the last ten years in Peru, the social conditions Afrodescendants live in and their social determinants have not changed significantly (Quevedo Canales, 2014). Socioeconomic policies would presumably benefit Afro-Peruvians, but their relative poverty in relation to the population at large (Hernandez, 2014) means that the race-blind nature of these policies are ineffective. Despite being in coastal centers with more access to markets and services, Afro-Peruvians have not benefitted significantly from these polities (Quevedo Canales, 2014). Indeed, data shows that 39.3% of Afrodescendants in the country find themselves outside of the economically active population, doing menial jobs that in turn feed into the stereotypes of what Afrodescendants do in the collective imaginary, namely, performing as cooks, chauffeurs, doormen, dancers, musicians, and athletes (Quevedo Canales, 2014). In sum, is evident that while a racist culture continues to be pervasive in the country, it cannot not be affirmed that the situation of Afrodescendants in Peru is significantly better, the existence of protective legislation notwithstanding. Further, it can be argued that the existence of this legislation, with the characteristics that it has in Peru, is not the pertinent avenue for Afrodescendants to achieve betterment based on its own formulation.

Legal response: The (exclusive) combat against racial discrimination.

The political and normative objectives of the ethno-racial legislation in Peru, as well as in all the countries of the region that have adopted this type of legislation, are to promote, protect, respect and guarantee the rights of Afro-descendant populations within their national territory. That is, it seeks to elevate the rights of people of African descent, as a demographic group, to the same standard of protection enjoyed by human rights in all states. In other words, when
generating ethno-racial regulations, the states of the Americas recognize Afro-descendants as a vulnerable group that requires special protection within the framework of international human rights law. Whether they are considered a racial or an ethnic group, the ultimate objective for these laws is to provide a platform to achieve a standard of substantial equality among all citizens. It is important, however, to be clear about the limits of legislation in general, and ethno-racial regulations, as well as their ability to create solutions for the problems identified by the Afro-descendant populations. In other words, ethno-racial legislation has constituted a major change in the direction of the protection and promotion of the rights of Afroperuvians, which, however, has muted a pivotal issue: One of the fundamental characteristics of ethno-racial legislation in Peru is that, while recognizing the pervasiveness of racism against Afroperuvians, it is aimed exclusively at the eradication of racial discrimination. That is, when assessing the extent to which ethno-racial regulations can create solutions for the most pressing issues for the Afrodescendant population in Peru, one must consider that the elimination of racism, albeit identified, is not the main objective of these regulations. This, of course, is particularly problematic because of two main factors. One, the persistence of racist ideologies in Peru, as naturalized and structural as they have become, in the collective imaginary of all Peruvians, will continue to be a problem in the country, despite the existence of protective legislation for Afroperuvians. And two, it will always be a factor that poses a challenge on the existence of ethno-racial legislation itself and its application.

The Inter-American Convention against Racism, Racial Discrimination and Related Forms of Intolerance defines racism as “any theory, doctrine, ideology, or sets of ideas that assert a causal link between the phenotypic or genotypic characteristics of individuals or groups and their intellectual, cultural, and personality traits, including the false concept of racial superiority”
(OAS, 2013-B). This definition echoes the definition of racism held by academics in the social sciences. Discrimination, on the other hand, is legally defined as any distinction made in the public or private sphere that has the purpose or effect of limiting the exercise of the rights of other persons. Indeed, the Inter-American Convention against all Forms of Discrimination and Intolerance states that:

Discrimination is any distinction, exclusion, restriction or preference, in any public or private sphere, that has the purpose or effect of nullifying or limiting recognition, enjoyment or exercise, under conditions of equality, of one or more human rights or fundamental freedoms enshrined in the international instruments applicable to the States Parties (OAS, 2013-A).

In this context, ethnic-racial discrimination is based on the ethnic-racial origin of the persons discriminated against (OAS, 2013-A). Incidentally, racism does not have to be part of a discrimination process. That is, it is possible to discriminate against a person or racial/ethnic groups without an element of racism. For example, it constitutes indirect discrimination when one follows an application of neutral measures whose application implies a disadvantage for some determined ethnic-racial groups (OAS, 2013-A). In other words, in a society with deep social inequalities, where ethno-racial groups are disadvantaged, measures dictated "for all" without disaggregated elements of protection are not necessarily racist or based on a notion of racial or ethnic superiority, but still racially or ethnically discriminatory. Thus, racism may very well be the cause behind discriminatory measures. However, if ethnic and racial discrimination can be caused by the application of neutral measures in an unequal society, it is possible to discriminate without a racist element. Similarly, it is possible for the law to reduce its scope to address only discrimination without addressing or providing solutions for structural racism.
Further, understanding that discrimination (racial or otherwise) requires a tangible or potential disadvantage, while racism insofar as an ideology can exist without the need of human action, it ought to be recognized that these two separate and different phenomena require two separate and different approaches.

Still, because I understand that the separation of both concepts might not be automatic, I will illustrate my point with the example of the Negro Mama case. Negro Mama is a beloved and highly popular television character in Peru. He is part of the cast on a primetime weekly comedy program that involves him in sketches enduring different social adventures. Negro Mama is played by a mestizo actor who, to characterize Mama, paints his face Black, uses Black gloves and a nose and prosthetic lips. Additionally, the character has a particular way of talking, walking and navigating the world around him. He relies on Black stereotypes to construct his humor and the situations that he is involved in, always portraying an image of Blackness in relation to stupidity, laziness, and social incompetence. In 2010, and despite a very strong social backlash, a legal case was brought against him with the argument that his mere existence, the broadcasting of the character, violated the dignity of people of African descent. Even though the legal process is still ongoing, some arguments can be made supporting the claims made above. First, as this case made clear, the ethno-racial law in Peru is not the mechanism to deal or resolve a case of text-book racism that does not involve an active case of racial discrimination. A priori, one must bear in mind that racism is not a legal concept while racial discrimination is. In that sense, racial discrimination can only be attacked from the level of legal norms; a task that ethno-racial legislation addresses directly. Structural racism, however, as a social structural phenomenon, can only be addressed with a comprehensive political and social strategy, that may or may not include the law, but that certainly rallies other types of mechanisms beyond it. The
Negro Mama case did not involve a case of racial discrimination and in that sense. As a result, neither the plaintiffs nor the legal operators saw fit to use the body of ethno-racial law available at the time. Further, since the norms do not regulate or create mechanisms for the elimination of racism, these actors were left without proper tools to even raise the issue of racism within the legal proceedings in a meaningful way.

Ethno-racial instruments that focus on the elimination of racism would be ones that address the persistence of negative stereotypes against Black people in the media, or the lack of inclusion of their history and contributions to the nation in educational curriculum, yet these kinds of regulations are precisely the ones lacking in Peru. Furthermore, another detail is that during the investigation, the immense social support the character enjoyed suggests that racism will survive the promulgation of ethno-racial law. That is, structural racism will not be resolved insofar as the legislation focuses only on Afroperuvians and ignores the social institutions that Peruvians navigate. That is, if the ultimate intention is to eradicate racism, then the legislation needs to address society at large (educational policies, mass communication regulations that includes all members in society, and so on) and seek to restructure the racial order. If the legislation is geared only towards Afrodescendants, the problem of racism would have been omitted entirely. In other words, racism will not be eradicated by only engaging with the victims of it, without addressing the roles other actors in the racist system. Conversely, while this omission persists, true equality and social inclusion and development for Afrodescendants will not be achieved.

From the examples and analysis provided above, I have illustrated that Peru’s current ethno-racial legislation inherently has functional limitations, which are related largely to the fact that it: 1) does not address the debate about the legal status of the group it seeks to protect and 2)
it focuses on racial discrimination rather than racism. In light of these limitations, I explore the extent to which these laws have impacted Afro-Peruvian peoples.

The Effects of Ethno-racial Legislation on Afropereuvians

Being recognized as a protected class now, Afrodescendants in Peru are now explicitly assured the full enjoyment of their most basic rights without discrimination based on their racial identity. Still, as the spirit of the law and political objectives do not necessarily affect the reality of people in a timely manner, it is important to revise the extent to which the political and legal transformations have impacted Afropereuvians concrete experiences, opportunities, and racial subjectivity. For instance, there are a multitude of elements that this type of legislation has not addressed that I believe are paramount to the betterment of the lives of Afrodescendant peoples in Peru. At its most basic level, the ethno-racial legislation has artificially created a new political subjectivity, which is an important development.

The creation of a new racial identity.

The identity of Black people in Peru, as with most Black peoples in the world after they were victims of the transatlantic slave trade, was not inherent but imposed on them. Indeed, Black was not a label they chose but one that was placed on them to differentiate them from their oppressor (Berlin, 2003). In the case of Peru, the enslaved brought to the country (Negros bozales or ladinos) and the ones born in the country (Negros criollos) were always considered “negros” (Black). With time and the establishment of the republic, and then the manumission, Negros continued to be referred to as such. Eventually with the mestizaje projects and the need for official differentiation, other labels are informally implemented such as mulato, zambo, quarteron, and such. However, and as a group fundamentally removed from the dominant
society, Peruvian citizens of African descent are still Negros. In that scenario, the Afroperuvian identity is an artificially constructed political label that, like Negros, is now being imposed on these peoples.

The Black identity in Peru, once imposed, continued to evolve until it was mainly rooted in a racialized past and present. That is, the Black people in Peru that recognized themselves as such\(^59\) did so under the assumption of belonging to a historically racialized group, based on their phenotype characteristics (Valdivia, 2014). Nestor Valdivia (2014), for instance, calls this identity process one in construction, where one’s pillars are an idea of historical culture, as in the racial heritage of our ascendants, and race, as in the idea of being part of a racialized group, the Black race (Valdivia, 2014). Similarly, this racial identity protocol is the one that guides the subsequent processes of racial identification of the group. For instance, a study by GRADE applied to Afrodescendants in 2006, shows that more than 50% of Peruvians of African descent find that the color of their skin is the root of the racial discrimination they may be a victim of, rather than their perceived social class or socioeconomic status (Munoz Flores, 2010). Similarly, and having internalized the stereotypes associated with Black people, Kogan found that Afroperuvians that are recognized as intellectually or professionally successful are first perceived as foreigners than as Peruvians (Kogan, 2014). This is particularly relevant because it shows that the construction of a Black identity in Peru is delimited to the controlling images and racial stereotypes that have made part of the informal national social discourse in the country.

\(^{59}\) The historical past of the country can explain to some extent the potential refusal of Black Peruvians to identify themselves as Black. Indeed, the mestizaje project and the understanding that Peruvians are highly mixed individuals, along with whitening ideas, and the entitlement to choose one’s own racial identification are elements that “not only to permit but to encourage self-classification in lighter categories” (Telles & Paschel, 2014, pp. 870-871). A similar effect has the association of Blackness with a restricted access to economic resources and political opportunities (Ames, 2011). See also Minority Rights Group (1995). *No Longer Invisible. Afro-Latin Americans Today.* London, United Kingdom: Minority Rights Publications.
The official history of the country was never meant to alleviate this problem. At the time of the construction of the republic, the focus of the elite was in resolving the ‘Indian problem’ (Mariategui, 2001; Sue & Golash-Boza, 2008), to the detriment of understanding or dealing with Blacks in Peru as a potential demographic group that would become part of the citizenry (Sue & Golash-Boza, 2008; Green, 2010). Indeed, Blacks were imagined out of the nation formation process all together (Sue & Golash-Boza, 2008). Their geographical dispersion facilitated this process, as they were not perceived as a strong or unified group (Valdivia Vargas, 2013). Even today, Afrodescendants in Peru do not articulate themselves as a community with a unified identity, concerns or demands. As a case in point, while there is a robust fraction among the peoples of African descent, that tend to recognize themselves as Afroperuvians/Afrodescendants, particularly the ones involved or, or close to Black organizations, the unaffiliated ones and those living in rural areas tend to identify themselves as negros.

An additional and fundamental inquiry, when evaluating the effects of ethno-racial legislation in the country, ought to be its impact on society at large, and what this would mean for Afrodescendants themselves. Jan Hoffman French (2009) argues that going from color-blind legalism to ethno-racial legislation provides racialized citizens with a platform to legally adopt a newly-recognized ethno-racial identity that in turn, makes it a creditor of rights and entitlements (French, 2009). Even though the absence of said legislation did not negate the rights of the Afrodescendant citizen to hold or assert any kind of ethnic or racial identity, there is an increased stake on that decision after the enacting of ethno-racial law on one’s country. Whether the existence of this body of law encourages the massive identification with being an Afrodescendant as a racial identity, it is useful to identify some of the differentiated effects that this legislation could have among the Peruvian of African descent.
The Differentiated Effects of Ethno-racial Legislation among Afroperuvians

Formally, Black men and women in Peru are now being recognized as part of a protected class, and hence, subjects of specific legal and political protection. In that sense, some specific measures have been undertaken by the government to ensure their full social inclusion and access to opportunities without discrimination. The “Afroperuvians,” however, are not a homogenous group but rather a demographic composed by peoples of all age, sexual orientation, socio-political conditions, and geographical location, even though most of them live in urban areas (Valdivia Vargas, 2013). Similarly, they all have distinctive characteristics, and diverging political and personal concerns and needs. From the point of departure that recognizes the heterogeneity of the Afrodescendant population in Peru, the body of protective legislation enacted in favor of the Afrodescendant population, albeit very well intentioned, holds one very fundamental flaw. In its intention to include the entire Black population in the country, it has disregarded the diversity of this population. For instance, it holds a masculinist bias (Hill Collins, 2009) out of which the needs of Afrodescendants are understood as male subjects living on the coast. In other words, in its neutral generality, this protective legislation body has ignored several particularities that may shape this non-neutral subject. In other words, while rooted in the eradication of one system of oppression, namely the historic, endemic and institutional racism, ethno-racial legislation in Peru has ignored other, often intersecting, sources of oppression, such as, sexism, and classism. Stated differently, racism is experienced differently by people depending on their social positions, as well as potentially aggravated by other confluent systems of oppressions based on their specific conditions.
Civic affiliation.

As was illuminated in the last chapter, the claims of the Black movement in Peru are focused on the recognition of the Black contribution to the country, and the recognition of racism and racial discrimination as perils to Peruvian society which disproportionately affect the Black population. These claims, however, are not constructed after a democratic process that included all peoples of African descent in the country. Instead, it was driven by human rights and civil rights institutions that have taken on the role of defending and promoting the rights of Afrodescendants. In this way, as with the ethno-racial legislation process in the country, these organizations have experienced great legislative successes, but their relationship with Black people at large should be noted, as the relationship between the two is complicated.

Even though the leaders of Black organizations do not consider themselves Black representatives, but rather mediators of the Black interests before the state and society at large (Valdivia Vargas, 2013), the actors they interact with, be it the media or the state itself, identify them as Black leaders. In that sense, they have become spokespersons for the “Black race” further deepening the existent fraction between them and the actual Black population. Indeed, the closer they are perceived to the government, even in their role as advocates for Black rights, the further they distance themselves from “regular Black folk” (Valdivia Vargas, 2013). The more these representatives are embraced by the mainstream, the more they are viewed by Afro-Peruvians as more privileged and less empathetic to their own claims. This is exacerbated by the fact that most organizations operate in coastal cities, and do not engage with Afroperuvians living in rural areas (Valdivia Vargas, 2013).

The way in which Black activists articulate their claims are also problematic when seen from the point of view of unaffiliated Black Peruvians. While they use a human rights discourse
as a specific mechanism to broadly define racism and racial discrimination, society at large, and the Black population that are not close to this type of organization still defines racism in a rather reductive way, namely as direct and/or active instances of racial aggression, deepening the bridges of understanding between both groups (Sue & Golash-Boza, 2013). Their intervention approaches are also problematic if evaluated under the lens of unaffiliated people. Since most of these organizations do more “desk work” with numbered and precise social interventions in coastal cities, they are not perceived as being part of the communities they serve and are widely unknown by this community especially to those located in rural areas (Valdivia Vargas, 2013).

Black organizations have not seen the need to establish themselves as grassroots or mass movements to operate and obtain concrete results that in turn would benefit the Black population (Valdivia Vargas, 2013). This type of methodology, however, has alienated them from the actual Black people in the country. Despite their personal understanding of what it means to be Black in Peru, however, the empowerment that comes from their own dealings with it has deepened a gap between them and their communities. Their language is different, they have access to more opportunities as they are closer to the centers of power, and most importantly, they have not always considered the heterogeneity of the Black experiences lived outside of the coast. As a result, even though their work has been fruitful, and they enjoy of the attention of the state regarding how to better the lives of Afrodescendants, most of them have lost the trust of Afroperuvian communities at large, whose claims are often related to their economic and substantial conditions, rather than centered exclusively on their racial identification (Kogan, 2014).
Another way that the heterogeneity of the Afro-Peruvian population matters but has not been addressed in the norms, is in the ways in which different groups relate to the notion of Blackness. In Peru, different imaginaries about race can be formulated if one is in the coastal region or in the Andes. The case is the same, if one is closer to the center of power in the cities, or in the rural areas. Christina Sue and Tanya Golash-Boza (2013) call these imaginaries “competing” (p. 78) while asserting that the closer one is to indigenous regions, the fastest the idea of Blackness disappears in the collective imaginary (p. 78). Historically, the Black population in the country have lived in the coastal regions (Green, 2010; Valdivia Vargas, 2013) yet, there are Afroperuvians located in rural areas (Ministerio de Cultura & Grupo de Analisis para el Desarrollo, 2015). As a result, the Afrodescendant peoples in Peru are a heterogeneous group with distinctive characteristics, needs, and ways to relate to our own Blackness.

In that sense, Afroperuvians living in rural areas could be identified as having a more “indigenous way” of social and political organization if compared with the Afroperuvians living in the city. Similarly, their relationship with the territory is different and the struggles that they face. A case in point:

Rural Afro-descendants, for example, often conceive of their collective identities in ethnic terms and emphasize the need for collective rights to land and culture, while urban Afro-descendants have generally organized in terms of a racial group identity, and have focused more on anti-racial discrimination rights (Hooker, 2008, p. 285).

Still, as the political leadership of the Black movements have been primarily led by Afrodescendants in the cities, some of the claims of the rural Black communities have gone unnoticed (Hooker, 2008). That has been the case in Peru, as the legislation enacted does not
consider the barriers that affect Afroperuvians living in rural areas. To illustrate this point, I will recount an experience regarding access to health services as reported in the publication *Afroperuanas. Situación y Marco Legal de Protección de sus Derechos* (Afroperuvian Women: Situation and their Protective Legal Framework) by the Ministry of Women.\(^6\) Black women in the city face several barriers when in need of the public system of health. The women interviewed reported facing not only the general geographical and economic barrier to access to this type of services,\(^6\) but most reported then an additional barrier when faced with health professionals themselves. Stereotyping, health assumptions based on their race, and overall mistreatment were among some of the main incidents. In the case of Black women living in rural areas, they that found in addition to these barriers there was understaffing of health centers, lack of capabilities in the health professional cohort to treat them, along with cultural insensitivity and an overall disregard for their humanity (Ministerio de la Mujer, 2014).

**Gender.**

When explaining the intersection of race and gender, and how the experiences of women in general, are different from the experiences of Black women in particular, renowned Professor of gender and sexuality Michael Kimmel tends to refer his audience back to the same anecdote.\(^6\) He describes the context of a study group where he is the only male, and the conversation between a white and Black woman that roughly happens like this: Upon the white woman’s pronouncement that all women share the same experiences and are subject to the same kind of oppression, she is asked by her unconvinced counterpart, what she sees when she looks in the

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\(^6\) Although public services of health have no cost in Peru, they require the investment of time to be able to be seen by the health professionals. Time that, in general, is more costly in terms of unearned wages.

\(^6\) Kimmel has recounted this anecdote in a number of his writings. For an extended explanation and the significance of the described exchange, see https://www.youtube.com/watch?v=JgaOK74HqiA
mirror. The white woman responds, that she, in fact, sees a woman in the mirror. To this, the Black woman responds, that therein lies the problem. What she sees, is a Black woman. For her, she continues, race is visible, and real. And the fact that the white woman does not see race, is a part of her privilege; one that the Black woman does not have and that makes her struggle fundamentally and uniquely different. In the Peruvian case, some of the perils that affect Black women are related to the access and enjoyment of quality health services, schooling, employment, education, as well as violence, and lack of political representation and participation (Ministerio de la Mujer, 2014). In fact, as some of the social representations of Black women follow the hyper-sexualization of their bodies and the overestimation of their bodily strength, as well as their reduction to activities of care and nurture in detriment of intellectual activities, Black women consistently report a lack of validation of their humanity when seeking health care (Defensoria del Pueblo, 2011; Ministerio de la Mujer, 2014). They also report mistreatment in other areas due to widely-held social stereotypes about their (perceived) capability, and overall social standing in society (Ministerio de la Mujer, 2014).

The enacting of protective legislation to promote the rights of Afrodescendants in the country has created a platform where Afroperuvians have now the mechanisms to protect and exercise their rights without discrimination. This new legal body, however and as mentioned before, leaves out important demographics within this group. In fact, this legislation has done very little to highlight or recognize the situation of Black women in the country, both in the cities, as in the rural areas. Accordingly, it lacks specific measures to address their vulnerabilities and needs. Albeit a fundamental and major flaw, some understand that their issues ought to be resolved by the political and legal framework for gender equality. Upon the revision of this normative body, however, I found an overall absence of Black women’s needs or a significant
acknowledgement of them. In that regard, Kimmel’s anecdote serves the purpose of illustrating the specific need for an intervention that acknowledges the situation of Black women specifically instead of leaving this to the legislation that protects all women.

**The gender equality framework.**

The national gender equality protective framework in Peru is regulated by the Ministry of Women and Vulnerable Populations. This is an executive agency that has as a primary mandate the design, promotion, execution, and oversight of the national public policies in favor of women and vulnerable populations. In this context, the Law of Equal Opportunity for Men and Women (LIO) was enacted in 2007 with the objective of establishing the institutional gender equality policies under which further measures could be elaborated. The LIO dictates, on its sixth article, that it is an obligatory mandate of the Executive Power, and the local and regional governments, the promotion of the economic, social and political participation of rural, indigenous, Amazonian and Afrodescendant women, as well as their inclusion in decision-making spaces. This article is particularly significant because of its phrasing, but also because it would seem to set the tone for the document. However, its significance also lies in the fact that said article is the first one, out of only two that explicitly mention Afroperuvian women. Indeed, although the legislation claims to be rooted in the recognition of the multiculturality of the country, neither the process of its elaboration or its overall phrasing reflects a true inclusion of said values, or at least, one with which the Peruvian women of African descent could see their rights promoted or protected integrally.

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63 Legislative Decree 1098, Decree that approves the Organization and Functions Law that regulates the Ministry of Women and Vulnerable populations  
64 Law 28983, Ley de Igualdad de Oportunidades entre Mujeres y Hombres, March 2007  
65 The second one involves the guarantee of access to justice
Along with this instrument, the National Plan for Gender Equality (PLANIG) 2012-2017 is the aspirational policy instrument that by establishing specific mechanisms and setting concrete goals for other Executive agencies, seek to achieve gender equality in the country. This political document is rooted in a result-based model that seeks a mainstream gender approach in all levels of the government, as per indication of the LIO. Its elaboration process was open and collaborative, and hence, is concrete evidence of the political will the Peruvian government has to its female population. The PLANIG calls, among other objectives, for the insurance of all women during their cycle of life. As an indicator, it requires of the Executive Agencies of the Health sector to generate disaggregated data of indigenous, Amazonian, Afrodescendants women, as well as rural, disabled and elderly women insured every year. It further draws on specific indicators for the reduction of stereotypes in mass media that is reflective of the diversity of women in Peru, and encourage the Ministry of Health and related Offices to adopt an intercultural approach in the service delivery. Although the instrument focuses on a number of issues that aim to assure major progress towards the goal of gender equality, the aforementioned are highlighted as being the only ones that seem to hint towards the inclusion of Black women. Only the first one mentioned doing so explicitly.

In observance of the LIO, and following the indicators set forth in the PLANIG, the norm mandates that all government agencies report to the Ministry of Women and Vulnerable Populations about their yearly advances in the promotion and protection of the rights of women

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66 Executive Order 004-2012-MIMP, August 2012
67 Strategic Objective 4. Result 4.1
68 Strategic Objective 2. Result 2.3. This principle does not mention Afrodescendant women but we choose to understand the reference to the “diversity of women” as symbolic language that shows a tendency in that direction.
69 Strategic Objective 4. Result 4.3. As with the previous indicator, this principle does not mention Afrodescendant women but we choose to understand the reference to the “intercultural approach” as symbolic language that entails the inclusion of Afrodescendant women.
in Peru. With said data, the Executive Agency is to create a national report. Having tracked the yearly reports, one will find that the few references made to Black women tend to be in a descriptive manner. That is, not really producing data but describing the normative instruments already mentioned and recounting the need for creating disaggregated data. Most importantly, the report does not engage in a critical evaluation of the absence of these women or the lack of advances regarding their rights, or their reporting.

In a way, this absence can be explained by the fact that the LIO, and the PLANIG, as its direct product, are tainted by the same essentialism showed in the first assumption of the white woman in Kimmel’s anecdote. The gender equality norms are protective of women. Yet, without a sustained and consistent attention to the diversity of women, they leave outside of its scope, the Peruvian women of African descent.

The exception of the Black women working group.

In the previous chapter, it was mentioned that one of the first ethno-racial measures adopted by the country was the creation of the Afroperuvian Women Working Group (MTMA). And indeed, the case of the MTMA is very particular. Intuitively, it can be assumed that such an initiative is actually the answer to the question about what area of the state should be called to promote and protect the rights of Afroperuvian women, specifically; moreover, being an initiative under the Ministry of Women. Despite the existence of this mechanism, however, I will still argue that insofar as the Ministry’s policies are ruled by the overarching gender equality framework that do not contemplate Black women, the MTMA fails to address their interests in a meaningful way, or one that agrees with the Afroperuvian women’s agenda. That is, so long as the mandate of the MTMA is limited to the framework set forth by the LIO and the PLANIG, it suffers from the same biases. Namely, the work of the MTMA did not have a solid and
consistent political standing until the production of a multidisciplinary report about Black women in the country.\footnote{Ministerio de la Mujer y Poblaciones Vulnerables. Afroperuanas. Situación y Marco Legal de Protección de sus Derechos. Vol. I-VI. July 2014} This product was immensely significant and resonated greatly with both the Black organizations and other Executive Agencies. Yet, this extremely anticipated achievement came after sixteen years of institutional operation, and it was not the labor of the State, necessarily, but a confluence of a number of factors that facilitated its production and later the publication; mainly the work of Black women themselves.

Through the years, the work of the MTMA has gone through various phases and assigned to the monitoring of different state officials. Its history records close to twelve years of inaction while being ascribed and re-ascribed to different offices within the Ministry. In August 2013, the Director General of Gender Equality and Non-Discrimination, finally, appointed a Black woman with a background on the Black movement in Peru to coordinate the works of the MTMA. Under her two-year tenure, and internal advocacy within the state, as well as the confidence and trust of the women of the MTMA, the Working Group regained morale and saw itself with a bigger platform of action, which was the catalyst for the production of the National Report. Later, the publication they produced, \textit{Afroperuanas. Situación y Marco Legal de Protección de sus Derechos} (Afroperuvian Women. Situation and The Legal Framework That Protects Their Rights), was declared by the, then Minister of Women and Vulnerable Populations, as the state’s initial contribution to the discussion about the problematic affecting Black women in Peru (Ministerio de la Mujer, 2014).\footnote{The translation reads as follows: “Esta publicación constituye un aporte inicial a la discusión de la problemática de la mujer afroperuana en el Estado peruano” (Ministerio de la Mujer, 2014, I, 30)}
Conclusion

Today, the Peruvian legal system contains an important number of legal and political instruments that comprise its ethno-racial body of legislation. These norms are aimed at the promotion and protection of the rights of Afrodescendants in the country. Further, they are supposed to provide a platform that would ultimately achieve the full social inclusion and development of this population. The formulation of most of these instruments, however, reveal a number of shortcomings that can significantly affect the possibility of achieving these objectives. On one hand, they seem to assume that the subject to be protected is a male that lives along the coast. That is, it does not address the needs and demands of women or the Afrodescendants living in rural areas. Similarly, while solely having Afrodescendants as subjects of the law, this legislation seems to be a pertinent tool for the eradication of racial discrimination. However, it is precisely this narrow focus that allow us to conclude that these norms not only fail to confront the issue of structural racism, but further, that they are not a good mechanism to resolve it. As a result, not only the overall situation of Afrodescendants has remained largely unchanged by the protective legislation, but the paradigm of having this legislation as the protective framework that will better their situation may be one of the factors preventing this change given its inherent limitations. In the next chapter, I revisit this argument and the ones developed in previous chapters, to formulate some policy recommendations that more inclusively protect the rights of Afrodescendants, surpassing the identified shortcomings of the law and promote their true social inclusion. Further, my suggestions promote a positive impact among the still underserved Afrodescendant populations in the country and can positively impact Peruvian society at large.
Chapter 5
Conclusions

In the process of constructing their social personas, human beings have built a reality for themselves that has meaning and to which they give constant significance. In that sense, the construction of society and its institutions responds to the dialectic relationship that it has with the individuals that comprise it (Berger & Luckmann, 1991). As a social construction that is constantly reinforced and re-signified, race is realized and made real continually through interaction and social structure. Indeed, within the reality of everyday life, our existence is filled with instances where race is affirmed, created and recreated implicitly or explicitly in the quotidian, making it an integral part of social interaction (Hartigan, Jr., 2010). Conversely, even if not explicitly addressed in our quotidian experience, race has very real consequences for people. Its most important one is the level of advantage and social capital one possesses based on one’s racial identity (Hartigan, Jr., 2010).

Albeit presumably part of our own personal politics, everyday life is a reality that is constantly interpreted by other human beings (Berger & Luckmann, 1991). In this, Juliet Hooker affirms, “we have developed racialized modes of seeing and cognitive and perceptual mechanisms that lead us to ‘see’ race and to ascribe meanings to the morphological traits we
associate with it” (Hooker, 2009, p. 5). In that sense, despite being accurate,\textsuperscript{72} insofar as race is an embodied and visual characteristic, it becomes an unavoidable “visual identity” (Hooker, 2009, p. 5). While racialization is not based solely on physical characteristics, one of the main problems of racial categorization, however, is that in many societies, it serves as the basis for exclusion and marginalization of peoples.

The way in which states deal with deeply embedded social inequality differs greatly across regions. In the case of the Latin American region, recent and targeted ethno-racial legislation developed with the goal of ameliorating the lives of non-dominant ethnic and racial minorities. This process started, in some counties with the amendment of their constitutions (Supreme law of the land) to recognize the existence of these groups within their territories. In this, Peru is not an exception. Although the legislator did not pass any constitutional amendments, a robust body of ethno-racial law emerged around the turn of the 20th century. This legislation recognizes the existence of ethnic and racial minorities in the country, the historical limitation of their basic human rights based on racial exclusion and proposes mechanisms to remedy such limitations and prevent them from happening in the future.

The objective of this work was to explore the factors that contributed to the emergence of ethno-racial legislation in Peru and to examine the extent to which the emergence of ethno-racial legislation impacted the lives of members one of the most negatively racialized peoples in Peru: Afro-Peruvians. Stated differently, this study examines whether this kind of law was sufficient to improve Afro-Peruvians’ lives. In this chapter, I articulate together my major findings and

\textsuperscript{72} Insofar as the “racialized” ways of seeing are often based on racial stereotyping, the accuracy of the racialized reading and the racial identification of the person read cannot be assumed to match. Since it is a subjective process, and further, socio-culturally variable, the meanings of race vary from one society to other. Hence, people can be read as being part of different ethnic/racial categories depending on their particular standing in the world, or even by different people within the same socio-cultural system.
conclusions from the previous chapters. I also provide some additional concluding remarks that could inform future policy improvements and better the lives of Afroperuvians as a result.

**Main arguments**

My main intention when starting this work was to analyze the extent of the change created by the new political subjectivity of the Afroperuvians, as well as to explore some of the key issues pending to achieve their full social inclusion in the country. My argument was that the shift in the racial politics regarding the Black population in Peru, a phenomenon that had been promoted by the Black movement, facilitated by the III World Conference against Racism, and accelerated by different international institutions and the regional trend, was consolidated with the emergence of a robust body of ethno-racial legislation. Still, even though these developments forged the creation of the political subjectivity of the “Afroperuvian” and mandated the protection and promotion of their rights, a political status shift that was a major first step, is still insufficient to substantially better Afroperuvians’ lives. Further, placing all the political hopes on this legislation to improve the situation of this population might prove an inadequate strategy as these norms hold important inherent limitations that inhibit their effectiveness, in addition to being limited by an overarching racist culture. After all, this culture potentially hinders the effectiveness of laws and newer legal frameworks do not even seek to change this culture.

In arriving to this conclusion, I disaggregated this work into four chapters. After presenting my methodology and organization of the work in Chapter 1, I went on to explain the origins of the Black presence in Peru in the second chapter. Then, I argued that the post-colonial racial formation process in Peru, out of which we inherit a racialized system of power, acted as the significant historical context to understand the precarious situation of Black people in Peru
today and their place in society. To support the argument about their contributions, I reviewed the literature on their arrival in the country as slaves, highlighting the importance that they had on the economy during and after the colonial period. I showed that while important to the national project, their contributions went unrecognized and denied, particularly after the independence of the country. Declaring its independence from the Spanish Empire in 1821, the nation formation process that followed was one of striving for the establishment of a modern nation and modernity, the way it was understood by the nation’s elites, did not include the unrestricted presence and inclusion of nonwhites. Further, owning a heterogeneous geographical space that can, potentially, territorially segregate populations, the national ideals in Peru were able to sustain the selective integration of indigenous peoples and the exclusion of Black peoples from the nation formation process. Consequently, while many of the indigenous peoples remain inside of the country and the ones living in the cities exist by shedding their traditional garments, language and overall culture, Black people were expected to mix their family lineage with lighter peoples to obtain better access and opportunities of livelihood.

Eventually, the idea of the Peruvian nation as a country of mestizo citizens, despite its indigenous majority, became the country’s identity. Later, in contemporary times, the re-vindication of indigenous culture through the affirmation of the history of the Incan Empire, Machu Picchu and other traditional pre-colonial landmarks and artifacts have consolidated the idea of Peru as an indigenous country with a mixed-raced citizenry; a narrative that erases both the presence of Afrodescendants in the country, and indigenous peoples as specific demographic groups that compose the Peruvian nation. This model, until very recently, was reflected in the legislation and public policies in the country. Indeed, the established legal model in Peru was one of color-blind legalism. This kind of model is perceived as neutral and geared toward the
protection of the rights of all citizens. In highly unequal societies, however, neutral legislation serves a contrary purpose. Since they do not account for the factual and symbolic barriers that the disadvantaged members of society experience in trying to access or enjoy their basic rights, this legislation becomes the enabling factor for the maintenance or widening of social inequality gaps. That is, color-blind legislation enables color-coded inequalities. Such social inequality, in the case of Afrodescendants in Peru, followed their history in the country as enslaved peoples. Later this led to them being considered rejected candidates for the mestizaje project, and it cemented their invisibility in the law and policies. Out of this institutional and social invisibilization, peoples of African descent in Peru became the poorest demographic group living in the coast of the country, as well as the group with the lowest professionalization rate and school permanence vis-à-vis their national peers (Ministerio de Cultura & Grupo de Analisis para el Desarrollo, 2015). Therefore, their socio-political situation in the country is precarious, as well as their livelihood and overall conditions in comparison to the population of Peru at large (Ministerio de Cultura & Grupo de Analisis para el Desarrollo, 2015).

**Shifts in Racial Politics**

A change in the country’s racial politics was evidenced in the year 2000, when Peru promulgated its first ethno-racial instrument geared towards the promotion and protection of the rights of Afrodescendants. Incidentally, in the third chapter of this work, I argued that the adoption of ethno-racial legislation, which left behind the color-blind legal system, is the legal and political structure out of which Black political subjectivity has developed. The emergence of protective legislation and public policies was not an accident. It followed the regional trend towards multiculturalism that encouraged most states in the region to adopt legislation that recognized the
presence of different ethnic and racial groups, sometimes called nations, on their territories. Tianna Paschel (2016) a student of these processes in Latin America, identified the catalyst of these changes in Latin American countries as the result of the alignment of the global ethno-racial field, mainly composed of all the international actors and stakeholders that can dictate global policy about racial and ethnic issues, and the national political field that is sympathetic to these issues. In other words, Paschel asserts that institutions like the human rights global agenda shifting its focus towards the attention of the rights of minorities, the strengthening of the transnational Black movement and the preparations for the III World Conference against Racism were important elements that served as a catalyst, providing the necessary opportunities for national Black power actors and movements to finally succeed in their demands for recognition and legal protection. Using her model, I explained how the experience of the Black Peruvian movement and its leaders, coupled with a receptive government, were able to follow the path set by the international stakeholders and assume the commitment of generating concrete measures to protect the Afroperuvian population.

As a result, the once unmentioned group became the subject of a few legal and political instruments that turned them into subjects of law. The Peruvian government created several national institutions and generated political mechanisms that could be used by Afrodescendants in the country to assert their rights, as well as by the public servant or officers of the law when serving this population. Similarly, it promulgated a number of highly symbolic measures, like the issue of a public apology to this population, and public declarations that aimed at recognizing the value of Afroperuvian culture within the national one. Said measures included the inauguration of an Afroperuvian museum and the inclusion of traditional musical artifacts into the archives of national patrimonies. Ethno-racial law also included concrete legislation criminalizing racial
discrimination. That is, whereas before the turn of the century the legal model in the country abided the systematic disenfranchisement of an entire population, the emergence of ethno-racial legislation sought to adopt a new system where their rights were protected and guaranteed.

**Limitations of Ethno-racial Legislation**

However, the robust body of ethno-racial legislation has not seemed to improve the lives of Afrodescendants in Peru. Furthermore, despite its explicit objectives, it has fundamental failures that are preventing its effectiveness and will continue to do so moving forward. I develop this argument more extensively in the last chapter. In it, I argue that even though formally, peoples of African descent in Peru can now enjoy a heightened level of citizenship as subjects of protective legislation, this normative acumen has not accounted for the needs and particularities of all Afrodescendants in the country; Particularly, Afroperuvian women and Black people that live in rural areas. In addition, it has omitted a number of legal theoretical considerations that, in turn, affect the potential use of these norms by Afroperuvians themselves and the legal operator and public servants. That is, in trying to answer the question about the extent to which Afrodescendants’ standard of life is improved in Peru because of ethno-racial legislation, I found that their situation was not only roughly the same, but that the legislation itself had a major part to play in the maintenance of the status quo. Indeed, its narrow focus, silences, and misguided objectives are partly to blame for its shortcomings and failures.

For instance, I reference one of the few works on Afroperuvians, such as Tanya Golash Boza, *Yo soy Negro* (2011). In it, the scholar explores the relationship that Black people in the rural area of Ingenio de Buenos Aires, in the north of the country, have with their own Blackness. The main take away from her work is that the construction of Blackness in Peru, and
most concretely the relationship that most Afroperuvians have with it varies greatly across different geographical areas. For instance, while Afroperuvians in rural zones refer to themselves majorly as Negros, the racial classification used in the capital city is less likely to be such. Further, there is a difference in one’s racial categorization if the civil engagement of the respondent is accounted for. That is, people of African descent that are closer to the organizations of the Black movement tend to self-identify as Afrodescendant or Afroperuvian, which is not the case for people outside of these circles in the capital city or rural areas. In that sense, the fact that the legislation promoting the rights of this group identifies them blankly as Afroperuvians can become problematic.

The discussion about the types of rights that Afroperuvians will be recognized for and if their cultural specificity should be guarded outside or within the national Peruvian culture are also important elements to take into consideration - but the law has not addressed them yet. Another pressing issue that has not caught the attention of the legislator and policy maker when formulating these instruments is that neither of them (from the analysis of their text and nature of their implementation) is geared towards the elimination of structural racism. Rather, they are mainly focused on the elimination of barriers for the enjoyment of civil rights, that is, in the eradication of racial discrimination. The evidence for this claim lies in the fact that racism, as a systematic social problem, cannot be resolved from the point of the victim only, and without involving other actors in society. As I understand that the latter can be a particularly bold or controversial statement, I illustrate my argument with a recent case that occurred in Peru. *El Negro Mama* is a “humorous” character in prime-time television in the country that enjoys an ever-increasing popularity despite relying on all the negative stereotypes that have been historically attached to Black people for its characterization. Around the year 2010, after 10
years of having many instruments that protect the rights of Afrodescendants, the character was contested by an articulation of organizations of the Black movement. The backlash that Black leaders received from the population at large, demonstrates how deeply entrenched racism is in Peruvian society. Clearly, to remedy such a situation, much more than laws against individual discrimination is needed. The mechanisms to address structural racism ought to be comprehensive and multilayered. It also evidenced, as can now be implied, that norms that seek to protect the rights of Afrodescendants and ones that seek to eliminate racism in the Peruvian society need different approaches, indicators, targets, and theoretical foundations.

In the next section, I will propose some policy and legal recommendations that I believe could help the legislation address some of its omissions and legal silences, clearing the path to a social model where Afrodescendants can thrive in Peru and the Peruvian nation can be bettered as well.

The Future for Afroperuvians
In an ideal world, the type of protective legislation enacted in Peru would be temporary. Indeed, as it is focused on removing the actual and symbolic barriers that affect the exercise of basic human rights of Afrodescendants, there ought to come a time where these barriers are no longer in existence. What these norms do not account for, however, is that the limits to exercising basic civil rights are not the whole spectrum of the social problems that affect Afroperuvians but the consequence of a bigger (and structural) problem. If it is identified that their socio-political status, as described in chapter 2, is the result of a racist culture inherited from colonial times, then the limits to the exercise of their rights is a small aspect, albeit significant, of a much bigger problem that goes unnoticed by ethno-racial norms.
Peru is a relatively stable country in the region. Despite its record of human rights violations during the 1980s and 1990s, the governments that followed have been considerably and generally more respectful of the human rights standards agreed upon in international fora and obedient to the sentences of supranational justice administrators such as the International Court of Justice and the Inter-American Court of Human Rights. Conversely, it has consistently followed the recommendations of these organizations as well as other international mechanisms regarding ethno-racial minorities and the creation of legal and political mechanisms to improve their legal status in the Peruvian society. Of course, as the country continues to abide by these recommendations and furthers the development of a national platform where all ethnic and racial minorities are significantly included and substantially equal, I trust that the legislator will finally realize that racism is not a problem of the Afrodescendants, or of the indigenous peoples, but is a problem of the Peruvian society at large. If that does not happen, works written about Afroperuvians in the future will not be much different than this one.

The role of bettering the lives of its population and different demographic groups depends on the government of the country. At the very least, it is the one called to create the platform for all its citizens to achieve their best standard of life without discrimination. Civil society holds a different role, one very politically active as played by the Black movement in Peru. Despite their concentration in the city and its general disconnection to grassroots forces, the organizations that make up part of the Black movement today have been fundamental to what have been achieved so far in terms of ethno-racial law. Notwithstanding, the shortcomings of this legislation, are in no way attributable to the Black movement, they have been a consistent and unrelenting force behind the state interest and recognition of Afroperuvians as political subjects. Indeed, despite the many challenges that their own institutional fronts have endured along the
years, the agenda of the Black movement in Peru has remained clear: to combat structural racism in the Peruvian society.

The future of Afrodescendants in Peru might not be foreseeably better now, especially if the foundations of their protective legislation does not vary. However, Afroperuvians have in the Black movement a strong and empowered advocate. Moreover, with a new generation of Black civil society leaders fulfilling key positions in the government, such as the Director of Public Policy for Afroperuvians within the Ministry of Culture, as well as coordinators in the Ministry of Health and Women, I trust some of the issues identified in this work will soon be corrected with the developments of measures more suitable to address the structural causes of the problems tackled by the current legislation, instead of just some of its effects. That is, striving towards the elimination of structural racism in the Peruvian society instead of focusing solely on the elimination of racial discrimination.

**Policy Recommendations**

The four main problems identified, that can be resolved with the intervention of the law and national public policies are as follows: 1) racism remains a pervasive problem in Peruvian society, 2) ethno-racial legislation is conceived as the mechanism that will better the situation of Afrodescendants while only focusing on a small fraction of their problems, 3) the legal and political blindness regarding the racial identification processes of Afroperuvians and its diversity across the territory, and 4) the silence over fundamental, albeit theoretical, discussions that affect the scope of the protective legislation such as the status of Afrodescendants, the nature of their recognized rights, and their own limitations. Conversely, I would like to propose some
recommendations that the Peruvian operator could implement to address some of the legal shortcomings identified.

1. As evidenced by the reports of the Defensoria del Pueblo (2011, 2013), the Ministry of Culture (2015), including the one in collaboration with the Grupo de Analisis para el Desarrollo (2015), and the Ministry of Women (2014), along with the works of Liuba Kogan (2014), Alicia Quevedo Canales (2014), Rocio Muñoz Flores (2011), racism is still an active problem in Peruvian society. Consequently, the government of Peru needs to adopt a more comprehensive approach to deal with this social phenomenon than the mere promulgation of ethno-racial legislation aimed to protect the rights of indigenous peoples and peoples of African descent. That is, to the extent that racism is a social phenomenon that is regulated and continually enforced by society itself, beyond the realm of the law, protecting these populations from the scope of the law alone is fundamentally insufficient. Moreover, when the subjects of the protective legislation are exclusively the protected populations and society at large is not addressed. Indeed, the eradication of racism requires measures that extend to the whole Peruvian society instead of solely the victims of racism. Conversely, regulations aimed to reach the entire Peruvian population such as educational ones, or mass media campaigns can be more effective in addressing the eradication of racism in the Peruvian society. Educational measures can go as far as including in the regular education national curriculum the history of the presence of peoples of African descent in Peru beyond the instances contemplated today. That is, include their academic, scientific and patriotic contributions beyond their arrival as enslaved peoples, and their contribution to the folklore of the capital city. Of course, these measures can also be implemented through the elaboration
of national public policies in Education and in Transports and Communications primarily but require a more comprehensive view that commits all government agencies to the eradication of racism.

2. The ethno-racial law in Peru is expected to solve the major problems that affect the ethnic and racial minorities in the country. Indeed, the motivation of most of these instruments express the ultimate objective of closing the inequality gap that persists between society at large and this population. At the same time, however, while identifying racism as a major obstacle to achieve this goal, they have implicitly focused on the eradication of racial discrimination. This, of course, is not a negative feature of this legislation. Discriminatory practices against specific population stocks affect society at large and devalue the meaning of citizenship in a democratic society. As racial differentiation tends to create a distinctive capital scale for separate groups that later translates into exclusion, inequality and the negation of basic human rights, social inclusion and the notion of nationhood get compromised (Defensoría del Pueblo, 2010). As a result, addressing and creating mechanisms to eradicate racial discrimination is a very important first step to the betterment of the political situation of Afrodescendants as it seeks to eliminate the formal barriers to their enjoyment of rights. The problem, however, lies in the lack of legal clarity of objectives. That is, by understanding the ethno-racial law as the quintessential measure to better the situation of Afroperuvians, the complexity of their precarious social standing is reduced to a one-dimensional problem to be resolved by the law. I propose that the clarification of the objectives of ethno-racial legislation in Peru will uncover the need for further and more diverse measures to affect the situation of both Afroperuvians and indigenous peoples in Peru in a substantial way.
3. The legal ignorance of the different processes of racial identification construction across different Afrodescendant populations in the country is also a major problem. As I do not advocate for the law being the one that determines who ought to be considered an Afroperuvian, the following is not a concrete solution but a perspective on the matter. As an example, the strict use of the nominal “Afroperuvian” to refer to all peoples of African descent without considering that this is a category that would be imposed on Afrodescendant populations that consider themselves Neras, such as some of the ones in rural areas. A possible solution is for the legislation to be open enough when mentioning the subject of protection. For instance, to replace “Afroperuvian” or “Afroperuvian population” by some formulation along the lines of the categories used in the last national census: “Black, Afroperuvian, Afrodescendant or any of its social variations). \(^{73}\) Moreover, it can be inferred that the continual use of these categories in the protective legislation will make the norms more easily recognizable by the Afroperuvian population at large, and further facilitate the census process in the future.

4. A political revision of these legislative solutions would require an acute critical reading regarding the protected subject. Indeed, the reading of the legal and political instruments that comprise this body of law evoke the image of a legal subject with very particular characteristics. That is, a man of African descent that lives in the city or urban areas in the country. Consequently, the lack of specific measures to address the needs of women must be highlighted. Namely, the lack of specific measures undertaken by the Ministry of Health in terms of their sexual and reproductive health, or the Ministry of Women regarding the prevention of racialized violence within their national program of violence.

\(^{73}\) The specific formulation used in the censal survey were Negro, Moreno, Zambo, Mulato, Afroperuano and Afrodescendiente.
against women. Further, as was brought up earlier in this work, the existence of the Afroperuvian Women Working Group (MTMA) cannot be considered a step in this direction insofar as the mandate of this forum is constrained within the legal mandate of the Ministry of Women; principles that will following a gendered approach, do not include an ethno-racial one. Before the double invisibilization they are victims of (from the protective legislation for women and the one for Afrodescendants) Black women in Peru have resorted to creating their own spaces and reclaiming their agency accordingly. Their efforts are not new, but they have found a greater platform in current times; both due to the transnational collaborative efforts that Durban offered and the political recognition of Afrodescendants within the political arena in Peru. Indeed, the space Black women inhabit in Peru is a problematic one since it does not recognize the dual level of oppressive systems Black women are exposed to, nor the diverse types of exclusions that are generated as a result. Even within the bounds of the current protective legislation for Afroperuvians, and for gender equality, Black women navigate in this highly regulated space that, due to its lack of overlap, has left them unprotected. Such space has become a matrix of oppression where is not acceptable to be racist, nor is it acceptable to be sexist towards them. Yet, somehow, it is possible to be both, at the same time, and without repercussion (Collins, 2009). Along these lines, legal scholar Kimberle W. Crenshaw (1995) would argue that the lack of an intersectional approach has contributed to the invisibilization of the Black woman’s experience. Mostly since the civil rights discourse that seeks to protect Black populations is rooted in the experience of Black men, while the feminist or gender equality discourse has as a standard the experience of white women (Crenshaw, 1995). In accordance to this legal and political neglect, the absence of
civil society alliances is also problematic. The lack of initiative from the Black movement in Peru to champion a feminist agenda, or at least support a women’s agenda, both before and after the efforts of Durban, have been an ever-present deterrent for the organizational efforts of Black women along the timeline of the Black organizations. At the same time, this absence of organized Black female voices was met with a lack of interest, and knowledge about diversity, from the national women’s and feminist movement. Susana Matute Charun, long time Afroperuvian activist and leader stated it best when she asserted that Black women, with respect to the collective of women, have been a step behind, and with respect to Black men, even one more (Ministerio de la Mujer, 2014).

It could be recommended then that the Ministry of Culture, Executive overseers of the implementation of ethno-racial law on behalf of Afrodescendants create a special mechanism, like the MTMA but within the structure of the Ministry of Culture, so their concerns and needs can be considered in the future revision of ethno-racial instruments. Similarly, the specific characteristics of the Afrodescendant population that lives in rural areas do not necessarily make part of this legislation so explicitly. As revised in the last chapter, some Afrodescendant communities living in rural areas have a way to relate to their own Blackness and/or share their social processes and traditional orders very closely with the indigenous peoples; population that has its own set of exclusive ethno-racial legislation. In that sense, the protective norms, answering majorly to urban needs does not account for their cosmology, and relation with their agricultural lands, safeguard of traditional cultural artifacts and dances, and protection of their ancestral knowledge.

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74 The original quote reads as follows: “Considero que las afroperuanas, con respecto al colectivo de las mujeres, hemos estado un paso atrás y respecto de los hombres afroperuanos, uno más” (Ministerio de la Mujer, 2014, V, 35)
5. Remedying the silences of the law is not a recommendation that should be undertaken by the legislator but rather by the officials at the Ministry of Culture, an executive agency in charge of overseeing the process of implementation. That is, the silence of the law can be a wonderful opportunity in disguise. Specifically, the silence in the law is an unintentional creation of the legislator, the institution that created it, that can be taken by the executive, the institution that ought to apply the law, to redefine and work within the gray spaces. Conversely, I argue that the legal silences left by the legislation provide the space for the executive branch to problematize them and formulate recommendations that can significantly impact the future formulation processes of ethno-racial law and its implementation in a significant way. That is, since the Ministry is more attuned with Afroperuvian populations along the Peruvian territory, it is the ideal actor to problematize some of the legal silences vis-à-vis different Afrodescendant communities and propose the best political options to resolve the legal vacuum they have been left in. For instance, if given a minority rural population within the majorly urban Afrodescendant community it is pertinent to adopt a model where all ethnic rights are only applicable to them “in what is applicable”; a common legal exception that is used for a diverse array of cases when different rights are at stake for different subjects of law, and that was adopted by the government of Bolivia to expand the stock of rights recognized to the Afro Bolivian population.

6. A major step in the right direction was undertaken towards the end of 2017 where the government of Peru implemented its last national census asking about the respondent ethnic or racial background for the first time in the history of the Peruvian republic. Albeit the data has not been published yet, but analysts are not very hopeful. The census
process was implemented without a necessary sensibilization and informational campaign that would have assured, or at least improved, the chances of having most of the Afrodescendant population identify itself at such. Indeed, for the Afroperuvians outside of the civil society circles, the question asking about their background came as a surprise with many reports being brought up to the media about the social confusion that this question generated.

At this very moment, Peru is at a crossroads. President Pedro Pablo Kuczynski handed the National Congress his resignation on March 23, 2018. The stability of the country is being regained as the former Vice-president Martin Vizcarra assumes the presidency of the country. It is too soon to tell what his position will be on population issues or if he is even going to stay in power, since he can call to national elections at any time before the end of what would have been Kuczynski’s tenure. What is known for sure is that Peru has already started on a path that ultimately should lead to the improvement of the livelihood of all the descendants of Africans in the country. Despite its shortcomings and shortsighted focus, which I hope will be progressively corrected by the pertinent government agencies with the support of Black Peruvian leaders, as has always been the case, the implementation of ethno-racial legislation is the realization of the claims made by the first Black political actors in the country. They desired freedom, visibility, inclusion, and fair treatment. Despite my critiques to this body of norms, I am convinced that they are only the first steps in advancing toward a comprehensive and articulated body of institutional mechanisms to assure and guarantee the liberation of Black peoples in Peru. The challenge is paramount, and the stakes continue to grow increasingly higher; and so, I hope this research contributes to the advancement in the direction of Black liberation in Peru.
References


### Appendix

Table 1: Ethno-Racial Law for the Promotion and Protection of Afrodescendants in Peru

<table>
<thead>
<tr>
<th>Date</th>
<th>Legal Reference</th>
<th>Directive</th>
</tr>
</thead>
<tbody>
<tr>
<td>July 2002</td>
<td>Multi-party National Political Agreement</td>
<td></td>
</tr>
<tr>
<td>March 2007</td>
<td>Executive Order 027-2007-PCM</td>
<td>Determines the National Policies of Mandatory Compliance for all the Institutions of the National Government</td>
</tr>
<tr>
<td>July 2010</td>
<td>Law 29565</td>
<td>Creates the Ministry of Culture</td>
</tr>
<tr>
<td>June 2011</td>
<td>Executive Order 054-2011-PCM</td>
<td>Approves the National Development Strategic Plan: Bicentennial Plan, Peru towards 2021</td>
</tr>
<tr>
<td>July 2012</td>
<td>Ministerial Resolution 0246-2012-ED</td>
<td>Constitutes the National Commission for Intercultural and Bilingual Education (CONEIB)</td>
</tr>
<tr>
<td>April 2013</td>
<td>Executive Order 008-2013 MIDIS</td>
<td>Approves the Development and Social Inclusion National Strategy “To Include is to Grow”</td>
</tr>
<tr>
<td>June 2013</td>
<td>Chief Resolution 167-2013-INEI</td>
<td>Establishes the National Interagency Committee of Ethnic Statistic</td>
</tr>
<tr>
<td>December 2013</td>
<td>Executive Order 015-2013-JUS</td>
<td>Creates the National Commission against Discrimination (CONACOD)</td>
</tr>
<tr>
<td>Date</td>
<td>Type</td>
<td>Description</td>
</tr>
<tr>
<td>------------</td>
<td>-------------------------------------------</td>
<td>-----------------------------------------------------------------------------</td>
</tr>
<tr>
<td>June 2015</td>
<td>Ministerial Resolution 339-MC-2014</td>
<td>Promulgates the Orientations for the Implementation of Public Policy for the Afrodescendant Population</td>
</tr>
<tr>
<td>November 2015</td>
<td>Executive Order 004-2015-MC</td>
<td>Declares the Attention of Afroperuvians of National Interest</td>
</tr>
<tr>
<td>November 2015</td>
<td>Ministerial Resolution 431-2015-MC</td>
<td>Recognizes the Platform of Action against Racial Discrimination “Alerta contra el Racismo” as an official platform of the Ministry of Culture</td>
</tr>
<tr>
<td>April 2016</td>
<td>Ministerial Resolution 162-2006-MC</td>
<td>Promulgates the Geo-ethnic map of concentrated presence of the Afroperuvian population in the national territory</td>
</tr>
<tr>
<td>July 2016</td>
<td>Executive Order 003-2016-MC</td>
<td>Approves the National Plan for the Development of the Afroperuvian Population 2016-2020</td>
</tr>
<tr>
<td>August 2001</td>
<td>Directorial Resolution Nº 798/INC-2001</td>
<td>Declares the Cajon Peruano (traditional instrument of Black Peruvian music) as cultural patrimony of the nation</td>
</tr>
<tr>
<td>2004</td>
<td>Directorial Resolution 031-2004-IC</td>
<td>Inclusion of the Afroperuvian Museum de Zaña (private initiative) into the National Museum System</td>
</tr>
<tr>
<td>November 2004</td>
<td>Directorial Resolution Nº 1255/INC-2004</td>
<td>Declares the Cumanana, traditional Black poetic compositions, as cultural patrimony of the nation</td>
</tr>
<tr>
<td>October 2005</td>
<td>Directorial Resolution Nº 1454/INC-2005</td>
<td>Declares the festivity of El Señor de los Milagros (The Lord of the Miracles) as cultural patrimony of the nation</td>
</tr>
<tr>
<td>June 2006</td>
<td>Law 28761</td>
<td>Establishes the 4th of June as the Day of the Afroperuvian Culture</td>
</tr>
<tr>
<td>December 2007</td>
<td>Directorial Resolution Nº 1765/INC-2007</td>
<td>Declares the Cajita Rítmica Afroperuana (traditional instrument of Black Peruvian music) as cultural patrimony of the nation</td>
</tr>
<tr>
<td>June 2009</td>
<td>Inaugurates the National Afroperuvian Museum</td>
<td></td>
</tr>
<tr>
<td>November 2009</td>
<td>Executive Order 010-2009-MIMDES</td>
<td>Expresses its historic apology to the Afroperuvian people for “the abuse, exclusion, and discrimination committed against this population starting during colonial times, until today</td>
</tr>
<tr>
<td>June 2014</td>
<td>Ministerial Resolution 182-2014-MC</td>
<td>Extends the 4th of June, Day of the Afroperuvian Culture to the month of June of each year</td>
</tr>
<tr>
<td>June 2015</td>
<td>Executive Order 187-2015-MC</td>
<td>Recognized the community of Zaña as live repository of the collective Black memory and a place for the preservation of the Black identity</td>
</tr>
<tr>
<td>January 2016</td>
<td>Viceministerial Resolution 003-2016-MINEDU</td>
<td>Declares the inclusion of new dates in the national civic calendar: the international day for the elimination of racial discrimination (March 21st), Day of the Afroperuvian culture (June 4th), Day of the Indigenous Populations and Intercultural Dialogue (October 12th), and Day of the abolition of slavery (December 3rd)</td>
</tr>
<tr>
<td>November 2017</td>
<td>Law 30716</td>
<td>Declares the 2nd of August Day of the Cajon Peruano</td>
</tr>
<tr>
<td>May 2000</td>
<td>Law 27270</td>
<td>Includes racial discrimination as a punishable conduct in the Penal code</td>
</tr>
<tr>
<td>Month</td>
<td>Law Number</td>
<td>Description</td>
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</tr>
<tr>
<td>August 2006</td>
<td>Law 28867</td>
<td>Modifies the criminal conduct</td>
</tr>
<tr>
<td>September 2013</td>
<td>Law 30096</td>
<td>Modifies the criminal conduct</td>
</tr>
<tr>
<td>March 2014</td>
<td>Law 30171</td>
<td>Modifies the criminal conduct-current version</td>
</tr>
</tbody>
</table>
Table 2: Ethno-racial Institutions and political mechanisms for the protection of indigenous peoples in Peru

<table>
<thead>
<tr>
<th>Date</th>
<th>Legal Reference</th>
<th>Directive</th>
</tr>
</thead>
<tbody>
<tr>
<td>May 1975</td>
<td>Legal decree 21156 (repealed)</td>
<td>Recognizes Quechua as the Official Language of the country</td>
</tr>
<tr>
<td>November 1993</td>
<td>Legal Resolution 26253</td>
<td>Ratifies the ILO Convention 169 concerning Indigenous and Tribal Peoples in Independent Countries</td>
</tr>
<tr>
<td>October 2001</td>
<td>Law N° 27558</td>
<td>Law that promotes the Education of Rural Girls and Teenagers</td>
</tr>
<tr>
<td>July 2002</td>
<td></td>
<td>National Agreement</td>
</tr>
<tr>
<td>July 2002</td>
<td>Law N° 27818</td>
<td>Law for the Intercultural and Bilingual Education</td>
</tr>
<tr>
<td>November 2003</td>
<td>Law N° 28106 (repealed)</td>
<td>Law for the recognition, preservation, promotion and diffusion of aboriginal languages</td>
</tr>
<tr>
<td>August 2005</td>
<td>Executive Order 598-2005-MINSA (repealed)</td>
<td>Approves the Technical Health Regulation for the attention of vertical Childbearing with Intercultural pertinence</td>
</tr>
<tr>
<td>May 2006</td>
<td>Law 28736</td>
<td>Law for the Proteccion of indigenous or native peoples in situation of limited or initial contact</td>
</tr>
<tr>
<td>March 2007</td>
<td>Executive Order 027-2007-PCM</td>
<td>Determines the National Policies of Mandatory Compliance for all the Institutions of the National Government</td>
</tr>
<tr>
<td>October 2007</td>
<td>Executive Order N° 008-2007-MIMDES</td>
<td>Technical Regulation for the Law for the Proteccion of indigenous peoples or native peoples in situation of limited or initial contact</td>
</tr>
<tr>
<td>July 2010</td>
<td>Law 29565</td>
<td>Creates the Ministry of Culture</td>
</tr>
<tr>
<td>May 2011</td>
<td>Administrative Resolution 202-2011-P-PJ</td>
<td>Creates the Commission about Indigenous and Peace Justice within the Judicial Power</td>
</tr>
<tr>
<td>June 2011</td>
<td>Executive Order 054-2011-PCM</td>
<td>Approves the National Development Strategic Plan: Bicentennial Plan, Peru towards 2021</td>
</tr>
<tr>
<td>July 2011</td>
<td>Law 29735</td>
<td>Law that regulates the use, preservation, development, recuperation, promotion and</td>
</tr>
<tr>
<td>Date</td>
<td>Action</td>
<td>Description</td>
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<tr>
<td>August 2011</td>
<td>Law 29785</td>
<td>Law of the Right of Preliminary Consultation to the Indigenous and native peoples (before the public use of their lands)</td>
</tr>
<tr>
<td>April 2012</td>
<td>Executive Order 001-2012-MC</td>
<td>Promulgates the Technical Regulation to the Law of the Right of Preliminary Consultation to the Indigenous and native peoples</td>
</tr>
<tr>
<td>July 2012</td>
<td>Ministerial Resolution 0246-2012-ED</td>
<td>Constitutes the National Commission for Intercultural and Bilingual Education (CONEIB)</td>
</tr>
<tr>
<td>August 2012</td>
<td>Executive Order 004-2012-MIMP</td>
<td>Approves the Gender Equality National Plan 2012-2017</td>
</tr>
<tr>
<td>August 2012</td>
<td>Vice-Ministerial Resolution 001-2012-VMI/MC</td>
<td>Creates the national registry of interpreters and facilitators on indigenous and native languages, in accordance to the Law of the Right of Preliminary Consultation to the Indigenous and native peoples</td>
</tr>
<tr>
<td>December 2012</td>
<td>Administrative Resolution 499-2012-P-PJ</td>
<td>Approves the roadmap document for the application of intercultural justice</td>
</tr>
<tr>
<td>February 2013</td>
<td>Executive Order 021-2013-PCM</td>
<td>Creates the Multiagency Permanent Commission for the application of the Right of Preliminary Consultation to the Indigenous and native peoples</td>
</tr>
<tr>
<td>April 2013</td>
<td>Executive Order 008-2013 MIDIS</td>
<td>Approves the Development and Social Inclusion National Strategy “To Include is to Grow”</td>
</tr>
<tr>
<td>June 2013</td>
<td>Chief Resolution 167-2013-INEI</td>
<td>Establishes the National Interagency Committee of Ethnic Statistics</td>
</tr>
<tr>
<td>June 2013</td>
<td>Vice-Ministerial Resolution 004-2013-VMI-MC</td>
<td>Creates the registry of indigenous peoples or native peoples in situation of limited or initial contact, and the registry of indigenous reservations</td>
</tr>
<tr>
<td>October 2013</td>
<td>Vice-Ministerial Resolution 008-2013-VMI-MC</td>
<td>Approves the Directive “Norms, and procedures for the registry of indigenous peoples or native peoples in situation of limited or initial contact, and the registry of indigenous reservations”</td>
</tr>
<tr>
<td>December 2013</td>
<td>Executive Order 015-2013-JUS</td>
<td>Creates the National Commission against Discrimination (CONACOD)</td>
</tr>
<tr>
<td>Date</td>
<td>Document Type</td>
<td>Description</td>
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<tr>
<td>December 2013</td>
<td>Administrative Resolution 333-2013-CE-PJ</td>
<td>Approves the protocol for the coordination among systems of justice (mainstream and indigenous), and the protocol of action in justice proceedings that include indigenous peoples.</td>
</tr>
<tr>
<td>February 2015</td>
<td>Vice-Ministerial Resolution 001-2015-VMI-MC</td>
<td>Approves the Orientation for the Promotion and protection of Cultural diversity</td>
</tr>
<tr>
<td>April 2015</td>
<td>Ministerial Resolution 124-2015-MC</td>
<td>Approves the guideline “Public services with cultural pertinence. Guide for the application of public services with an intercultural focus”</td>
</tr>
<tr>
<td>April 2015</td>
<td>Ministerial Resolution 143-2015-MC</td>
<td>Approves the document “Intercultural dialogue in the context of cultural diversity”</td>
</tr>
<tr>
<td>October 2015</td>
<td>Executive Order 003-2015-MC</td>
<td>Establishes the National Policy for the Mainstreaming of the Intercultural approach</td>
</tr>
<tr>
<td>November 2015</td>
<td>Ministerial Resolution 431-2015-MC</td>
<td>Recognizes the Platform of Action against Racial Discrimination “Alerta contra el Racismo” as an official platform of the Ministry of Culture</td>
</tr>
<tr>
<td>April 2016</td>
<td>Executive Order 016-2016-SA</td>
<td>Approves the sector policy of intercultural health, and constitutes the Multiagency permanent in charge of the Technical report that contains the Sector Plan of Intercultural Health 2016-2021</td>
</tr>
<tr>
<td>May 2016</td>
<td>Executive Order 003-2016-MIDIS</td>
<td>Approves the strategy of sustainable social action (EASS) (to better the livelihood of native communities)</td>
</tr>
<tr>
<td>May 2016</td>
<td>Ministerial Resolution N° 208-2016-MC</td>
<td>Approves the list of 51 amazonian indigenous localities and the geographical reference “indigenous peoples from the amazonian region”</td>
</tr>
<tr>
<td>July 2016</td>
<td>Executive Order N° 006-2016-MC</td>
<td>Creates the national multiagency permanent commission for the safety and put in value of the knowledge, traditional and ancestral practices of the indigenous and native peoples</td>
</tr>
<tr>
<td>July 2016</td>
<td>Executive Order N° 008-2016-MC</td>
<td>Modifies the Regulation of the Law for the Protection of indigenous or native peoples in situation of limited or initial contact</td>
</tr>
<tr>
<td>July 2016</td>
<td>Executive Order 006-2016-MINEDU</td>
<td>Approves the Sector Policy of Intercultural education and intercultural bilingual</td>
</tr>
<tr>
<td>Date</td>
<td>Resolution Number</td>
<td>Description</td>
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<tr>
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</tr>
<tr>
<td>July 2016</td>
<td>Ministerial Resolution Nº 518-2016/MINSA</td>
<td>Approves the National Plan of intercultural bilingual education (EIB)</td>
</tr>
<tr>
<td>August 2016</td>
<td>Ministerial Resolution Nº 00435-2016-MINAGRI</td>
<td>Approves the Technical Health Regulation for the attention of vertical Childbearing in the context of human Rights and intercultural pertinence</td>
</tr>
<tr>
<td>September 2016</td>
<td>Ministerial Resolution Nº 336-2016-MC</td>
<td>Approves the guidelines for the execution of the administrative recognition and registration proceedings of the legal personhood of native communities</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Approves the updated list of indigenous or native localities, quechuas, aimaras, jaqaru and uro located in the Andean area and contemplated in the official database of indigenous and native peoples of the Ministry of Culture</td>
</tr>
</tbody>
</table>