



**International Convention on  
the Elimination of All Forms  
of Racial Discrimination**

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**Committee on the Elimination of Racial Discrimination**  
**Seventy-fifth session**

**Summary record of the 1935th meeting**

Held at the Palais Wilson, Geneva, on Tuesday, 4 August 2009, at 10 a.m.

*Chairperson:* Ms. Dah

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*The meeting was called to order at 10.15 a.m.*

**Consideration of reports, comments and information submitted by States parties under article 9 of the Convention** (agenda item 5) *(continued)*

*Fourteenth to seventeenth periodic reports of Peru (CERD/C/PER/14–17; HRI/CORE/1/Add.43/Rev.1; written replies to the list of issues, document without a symbol distributed in the meeting room in Spanish only) (continued)*

1. *At the invitation of the Chairperson, the delegation of Peru took places at the Committee table.*
2. **Mr. Lahiri** said he regretted Peru's decision several years earlier to discontinue the use of socio-economic indicators according to race and ethnic group. The absence of data made it difficult to assess the extent of problems of racism and racial discrimination and, where necessary, to take effective steps to tackle them. Unlike other Latin American countries, Peru appeared to reject the idea of the melting pot and remained founded largely on a racial hierarchy in which skin colour continued to be of great importance. As a result, Whites were generally treated best while Indians were often considered second-class citizens. In that connection, he would like to hear the delegation's views on the very strong persistence of racist practices in Peru.
3. **Mr. Amir**, alluding to the particular impact of the global economic and financial crisis on developing countries, asked if that crisis had made the Peruvian Government's efforts to combat poverty still more difficult. Peru's economic situation had improved considerably in the past few years, but it seemed that the most disadvantaged groups had not enjoyed the benefits of growth. He invited the delegation to address that issue again. In addition, he referred to the hardships experienced by the Indian peoples who had had to face harsh winters in the south of the country, reportedly without any assistance from the State. In general, he was concerned by the fate of the Indian peoples in the State party and sought more information on the subject.
4. **Mr. Ewomsan**, noting from paragraph 61 of the report under consideration that "nearly one out of four Afro-Peruvians has not finished primary school", asked what were the reasons for that dropout rate. He also asked what measures had been implemented to promote the access of Afro-Peruvians to education.
5. **Mr. Valdivieso** (Peru) said his delegation would not be able to provide detailed answers to the dozens of questions posed by Committee members at the previous meeting, especially requests for statistical data. Those could be provided in writing later. Peru was characterized by great ethnic, linguistic and racial diversity, but all Peruvians aspired to democracy, peace and development. Peru was a democratic country in which the sovereign freedom of the people was respected. Judicial decisions, including those of the Constitutional Court, could be appealed. A group of indigenous persons in the San Martín region had challenged the legality of certain legislative texts in the Constitutional Court because, they claimed, they undermined their ancestral traditions.
6. In answer to a question raised at the previous meeting, he said that the expressions "*pueblos indígenas*" and "*comunidades nativas*" were synonymous. In 1994, Peru had ratified the International Labour Organization (ILO) Convention concerning Indigenous and Tribal Peoples in Independent Countries (No. 169), but the rights of indigenous peoples had already been guaranteed and protected by article 88 of the Constitution. The ratification had been simply aimed at guaranteeing the compatibility of national texts with the relevant international instruments. The governing body of the National Institute for the Development of the Andean, Amazonian and Afro-Peruvian Peoples (INDEPA) was made up of 18 members, 9 of them indigenous representatives, and was responsible, inter alia, for approving national and regional programmes concerning the Andean, Amazonian and Afro-

Peruvian peoples. Indigenous persons were also represented on departmental administrative bodies. In the case of the national Parliament, it was true that the situation was less satisfactory in terms of the political representation of indigenous peoples. Parliament, with 120 deputies divided into eight political groups, had considerable trouble in reaching agreement on the question of indigenous representation.

7. Peru aimed to become a country in which all regions, however remote, were equipped with modern infrastructure. For the moment, the bulk of the infrastructure and the main services were concentrated largely in the big cities, especially Lima, although the Government had been trying for some years to decentralize administration and basic services in the provinces and had established development centres in all of the country's regions. In addition, the Government had launched a project to extend the road network, essential for rural development. The price of farm products was subsidized by the farmers themselves and it was imperative that the transport of goods to rural markets be improved. Various support programmes for farmers had also been put in place. Agribank, Peru's farm credit bank, made loans to farmers and financed programmes to replace coca crops with palm oil and cocoa beans.

8. In spite of the global financial and economic crisis, the Peruvian economy, which had attained a growth rate of 9.8 per cent in 2008, had borne up fairly well in 2009 and Peru had not been as hard hit as other Latin American countries. That was mainly due to the comparative stability of mining and farm exports.

9. On the question of the future place of the private sector in the Peruvian economy, he said Peru aimed to have a private sector that was at once internationally competitive and a motor for national growth. The State could not do everything alone and private capital played an important role in development projects, such as the improvement of the road network. A recent project to build a 135-km road through the Amazonian forest had cost \$200 million, a good deal more than the State of Peru could afford. However, it remained active in pursuing development, as demonstrated, for instance, by its financing of the campaign against illiteracy, which it aimed to eliminate by 2011.

10. Peru was also determined to have an open economy that was integrated in the world and regional economies. He recalled that, after the two world wars that Europe had experienced in the twentieth century, a group of countries (France, Germany, Italy and the Benelux countries) had created the European Coal and Steel Community (ECSC), Europe's first ever supranational community, by signing the Treaty of Paris on 18 April 1951. Although Latin America had yet to achieve such continental integration, that idea could be emulated in an agreement on water and energy use in the Amazon.

11. With regard to the role of indigenous peoples in national development, he underlined the importance attached by the State to respect for the indigenous peoples' property rights in regard to their ancestral lands, as stipulated under the Constitution. Peru had more than 60 million hectares of land, of which more than a quarter belonged to indigenous persons, and considerable progress had been made in the past few years in the matter of indigenous land title. It was true that legislative decrees on the use of certain tracts of land had been promulgated, but he underlined that the land concerned belonged to the State and in no way constituted, as the press had claimed, ecological reserves or indigenous land. The State of Peru, convinced that it was fully within its rights to authorize private investment on its own land, also intended to launch an investment process aimed at replanting 8 million hectares of deforested land in Amazonia. The indigenous peoples in the region would participate fully in that project.

12. With regard to the events at Bagua, on 6 June 2009, in which 34 indigenous persons and policemen had been killed, he noted that 24 police had died in clashes between them and ethnic groups from the Amazon region in the north of the country during a routine road

security operation. He hoped it would be taken into account that the indigenous communities in the north of the country that had protested against legislative decrees authorizing the exploitation of certain tracts of land in the region had been manipulated for political reasons. Certain individuals had told the indigenous population that the aim of the decrees had been to privatize their land and hand over their natural resources to foreign companies. That was not true, although many of them had believed it to be. Certain people had, therefore, exploited their ignorance to provoke confrontation and violence. The representative of the indigenous protest movement, Alberto Pizango, had left the negotiating table under pressure and even the Catholic Church had become involved in the conflict. The judicial inquiry under way, launched at the behest of Parliament, should shed light on all of those elements and establish who had encouraged confrontation and exacerbated the violence.

13. His Government was dismayed by how numerous organs of the international media had spoken of “genocide” carried out by the authorities and rivers overflowing with the remains of hundreds of Indians. Those allegations had caused incalculable damage to Peru and no one could tell how much time and energy would be needed to restore the confidence of foreign interests in the country.

14. He earnestly hoped that, in its concluding observations, the Committee would note the harm done to Peru by the misinformation disseminated on the issue by the international press. He underlined that the Peruvian Government was prepared to establish mechanisms of collective and individual compensation should the courts find any wrongdoing on the part of the Peruvian authorities.

15. On the subject of developments concerning Shining Path (Sendero Luminoso), he said terrorism was on the wane in Peru. The Shining Path movement no longer represented a threat to the country’s stability and was concentrated in a small area. That said, it had not disappeared completely and was responsible for five deaths during a recent attack on the police. The terrorist movement had created links with drug traffickers and established itself in coca-growing regions of the country, where it protected the drug cartels and extracted money from them to buy arms and carry out violent acts. In some areas, Shining Path was directly involved in drug trafficking. It was a criminal, undemocratic and violent movement that did not respect human rights and had caused the death of 25,000 people.

16. Concerns had been expressed on investments made in the Peruvian forests, areas with a great wealth of natural resources and inhabited mainly by indigenous communities. Occasionally those activities caused problems in some communities for various reasons. However, the State needed export revenue to promote the development of the poorest communities as well as to provide basic services, build highways, grant farm loans and establish farm insurance schemes. Oil mining in those regions enabled the country to progress by exporting its natural resources. Yet some felt that Peru should not export its natural resources, in particular its mining products. They wished Peru to refrain from mining its natural resources, while at the same time wanting it to provide its population with all the services needed. Just how these two demands could be reconciled deserved close analysis. For his part, he could see no other solution.

17. He admitted there had been clashes in some areas of the country where natural resources were being explored and mined. However, the Government was making progress towards finding solutions. He invited Mr. Zegarra, from the Ministry of Energy and Mining, to explain the action the Government was taking to avoid damage being caused by exploration and mining, in particular by creating mechanisms for consultations with the local population.

18. **Mr. Zegarra** (Peru), referring to the cases connected with the digging of four tube wells, said that in certain documents it was claimed that the extraction of groundwater

resources had not been authorized. However, information received from the water resources authorities contradicted those claims, saying that authorization had been requested in 2006 and granted in 2007, including permission for the digging of the wells. What was more, the community that owned the land on which the wells were located had accepted a contract renewing its agreement with the mining company concerned.

19. Regarding the national system of water management, he said two decrees on water resources allocation had been adopted recently. Draft legislation on water resources that gave greater powers to the national water resources authority had then been presented in March 2009. That legal framework aimed especially at preserving water resources and rejected the idea of privatizing water extraction, according to the principle that water was the property of the State. In addition, a law guaranteed indigenous communities the use of the water flowing on their land, applying age-old techniques. That law, however, was not yet in effect and consultations were in progress on its entry into force.

20. For the past several years, Peru had been looking into the best ways of carrying out consultations, in the spirit of ILO Convention No. 169. Peru's highest authorities had expressed their commitment in that area and a draft law recently brought before Congress aimed at promoting the application of that Convention. The law, once passed, should help reinforce the processes of citizen participation.

21. A decree governing citizen participation in the mining sector had been passed in 2008, complementing an earlier decree on that matter adopted in 2002. The complementary decree detailed the processes of citizen participation that served as a framework for mining projects at the planning and execution stages and until completion. Offices to monitor citizen participation had been set up in various regions of the country in connection with several mining projects.

22. Another decree provided for citizen participation in the oil sector and aimed to improve access to information by those directly affected by oil extraction, above all in the indigenous communities. In that spirit, the national oil company, Perupetro, had organized 67 information workshops before inviting tenders or granting licences for oil extraction projects. During the process of citizen participation, the State encouraged the full exercise of indigenous people's economic, social and cultural rights.

23. The Ministry of Energy and Mining was carrying out consultations on the building of electric power installations. The consultations were taking place at various stages, particularly before the granting of licences to build electric power stations. The Peruvian State, therefore, was making an enormous effort to improve consultation with the public in all areas.

24. **Mr. Valdivieso** (Peru) said the Peruvian authorities had invested a great deal in lifting education levels, especially among Afro-Peruvians and mixed-race groups, in the knowledge that Peru was making progress despite the persistence of considerable inequalities, especially in education. On that subject, it had to be noted that the trade unions had seriously hampered change in that sector in recent years. The Ministry of Education had launched a programme aimed at evaluating teacher skills, but many teachers and school principals had opposed it, claiming the aim of the evaluation was to dismiss teachers. Yet not one teacher had been dismissed for that reason. On the other hand, the evaluation had facilitated the establishment of fairer teacher salary scales and a greater number of teachers had applied on the basis of their ratings.

25. **Mr. Samanez Bendezú** (Peru), supplementing information provided in the report on strengthening measures to prevent and combat discrimination (paras. 194–219) and outlining the role played by education in that area, said the Peruvian Government was acting on several fronts to inform people of their fundamental rights, especially the right not to suffer discrimination. Various public bodies, such as the Ministry of Education, the

Public Defender's Office, the Ministry of Justice, the Ministry of Women and Social Development and the National Institute for the Development of the Andean, Amazonian and Afro-Peruvian Peoples had, together with civil society and thanks to international cooperation, put into effect a series of awareness strategies. The Ministry of Education, for instance, had undertaken to include human rights in school curricula, ensuring that the topic was addressed in all subjects taught.

26. In line with the National Plan for Education for All, 2005–2015, which had been drawn up with the participation of education experts, teachers and parents' associations, and in the framework of the Peruvian Government's current policy of decentralization, regional plans to promote education had been established in consultation with all stakeholders, including the local indigenous communities. As a result, the customs and culture of the different indigenous or ethnic communities were taken into account in regional school curricula and were taught specifically.

27. The Ministry of Education's Department of Intercultural, Bilingual and Rural Education had devised an education plan for rural areas together with indigenous and local organizations. It published bilingual school textbooks for teachers and pupils living in those areas, ensuring that the intercultural approach was present in both texts and illustrations.

28. With regard to teacher training, he said that entry requirements for teacher training colleges were much stricter than before, with candidates needing a score of 14 out of 20 to be accepted, and that teaching of the rights of the child and the adolescent had been made an integral part of that training. Teaching methods had evolved and emphasized the active involvement of pupils and the development of their critical faculties. Ministry of Education school textbooks were written with a view to preventing discriminatory behaviour in schools, reinforcing pupils' self-esteem and promoting the country's different cultures.

29. The Ministry of Women and Social Development had incorporated the issue of racial discrimination into several of its national action plans, among them the National Action Plan for Children and Adolescents, 2002–2010, the National Plan for Equal Opportunities for Men and Women, 2006–2010, and the National Plan to Combat Violence against Women, 2009–2015. It had adopted a follow-up strategy for those action plans with a view to promoting the rights of the population groups concerned and, in that context, had launched awareness campaigns and organized workshops and training courses in different regions.

30. In 2008, the Ministry of Women's Department for the Promotion of a Culture of Peace had organized human rights training courses for members of indigenous communities entitled to collective reparation. The courses had been organized, for instance, in the Apurímac and Ene Valley, hit by violence due to the presence of terrorists and drug-traffickers in that region. To date, 150 indigenous community heads had undergone such training, and another 500 persons were due to receive it by the end of 2009. All training documents were in Quechua and all courses were given in that language.

31. With international aid, various projects aimed at promoting human rights awareness and put together in conjunction with NGOs active in the field of education had been launched in the department of Loreto, in the Andes and in the Amazonian forest. The Peruvian Government had taken part in those activities by providing premises and assigning teachers and local civil servants responsible for education. These projects had resulted in the creation of a network of teachers active in the promotion of human rights and the fight against racial discrimination.

32. The National Human Rights Council, part of the Ministry of Justice, was active in publicizing the National Human Rights Plan, 2006–2010, and, to that end, the Ministry had published several key texts, among them the Constitution, in Quechua. Finally, the Public Defender's Office was raising awareness of human rights throughout the country and, in

particular, had started an information campaign on racial discrimination. These various initiatives in the area of human rights education demonstrated his Government's determination to promote a culture of peace and tolerance among the country's various ethnic and cultural groups.

33. **Mr. Valdivieso** (Peru) said that some issues raised by Committee members were very specific and required deeper research. At a later stage the delegation would send written replies to questions it had been unable to answer during the oral consideration of the report, in particular those concerning the campaigns of forced sterilization of indigenous women, the scope of regional ordinances, making incitement to racial hatred a crime and outlawing racist organizations.

34. With respect to the events at Bagua in June 2009, a negotiating group presided over by the Minister of Agriculture had been set up and was holding discussions with representatives of the indigenous communities concerned on ways of effectively applying ILO Convention No. 169. As to the concerns expressed by the Rapporteur on the legislative decrees applied in that case, he pointed out that such decrees were promulgated by the executive but that, under the Constitution, their legality could be challenged before Congress. If Congress found that a decree overstepped the law, it could make the necessary amendments. However, Congress was essentially a political body and its decisions were not always based purely on legal considerations. He assured the Committee that the question of the indigenous peoples' consent would be duly examined by the competent authorities and that the Government was fully prepared to conduct a frank and open dialogue with representatives of indigenous communities.

35. With respect to the discrepancies noted between official statistics and figures presented by organizations defending the rights of indigenous peoples, he said that there had been no attempt by the Government to disguise the truth. Concerning the possibility of invoking customary law before the courts, article 69 of the Constitution permitted indigenous authorities to settle disputes according to customary law in territories under their jurisdiction, provided that such rules were compatible with international human rights standards. Denying someone access to a public place or to employment because of his or her ethnic or racial background was prohibited under various legal provisions. Such acts were not only forbidden by law, but censured by public opinion in Peru.

36. With regard to advance measures taken to deal with the consequences of natural disasters affecting the country, he said that, given the likely reappearance of the El Niño climatic phenomenon in summer 2010, the Government had recently introduced new laws and set aside funds in the budget, although it was very hard at the current stage to predict the extent of future damage.

37. The death penalty was still in force in Peru, but no one had been executed in about the past 30 years. Under article 140 of the Constitution, the death penalty could be applied in cases of high treason in time of armed conflict or for acts of terrorism. However, even though the adoption of the latter provision post-dated Peru's ratification of international instruments with which it was incompatible, persons convicted of acts of terrorism were given other sentences commensurate with the seriousness of the crime. Finally, he said that the Peruvian people's ethnic diversity was well reflected in the composition of the delegation but that, as it was of very mixed origin, that was not immediately obvious. For example, he himself had Afro-Peruvian and indigenous ancestors.

38. **The Chairperson** said that her remark on the composition of the Peruvian delegation had been prompted by the small number of women it comprised.

39. **Mr. Cali Tzay** (Country Rapporteur) noted with satisfaction that the State party had made a considerable effort to present its written replies in good time along with a very complete update of those replies shortly before the consideration of the report. The

delegation's oral responses had also been very detailed and all of that demonstrated Peru's determination to meet its obligations under the Convention.

40. Given that the delegation had undertaken to reply in writing to those questions that had to be left aside due to lack of time, he proposed to identify a number of concerns expressed by Committee members that he would like to see addressed in the State party's written replies to the secretariat.

41. He would welcome information on the problem of water resource management, especially the urgent issue of the reopening of wells in the Ancamarca region. He would like to know if the Peruvian Government intended to involve the indigenous communities in the development of water use policies. The State party might also indicate why there were so few complaints of racial discrimination and provide more details on the role of the Public Defender, on measures taken by the authorities to combat institutionalized discrimination and on discrimination within the public service as well as discrimination against persons of mixed race. In addition, he would like to know the exact nature of Peru's development policy, why the percentage of persons whose mother tongue was indigenous was falling and what Peru's position was on the proposal to set up an independent commission of inquiry on the events at Bagua in June 2009. He also wished to know whether ethnic minorities, indigenous persons and women were benefiting from the country's economic development and whether these communities were contributing to that process. Finally, he asked the State party to give its views on the prohibition of incitement to racial hatred and to indicate whether or not the Convention had at any time been cited directly in the courts in racial discrimination cases.

42. **Mr. Valdivieso** (Peru) informed the Chairperson that women were well represented in Peru's Parliament and Government. He was sure there would be more women in the delegation that would present Peru's next periodic report.

43. **The Chairperson** thanked the Peruvian delegation.

44. *The Peruvian delegation withdrew.*

*The meeting rose at 1.05 p.m.*