



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

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Committee on the Elimination of Racial Discrimination
Seventy-seventh session

Summary record (partial)* of the 2015th meeting

Held at the Palais Wilson, Geneva, on Wednesday, 4 August 2010, at 10 a.m.

Chairperson: Mr. Kemal

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* No summary record was prepared for the rest of the meeting.

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The meeting was called to order at 10.10 a.m.

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

Fourteenth and fifteenth periodic reports of El Salvador (CERD/C/SLV/14-15, CERD/C/SLV/Q/14-15) (*continued*)

1. *At the invitation of the Chairperson, the delegation of El Salvador took places at the Committee table.*
2. **Mr. Larios López** (El Salvador), replying to a question about land rights asked at the previous meeting, said that, from the beginning of the colonial period, the close traditional bond between indigenous people and the land they cultivated had increasingly been eroded. Large areas of land had been transferred to private ownership and converted to lucrative commercial coffee plantations. Indigenous people, unable to assert their rights against the powerful landowners, had in many cases been reduced to abject poverty. The entire structure of rural society had changed, with disastrous consequences for a country as small as El Salvador.
3. **Mr. Cruz Rodríguez** (El Salvador), replying to a question about El Salvador's intention to ratify the International Labour Organization (ILO) Convention concerning Indigenous and Tribal Peoples in Independent Countries (No. 169), said that the Salvadoran Government was fully committed to ensuring institutional and legal recognition of the rights of the indigenous community. There was a clear political will for the ratification of ILO Convention No. 169. However, it was essential to secure the support of the entire State, and the Government was, accordingly, conducting consultations with a wide range of Government entities in order to reach a consensus among all political forces about the policy to be adopted.
4. **Mr. Avelar** (El Salvador) said that his Government did not consider discriminatory the provision whereby nationals of other Central American States which had formed part of the Federal Republic of Central America in the nineteenth century were eligible for Salvadoran nationality (see document CERD/C/SLV/14-15, para. 66). Under the Aliens Act, the Ministry of the Interior oversaw all naturalization requests: the persons concerned were not automatically eligible.
5. Indigenous issues were handled by the Secretariat for Social Integration for purely institutional reasons, in order to meet the needs of indigenous people more effectively. A forthcoming national indigenous congress was being organized by that Secretariat, together with the Technical and Cultural Secretariats of the President's Office.
6. Replying to a question about the requirement for indigenous peoples to establish formal associations, he said that the condition applied only if the association concerned had requested funding or intended to collect donations. In that case, it was essential for the members to create an official organization and keep proper accounts to increase accountability and prevent money-laundering.
7. It had been asked whether the programmes described were being undertaken pursuant to the policy of the Government or that of the State. In fact, the President represented all Salvadorans, and consulted representatives of all sectors of society in order to arrive at a consensus about the policies to be pursued.
8. He assured the Committee that genuine improvements were taking place in El Salvador. Education in State schools and health care in the public health system were provided free of charge. Pupils at State schools now received a "school kit" of locally manufactured school uniform, school supplies and food, and poor families were given "family vouchers" if their children attended school. All elderly people now received a

pension of US\$ 100 per month. Domestic workers were now eligible for social security benefits, and there were tax incentives encouraging the employer to register the worker officially. Fertilizer and seeds were distributed in the poorest regions.

9. His Government would answer the Committee's remaining questions in detail in its next periodic report.

10. **Mr. Calí Tzay** said that, according to the report by the Office of the Ombudsman (Procuraduría para la Defensa de los Derechos Humanos) which had been submitted to the Committee, the measures taken by the Government had so far failed significantly to improve the situation of indigenous peoples, who still suffered inequality and marginalization and were denied their rights to land and drinking water. He asked what plans the Government had to include in the Constitution an explicit acknowledgement of the rights of indigenous people. He also wished to know whether any investigation was envisaged into the assassination of Monsignor Óscar Romero in 1980, and whether there were any plans to repeal the amnesty law in cases of human rights violations.

11. **Mr. Avelar** (El Salvador) said that changes to the Constitution needed to be ratified by both the current session of the Legislative Assembly and the next session. Amendments which would make the Constitution consistent with the Convention were currently under consideration by the Office of the Ombudsman. A bill amending the amnesty law had been submitted to the Legislative Assembly. The President had issued an apology to the Salvadoran people in respect of the assassination of Archbishop Romero. The Government was in consultation with indigenous people about a project to build a new dam, in order to ensure that conflicts of interest did not occur in future and improve the quality of drinking water supplies for indigenous people, which was adversely affected by the use of insecticides, for example.

12. **Mr. Saidou** asked whether apartheid was treated as a serious offence under the anti-discrimination legislation of El Salvador, whether the country had a national human rights institution and, if so, what its status was, and whether there was an immigrant population of African descent.

13. **Mr. Avelar** (El Salvador) reiterated the invalidity of previous periodic reports submitted to the Committee and the absurdity of the assertions they had made with regard to the non-existence of indigenous or Afro-descendant populations. The Government was taking steps to ascertain the true situation through its next national census. Of those who came from other countries to work in El Salvador, some were of African descent. Migrant workers, some of whom filled gaps in the job market left by Salvadorans working abroad, received official papers and legal security.

14. **Mr. Diaconu**, welcoming the efforts being made by the new Government of El Salvador to change the country to the benefit of its entire population, drew attention to the issue of citizenship and naturalization. Under article 3 of the Convention, there should be no preferential treatment on the grounds of nationality in granting citizenship, and he enquired about references to the long-defunct Federal Republic of Central America which seemed to contradict that provision. Following the examination of El Salvador by the Human Rights Council earlier in 2010 as part of the universal periodic review, he encouraged the Government to act on all of the unusually large number of recommendations made and accepted, particularly in the areas of protecting human rights defenders, combating discrimination against indigenous peoples and promoting their rights.

15. **Mr. Avelar** (El Salvador) reaffirmed his Government's commitment to change, but explained that, in view of the separation of powers in El Salvador, amendments to legislation must be approved by the Legislative Assembly, a process which had already begun. With regard to citizenship and naturalization, he stated that the same formal requirements were applied to all and there was no discrimination or preferential treatment

on grounds of nationality, although a regional approach was pursued in areas such as promoting freedom of movement and employment.

16. **Mr. Ewomsan** requested information on the situation of the Afro-descendant population of El Salvador, particularly with regard to health and education.

17. **Mr. Avelar** (El Salvador) replied that health care and education were provided without discrimination on racial grounds. Entitlement extended to refugees, including those of African descent, and the children of immigrants.

18. **Mr. Thornberry** requested assurances that the appropriate distinction was being drawn in El Salvador between the permanent rights of indigenous peoples and special measures, or affirmative action, which could be in favour of indigenous or other groups and were intended to be phased out once sustainable equality had been achieved. Welcoming the Government's stated intention to ratify ILO Convention No. 169, he nevertheless highlighted the extensive legislative preparations that would be necessary in order to implement that instrument fully.

19. He sought further clarification on provisions applying article 4 of the Convention, as there seemed to be some inconsistency in paragraphs 33, 34 and 35 of the periodic report with regard to hate speech. Likewise, although article 5 of the Convention had been carefully reviewed, no reference was made to freedom of opinion and expression. He echoed Mr. Diaconu's remarks with regard to the recommendations of the universal periodic review and drew particular attention to those areas of relevance to the Committee, such as protection for the rights of indigenous peoples, the rights of migrants, and campaigns to promote universal identity documents.

20. **Mr. Avelar** (El Salvador) said that the delegation had taken note of the Committee's concerns. The State party would respond to them in full in its next periodic report.

21. The Government of El Salvador regarded indigenous people as rights holders, not as persons requiring social assistance. Under the former regime poor people had queued up every day outside the National Secretariat for the Family seeking monetary allowances and basic necessities. The National Secretariat had been replaced by the Secretariat for Social Integration, which was run by the President's wife, and his own Indigenous Peoples Department formed part of the new Secretariat. An entirely new approach had been developed based on long-term action to tackle extreme poverty. Emergency measures were being taken to deal with acute health and water problems in some parts of the country inhabited by indigenous peoples.

22. It would be irresponsible of him to give a date for El Salvador's accession to ILO Convention No. 169 because, as Mr. Thornberry had noted, a series of measures would need to be taken before the State could guarantee full compliance with its obligations under that Convention.

23. **Mr. Lindgren Alves** drew attention to the delegation's statement that the new Government did not recognize the validity of the periodic reports that had been submitted to the Committee to date. There was therefore no point in asking the delegation detailed questions about the latest report. The Committee should focus instead on the delegation's statements.

24. **The Chairperson** said that the report before the Committee contained factual information that could be used as a frame of reference. Of course, the new Government's cooperative attitude and new philosophy were highly appreciated. The delegation was headed by the Director of the Indigenous Peoples Department, who would certainly benefit from the constructive contributions of Committee members.

25. **Mr. Avtonomov** said that the dialogue concerning the periodic report and the information provided by the delegation would greatly assist the Committee in understanding the current situation. Critical comments by the Committee were not directed against the Government's current policy.

26. According to the periodic report, refugee status had been granted to 66 persons, most of them Colombians and Nicaraguans. He enquired about the length of the procedure for obtaining refugee status. Were asylum-seekers entitled to work while awaiting a decision or were they confined to a holding centre? He also enquired about the fate of asylum-seekers who were denied refugee status. Were they returned to their own country or sent elsewhere?

27. **Mr. Avelar** (El Salvador) said that the delegation had been instructed by the President and the Minister for Foreign Affairs to answer the Committee's questions as frankly as possible. He noted that the questions closely resembled those repeatedly raised by the country's indigenous peoples. The Government had admittedly been somewhat slow to act on the requests it had received from rights holders, but only because of its determination to respond as effectively as possible.

28. The basic prerequisite for obtaining refugee status was a well-founded fear of persecution, as stipulated in the Handbook on Procedures and Criteria for Determining Refugee Status published by the Office of the United Nations High Commissioner for Human Rights (OHCHR). Some asylum-seekers awaiting a decision on their status were afforded temporary protection pending a change for the better in their country of origin. He mentioned, by way of example, the recent events in Honduras. They were also allowed to work in El Salvador and enjoyed freedom of movement within the country.

29. **Mr. Thornberry** said that most of the questions asked by the Committee concerned structural matters under the Convention that were applicable to all States parties, irrespective of the regime in power. They concerned, for instance, general definitions, discrimination, the requirements of articles 2 to 5 of the Convention, and special measures pertaining to the ratification of ILO Convention No. 169. The idea was to identify the relationship between State law and practice and to offer constructive and legally correct advice.

30. **Mr. Avelar** (El Salvador) assured the Committee that the State party would endeavour to respond appropriately and speedily to its questions. Moreover, the next periodic report would be radically different from its predecessors. As indigenous peoples had not been recognized in the past, no data concerning their number and location and no disaggregated figures were available. At all events, they were not confined to urban or rural areas but formed part of the general population throughout the country. For historical reasons, they had invented alternative modes of cultural expression, changing the way they spoke and discarding indigenous clothing in order to minimize the risk of discrimination, torture and death.

31. **Mr. Avtonomov** assured the delegation that the Committee's concluding observations and recommendations would be based not only on the periodic report but also on the detailed information received from the delegation. He trusted that they would assist the Government in formulating new policies and in supporting the long-suffering indigenous peoples of El Salvador. The horrific events of 1932 had forced the indigenous peoples to change their lifestyle, worldview and relationship with the land. The existence of people of African descent had also been denied. A historic turning-point had now been reached and the Committee would do its utmost to assist the Government in implementing the Convention.

The discussion covered in the summary record ended at 11.45 a.m.