



International Convention on the Elimination of All Forms of Racial Discrimination

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Committee on the Elimination of Racial Discrimination

Eighty-third session

Summary record of the 2242nd meeting

Held at the Palais Wilson, Geneva, on Friday, 16 August 2013, at 10 a.m.

Chairperson: Mr. Avtonomov

Contents

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

Combined nineteenth to twenty-first periodic reports of the Bolivarian Republic of Venezuela (continued)

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*)

Combined nineteenth to twenty-first periodic reports of the Bolivarian Republic of Venezuela (continued) (CERD/C/VEN/19-21 and CERD/C/VEN/Q/19-21)

At the invitation of the Chairperson, the delegation of the Bolivarian Republic of Venezuela took places at the Committee table.

Ms. Ramírez (Ombudsman's Office) said that the Ombudsman's Office was an independent body for the promotion and protection of human rights. It received complaints of human rights violations, made recommendations to the relevant bodies and included a department dedicated to indigenous communities. She provided examples of its work relating to human rights training, the human rights of indigenous communities and people of African descent, the right to asylum and the abolition of discriminatory, racist and xenophobic messages in political criticism and satire. In 2008, it had presented its efforts relating to the Durban Declaration and Programme of Action and urged State bodies to comply with the Convention and address the concluding observations made by the Committee. The Office had participated in the drafting of the Racial Discrimination Act, promoting its coherence with the Convention.

The Office had carried out research and released publications on the rights of indigenous communities. It had also developed qualifications and training courses on human rights, emphasizing equality and non-discrimination and including a qualification on the rights of indigenous communities.

The Office had disseminated the recommendations made during the universal periodic review, including those concerning racial discrimination. Those recommendations were posted on its website, together with the concluding observations of various treaty bodies, including the Committee. In 2012, it had prepared a report on the right to the collective ownership of land, as well as a contribution to the Draft Programme of Action for the Decade for People of African Descent. The Office had participated in several cases regarding the rights of indigenous communities and she provided information on the actions taken by the Office to follow up on the murder of Yukpa chief Sabino Romero.

Framework cooperation agreements had been signed with the United Nations system and other bodies. As part of those agreements, various initiatives had been developed to strengthen the protection system for children and adolescents in the Amazonas state, directly benefiting the indigenous population there. It had also run a workshop on the national and international protection of refugees with the Office of the High Commissioner for Refugees.

The Office played an important role in monitoring the State's compliance with the Convention. The Government had adopted the Racial Discrimination Act, which recognized the cultural diversity in the country and established mechanisms to prevent and sanction racial discrimination. However, promotion of the Act was needed to eradicate the discriminatory patterns that still existed. The Office urged the Government to accelerate the establishment of the National Institute against Racial Discrimination.

The opportunity for respondents to define their own ethnic origin in the 2011 census had proved positive, but the results of that census had confirmed the need to raise awareness of matters regarding people of African descent. Statistics should be compiled to identify the exact social and economic situation of that group and stamp out racial stereotypes.

The Indigenous Peoples and Communities Act provided pensions for older indigenous people based on each group's life expectancy and characteristics, and the Government should offer those special pensions to indigenous people over 50. The Government was

taking positive action to protect the territories of indigenous people, including the granting of collective ownership of land to indigenous communities. The content of collective ownership deeds should be updated in the light of new legislation and guidelines drawn up for the resolution of land conflicts.

The Government had submitted its periodic reports after wide participation and consultation, during which the Office had been able to contribute. The Government should ensure that future reports were presented within the time frames established in the Convention.

The Chairperson praised the Government's attitude towards pensions for indigenous people that were based on life expectancy.

Mr. Rodríguez Castro (Bolivarian Republic of Venezuela) said that equality was of utmost importance to the State party, and actions to eradicate discrimination and social exclusion had been developed in collaboration with communities in various countries. In contrast to neoliberalism, which minimized the State's responsibility for citizens, the Government's universal social policy protected their rights. A number of groups were considered vulnerable by the Government, including indigenous communities and people of African descent.

In order to guarantee human rights and implement the Convention, the Government sought to reinstate rights that had been violated earlier, for example by granting land deeds to indigenous communities, and to achieve the social inclusion of all, for example through free health care and education. The State party would examine the amendment to article 8 of the Convention and continue to develop implementation mechanisms for the Racial Discrimination Act. The National Statistical Institute had established a subcommittee to gather reliable statistics on the indigenous population and people of African descent, and to determine questions relating to ethnicity for inclusion in the 2011 census. The delegation would welcome advice from the Committee regarding the establishment of a data-collection system.

The American Convention on Human Rights had been used to attack the populist governments of Latin America and the Caribbean. The Inter-American Commission on Human Rights had wrongly transferred many cases to the Inter-American Court of Human Rights, which had systematically acted against the State party. The system could not be trusted and several States were calling for the Commission to be moved to a different country. The State party would not return to an inter-American human rights system that only served the interests of certain countries and it was satisfied with the new human rights bodies that were being developed at the regional and subregional level.

Although funding of NGOs was not prohibited, the State party was concerned that those funds were often used to interfere with internal policies. Several NGOs based in the United States of America maintained that indigenous communities in Latin America constituted separate communities, which were autonomous and could prevent national authorities' access to their territories, an idea taken up in a United Nations declaration. Despite the fact that the United States of America had not adopted that declaration, donations from its Government financed many of those NGOs. Such ideas could cause countries in the region to break up or lose control of their natural resources. The State party had rejected some of the recommendations made at the universal periodic review because they had been made with political aims.

The Government had investigated the causes of social inequality and discrimination so that policies could be designed that changed social structures, constructing more equal social relationships that eradicated social exclusion and discrimination. If the Millennium Development Goals were to be met, poverty had to be eradicated. It was therefore necessary to ensure that the conclusions reached during the dialogue with the Committee led to measures that addressed the problems hindering development. The eradication of poverty required socioeconomic models to be challenged, and economic growth should be accompanied by social inclusion and policies that reduced inequality. Capitalism did not truly allow for the enjoyment of human rights or the eradication of all forms of discrimination. The State party chaired the Community of Latin American and Caribbean States and invited the Committee to work with that organization.

Ms. Nuñez Gutiérrez (Bolivarian Republic of Venezuela), after providing the definitions of various terms relating to indigenous people and land, said that there were 40 indigenous peoples in the country. Indigenous culture was mainly passed on orally and indigenous and non-indigenous specialists were contributing to the systemization of information regarding indigenous peoples, which had seen their rights strengthened and received a guarantee that their criticisms would be heard.

The Indigenous Peoples and Communities Act provided that any activity taking place within indigenous territories should be submitted to the indigenous peoples or communities, who decided on the action to be taken in accordance with their customs. As part of the land demarcation process, indigenous authorities and organizations requested the demarcation of their land and participated in its planning and execution. Those lands were collectively owned and were inalienable, not subject to prescription, immune from seizure and non-transferable. All land deeds were accompanied by projects relating to sustainability, food sovereignty and development. Indigenous peoples and communities had the right to use and administer their lands; however, the resources of the soil and underground resources belonged to the country and were administered by the State. Land conflicts were resolved by the National Commission on the Demarcation of the Habitat and Lands of Indigenous Peoples and Communities.

Indigenous peoples' right to health was recognized and progress had been made through the Ministry of Health's various plans, as well as projects that were run by the Latin American School of Medicine and aimed at young indigenous people. Six indigenous training and health centres had been opened.

Mr. Suárez Hidalgo (Bolivarian Republic of Venezuela), responding to a question about the delay in establishing the National Institute against Racial Discrimination, said that the delay had not hampered the Government's efforts to combat racial discrimination, since a temporary measure empowered the Ministry of People's Power for the Interior and Justice to implement the necessary policies and mechanisms to prevent, tackle, eradicate and punish racial discrimination in all its forms. His Government was nevertheless committed to starting up the National Institute as soon as possible.

As for self-identification by indigenous communities and peoples, the Identification, Migration and Alien Affairs Service had

implemented the provisions of articles 1 and 2 of the Partial Regulations of the Act on the Identification of Indigenous Persons, which were outlined in paragraph 261 of the report. That demonstrated his Government's respect for indigenous peoples' right to self-identification.

In connection with the killing of Chief Sabino Romero, he said that the presumed perpetrator had indeed been detained; arrest warrants for several presumed accomplices were outstanding, and several other persons' possible involvement was being investigated.

Mr. Damiani Bustillos (Bolivarian Republic of Venezuela), responding to questions about the administration of justice in his country, described several measures to increase the participation of indigenous communities in that process. He said that the National Assembly was examining a draft law pertaining to the coordination of specialized indigenous courts with the national legal system, and that his delegation would keep the Committee informed about the outcome. He provided details on training for judges and other judiciary officials, which was offered on an array of topics, such as civil procedure, and included modules on the rights of particular groups, such as women, children, and indigenous people.

The Chairperson said that it was essential for indigenous people to be able to identify themselves as members of indigenous groups, as that gave them preferential access to, for example, natural resources.

Mr. Diaconu, referring to the State party's oft-expressed stance on the Inter-American Court of Human Rights, stressed that human rights should never be held hostage to political ideologies or agendas. The Court included eminent and respected legal experts, who had, in fact, issued many rulings in favour of indigenous peoples. He was puzzled and disturbed by the widening breach between the State party's Government and inter-American human rights bodies, and asked why, given that the State party had accepted the validity of the rule of law, it could not accept that from a legal viewpoint the Court was working correctly.

Mr. de Gouttes said that, like Mr. Diaconu, he was surprised by Mr. Rodríguez Castro's strong criticism of the inter-American system for the protection of human rights and the State party's decision to withdraw from that system. While he understood the importance of asserting national sovereignty, it was also in all States' interest to recognize the rule of law as embodied in international courts. Any State or individual might some day find itself in a situation where it needed the protection of such a court.

Mr. Rodríguez Castro (Bolivarian Republic of Venezuela) said that his Government was of the view that human rights could not be safeguarded in the context of a system founded on exclusion. It was therefore acting to ensure that the Venezuelan people were truly able to enjoy their human rights, something that was not possible in a capitalist system. The decisions of the Inter-American Court of Human Rights were based on political rather than legal considerations. His delegation would be happy to provide the Committee with examples.

Mr. Alvarez Herrera (Bolivarian Republic of Venezuela) said that the Inter-American Commission on Human Rights, because of its limited budget, was not sufficiently active and thus the secretariat, which was based in Washington, DC, had acquired disproportionate influence over its work. That the Commission was somehow discriminating against his country was clear from the fact that, while fewer complaints were lodged against his country than against other countries, it ranked second as to the number of cases taken to court. It was essential to involve other Latin American institutions in the regional human rights system.

Mr. Murillo Martínez asked what steps the State party was taking to protect the traditional knowledge of ethnic groups, including people of African descent, especially in the context of article 8 (g) of the Convention on Biological Diversity. Were there policies in place to recognize the land rights of people of African descent?

He repeated his request, made at the previous meeting, for details about the sustainability of social policies and for indicators of structural change in the prison system. He asked the delegation to comment on the alarming statistics regarding deaths of inmates during prison violence. He requested clarification of the scope of the Indigenous Peoples and Communities Act. Finally, he asked what initiatives the State party was developing to combat racial discrimination in the media.

Mr. Calí Tzay said that he was concerned by the statement made at the previous meeting by the representative of the National Institute for Women to the effect that women in the Bolivarian Republic of Venezuela suffered double discrimination, based on both gender and ethnic group. He requested details of the steps taken by the Government to ensure that cases of discrimination reached the courts and of the sentences handed down.

He welcomed the fact that the State party's legislation provided for the right of indigenous children to have their culture and language promoted by the media and wondered what further action could be taken to raise awareness of those provisions among the population. He asked for information on the establishment by the Ministry of Basic Education of intercultural bilingual education in primary and secondary indigenous schools. Did that involve compulsory general education in indigenous languages and Spanish? Was the policy designed only for indigenous children or for all Venezuelan children? In 2009, the National Demarcation Commission had reported that it was granting a total of 40 land titles corresponding to some 1 million hectares to 73 of the indigenous communities recognized by the State and, the previous day, the Government had said that it had granted more than 2 million hectares of land to indigenous communities thus far. Based on his calculations, however, that would suggest that only 4 per cent of the land had been demarcated to date. More information in that regard would also be appreciated.

In 2012, shortly after the massacre of members of a Yanomami community had been reported, the Committee had received information that the event had not actually taken place. However, in the light of a communication that had been submitted to the Committee by the Yanomami organization Horonami requesting protection from mining activities, he wished to know what measures the Government was taking in that connection.

Lastly, he asked whether the Government was committed to ratifying the United Nations Convention relating to the Status of Refugees and what percentage of the national budget was allocated to indigenous peoples and people of African descent.

Mr. Lahiri commended the significant achievements in the State party, particularly with regard to access to education and health care, and growth in incomes. He was concerned, however, that he had been unable to locate any disaggregated statistical data on people of African descent and requested clarification in that regard.

Mr. Ewonsan supported the comments made by Mr. Diaconu and Mr. de Gouttes, while also noting that the experience of the Bolivarian Republic of Venezuela brought to the forefront the intrinsic relationship between liberalism and human rights. On the one hand, excessive liberalism undermined human rights and was conducive to economic crises and, on the other, excessive politicization of human rights issues tended to be counterproductive. It was therefore important to reflect on ways of achieving a balance in order to ensure that human rights remained the key priority at all times.

Mr. Vázquez thanked the State party for its condemnation of anti-Semitic discourse. However, he shared the concerns expressed by Mr. Diaconu and Mr. de Gouttes on the situation regarding the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights. The Commission levelled heavy criticism at many countries, including the country in which it was located, and did not target the Bolivarian Republic of Venezuela specifically. Moreover, it played an important role in safeguarding the rights of indigenous peoples. The State party had deplored the fact that the Commission had developed mechanisms that were not provided for in its founding documents; however, that practice was followed in many human rights bodies — including the Committee on the Elimination of Racial Discrimination — with the aim of guaranteeing human rights more effectively. As to the Inter-American Court of Human Rights, it appointed only judges that were nationals of the member states of the Organization of American States and it was located not in Washington, but in San José, Costa Rica. The comprehensive nature of its anti-discrimination instruments demonstrated that its views were not dominated by any one part of the region or Organization. Moreover, the Organization of American States appeared to have played an important role in quelling the attempted coup d'état of 2002. Lastly, the universal periodic review recommendations rejected by the Bolivarian Republic of Venezuela had been made by various countries and had not been motivated by ill will towards the State party.

Mr. Lindgren Alves said that the State party had provided comprehensive replies to the issues raised. On the issue of its withdrawal from the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights, he considered that it would have been more appropriate for Venezuela to remain within the system in order to try to achieve changes from within. Brazil had also experienced problems with the Organization of American States, which had led to the temporary withdrawal of its representative from the Organization. The problem did not lie with the Court but the Commission, whose experts had a tendency to overlook the need to take into consideration country-specific circumstances. In the same way, it was essential that the Committee should adapt its recommendations to each individual State party, without seeking to establish a single model applicable to all.

In reference to the comments made by Mr. Murillo Martínez, he emphasized the importance he attached to cultural differences but drew attention to the fact that differences in social category were even more conducive to discrimination which, in turn, had an impact on cultural and other factors. Lastly, he paid special tribute to Venezuela for its policy towards its indigenous peoples, which embraced diversity to foster a sense of citizenship among all Venezuelans.

Ms. Crickley said that she had noted the State party's reference to racism as an ideological tool and its explanation that it could not use the same structural tools as those used in the past, which had been based on a different ideological construct. She encouraged the Government to provide indicators regarding the structural changes it sought to achieve in the future with a view to eliminating racial discrimination, namely, the targets it had set, the programmes it was implementing and the ways in which they would be monitored.

The representative of the Office of the Ombudsman had referred to the need for a fully operational national institute on racial discrimination. She wished to know what specific activities would be undertaken by the institute and what plans were in place to ensure that it was fully operational. Reference had also been made to the implementation of initiatives targeting elderly indigenous people. She would welcome information in that regard.

Mr. Rodríguez Castro (Bolivarian Republic of Venezuela) said that it would be very difficult to answer all the questions raised within the short time available, but that his delegation wished to maintain a close working relationship with the Committee and had extended an invitation for it to visit Venezuela.

His Government agreed that States had a duty to guarantee services that provided for the enjoyment of human rights. A sustainable policy in that regard was clearly feasible but was dependent on the equitable distribution of wealth, on the willingness of States to decrease spending on war and weapons and on the value of human life in the society in question. The Bolivarian Republic of Venezuela focused its efforts on human rights policies, not politics.

On the issue of violent deaths in prisons, the prison system was being reorganized to help people to resettle in society. The Committee was welcome to visit detention facilities during its visit. Detention facilities hosted performances by symphony orchestras and provided education and employment to detainees, notwithstanding the costs incurred.

Social rights were recognized for all citizens. In the past, pensions had been awarded only to people working in the formal sector. In recent years, pensions had been granted to more than one million additional people. Priority had been given to the most disadvantaged sectors of the population, mainly indigenous peoples and persons of African descent.

Discrimination existed in Venezuela, based on political and economic factors relating to social class and cultural background, but State policy actively combated racial discrimination, ensuring that such acts were fully prosecuted and punished in accordance with the provisions and recommendations of the Convention.

The assumption that only 4 per cent of the land had been demarcated or redistributed thus far was incorrect. Of the 108 applications that had been received from indigenous communities, 80 had already been processed by the National Demarcation Commission and the lands concerned had already been formally redistributed.

Data concerning people of African descent could be found in the appropriate section of the State party report. A significant amount of data had been obtained from the census that had been carried out. All the data subsequently processed was available on the website of the National Institute of Statistics but his Government was willing to provide the Committee with any further statistical data it required.

Regarding allegations of anti-Semitism circulated by the media, he stressed that his Government's position was clear. It was critical of the treatment of the Palestinian people by the State of Israel, not of Jewish people – who, in the Bolivarian Republic of Venezuela, were treated and appreciated in the same way as any other citizens. The President himself had Jewish ancestry.

The Organization of American States had initially recognized the perpetrators of the 2002 attempted coup d'état, but had subsequently withdrawn its statements in that regard. His Government welcomed some of the decisions handed down by the Inter-American Court of Human Rights, but not the majority. The credibility of the Organization of American States, the Inter-American Court of Human Rights and the Inter-American Commission on Human Rights had been undermined. Before withdrawing its membership, his Government had insisted on the need for radical changes in the way the Organization, the Court and the Commission operated, but to no avail. The Bolivarian Republic of Venezuela Government, firmly committed to guaranteeing the rights of its people, called on countries in the region to join efforts to build, within the frameworks of the Community of Latin American and Caribbean States, the Union of South American Nations and the Southern Common Market, new institutions that truly defended human rights.

On the issue of land titling, the situation regarding people of African descent was distinct from that of indigenous communities, since the former usually lived in areas that were also inhabited by other population groups. A communal land title had nevertheless been awarded to a community of people of African descent in Yaracuy state, and other such opportunities would be examined.

Mr. Calí Tzay, thanking the delegation for the openness and sincerity it had demonstrated throughout the dialogue, outlined the content of the Committee's concluding observations, which would be published shortly, after discussion and approval by all Committee members.

Mr. Rodríguez Castro (Bolivarian Republic of Venezuela) reiterated his Government's commitment to combating inequalities and protecting human rights. Guided by the legacy of President Chávez, the Bolivarian Republic of Venezuela would endeavour to strengthen the rule of law and justice, and looked forward to receiving the recommendations of the Committee.

The meeting rose at 1 p.m.