



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

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Sixty-eighth session

SUMMARY RECORD OF THE 1748th MEETING

Held at the Palais Wilson, Geneva,
on Friday, 3 March 2006, at 10 a.m.

Chairman: Mr. de GOUTTES

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The meeting was called to order at 3.15 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION
SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE
CONVENTION (agenda item 6) (*continued*)

Initial to fourteenth periodic reports of Guyana (CERD/C/472/Add.1)
(supplementary document without symbol distributed in the Committee room, in
English only, by the delegation) (*continued*)

1. *At the invitation of the Chairman, the members of the delegation of Guyana took places at the Committee table.*

2. Ms. SHADICK (Guyana) said that there had always been tension between the Indo-Guyanese and Afro-Guyanese communities, particularly at times of parliamentary and presidential elections. In Guyana, political life was marked by an ethnic divide inherited from the country's colonial history. Guyana had obtained its independence from Great Britain in 1966 and had become a cooperative republic in 1970. For some 50 years, the main two political parties had been the People's Progressive Party (PPP), which was predominantly Indo-Guyanese, and the People's National Congress (PNC), which was predominantly Afro-Guyanese. Between 1966 and 1992, the PNC, in coalition with The United Force (TUF), had governed the country in accordance with a Marxist policy. In October 1992 the first free and regular elections had been held, which had brought the PPP to power. Many Guyanese, regardless of ethnic origin and political leanings, considered that democracy in the country had begun in 1992. The PNC had claimed, however, that the elections had been rigged; that had led to numerous demonstrations and had stoked racial tension between communities. Although democratically elected, the PPP had agreed to organize legislative elections in 2001, although, in accordance with the Constitution, they should have been held in 2003. In 2001, the PPP had again won the elections but that PNC had disputed the results and disturbances had been broken out which had shaken political and social life. Racial tension was then essentially linked to election results.

3. The Government was fully aware of the ethnic divide in political life and made every effort to promote dialogue between the political forces and ethnic communities. In May 2003, the President and the leader of the opposition had issued a joint communiqué whereby they had agreed to seek solutions together in the interests of the Guyanese people as a whole, on the basis of constructive engagement, with a view to long-term social, economic and political development. Political decision-makers in general, and the President in particular, gave considerable attention to the various ethnic communities and regularly visited areas where the most vulnerable ones lived. Guyana had not mentioned in its report the visit made to the country by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Mr. Doudou Diène, (E/CN.4/2004/18/Add.1) but the Government had duly noted the recommendations of the Rapporteur. It was aware in particular of the urgent need to improve relations between ethnic communities, since the promotion of peace nationwide was a sine qua non for economic development. She stressed that the Amerindian, Chinese and Portuguese ethnic groups did not have specific political parties.

4. She could not say what percentage of GDP was earmarked for Amerindians, as budget resources were broken down by administrative region and not by ethnic

group. All communities, including those living in the most remote areas, had access to primary health care. There were regional hospitals, district hospitals, polyclinics, health centres and dispensaries in isolated villages. In each Amerindian community, there was always a medically-trained person on hand to provide the population with basic health care. In the event of serious health problems, and as some remote areas were accessible only by air, the State had signed agreements with private companies to freight aircraft and transfer patients to the closest hospitals.

5. The Amerindian community was not the only one to be affected by the problems of alcoholism, poverty, malnutrition and rape referred to in paragraph 66 of the report; they were countrywide. Guyana had merely reported the findings of a study carried out by the Amerindian Peoples' Association.

6. Nor could the Guyanese delegation provide statistics disaggregated by race or ethnic origin on housing, land ownership and social protection, since no government office requested such information in its forms. It was known, however, that Amerindians were easily able to obtain land and housing from the public authorities if they went outside Amerindian communities. The land located in the Amerindian community area belonged to all Amerindians and could not be parcelled out to build housing or for the purpose of farming. The main criteria for the granting of housing or land were income, family size and number of children. The poorest families, particularly Amerindian ones, had priority for loans and benefited from extremely low interest rates. The Government spared no effort to offer the poorest people opportunities for gainful activity so that they could thereby escape from the vicious circle of poverty.

7. With regard to the ethnic composition of the army, she reminded the Committee that a commission had been appointed by the Government to address that question in all of the security services of the State (national defence, police and fire services) and remedy any imbalances. That commission had delivered a report to Parliament; a parliamentary commission, which was currently examining the file, would, as necessary, draw up recommendations which would then be submitted to Parliament for adoption.

8. To combat racial discrimination, Guyana had adopted two laws: the Racial Hostility Act and the Prevention of Discrimination Act. The former, adopted in 1997, covered racist crimes and offences and any act that incited or tended to incite racial hatred. It had not so far given rise to criminal proceedings owing to the fact that, as Guyana had a small population, witnesses to racist crimes or offences were not necessarily willing to testify in public in such cases. In addition, the recent enactment of that law might also explain why it had not yet been invoked. Nevertheless, even in the absence of court proceedings, the State was not inactive and promoted the settlement of disputes by mediation. Thus, in a recent case, the Advisory Committee on Broadcasting had forced a public television announcer to resign for having made racist remarks and had referred the matter to the Ethnic Relations Commission which had also intervened.

9. The second law concerned acts of discrimination in the workplace and in professional bodies, on whatever basis (race, gender, age, etc.). Unlike the first law, it had given rise to civil proceedings, particularly, recently, against a private company in a case of dismissal on racial grounds.

10. On the question of the ethnic composition of the national police, the Government had recently established the Disciplined Forces Commission (para. 35), tasked with recommending measures to establish an ethnic balance in the police force. According to the latest statistics available, 60 per cent of the members of the national police were Afro-Guyanese, 20 per cent Amerindians, 1 per cent Portuguese and 19 per cent Indo-Guyanese. Salaries were generally low in the public sector owing to the high level of debt of the country, which could only be brought down through very strict financial and budgetary management.

11. Election to Parliament was on the basis of proportional representation; elections were held for that purpose every five years. In addition, under the Representation of the People Act (para. 17 of the periodic report), at least one third of representatives of each political party standing in national elections must be women.

12. Education was free for everyone in Guyana and specific financial measures were taken in support of children belonging to the vulnerable population groups in order to encourage them to attend school. In 2005, 25,000 children had received State assistance for that purpose.

13. In response to a question from Mr. Sicilianos, she explained that the Amerindian people had long been the only ones to hold recognized land rights over the lands where they lived. Under the Amerindian Act (para. 36), recently amended, Amerindians who had been living for more than 30 years on Government-owned land could apply for deeds of ownership to such land. If they were living on private land, they acquired the right to apply for a deed of ownership at the end of 13 years.

14. As for the practice of arranged marriages (para. 80 of the periodic report), it was slightly on the decline but was tending to be maintained for economic reasons and for the purposes of migration. The practice of forced marriages, however, did not exist in Guyana.

15. Mr. YUTZIS, Country Rapporteur, noting that, according to the Guyanese authorities, every citizen could claim affiliation with an indigenous people, drew the delegation's attention to ILO Convention no. 169 on indigenous and tribal peoples. Article 1 of that instrument provided that the Convention applied to "peoples in independent countries who are regarded as indigenous on account of their descent from the populations which inhabited the country, or a geographical region to which the country belongs, at the time of conquest or colonization or the establishment of present state boundaries and who, irrespective of their legal status, retain some or all of their own social, economic, cultural and political institutions." He therefore asked the delegation to indicate on what basis and according to what criteria the national authorities regarded a people as indigenous.

16. The CHAIRMAN, speaking in his personal capacity, recommended that Guyana should be guided by the measures taken by some States parties to overcome the problems of evidence collection in cases of racial discrimination. Some States had decided, for example, to reverse the burden of proof in civil cases of racial discrimination and increasingly employed the "testing" method whereby an expert speaking on oath attested to the existence of manifest racial discrimination.

17. Mr. AVTONOMOV said he was pleased to learn that, although the State party said in its periodic report that no racial group required specific legislation to ensure the full enjoyment of its fundamental rights, a ministry had in fact been established

to address indigenous issues. Did that mean that the Government's position had changed in that regard, particularly where the indigenous people were concerned? They were the most vulnerable population group and, as such, could merit special measures within the meaning of the Convention. He wished to know the delegation's point of view as to the desirability of such measures.

18. He also noted with satisfaction that a good number of communities had received land ownership deeds giving them substantial rights but that others had to undergo a far lengthier procedure for recognition of their property rights. He requested explanations as to the reasons for that difference.

19. Mr. THORNBERRY said that the absence of Amerindian representatives in the Ethnic Relations Commission seemed surprising in the light of the principle of equal participation and protection before the law. From a practical point of view, it would be useful for there to be the broadest possible participation in that Commission, which was a vehicle of dialogue on ethnic relations, given that, under international law, equal participation meant that a population group must be able to participate in decision-making concerning it.

20. He further noted that the delegation had spoken of "positive discrimination" in favour of Amerindian groups and recalled that the Convention referred in that connection to "special measures" to ensure the advancement of certain ethnic or racial groups.

21. Ms. JANUARY-BARDILL said that the fact of compiling data on individual ethnic groups was not necessarily incompatible with national unity and that such data could even be a valuable tool for policies to promote national unity, as had been demonstrated by the experience of countries like South Africa.

22. Ms. SHADICK (Guyana), responding to Mr. Yutzis, said that a change in proportional representation would entail a change to the Constitution and that no recommendation had been made to that effect at the time of the last revision of the Constitution, in which all sectors of society had been involved. Some degree of regional representation had, however, been introduced in 2001. Furthermore, the Guyana Action Party was not to her knowledge an Amerindian party, even though it was represented in Parliament by an Amerindian.

23. As for the suggestion made by Mr. de Gouttes, that type of solution was currently being studied and could be applied in future, bearing in mind that the burden of proof was already lower in civil law cases, for example. In response to Mr. Avtonomov, she said that the principle that no racial group could be the subject of special legislation concerned fundamental human rights and admitted of no exception. It was not a question of those rights in the case of the Amerindians but of the right to land, access to natural resources and the preservation of culture. With regard to the comment made by Mr. Thornberry on the rights of population groups to participate in decision-making concerning them, the representatives of Amerindians and all other ethnic groups had participated in the Constitutional Reform Commission when it had addressed the problem of ethnic relations. Referring to the expression "positive discrimination", she acknowledged that, even though it had been used by Committee experts at the previous meeting, the term "affirmative action" seemed more judicious. Lastly, in response to Ms. January-Bardill, she said that while disaggregated data would indeed be useful, the Guyanese State did not possess such information and considered it preferable for the time

being not to ask people to identify themselves racially, in view of the reluctance of many of them to do so.

24. Mr. CALI TZAY requested explanations regarding the statement in the introduction to the supplementary document distributed by the State party, according to which the Amerindian Act constituted a measure of positive discrimination in favour of Amerindians, as well as a special measure within the meaning of article 1.4 of the Convention. It was, rather, a basic obligation of the State party under the Convention and accordingly could not be considered a positive or special measure. He also wished to know for how many generations a descendant of an indigenous or aboriginal people was recognized as Amerindian under the law.

25. On the question of land grants, the State party indicated, in its reply to the nineteenth question addressed in the supplementary document, that it took into account such criteria as the customs and traditions of the Amerindian community, their use of the land and the nature of their specific links to the land, which reflected the most recent case law of the Inter-American Court of Human Rights. However, that case law tended rather to recognize the inherent right of indigenous people to the land and to affirm the obligation upon States to demarcate the lands traditionally held by indigenous people in accordance with their traditions and customary law and to deliver to them the corresponding land titles. Explanations regarding that difference of interpretation would be appreciated.

26. Mr. AMIR, following up on the question put by Mr. Cali Tzay, asked whether indigenous and particularly Amerindian groups had already had recourse to the Inter-American Commission on Human Rights to assert rights to ancestral land, on the basis of customary law.

27. Ms. RODRIGUES (Guyana), in response to Mr. Avtonomov, explained that the criteria for acquisition set out in the new Amerindian Act were met by the 22 communities concerned. The slowness of the process was due to the fact that, initially, the representative organizations of some communities had not been in favour of demarcating the land. Things had begun to speed up in 2004, when two titles to land covering 3000 square miles had been granted. Similarly four titles and one territorial extension had been granted in 2005, three titles and three renewals should be soon and 10 other applications were being negotiated. At the end of that process, 13 per cent of Guyanese territory would belong to Amerindians.

28. On the generation issue, the Guyanese authorities had included in the law the defining characteristics not only of an Amerindian but also of a resident in an Amerindian community, so that people would not be obliged to identify themselves. The community concerned would decide whether or not a person was a resident: individuals, whether Amerindian or not, could thus cease to enjoy the benefit of their status as residents if, for example, they had not been living in their community for five years.

29. In the past few years, there had been real change in the participation of Amerindians in society. At the political level, the success of certain parties that had campaigned for Amerindians was also a good thing, as that would encourage other parties to recognize their political importance. Gone were the days when Amerindians lived on the fringes of society. Many of them now were in the police and the army or were doctors and engineers.

30. Concerning official recognition of Amerindians, in 1995 the Government had established an Amerindian heritage month and day, which had since become a major national event in which all Guyanese participated. It was also a time of the year when the Government's action to promote Amerindian development was closely scrutinized by the media and civil society organizations.

31. No figures were available on the percentage of GDP allotted to Amerindians, but between 1992 and 2006, budget appropriations to the four main Amerindian areas had increased by more than 400 per cent. In addition, the budget of the Ministry of Amerindian Affairs, established in 1992, had increased by more than 100 per cent since being set up, and now totalled some \$1 million.

32. It was difficult for the State to ensure proper health care for all population groups owing to the fact that some communities lived in remote and barely accessible areas and that there was a lack of health personnel to serve them. The situation was improving, however, as increasing numbers of Amerindians were receiving health care training. To prevent those concerned from going abroad after receiving their training, they were required to sign a contract whereby they undertook to return to their communities of origin after their studies. Moreover, in order to make up for the shortage of doctors in remote areas, the Guyanese and Cuban governments had concluded a bilateral agreement under which 20 Cuban doctors were working in Guyana, including six in areas inhabited by Amerindian communities, and several Guyanese students of Amerindian origin had been sent to study medicine in Cuba for five years, after which they would return to Guyana to take over from the Cuban doctors.

33. Furthermore, 350 pupils belonging to Amerindian minorities had received a scholarship, including 275 under the hinterland scholarship programme, and 75 Amerindians were studying at Guyana University under scholarships. Scholarship holders were free to choose their fields of study; the absence of Amerindian students in law faculties was due solely to the fact that they had not applied to them. In fact, as the law faculties were full, Amerindian students were the only ones encouraged to study law.

34. To be eligible for a secondary school scholarship, hinterland pupils had to obtain a minimum of 470 points. Scholarships were also granted to pupils who chose to pursue their studies in technical institutes and in other courses of study. Other criteria taken into account were geographical distribution and the fact of having already been awarded a scholarship. As for university scholarships, they were systematically granted to students provided that the necessary conditions were met. To date, no application had been turned down.

35. Amerindian communities possessing land rights owned their lands. Under the law, some of them had the right to lease out up to 10 per cent of their land. When a community obtained land rights, a village council was required to be set up by the Ministry of Amerindian Affairs to manage the land in question.

36. As for whether Amerindian mestizos were subject to discrimination, she said that she herself, who was of such mixed parentage, had never suffered discrimination on that account, probably because nearly all Amerindians were mestizos.

37. On the question of the participation of Amerindian communities in the framing of policies concerning them, in the Ministry of Amerindian Affairs, there were 55

officials, most of whom were Amerindians, at every level. In particular, three of the six senior officials of the Ministry were Amerindians.

38. In response to the query concerning the capacity of the Government to provide a good level of education in English for members of Amerindian communities, she stressed that 20,530 persons, or more than one third of the entire Amerindian population, were enrolled in school, and that the average rate of school attendance was 76 per cent and the school dropout rate was 3 per cent. In addition, the Government had launched a distance teaching programme which allowed teachers to be trained within local communities. The first batch of students to have studied under that programme would graduate in 2006. Teachers were also trained at Guyana University and those from the hinterland received full salary during the courses.

39. Referring to the fact that the Amerindian bill tended to leave several issues to the discretion of the Minister, she explained that, in the cases cited, the Minister but also the communities concerned must give their approval. On the question of mining, Amerindian communities had a right of veto over small and medium-sized mines. In the case of large mines, communities could have recourse to the courts.

40. With regard to the preservation of indigenous languages, the situation varied considerably from one community to another: some used their language all the time but others hardly ever spoke it. Furthermore, pupils usually preferred to learn the languages of neighbouring countries, namely Spanish or Portuguese, rather than the language of their community. A pilot project had been launched for the teaching of two Amerindian languages, Makushi and Wapishana, and would subsequently be extended to other indigenous languages.

41. As for the ethnic composition of the 10 regional parliaments, two of their 10 presidents and three vice-presidents, including one woman, were Amerindians.

42. Concerning customary law, she explained that a new customary rule was adopted by the village council when it had been approved by a two-thirds majority. It was then examined by the Minister of Amerindian Affairs, who made sure that it was compatible with the Constitution. The competence of the councils was limited to customary law. In cases of violation of statutory law, they would hand over suspects to the police, to be dealt with by the ordinary courts.

43. Concerning housing, members of the communities could not mortgage land belonging to their community to purchase housing. A credit programme had been launched for 25 communities, offering loans at very low rates of interest.

44. In response to allegations that Amerindian communities were particularly affected by poverty, she said that it was doubtful whether criteria for measuring poverty gave a true picture of reality.

45. Lastly, with regard to the use of the adjective "Amerindian" rather than "indigenous", many legal opinions had been expressed on the subject, which remained open for discussion. After taking into account the wishes of the communities concerned and noted the practices in force in other countries, it had been decided to continue to use the term "Amerindian" in Guyana.

46. Mr. THORNBERRY wished to have fuller information about the place of customary law in domestic law. Was it incorporated into the legislation of the State party?

47. Ms. SHADICK thanked the members of the Committee for their keen interest in the report and in the documents distributed in the meeting room by the delegation, as reflected in the considerable number of questions they had asked. She stressed that relations between the various racial and ethnic communities of Guyana were improving slowly but surely and that the Government was determined to submit its fifteenth periodic report on time.

48. Mr. YUTZIS, Country Rapporteur, said that, as a great deal of time had elapsed since Guyana's ratification of the Convention, the Committee had high expectations; that accounted for the many questions it had put to the delegation which, wishing to make up for the delay, had provided it with abundant information. The fruitful dialogue established with the delegation had enabled it to view the realities of the State party from a new angle and to call into question some of its certainties. In particular, it noted with satisfaction that the inter-ethnic divide inherited from the past was gradually narrowing and that, at the same time, the State party had taken administrative, judicial and legal measures to be more in line with the Convention. Guyana seemed to have understood the need to establish a new ethical and social covenant based on consensus, participation and the integration of all social groups.

49. The State party should draw up a national plan of action based on the Durban Declaration and Programme of Action adopted by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance. He also considered, like the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, that the State party should set up a constitutional commission on intercultural dialogue (see document E/CN.4/2004/18/Add.1, p. 19, last paragraph) and that that intercultural dialogue should encompass interreligious dialogue. Lastly, he expressed the hope that the State party would submit its report within the two-year deadline, so that the information it contained could be reviewed in the light of the replies received during the current session.

50. The CHAIRMAN declared that the Committee had thus completed its examination of the initial to fourteenth periodic reports of Guyana.

51. *The delegation of Guyana withdrew.*

The meeting rose at 11.55 a.m.