



International Convention on the Elimination of All Forms of Racial Discrimination

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Summary record of the 1949th meeting

Held at the Palais Wilson, Geneva, on Thursday, 13 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 (*continued*)

Fourteenth periodic report of Colombia (continued) (CERD/C/COL/14; HRI/CORE/1/Add.56/Rev.1; written replies to the list of issues, document without a symbol distributed in the meeting room, Spanish only)

1. *At the invitation of the Chairperson, the delegation of Colombia took places at the Committee table.*
2. **The Chairperson** invited those Committee members who had not had time to submit their questions and comments to the delegation to do so.
3. **Mr. Lahiri** remarked that the majority of Latin American countries tended, in varying degrees, to deny that racism existed, on the grounds that they considered themselves mixed-race nations whose history was free from racially motivated conflicts and tensions. Some even went so far as to consider blatant examples of discrimination as the result of economic or social factors rather than racial ones, an approach which somewhat complicated consideration of the situation in Colombia. Nevertheless, the Government of Colombia had made significant progress by recognizing in its report that Afro-Colombian and indigenous communities in Colombia had been the victims of various forms of discrimination. The delegation had emphasized that such discrimination was prohibited by law and actively discouraged by the State. Nonetheless, the State was obliged to take steps to rectify the situation, taking into account the provisions of the Convention.
4. The first measure required was systematically to collect disaggregated data on access to education, health, justice and housing and to evaluate the socio-economic impact of racial discrimination on those affected, as well as the consequences of population displacement and violence on different communities. The data should then be used to implement affirmative action programmes to help those communities and mechanisms to evaluate regularly the programmes' results.
5. He hoped that the Committee would urge the Government of Colombia to recognize the extent of the problem of racial discrimination, to assume fully its responsibilities and legal obligations and to take the necessary steps to gauge and counter the situation. In that respect, he emphasized that it would be useful to fix objectives and a timetable.
6. **Mr. Peter** requested clarification of the tables and graphs in paragraphs 268 and 269 of the report, concerning the prison population. He noted that *mestizos* were not mentioned and wondered how they had been counted. With regard to institutions for the promotion and protection of human rights, he asked whether the Government of Colombia planned to set up a national, independent human rights commission in accordance with the Paris Principles. It would be difficult for the Ombudsman alone to ensure the implementation of the 80 or so articles of the Constitution dedicated to political, civil, economic, social and cultural rights.
7. **Mr. Avtonomov** said that it was surprising that Colombian legislation did not make provision for amparo (enforcement of constitutional rights); a procedure used widely in many Latin American countries and asked whether there was any particular reason for that. With regard to Afro-Colombian communities, in the light of the steps taken by the Government of Colombia to promote their ethnic and territorial rights, he asked what was the total budget allocated to finance development plans to help those communities, in particular those who had been displaced. Finally, given the importance of maize production for many indigenous peoples, he expressed concern about the consequences of genetic

contamination of maize seeds, which was a real risk and asked the delegation for its opinion on that issue.

8. **Mr. Amir** asked for details about the National Liberation Army, its status and role. As the geographical data submitted to the Committee did not cover the forests or maquis where illegal armed groups operated, in particular the Revolutionary Armed Forces of Colombia (FARC), he asked how much of the country was occupied by armed groups. He also wondered about the consequences of that presence on local populations, particularly with regard to freedom of movement and the risk of their being indirectly controlled by armed groups operating in their territory.

9. **Mr. Garzón** (Colombia) recognized that, although discrimination was prohibited by the Constitution, certain discriminatory practices continued to exist, even on the part of State officials. The violence which had ravaged the country for more than 40 years had only made the situation worse. The Government was aware of the situation and was doing its utmost to ensure that the Constitution, international human rights standards and international humanitarian law were respected by all public institutions and officials. It used both legislative measures and force in its relentless effort against the guerrillas, drug trafficking networks, illegal armed groups and paramilitary groups, to which, unfortunately, certain police and army officers were linked. Many public officials had been tried and convicted for their role in these groups' activities.

10. Nevertheless, the Government insisted that the presence of illegal armed groups operating in Colombia had never led to the collapse of democratic institutions. All mayors were elected democratically and were responsible for their districts. Armed groups did not therefore exercise any territorial control. However, their presence and the resulting violence severely affected the population and was a threat to the region. For that reason, in addition to the action undertaken at the national level, the Government attached great importance to cooperating with neighbouring countries.

11. The delegation of Colombia welcomed the Committee's questions, comments and recommendations with interest and saw the exchange as an opportunity for an open and constructive dialogue. Furthermore, the presence of so many representatives from NGOs and Colombian civil society was encouraging, and their contribution would be vital for moving forward.

12. **Ms. Rey** (Colombia) said that the 2005 Justice and Peace Act aimed not only to facilitate the demobilization of former members of the self-defence groups, but also to re-establish the right to truth, justice and redress. As a result of the Act, more than 31,671 group members had been demobilized when the programme ended in 2006. The Act was also intended to protect victims and witnesses, to force former self-defence group members to confess to all the acts that they had committed and to compensate the victims. With regard to compensation, 211,000 individuals had submitted claims to the Commission charged with returning goods seized by the armed groups. By the end of 2009, 10,000 families had received compensation totalling 100 million dollars. Regarding the widespread violence, she remarked that Colombia had fought relentlessly against all the factors that could fuel the violence. The vast wealth amassed from drug trafficking was largely used to finance armed groups, who were responsible for numerous kidnappings of children and other flagrant human rights violations. The Colombian authorities considered the fight against drug trafficking a priority.

13. With regard to the legal framework for protecting human rights, the Constitution afforded a wide range of fundamental rights. The Colombian Constitution and legislation provided various mechanisms allowing citizens to lodge complaints with the judicial and administrative authorities to ensure respect for their rights. They included writs for enforcement of constitutional rights, more often called "amparo", actions to enforce

judgements, *actio popularis*, the right of petition and constitutional review. With regard to *amparo*, article 86 of the Constitution provided that anyone could file a writ for *amparo* before the courts, at any time or place, through summary proceedings, in person or via a representative, for the immediate protection of their fundamental constitutional rights, when they were infringed or threatened by action or omission on the part of any public authority. The proceedings were rapid and simple. Concerning bodies for the promotion and protection of human rights, she said that at the executive level of government, the Vice-President of the Republic dealt with human rights questions and supervised the implementation of the presidential programme for the defence and protection of human rights. There was also an intersectoral human rights commission to coordinate all human rights policies and measures among the various competent ministries. With regard to judicial issues, besides the Constitutional Court, which ensured the integrity and supremacy of the Constitution and, consequently, the respect for human rights established by the Constitution, it was necessary to distinguish between the Attorney-General's Office (*Procuraduría de la Nación*) and the Office of the People's Advocate (*Defensoría del Pueblo*). The Attorney-General's Office enforced the Constitution, laws and administrative acts, protected human rights and upheld society's collective interests, monitored the behaviour of those carrying out official duties, expedited enquiries and imposed sanctions. The Attorney-General's Office also guaranteed the right of every citizen to due process. The Office of the People's Advocate, on the other hand, ensured the promotion, exercise, teaching and defence of fundamental rights. It had a nationwide presence, particularly through delegated advocates who dealt with specific problems, regional advocates in all 32 national departments and community advocates who dealt with issues linked to indigenous peoples, Afro-Colombians and rural communities.

14. **Ms. Hernandez** (Colombia) said that the early warning mechanism established by the Office of the People's Advocate would warn of any forced displacements in high-risk areas. The body dealing with early warnings would carry out enquiries and prepare reports on the risk of forcible displacements. In case of an imminent risk, an alert would be given and all the relevant information would be sent to the local authorities who would, in turn, analyse the situation and take the necessary steps. With regard to areas in which fighting had ended, Colombia implemented a democratic security reinforcement policy to restore the right to education and health and to ensure the restoration of regulatory bodies that would safeguard national security. As regarded human rights violations, the self-defence groups, which had been responsible for most of the violations, had all been demobilized at the end of 2006. Since then, violations had been committed mainly by the Revolutionary Armed Forces of Colombia (FARC) and numerous illegal armed groups. It would be very difficult to list those groups, as the majority were linked to drug trafficking and had very flexible organizational structures. Nevertheless, the State was more determined than ever to combat their activities.

15. With regard to acts of violence committed by members of the security forces against indigenous peoples and Afro-Colombians, she explained that often those concerned lived in areas where there was a high level of drug trafficking and that the number of errors was very high. Nevertheless, the State had a zero tolerance policy with regard to members of the security forces who violated human rights. Instructions were given to members of the security forces sent to high-risk areas to ensure that they respected the legal framework assiduously. The instructions had led to a significant decrease in the number of complaints against members of the security forces. Over the last few years, 27 soldiers had been suspended for using excessive force. Furthermore, a bill to reform the military criminal justice system had been submitted, whereby all human rights violations committed by soldiers would no longer be judged by military courts but by ordinary courts and the military criminal justice system would no longer come under the authority of the executive.

The general aim would also be to increase professionalism and respect for human rights within the armed forces.

16. **Ms. Ortiz** (Colombia) said that 4.5 per cent of Afro-Colombians were illiterate, which was higher than the national average. A literacy programme for adults had been introduced, particularly in remote areas and places with a large Afro-Colombian population. Indigenous peoples and Afro-Colombians had the right to free primary education. There were 12,000 indigenous and 3,000 Afro-Colombian teachers. Furthermore, 75 indigenous languages had been identified, of which, 38 were taught in school. The official language was Spanish, which was also the main language of instruction, but a State programme to promote and strengthen indigenous languages had been introduced. The Ministry of Culture had also submitted a bill to the Government to ensure the preservation of indigenous languages. In Colombia, there was no unified school curriculum nor did all schools use the same textbooks. It was therefore false to claim that Afro-Colombians were negatively stereotyped in all textbooks. The Ministry of Education had established guidelines and helped schools to develop their own educational projects. It ensured that everyone's fundamental rights were respected and that the specificities of the various groups that made up the nation were taken into account when teaching Colombian history.

17. **Ms. Mejia** (Colombia) said that there had been 3 million displaced persons, i.e., some 718,000 families, in Colombia in July 2009, and not 1 million as had been announced during the last session. The Colombian Government had made a huge financial effort to help them and had released a budget of 949 million dollars. Those funds had, in part, been allocated to the action plan of the Colombian Family Welfare Institute (ICBF), which attended to families and communities who had been forcibly expelled from their territory and homes (CERD/C/COL/14, para. 223). No discriminatory practices had been observed when displaced individuals registered.

18. In addition, since 2002 an alternative development programme has been carried out to replace illegal crops in environmentally strategic zones of the country. This had led to the generation of other means of subsistence and sources of income for small farmers and to the implementation of food security programmes for farmers who agreed to replace coca with legal crops. In this context, the State had also financed programmes to install electricity and build roads in these areas. According to the latest available figures, 75 per cent of farmers surveyed had declared that they did not want to go back to growing coca.

19. **Ms. Fonseca** (Colombia) explained that the Ombudsman for indigenous peoples and ethnic minorities was an authority independent of the executive branch, whose role was to promote and disseminate human rights information. It was also responsible for the continual assessment of minorities' human rights situation and the arbitration of disputes between ethnic minorities.

20. **Mr. Medrano** (Colombia) pointed out that the Colombian Government had carried out several studies in order to assess the risks faced by indigenous people in danger of extinction (*ibid.*, para. 101). Indigenous peoples threatened with extinction generally lived on the edge of the Amazon rainforest. They were semi-nomadic communities threatened by the spread of agriculture and cattle-rearing in their traditional homelands. Overall, these peoples tended to be largely ignorant of the country's institutions and their rights. The State, which had legally recognized the existence of these communities, had adopted 13 action plans to assist them, covering principally security, food, health, education and road infrastructure. The Ministry of the Interior and the Presidential Agency for Social Action and International Cooperation (*ibid.*, para. 217) as well as other State bodies were striving to meet the needs of these communities through cross-sector and inter-institutional measures.

21. **Ms. Garcia** (Colombia) specified that Colombia had four large ethnic groups: indigenous peoples, Afro-Colombian communities, island communities and Roma. In Colombia, self-identification was used to determine ethnicity, even if the Ethnic Groups Directorate (*ibid.*, para. 429) used criteria such as location, ethnic characteristics and identification of their members, to determine whether or not they were truly indigenous.

22. She recognized that the statistics on the number of Afro-Colombians varied depending on the sources and explained that it was largely due to persistent negative connotations of belonging to the Black community, which would explain why persons of mixed race in particular declared themselves as being Caucasian. As a result, the Government had adopted a series of measures to strengthen Afro-Colombian identity.

23. She pointed out that several bills had been submitted to Congress (*ibid.*, para. 144) on the issues of racial discrimination and equal opportunities, but most of them had been rejected at the first reading. The Government had decided to modify them and present them again at the next parliamentary session. A bill to prohibit racially-motivated crimes was still being examined by the House of Representatives (*ibid.*, para. 4). With regard to the difference between indigenous populations and indigenous peoples, she explained that indigenous populations were simply made up of individuals living on indigenous territory, while indigenous peoples had their own culture, identity and language.

24. On the question of whether preliminary consultations had taken place with indigenous communities over a large oil-drilling project on indigenous territories, she recalled that the Colombian High Court, to which the case had been referred, had ruled that the development of indigenous natural resources was subject to any existing agreements between businesses and the peoples concerned, but had also allowed the State to take a reasonable and objective decision in that respect.

25. With regard to the question on the excessive proportion of Afro-Colombians in Colombian prisons, she explained that indigenous people, unlike Afro-Colombians, had their own justice system, customary law, under which individuals convicted of crimes committed on indigenous territories served their sentence within the community itself. The authorities were almost ready to create, through the discrimination observatory, a similar legal framework for Afro-Colombians. Furthermore, the Government hoped that the adoption of the bill to combat racial discrimination would solve this problem.

26. With regard to the Colombian Government's measures to help Afro-Colombians to overcome marginalization and poverty, she highlighted that the comprehensive long-term development plan (*ibid.*, para. 99), which had just been implemented, would raise their standard of living and improve their quality of life, by strengthening the human capital of the Afro-Colombian community. The plan would promote measures that reinforced the feeling of belonging and permitted the Afro-Colombian community to regulate its development policies. With regard to the Roma community, the Colombian Government had submitted a bill to Congress to reduce Roma poverty and marginalization.

27. She also highlighted the existing scholarship and foreign language training programmes, particularly in English, as well as the specific programmes for minorities, such as "Families in Action" and "Forest Ranger Families". Within the context of international cooperation, programmes to help the Afro-Colombian minority had been established, in particular, to promote food security and basic sanitation.

28. Finally, a draft decree was being prepared to provide specific measures to assist Roma. The Government was committed to combating the marginalization and exclusion of ethnic minorities in general and Roma in particular and to guaranteeing that the latter were considered in State plans and programmes to promote and protect the rights of minorities.

29. **Mr. Garzón** (Colombia) said that the Colombian delegation would reply in writing at a later date to any remaining unanswered questions. Noting the large number of representatives from NGOs present in the meeting, particularly for the defence of Afro-Colombians' and indigenous minorities' rights, he invited them to meet with the delegation upon their return to Colombia to discuss the issues raised during the consideration of the fourteenth periodic report and the implementation of the concluding observations to be adopted by the Committee.

30. He emphasized Colombia's active collaboration with the United Nations bodies and mechanisms. For example, in 2008 Colombia had undertaken the Universal Periodic Review; it had invited the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people to the country in 2005; the Independent Expert on minority issues had also been invited to visit Colombia and would go there in 2010 and in April 2009 Colombia had participated in the Durban Review Conference.

31. **Mr. Cali Tzay** noted that the State party intended to amend Decree No. 804 (1995) and asked what amendments would be made and what repercussions they would have on current policy. With regard to the Colombian delegation's statement that indigenous minorities would henceforth grow legal crops, he asked whether this meant that minorities had previously grown illegal crops. If that was the case, he would be interested to know which crops had been concerned. Finally, according to the delegation, indigenous peoples differed from indigenous communities because they had their own identity, culture and language. However, he considered that indigenous communities had exactly the same characteristics. He called upon the Colombian delegation to provide the Committee with an explanation of that distinction, which was rather imprecise.

32. **Mr. Lindgren Alves** requested clarification of the meaning of the term "emerging bands" (*bandas emergentes*), which he considered surprising given that "emerging" had positive connotations in other contexts. Also, he asked if the census forms had a specific category for persons of mixed race. Finally, he wondered whether the situation of Roma communities living in Colombia was a cause for concern and whether the consideration given by the Colombian Government to their needs was not the result of external influences.

33. **Mr. de Gouttes** asked if the members of the armed forces and police deployed to indigenous regions received instructions obligating them to respect sites of cultural or spiritual importance and particularly sacred sites. He asked the delegation to provide examples of incidents where police or military interventions had caused civilian victims, particularly among indigenous or Afro-Colombian minorities, and to describe any measures taken against those responsible. Lastly, he requested further information on the indigenous justice system, specifically the types of penalties that could be handed down by indigenous courts on their territory.

34. **Mr. Garzón** (Colombia) said that the indigenous justice system was fully recognized by the Constitution and that civil servants, including the judiciary, had to respect the decisions of indigenous courts. However, discussions were under way to settle a number of incompatibility issues with Colombian basic law, as indigenous custom allowed for some forms of corporal punishment, which under Colombian legislation, were comparable to torture. To date no agreement had been reached on the issue.

35. With regard to military interventions in indigenous regions, he said that the army and police did their utmost to ensure that such operations did not affect the local populations, including indigenous and Afro-Colombian minorities. In that regard, he explained that the Colombian delegation had by no means implied that these communities had cultivated illegal crops before the forest rangers programme had been introduced. On the contrary, they categorically and unanimously condemned the activities of illegal armed

groups. Finally, with regard to the question about the introduction of genetically modified maize in Colombia, he said that the Government wanted to safeguard the traditional farming methods of the indigenous and Afro-Colombian minorities and all seed improvement projects, in particular the cutting-edge research carried out in the Cauca valley, ruled out the possibility of using genetically modified seeds.

36. **Ms. García** (Colombia) explained that by distinguishing between indigenous “peoples” and “communities”, the Colombian delegation had by no means meant to imply that indigenous communities lacked their own identity, cosmogony or culture. The difference between the two ideas was that a people could include many communities, whereas a community was simply one of the elements making up a people.

37. With regard to the question on the use of a category corresponding specifically to persons of mixed race on census forms, she pointed out that in Colombia, the term “mixed race” was used only for persons with both European and indigenous origins, i.e. the majority of the Colombian population. Individuals who did not consider themselves as belonging to one of the three categories on the census forms, that is indigenous, Afro-Colombian or Rom, were included in a general category covering mixed-race and Caucasian persons.

38. With regard to the Roma minority, she said that the Government’s concern was in no way the result of external pressure or some “fad”. The Colombian Government recognized the identity and cultural particularities of that group and considered it useful to take steps to protect those distinctive qualities.

39. **Ms. Hernández** (Colombia) said that, under Directive No. 16, enacted in 2006 by the Ministry of Defence, which provided instructions on respecting the territorial integrity and culture of indigenous peoples during military operations or police interventions, soldiers and police officers entering indigenous territories had to contact the community leaders concerned in order to ascertain their customs and practices and where their sacred sites were located. During a military operation that caused collateral damage following a command error, the legal affairs office of the Ministry of Defence established a conciliation mechanism to compensate victims. If the damage was the result of serious professional misconduct by a police or army officer, an inquiry would be opened.

40. **Ms. Rey** (Colombia) said that so-called emerging bands were organized criminal gangs who carried out drug trafficking in coca-producing regions and organized drug trafficking. The President of Colombia had ordered the police to combat those groups and to publish monthly activity reports on the subject. In June 2009, 963 individuals belonging to such gangs had been arrested.

41. **Mr. Diaconu** (Country Rapporteur) welcomed the numerous and detailed replies provided by the Colombian delegation to the Committee and the open and fruitful dialogue that had taken place. Colombia was distinguished by its openness and willingness to cooperate with international human rights monitoring bodies, by its dynamism and the competency of its civil society, which was a precious asset. He was pleased to note that the Colombian Government had made every effort to preserve democratic values, including in areas affected by the internal armed conflict. Nevertheless, a number of issues still needed to be resolved, particularly with regard to the internal conflict and its repercussions on minorities, the situation of displaced persons and the difficulties they faced when returning home, safeguarding the rights of indigenous peoples and Afro-Colombians displaced by the conflict, the steps taken to fight discrimination in economic, social and cultural fields and access to bilingual education. The large number of ambitious State projects was evidence of the political will to resolve these issues. However, future efforts should be focused on securing funds as those programmes had not yet been fully implemented for lack of resources. Finally, he welcomed the Colombian delegation’s invitation to civil society to

continue the discussion of the periodic report; collaboration could only help to attain the Convention's objectives.

42. **The Chairperson** said that she was pleased to note that the State party had turned a page in its history and hoped that in future its periodic reports would be submitted to the Committee before the deadline. She expected that the Colombian civil society organizations, active in the fight against racial discrimination, would remain vigilant.

43. *The Colombian delegation withdrew.*

The meeting rose at 1 p.m.