



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

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Summary record of the 2053rd meeting

Held at the Palais Wilson, Geneva, on Tuesday, 15 February 2011, at 3 p.m.

Chairperson: Mr. Kemal

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The meeting was called to order at 3.10 p.m.

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

Seventeenth to twentieth periodic reports of the Plurinational State of Bolivia (CERD/C/BOL/17-20; CERD/C/BOL/Q/17-20; HRI/CORE/1/Add.54/Rev.2)

1. *At the invitation of the Chairperson, the delegation of the Plurinational State of Bolivia took places at the Committee table.*

2. **Ms. Copa Condori** (Plurinational State of Bolivia) said that her country's seventeenth to twentieth reports had been prepared in a context of major political challenges, including that of ensuring inclusion and sovereignty for all groups constituting the Bolivian nation and thereby preserving their human dignity. The fact that she herself, an indigenous woman of peasant origin, now held the office of Minister of Justice was a fine example of such inclusion.

3. Her Government, led by Mr. Evo Morales, the country's first indigenous President, viewed the country's compliance with the Convention as an ongoing process. The seed had now been sown on behalf of the indigenous peoples and it would gradually grow and the harvest would be reaped. A new Constitution had been promulgated and basic institutional legislation had been enacted. In all cases, a participatory approach had been adopted to the building of the new plurinational State. The Government, with the assistance of social activists, would seek to preserve and consolidate its achievements and enhance its legacy.

4. **Mr. Cárdenas** (Plurinational State of Bolivia) said that his country had an indigenous President for the first time since its foundation in 1825. The people had not resorted to violence, but had achieved their aim by means of a popular vote.

5. The construction of a society of equals in which differences were respected was the major challenge ahead. Bolivians had always been taught in school that their country was a single nation, with a single language and religion. That monolithic vision had prevented the forging of a national identity and hence the formulation of public policies for the country's development. The foundations of Bolivia had been laid without the participation of the indigenous peoples and against their interests. Bolivia had been a State without a nation and the indigenous peoples had been nations without a State. As a result, they had proclaimed in the Constituent Assembly that Bolivia was not a single nation, with a single language and religion. The country had 36 cultures, 36 languages, and 36 ways of viewing the world and responding to its challenges. It was therefore plurinational. Moreover, the fact that Bolivia was a secular State, as proclaimed in the Constitution, did not mean that it was atheist in character; in fact, it tolerated all religions, including the religion of respect for Mother Earth, the Pachamama.

6. Article 9 of the Constitution provided for decolonization. Bolivian colonialism had persisted as a result of inertia based on racism and the patriarchy. The institutional structure of the State had been racist. Racism had been employed as a State strategy in order to make the indigenous peoples disappear, or at least to domesticate and Christianize them and to incorporate them in "national life". The patriarchy had its origins in founding myths, such as the myth that Eve had been to blame for the expulsion of Adam from the Garden of Eden and other anti-feminist religious precepts. Such myths had affected society's attitudes to women and had led to patriarchal legislation. Women were discriminated against and rendered invisible.

7. Decolonization was required at all levels: in education, religion, the armed forces, the police and legislation. Bolivian jurists studied the Napoleonic Code, Roman law, United States law and the Spanish legal system, but the country was apparently unable to draft its

own laws based on Bolivian reality and identity. Decolonization therefore called for the dismantling and transformation of colonial institutions.

8. Mental decolonization was also necessary, not only in Bolivia but throughout the Americas. For instance, the Charter of the Organization of American States was now obsolete. In December 2010 a New Education Act had been adopted. The Vice-Ministry for Decolonization would ensure that the relevant regulations, which were about to be drafted, contained no colonial or patriarchal elements. An Act on the Elimination of Racism and All Forms of Discrimination (No. 45) had also been promulgated. The Vice-Ministry had set up a Depatriarchalization Unit headed by an indigenous Quechua woman. The Unit had drafted legislation on constitutional equivalence, which would seek to ensure that women were present in all branches of central and local government.

9. The class struggle of previous decades had focused on capital and labour. With the fall of the Berlin Wall, Bolivian left-wing movements had lost their ideological reference points, since they had sought them abroad rather than at home. A qualitative leap was now necessary. Mother Earth was the new paradigm, and the Indian masses were the historical focus and the political project. Five hundred years after evangelization, it was time to evangelize the West, to demonstrate that one could be modern and enjoy every comfort without damaging nature, and that the Western lifestyle was destroying the planet. It was time to restore balance, between men and women and between human beings and nature. Capitalism, on the other hand, conflicted with a just society and a society in which the indigenous peoples of the world reclaimed their dignity. Either capitalism must die or Mother Earth must die.

10. His country's dream was that 500 years of bloodshed would not succeed in crushing 500 years of hope.

11. **Ms. Paco Durán** (Plurinational State of Bolivia) said that the Plurinational Legislative Assembly had adopted, in accordance with the Constitution, the first five sets of institutional norms which guaranteed that indigenous peoples, Afro-Bolivians and women effectively participated in the country's decision-making bodies. It had done so within the six-month period stipulated by the Constitution and had now embarked on a social standard-setting stage. The institutions were designed to ensure equality and dignity for all Bolivians in the exercise of their constitutional rights.

12. The Human Rights Commission of the Legislature had held a meeting with the victims of the events that had occurred in Sucre on 24 May 2008, when members of the indigenous rural population had been humiliated for demanding effective legislation against discrimination and racism. The preliminary text of a law against racism and all forms of discrimination had then been drafted and presented both to the victims and to the Plurinational Legislative Assembly. Comments had been requested from society as a whole. During the discussion before the Assembly, a deputy of African origin and opposition deputies had tabled a number of proposals and the original text had been amended. Act No. 45 had then been adopted.

13. She emphasized that the Act was designed to protect the dignity of all Bolivians without distinction. It comprised 5 chapters and 26 articles and provided for monitoring mechanisms to assess its effectiveness. An entire chapter was devoted to prevention in four areas. The first area was education, and provision was made, inter alia, for the inclusion of human rights studies in educational curricula. The second area was public administration. Until recently, when public officials saw people dressed in a certain way that reflected their rural origin, they would for example send them to the back of a queue, whereas those wearing suits and ties were ushered to the front. The State was now required to train officials to avoid discrimination of that kind. The third area of prevention concerned communication, information and dissemination. Provision was to be made for the mass

distribution, through both the public and private media, of relevant statistical data and of information concerning the Act and compliance with its provisions. The fourth concerned the economy and, in particular, public investment in support of social inclusion and the equitable redistribution of wealth.

14. The Act provided for the establishment of a National Committee against Racism and All Forms of Discrimination composed of representatives of the State and of social organizations, indigenous organizations, Afro-Bolivian communities, and organizations of defenders of the rights of women, children, adolescents, people with disabilities and other vulnerable sectors. The Committee's task was to establish a national plan to counter racism and discrimination and to develop policies aimed at ensuring respect for equality.

15. Provision had also been made for victim protection mechanisms. Complaints could be filed through administrative disciplinary channels. More severe penalties were applicable to abuses committed by public officials. Complaints could also be filed against unethical behaviour in the private sphere. A dress code for admission to certain premises had been applied in the past, and persons wearing indigenous dress, for instance, might be denied access. Such regulations were now prohibited. The media had also been guilty of incitement and legitimization of acts of racism and discrimination. For instance, they had refused to publicize flagrant acts of discrimination against public representatives of indigenous peoples, and their coverage of the events of 24 May 2008 in Sucre had been distorted, to the detriment of the victims. The media could now be sanctioned for such conduct.

16. Five new types of offence had been incorporated in the Criminal Code. The first was racism, which carried a penalty of 3 to 7 years' imprisonment. Aggravating factors included the involvement of a public official and the use of violence. The second offence was discrimination; the third was advocacy or incitement of racism or discrimination; the fourth concerned racist or discriminatory organizations or associations; and the fifth concerned insults or other forms of verbal abuse of a racist or discriminatory nature. The new Criminal Code included penalties for making false accusations and made it compulsory to report acts involving racial discrimination, in an attempt to combat impunity.

17. The regulations relating to Act No. 45 had been passed on 5 January 2011 and set out the specific policies that should be followed in implementing the provisions of the Act. The regulations also listed the relevant penalties, including the publication in the media of racist ideas, for which the maximum penalty was temporary withdrawal of the publishing licence. Administrative procedures were an integral part of the regulations and indicated how to bring a complaint and before which body. In response to requests emanating from the public consultations which had been part of the process of drawing up the regulations, a chapter had been included specifying acts that constituted racist or discriminatory behaviour. The Act had begun to take effect, notably in the Plurinational Legislative Assembly, where politicians no longer made racist or discriminatory remarks in their speeches.

18. **Mr. Cox** (Plurinational State of Bolivia) said that the current Constitution fully recognized the Afro-Bolivian community as part of the Bolivian population. The National Human Rights Action Plan contained specific provisions on the rights of that community and set out measures to improve enjoyment of those rights between 2009 and 2013. Since most Afro-Bolivians lived in the Department of La Paz, the departmental government there had taken steps to ensure recognition, respect and protection for that group, as detailed in paragraph 187 of the periodic report. In the 2009 general elections, a special seat had been established for La Paz, which had been won by the first Afro-Bolivian representative. He had been instrumental in the adoption of several fundamental pieces of legislation, including Act No. 45. In addition, an Afro-Bolivian had been appointed deputy mayor of an area of the Department of La Paz in 2010. The self-identification section of the 2012 census

form would include a specific reference to Afro-Bolivians. The Deputy Minister for Indigenous, Native and Peasant Justice had consulted several Afro-Bolivian organizations on the establishment of a national governing body for that community that could build its capacities and improve its relations with the State.

19. While measures had been taken to raise awareness of the constitutional prohibition of discrimination on grounds of sexual orientation and gender identity, prior to the entry into force of Act No. 45, there had been challenges in enforcing the rights of lesbian, gay, bisexual, and transgender people, mostly involving violence, ill-treatment and deprivation of access to employment.

20. Under the Constitution and Act No. 25 of 24 June 2010, the native, indigenous and peasant nations and peoples had the right to exercise jurisdiction and competence through their own authorities to implement their principles, cultural values, norms and procedures on an equal footing with the ordinary courts, especially in relation to their decisions. They also had the right to free, prior and informed consultations on all legislative and administrative measures that might affect them and on the exploitation of natural resources on their lands. The Ministry of Justice had set up consultations on the Jurisdiction Bill with the country's five main native, indigenous and peasant organizations, ensuring that the communities affected were provided with all relevant information and involved in the drafting process to the fullest extent possible. Policies had been established to ensure coordination and cooperation between the ordinary courts, the land and environment courts and the indigenous, native and peasant jurisdictions, and the relevant authorities had signed several agreements to that end, including one on child protection.

21. As indicated in paragraph 52 of the periodic report, the Vice-Ministry for Decolonization had implemented a series of measures to combat racism and discrimination, including the establishment of an inter-agency commission on racism and discrimination in May 2010. The commission had worked on an action plan on racism and discrimination and on establishing a national committee on the elimination of racism and all forms of discrimination. The Vice-Ministry was currently carrying out consultations on discrimination with the Afro-Bolivian population, indigenous, native and peasant communities, NGOs, local authorities, HIV/AIDS sufferers and domestic workers, the findings of which would be incorporated in the action plan.

22. **Mr. Avtonomov** (Country Rapporteur) welcomed the renewal of the dialogue between the State party and the Committee. In the light of the fundamental political transformation the country had undergone, he urged the State party to prepare an updated core document containing details of all new legislation.

23. While Supreme Decree No. 29,033 establishing the right to consultation of indigenous, native and peasant peoples and nations had been adopted in 2007, the Committee had received several reports that the process of prior consultation was often not carried out in accordance with national and international standards. The Committee would welcome information on the Coro-Coro copper mining project, which was being carried out on land which was sacred to the Ayamara Pakajaqi indigenous people. They had allegedly not been consulted about the project, which was damaging their interests. He also requested additional details of the events that had taken place on 11 September 2008 in Pando.

24. It would be useful to know which indigenous groups would be listed on the 2012 census forms, and what questions would be asked on racial and ethnic origin. In that regard, he would welcome an explanation of the term "intercultural communities", which seemed vague. He asked whether indigenous communities that had migrated to the State party were classified as indigenous peoples, and what measures would be taken to include in the census indigenous communities that lived in isolation. It was important to ensure that the

data obtained were reliable in order to enable the State party to combat structural discrimination.

25. He would be interested to learn why the Government had abolished the Ministry for Indigenous and Native Peoples' Affairs and created a new unit for indigenous rights under the Office of the Presidency. He would welcome additional details on how the new unit promoted human rights in general and the rights of indigenous communities in particular. The Committee's general recommendation No. 32 on the meaning and scope of special measures in the Convention might be a useful reference document for that unit.

26. Noting the adoption of the Jurisdiction Act, he asked whether there was now a single legal system, or whether the ordinary courts existed alongside the indigenous, native and peasant jurisdictions. It would be interesting to know whether a person who had been tried in the first instance by an indigenous court had the right of appeal to an ordinary court.

27. Welcoming the legislative measures the State party had taken to eliminate racial discrimination, he urged the Government to include examples of penalties that had been handed down for offences involving racial discrimination in its next periodic report.

28. **Mr. Thornberry** expressed concern at reports that some youth organizations were involved in the dissemination of hate speech and the persecution of indigenous people. Nevertheless, he noted with appreciation the State party's efforts to establish a human rights curriculum in schools and would appreciate more information on what that curriculum entailed. He also asked the delegation to elaborate on the link between non-discrimination and interculturalism as mentioned in its report.

29. The discriminatory statements directed towards indigenous people and Afro-Bolivian descendants by the media raised the question of whether or not there existed a code of ethics for journalists. The Committee had received reports that such a code did exist but was seldom enforced. All the media fulfilled a social function, which was incompatible with the unacceptable practice of disseminating racist propaganda. It would also be useful to receive an update on the work pending for the Plurinational Legislative Assembly mentioned in the report.

30. In view of the scant information submitted concerning article 4 of the Convention, he requested a more detailed response that dealt with issues such as propaganda, the dissemination of racist ideas, racial violence and the prohibition of organizations on the grounds of hate speech. He asked whether the general approach adopted by the State in addressing the discrimination inherent in hate speech ruled out a more differentiated approach. By singling out discriminatory acts such as hate speech or segregation, the Convention aimed to point the way to programmes to address the different facets of racial discrimination.

31. The dramatic political transformation undergone by the State party would inevitably raise many new questions and challenges regarding the discrimination that persisted in many quarters. The Committee would be interested to learn whether that transformation would afford minorities increased access to political power.

32. He asked how the State party viewed the concept of collective rights in relation to the human rights framework, and whether its accession to ILO Convention No. 169 and support for the United Nations Declaration on the Rights of Indigenous Peoples had allowed it to focus its programme of change more effectively.

33. Turning his attention to the comments made on the process of decolonization as both a psychological and political liberation, he asked whether those comments were meant for the Bolivian people in general or for the principal victims of colonization.

34. **Mr. de Gouttes** welcomed the opportunity to consider the State party's report for the first time since Mr. Evo Morales had been sworn in as President. Both the international community and the other Latin American States were following Bolivia's agrarian revolution with great interest.

35. Noting the steps taken by the State party to combat racial discrimination, he welcomed the additional measures it had adopted such as the constitutional provisions benefiting Afro-Bolivians and other indigenous people, and in particular Act No. 45. He commended the efforts undertaken to define concepts such as racial discrimination, racism and race and to set out affirmative action that avoided any possible confusion with reverse discrimination. He was pleased to learn that the Act encompassed preventive and institutional measures, as well as penalties for racist offences. He acknowledged the different penalties applicable to the media and to persons participating in racist organizations under the amended Criminal Code, noting with interest that the dissemination of racist ideas by the media incurred either a monetary penalty or temporary suspension. He asked whether details of those positive steps could be complemented by a report containing practical information on the effective implementation of the additional measures adopted. Had the State placed every means necessary at the disposal of the public authorities and the national administration to ensure the effective implementation of those measures?

36. As to the increase in racial violence, he expressed concern at the lack of statistical data on the number of complaints, prosecutions and convictions for racist offences. He put the small number of complaints and prosecutions down to victims being unaware of their rights, a lack of confidence in the authorities or a fear of reprisals. He requested that the State party's next report contain more statistical data on that subject.

37. With regard to the problems faced by the State party in its attempt to reconcile the fight against drugs and the need to safeguard the indigenous coca industry, he wished to know how the State party planned to resolve that issue in a satisfactory manner.

38. Referring to the hostile reaction by certain segments of society to the new land policy and the agrarian revolution, he wished to know whether it only concerned prominent landowners. If that were the case, why had some young people begun to participate in that reaction? He asked whether land was the sole cause of the problem or whether it could be explained by the persistence of structural discrimination. He also wished to know whether the media exacerbated the situation.

39. He asked the delegation to provide a summary of the functions of community justice and the role of the new Vice-Ministry for Indigenous, Native and Peasant Justice. He requested an explanation of the link between community justice and ordinary justice and the area of competence of the former. The Committee had received reports of the difficulties faced by women in accessing community justice. He asked whether customary law fully respected fundamental human rights principles and whether community justice decisions could be appealed before the ordinary courts.

40. He looked forward to examining the results of the forthcoming census based on self-identification, as well as information on the forthcoming consultations with the indigenous community on public decisions affecting their rights.

41. **Mr. Calí Tzay** said that Bolivia, Ecuador, Guatemala and Peru were the Latin American countries with the largest indigenous populations. Given that indigenous people accounted for 42 per cent of the population in Guatemala, he asked the delegation to explain why only 37 per cent of the Bolivian population identified themselves as indigenous. Was it because many people were afraid to identify themselves as indigenous?

42. He asked what practical steps the State party was taking to ensure that the country's numerous nationalities were represented in the Plurinational Legislative Assembly, the

executive and the judiciary. He would also like to know what measures the Government had adopted to ensure the permanence of the changes brought about under the presidency of Mr. Evo Morales.

43. Noting that the State party's report had not mentioned the right of indigenous people to self-identification, he asked whether that right would be used as the main criterion for the census.

44. He also noted that Spanish and indigenous languages enjoyed the status of official languages in the State party and enquired whether there was an institution that sought to consolidate the position of the indigenous languages.

45. Referring to the crimes against humanity perpetrated under the then president, Mr. Gonzalo Sánchez de Lozada, he wished to know what steps had been taken by the Government to bring the perpetrators of those crimes to justice, given that such crimes were covered by no statute of limitation.

46. In the light of Bolivia's colonial past, he asked what measures the Government had adopted to eradicate the elements of official racism that persisted in the power structure of the State.

47. In the context of gender equality, he drew attention to the discrepancies between the State party's report and that of NGOs with regard to the numbers of men and women serving in President Morales' cabinet. He asked whether the reports claiming that women were underrepresented and enjoyed only a low level of participation in government were accurate. It was nevertheless true that the State party had paved the way for the participation of indigenous communities in government.

48. He asked whether the reports that the State party had, by means of a legislative decree, incorporated the United Nations Declaration on the Rights of Indigenous Peoples into the national legislation were correct. If that were the case, it would be useful to receive more information on the subject as such an enactment would serve to demonstrate to other Latin American States that the Declaration did not impede democracy but rather served to strengthen it.

49. He requested clarification on the jurisdiction of community justice, the offences tried under it, and whether it was a legal system in its own right or part of the indigenous legal system.

50. **Mr. Diaconu** said that the Plurinational State of Bolivia was making history and welcomed the many legislative changes it had introduced, in particular its exemplary anti-discrimination legislation. However, acts of violence were still being committed against persons from indigenous groups and measures must be taken as soon as possible to end impunity for such acts, compensate victims and protect those who defended human rights.

51. He wished to know what the State party was doing to enforce respect by local authorities for international conventions and the new legislation, given that some prefectures and members of certain political groups were themselves responsible for acts of violence against indigenous people and their representatives. Although the anti-discrimination legislation covered all the points contained in article 4 (a) of the Convention and prohibited acts of racial violence or incitement to racial discrimination, it did not appear to prohibit organizations involved in such acts. Was such a prohibition contained in other legislation?

52. He requested the delegation to provide statistics on the situation of different ethnic and racial groups with regard to economic, social and cultural rights in the next census in 2012.

53. Turning to the issue of the restitution of land title to indigenous people, he asked if the plan for the Guaraní people, which had been suspended, would be reinstated.
54. With regard to legislation aimed at the eradication of forced labour and debt bondage, which were still practised in parts of the country, he said that practical measures were required to offer work, housing and land to persons freed from captivity. He also asked how the State party intended to tackle the problem of double discrimination suffered by women from indigenous groups and of African descent.
55. Noting that most of the media in the State party were hostile to its reforms, he suggested that it should encourage the media to respect their own code of conduct and strike a balance between freedom of expression and racial discrimination.
56. **Mr. Murillo Martínez**, addressing the issue of coca plantations in the State party, asked what had been done to implement Decision No. 391 of the Andean Community on access to genetic resources and their by-products. He wished to know what legal and institutional framework had been established to implement the decision and whether it had been invoked in any specific cases.
57. He would be interested to know if studies had been carried out after the most recent census providing more detailed information on the situation and living conditions of the country's admittedly small population of African descent, estimated at between 30,000 and 35,000 people, most of whom were concentrated in certain areas such as the Yungas region of La Paz. It would also be useful to know to what extent the considerable economic advances made in the country were being matched by progress towards meeting the Millennium Development Goals for 2015.
58. Referring to concerns among members of the international community about potential rifts within the State party as a result of the profound changes under way, and noting the presence of separatist movements there, he asked how solid national political unity was. The forceful reaction against the enactment of anti-discrimination legislation was an indicator of the sensitivity of that issue and the impact of changes wrought by the Government.
59. He would be interested to know how the State party planned to mark the International Year for People of African Descent in 2011 at home and in concert with other States, given the considerable change in the position of people of African descent in the State party, who had become key political stakeholders.
60. **Mr. Lindgren Alves** said that the world's first great post-modern revolution, bloodless, democratic and fomented by a majority of the indigenous population, was taking place in the State party, and it was therefore difficult for the Committee to judge with any certainty what exactly was taking place.
61. He had been informed that the death penalty was provided for under customary law and asked if that was true. If so, measures would have to be taken to eradicate it; if not, then the reports could only be construed as part of a propaganda campaign against the Bolivian revolution.
62. Speaking of the plight of indigenous groups spread over the territory of various neighbouring States, he asked whether Bolivia had concluded any agreements or undertaken negotiations with other States to mitigate the difficulties faced by such groups living under various jurisdictions.
63. Referring to remarks by the delegation to the effect that patriarchal society had its roots in Christianity, he asked whether in some indigenous communities women did not also occupy a position inferior to that of men.

64. **Mr. Lahiri** said that events in Bolivia since 2006 constituted the first occasion in 200 years on which an indigenous people had taken its destiny into its own hands. It was only natural, therefore, that such momentous change should encounter opposition in certain prefectures. Bearing in mind the autonomy granted to departments, regions, municipalities and indigenous communities under the Constitution, he wondered whether the sweeping anti-discrimination measures introduced by the central Government were irreversible and asked what mechanisms had been put in place to implement them. The State party's report made clear that those measures were not yet applied in all prefectures. Was it true that the Government's writ was not observed throughout the country?

65. He also requested more detailed statistics on the demographic make-up of the indigenous groups recognized under the Constitution and asked what was being done to ensure that none were neglected.

66. **Ms. Dah** welcomed the State party's report but warned that revolutions had consequences. The State party bore great responsibility, for it had awakened hope in many people. Bearing that and the State party's view of decolonization in mind, she asked if the State party planned to maintain its present democratic system of government, which had been inherited from the West, or whether it was contemplating the introduction of some other form of government.

67. She would also be interested to know what place customary law had in the legal system, for while preserving customs was positive, they could also hold a people back. She expressed the hope that gender equality would be extended to all levels of society.

68. **Mr. Peter** asked how the Government was dealing with bureaucratic obstacles, which could stifle its ambitions for change. He also wished to know how it was reconciling the demands of indigenous people for advancement with the legitimate rights of others, such as landowners and multinational companies operating in the country.

69. He would like to know whether the State party was doing anything to modify the attitudes of indigenous chiefs towards women, whom they did not even invite to public meetings, and so promote gender equality.

The meeting rose at 6.05 p.m.