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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 1731st MEETING

Held at the Palais Wilson, Geneva,
on Monday, 20 February 2006, at 3 p.m.

Chairman: Mr. de GOUTTES

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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 (agenda item 6)

Twelfth to fifteenth periodic reports of Mexico (CERD/C/473/Add.1; HRI/CORE/1/Add.12/Rev.1)

1. At the invitation of the Chairman, the members of the delegation of Mexico took places at the Committee table.
2. Ms. GONZÁLEZ DOMÍNGUEZ (Mexico), introducing her country's periodic report (CERD/C/473/Add.1), said that Mexico had undergone major social and political changes in recent years. The Government had paid special attention to human rights as one of the foundations for securing the rule of law, in the conviction that the promotion and protection of human rights were closely linked to the development of democracy. It had therefore significantly strengthened its human rights policies, broadened its objectives and set new priorities in that area. Mexico's commitment extended to the international sphere, and action had been taken to align its domestic human rights strategy with its international obligations. The experience and contribution of international bodies provided fundamental support for national efforts to consolidate necessary structural changes, and to promote the development of new and improved standards of protection. Mexico had therefore welcomed international cooperation and monitoring, and had encouraged the participation of civil society in discussions on best practices for promoting and protecting human rights.
3. The present consolidated report represented work carried out through the adoption of a new methodology that encompassed data gathered from government sources, the United Nations system, academia and civil society. It clearly showed that Mexico had made great efforts to fulfil its obligations under the International Convention on the Elimination of All Forms of Racial Discrimination through the development of plans and programmes, the implementation of public policies, and the execution of domestic juridical reforms.
4. She listed the major administrative measures taken to eliminate discrimination, which included the adoption of a federal law and the establishment of national institutions on the prevention and elimination of discrimination. Her delegation would continue to rely on the support of the Committee and the broader international community in its efforts to safeguard the full observance and enjoyment of human rights in Mexico.
5. Mr. RINCÓN GALLARDO (Mexico) said that his country's history of discriminatory practices had contributed to the backwardness and exclusion of entire social groups, and tainted Mexican culture with unacceptable stigmas and prejudices. Indigenous peoples and persons of African descent were socially and economically disadvantaged, and particularly vulnerable to racial discrimination.
6. Discrimination posed an enormous challenge to democracy in Mexico. Systematic and coordinated action in all areas of national life was crucial, and required a clear commitment on the part of the Government to ensure genuine equality for all, based on deep respect for the legitimate cultural differences and ways of life that made up the mosaic of Mexico as a nation.

7. His delegation appeared before the Committee in the full knowledge that systematic and structural efforts to combat racial discrimination were still at an early stage. But it was confident that the Government had taken the correct legal and institutional steps in recent years to confront inequities, on the basis of democratic principles. Mexico recognized its historic debt to persons of indigenous or African origin as an important element of national identity. The enjoyment of all freedoms and full access to social opportunities by all members of society were major objectives of the current regime.

8. The indigenous population of Mexico numbered approximately 12 million, or one tenth the total population; they were distributed in more than 21,000 settlements. According to statistics provided by the National Commission for the Development of Indigenous Peoples and the United Nations Development Programme (UNDP), there were 62 indigenous languages, designated as national languages under the General Act relating to the Linguistic Rights of Indigenous Peoples. Around 450,000 persons of African descent lived mainly in the States of Guerrero, Oaxaca and Veracruz.

9. Communities with the highest concentrations of indigenous populations were the poorest and most disadvantaged; the five regions with the largest numbers of indigenous inhabitants held the five lowest rankings on the national human development index. In indigenous communities poverty and racial discrimination, which led to a clear reduction in the quality of life, were interrelated. The discrimination experienced by peoples of indigenous or African origin and other vulnerable groups, such as disabled persons, the elderly and women, was a long-standing issue. However, national and local legislation and institutional action to combat various forms of discrimination were being developed. Legal reform and institutional changes had resulted in advances in the achievement of fundamental rights, and had shown their potential in guiding public action towards the reduction and eventual elimination of discrimination.

10. In the context of legislative reform, he mentioned amendments to articles 1 and 2 of the Mexican Constitution which, *inter alia*, prohibited discrimination based on ethnic or national origin, and promoted the multicultural heritage represented by Mexico's diverse ethnicity. Furthermore, article 2 imposed an obligation on government institutions at all levels to ensure realization of the rights of indigenous groups and their integrated development through participation. It also called on Congress and legislature to take the legal measures necessary to give expression to the status and aspirations of indigenous peoples in their communities.

11. He referred to various other legal and institutional measures taken by the Government, at the federal and local levels, to prevent and eliminate discrimination and to promote equal opportunities and treatment, including the adoption of the Federal Act to Prevent and Eliminate Discrimination in 2003, and the subsequent establishment of the National Council for the Prevention of Discrimination (CONAPRED) in 2004, as described in paragraphs 19 *et seq.* of the periodic report. Important legislative action had also led to the establishment of the National Commission for the Development of Indigenous Peoples as an effective tool in combating discrimination and social exclusion. The Commission sought to create new development opportunities, build capacity among indigenous peoples, and educate Mexican society in the rights, status and needs of indigenous peoples. Moreover, local constitutional and other regulatory reforms were under way in a number of states.

12. The creation of the Government Human Rights Policy Commission was an important measure that aimed at introducing a human rights perspective into the federal public administration. The formulation of a national human rights programme, incorporating the principles established at the 1993 World Conference on Human Rights, was considered to be that Commission's major achievement to date. The programme was expected to include the recommendations and reports of international bodies and the National Human Rights Commission, and had already been characterized by broad implementation of the principle of non-discrimination.

13. The pursuit of constitutional recognition and protection of human rights had entailed the submission of a reform package by the President to Congress conferring explicit guarantees in reinforcing the constitutional obligation of authorities at all levels to protect human rights.

14. CONAPRED coordinated federal anti-discrimination policy within the context of the national programme for the prevention of discrimination, establishing the tasks to be undertaken by the Government, either through CONAPRED or various domestic institutions. Although the Constitution and local and federal laws placed an obligation on all public and private authorities to respect the basic right to be free from discrimination, the implementation of those laws required the conclusion of inter-institutional agreements and the development of a network of public actions based on broad consensus. It was hoped that the national programme for the prevention of discrimination would achieve those aims.

15. The National Institute for Migration issued permits for the entry and temporary residence of migrant workers, who could lodge complaints of exploitation and other violations of their rights with the National Human Rights Commission or the Ministry of Labour and Welfare. Mexican labour legislation made no distinction between labour standards applicable to migrants and Mexican nationals. The Regularization of Migration Programme established the criteria on the basis of which aliens not in possession of valid migration documents could formalize their non-immigrant migratory status in a context of respect for their rights and individual guarantees. The programme to provide documentation for the legal and migratory security of Guatemalan farm workers aimed at promoting the issuance of "agricultural visitor's migration forms" to register the entry of migrant farm workers in the State of Chiapas; holders of such forms were entitled to work for the contracting employer only and could move freely within Chiapas. In 2004, over 42,000 such "agricultural visitors" had been registered. Work was currently under way to provide for the legal entry of migrant workers from other Central American States.

16. The introduction of those forms also aimed at preventing the exploitation and abuse of women migrant workers, who were currently unable to obtain work permits. So-called "Beta Groups" had been set up to provide guidance and support for migrants, especially women and children, and offered legal and medical assistance to migrant women victims of violence.

17. A programme had been launched to upgrade migrant holding centres, with particular emphasis on respect for human rights; in that context, a dozen additional centres were being built to reduce overcrowding. Efforts at the federal level to protect the rights of migrant workers included the provision of ethically-sound health-care services for women migrants by specially trained women health workers, and measures to facilitate the return to school of migrant workers' children and displaced children when they went back to their places of origin.

18. CONAPRED had published 25,000 brochures on discrimination against indigenous persons and 10,000 brochures on the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women to promote the social inclusion and protection of vulnerable groups. Efforts were also being made to promote inter-institutional cooperation for the purpose of protecting the rights of women migrants.
19. A special indigenous affairs unit had been set up within the Attorney-General's Office to promote indigenous people's access to justice. However, their enjoyment of the constitutional right to a fair trial was reportedly not always guaranteed, and the interpreting services provided by the courts and prosecution services were inadequate. In order to deal with that problem, the Attorney-General's Office had launched a programme to promote respect for the culture and human rights of indigenous peoples. Measures were also being taken to: train judicial personnel in human rights, non-discrimination and minority rights; ensure ethical conduct and professionalism among court-appointed lawyers representing members of ethnic or religious minorities; improve access to interpreting services; and establish assigned defence counsel centres specializing in indigenous affairs. Furthermore, the Federal Institute of the Public Defender had drawn up a list of 49 lawyers qualified to practise in an indigenous language. Joint efforts were being made by the National Commission for the Development of Indigenous Peoples and the National Institute of Indigenous Languages to train translators and interpreters of indigenous languages.
20. In the context of the 2001 constitutional reform, 28 indigenous electoral districts had been created with a view to ensuring indigenous participation in political activity. Since 1995, legislation of the State of Oaxaca had recognized indigenous forms of electing political representatives.
21. Unequal access to land had traditionally exacerbated poverty and marginalization among indigenous communities and undermined social cohesion. A survey on land disputes carried out by the federal and state governments had brought to light 14 long-standing cases requiring urgent attention, 10 of which had been resolved to date. All disputes had been settled through dialogue and reconciliation based on proposals by indigenous assemblies.
22. Measures to promote intercultural education included the creation, in 2001, of a coordinating body for intercultural bilingual education and the launching of a national campaign to promote cultural diversity.
23. A study had been carried out to identify discrimination against indigenous peoples in the media and make recommendations for institutional action. In 2004, CONAPRED had received eight complaints of discrimination based on ethnic origin. However, partly owing to a lack of information about complaints procedures, victims often failed to report cases and their actual number was thought to be far greater. Legislation stipulated that complaints involving discrimination should be settled through reconciliation; legislative amendments were currently being prepared to provide for the prosecution and punishment of acts of discrimination. In January 2006, a cooperation agreement had been signed between CONAPRED and the United Nations Office in Mexico City to promote, monitor and evaluate implementation of the national programme for the prevention and elimination of discrimination.

24. Mr. CALI TZAY, Country Rapporteur, drew attention to: a number of human rights violations related to the conflict in Chiapas; several incidents which the Mexican press had described as “massacres of indigenous people”; the far-reaching constitutional reforms; and the alleged violation by the State party of some key provisions of ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries. All those developments were directly related to the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination.

25. Given that indigenous peoples had not been consulted about the 2001 constitutional reforms, as they should have been under ILO Convention No. 169, he wished to learn of the status of that instrument in domestic legislation. The reforms appeared to respond to domestic political necessities, and not, as suggested in paragraph 13 of the periodic report, to the Committee’s recommendations. No information was provided on the reasons for the rejection of the reforms by nine states or the position of civil society and indigenous organizations.

26. He enquired about the legal definition of the term “secondary laws” mentioned in paragraph 18 of the report; asked whether the Citizens’ Commission on Discrimination Studies was a standing body; and requested additional information on the functions of CONAPRED and how it complemented the National Human Rights Commission. He also wished to know which population groups were covered by the term “vulnerable groups”. The statement that human rights had been only partially respected in the State party (para. 30) required clarification. Unlike what was implied in the report, information compiled by various international organizations confirmed that the situation of indigenous peoples in Chiapas was not an exception; similar problems affected indigenous communities throughout Mexico.

27. Media reports suggested that the implementation of the San Andrés Agreements continued to be a source of conflict between the signatories; the great majority of indigenous organizations pressed for compliance with those Agreements. The report gave no indication of the current number of indigenous groups in the reporting State.

28. Mention was made in the report of indigenous peoples’ lack of legal security with regard to land tenure. In that connection, the delegation should explain the difference between “privatization” and “subdivision” of land, and comment on calls by indigenous groups for the tenure of communal land to be enshrined in legislation. There was reason to believe that the subdivision of land was contrary to articles 13 to 19 of ILO Convention No. 169, and paragraph 117 appeared to suggest that indigenous communities did not support the subdivision programme.

29. Two complaints of non-compliance with ILO Convention No. 169 had been lodged against the Government with ILO; the recommended study on the compatibility of the constitutional reforms with the ILO Convention had reportedly not been completed. The Government’s failure to consult indigenous peoples on the reforms constituted a clear violation of the relevant provisions of the ILO Convention.

30. He requested clarification of the difference between the terms “poblaciones indígenas” and “pueblos indígenas” used in paragraph 133 of the Spanish version of the report.

31. The delegation should indicate the number of indigenous languages covered by the General Act relating to the Linguistic Rights of Indigenous Peoples; explain the meaning of the term “national language”; and describe the status of indigenous languages in public life. Additional information was required on the participation of indigenous peoples in the creation and operation of the National Indigenous Languages Institute.
32. With regard to paragraph 137 of the report, he noted that indigenous leaders considered that reducing indigenous legal systems to legal traditions and customs constituted discrimination. The data provided in paragraph 145 required clarification; disproportionate emphasis appeared to be placed on the construction of highways and rural roads, to the detriment of the development of health and educational infrastructure. The delegation should explain what was meant by indigenous peoples’ “conceptions of health and illness” as mentioned in paragraph 146.
33. Paragraphs 153 to 155 of the report appeared to acknowledge the practice of forced sterilization, whose existence the State party had thus far denied; indigenous organizations claimed that the practice continued to exist. The Convention on the Prevention and Punishment of the Crime of Genocide classified the imposition of measures intended to prevent births within a population group as a form of genocide. Measures must thus be taken to ensure the independent investigation, prosecution and punishment of such practices.
34. In the light of the Committee’s general recommendation XXI on the right to self-determination, merely guaranteeing indigenous peoples the right to elect representatives (but not members) to councils in municipalities with indigenous populations was too limited an interpretation of the right to self-determination. Under Mexico’s domestic law and international law, indigenous peoples were entitled to full participation and representation in shaping the country’s political identity.
35. The wording of paragraph 162 of the periodic report gave the false impression that the “good governance boards” established by the Zapatista National Liberation Army were government accomplishments; they were in fact illegal and contentious entities, as reported by the Mexican press. In the light of article 5 of the Convention and the Committee’s general recommendation XX on non-discriminatory implementation of rights and freedoms with regard to article 5, he noted that the report did not provide adequate information concerning measures to give effect to the provisions of that key article as it related to indigenous peoples.
36. With regard to measures giving effect to the provisions of article 6 of the Convention concerning indigenous peoples, the Government clearly recognized the existence of discrimination in the administration of justice vis-à-vis indigenous peoples. The current or proposed measures described in the report did not appear to be adequate to address the root causes of the form of discrimination in question. Experience had shown that it was not possible to overcome such discrimination without a campaign to educate the general public, without laws or regulations that prescribed clear obligations for officials responsible for administering justice and sanctions when they perpetrated discriminatory acts, and without the effective recognition and functioning of indigenous legal systems.
37. He welcomed the measures that had been adopted with a view to strengthening a culture of non-discrimination vis-à-vis the indigenous peoples. The delegation was invited to comment on the results of those measures.

38. Mr. VALENCIA RODRÍGUEZ said that the sheer size of Mexico's indigenous population, which totalled some 13 million, explained the high priority given by the Mexican Government to efforts to combat racism, racial discrimination and other forms of intolerance within the country. It was noteworthy that Mexico's periodic report contained contributions from human rights NGOs, thereby reflecting multiple viewpoints. He asked whether any person could invoke the Convention before the courts and other administrative bodies charged with combating racial discrimination.

39. The constitutional reforms of 2001 were particularly important because they included new provisions designed to benefit indigenous persons. The fact that the prohibition of racial discrimination had been raised to constitutional status represented a powerful legal means of combating that scourge. He requested additional information on follow-up to complaints received by CONAPRED in terms of recommendations or decisions issued. Given its responsibility for a wide range of activities, he wished to know what results had been achieved by the Government Human Rights Policy Commission, and what programmes it envisaged for the future. He enquired about the status of a presidential initiative for constitutional reform that would entrust states with responsibility for recognizing and guaranteeing the protection of human rights.

40. The efforts made by the Mexican Government to protect the rights of the large number of Mexicans who migrated to other countries, particularly the United States, would serve as a point of reference in terms of implementing the Convention. He urged the Government to continue and strengthen similar efforts to protect the rights of some 138,000 immigrants within Mexico, mainly from Central America, who were also subjected to discrimination based on nationality. It was important, in that regard, to promote ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families so as to ensure that greater attention was given in receiving countries to protecting those vulnerable groups. He would welcome information on follow-up to programmes relating to the various migration issues described in paragraphs 70 to 75 of the report. The delegation should explain how the Migrants Programme, established within the National Human Rights Commission, had followed up complaints relating to migration. He further asked for information on the results achieved by programmes to address the internal migration of seasonal agricultural workers, who no doubt included many indigenous persons.

41. Despite the progress made, much remained to be done in the area of land disputes, particularly since most of the communities affected did not have complete basic documentation and since the majority of the most serious disputes involved regions with a large indigenous population. The delegation should provide information on any recent progress in that respect.

42. It was noteworthy that indigenous languages were now considered to be national languages, which meant that they could be used freely, including in official documents. He wished to know what steps had been taken by the National Indigenous Languages Institute to promote the use of those languages. What was the status of the recognition and functioning of the "indigenous courts"? And had there been any instances of conflict between the operation of those courts and that of regular courts?

43. He noted with satisfaction the efforts made to improve access to health-care programmes for indigenous persons. Greater emphasis should be placed on the establishment and operation of hostels for indigenous children, which would make it easier for them to attend school; they constituted a vehicle for promoting education, strengthening identity and promoting tolerance.
44. He wished to know the scope of article 66 of the Criminal Code, and especially the extent to which it gave effect to article 4 of the Convention. Had there been any related court cases involving allegations of violations of equality or discriminatory acts?
45. He welcomed the various far-ranging programmes being carried out pursuant to article 7 of the Convention and urged the Government to continue and strengthen those efforts.
46. Mr. THORNBERRY asked to what extent self-identification - referred to in both the Committee's general recommendation VIII and ILO Convention No. 169 - was used as a basis for determining the number of indigenous groups in Mexico. Citing paragraph 4 (d) of the Committee's general recommendation XXIII on indigenous peoples, he enquired whether those peoples had participated in the formulation of the new legislation on the sale of communal landholdings (ejidos) in view of the fact that they were directly affected by that legislation.
47. Given the problem of incomplete basic documentation relating to land ownership, he wondered whether the Government might be willing to consider the use of alternative forms of evidence to confirm a land title or boundaries, as used in other countries. The disproportionate severity of prison sentences handed down to indigenous persons for particular offences constituted a form of discrimination in practice. He wondered whether any steps had been taken by the Government to implement the Committee's general recommendation XXXI on the prevention of racial discrimination in the administration and functioning of the criminal justice system in terms of giving preference to the use of alternatives to imprisonment and other forms of punishment better suited to the legal systems of indigenous peoples.
48. He requested additional information on the situation of persons of African descent in Mexico, including institutions set up for their benefit.
49. Mr. AMIR asked whether the fact that the Convention was considered to be an integral part of Mexico's domestic legislation meant that other elements of its legislation were in conformity with the provisions of the Convention. He wondered whether any laws existed to cover possible contradictions.
50. The high illiteracy rate within indigenous peoples in Mexico constituted an impediment to their enjoyment of civil and political rights and did not augur well for future generations. He requested additional information on how discrimination was dealt with by the courts under the Federal Code of Civil Procedure and the Federal Code of Criminal Procedure.
51. Mr. PILLAI commended Mexico for having been the first State party to ratify the Convention without any reservations; for having associated the National Human Rights Commission and civil society in the preparation of the fifteenth periodic report; for having made a declaration concerning article 14 of the Convention; and for having ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

52. Since the majority of persons of African descent were concentrated in three states, he would like to know whether those states had taken measures to address any discrimination to which they might be subjected.

53. In the light of the statistics provided in paragraph 110 of the report, it would be useful to know what specific measures the Government had implemented to raise the standard of living of indigenous people to that of the rest of the population. Additional information on any affirmative action taken under the provisions of the Federal Act to Prevent and Eliminate Discrimination should also be provided. It was unclear what judicial status was held by the Council set up by that Act (CONAPRED). How would the State party ensure coordination between CONAPRED and the National Human Rights Commission?

54. Mr. KJAERUM commended the State party for its willingness to address all types of discrimination and asked whether the Government had considered the risk of double discrimination against indigenous people with disabilities.

55. Given that many indigenous people spoke little Spanish, their access to legal and health services was limited since translation services were seldom provided. The delegation should indicate the extent to which indigenous people could, in practice, communicate with public authorities in indigenous languages.

56. The delegation should clarify whether the training courses to educate public officials about the vulnerability of women, particularly migrant and indigenous women, were in place.

57. In the light of the recommendation made by the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people in his report (E/CN.4/2004/80/Add.2, para. 64), it would be interesting to learn whether a debate had been initiated in Congress on constitutional reform that would take account of indigenous people's concerns. Details should be provided on the status of any reform arising from such a debate.

58. The Special Rapporteur on the human rights of migrants had drawn attention to the provisions of the General Population Act under which undocumented migrants, including victims of trafficking and smuggling, could receive sentences of up to 10 years' imprisonment. While in practice illegal migrants were usually deported without punishment, the gap between law and practice could give rise to abuse and arbitrary action. The reporting State should indicate whether there were plans to amend current legislation in order to harmonize law and practice in that regard.

59. Given that limitations had been placed on the mandate of the National Human Rights Commission in relation to the labour market and the penitentiary system, he wondered whether discrimination in those areas went unmonitored.

60. Mr. LINDGREN ALVES commended the Government for numerous measures it had initiated for the benefit of indigenous people, particularly given the delegation's assertion that that sector accounted for between 10 and 12 per cent of the total population. It would be interesting to learn how the rest of the population was classified.

61. He expressed his dissatisfaction with the English rendering of the term “organizaciones latinas” as “Hispanic organizations” in paragraph 50 of the periodic report. While he was proud to consider himself a “latino”, as a Brazilian national he had nothing to do with Spain. In the United States of America, moreover, the term “Hispanic” was considered derogatory.
62. He requested additional information on the current status of negotiations between the Mexican Government and the Zapatista National Liberation Army. It would be interesting to learn whether the measures adopted by the Government for the benefit of indigenous people had been, to some extent, a reaction to the situation in Chiapas.
63. Mr. AVTONOMOV asked for further clarification on why the National Institute for Indigenous Affairs had been disbanded and the National Commission for the Development of Indigenous Peoples subsequently established. It would be useful to learn what factors had influenced government policy on indigenous affairs since the creation of that Commission.
64. He requested additional information on the “indigenous courts” referred to in paragraph 137 of the report. If such institutions currently existed, what was their jurisdiction? Did they effectively improve recognition of indigenous traditions and customs, and if so, in what fields? Were there any contradictions between such traditions and customs, and domestic legislation?
65. It was unclear whether special training was provided for magistrates and judges in indigenous affairs. Were lawyers working in areas with large indigenous populations familiar with the problems of their indigenous clients?
66. Mr. YUTZIS commended the Government for its investment in large holding centres for migrants. He requested updated information on the outcome of measures taken to combat the networks of contractors that exploited migrant agricultural day-labourers, given that the information provided in the report was from 1999.
67. It would be useful to learn what measures were required to ensure that all sectors of Mexican society had access to the basic documentation necessary for inclusion in the land registration programme. The delegation should clarify the link between the division of land into plots and the establishment of legal security of tenure. Additional information on the location of the projects intended to enhance the infrastructure of indigenous communities should also be provided. It should be made clear whether such projects had benefited vulnerable communities.

The meeting rose at 6 p.m.