



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

Distr.: General
29 December 2011
English
Original: French

Committee on the Elimination of Racial Discrimination

Seventy-ninth session

Summary record of the 2094th meeting*

Held at the Palais Wilson, Geneva, on Wednesday, 10 August 2011, at 3 p.m.

Chairperson: Mr. Kemal

Contents

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

Initial and second and third periodic reports of Paraguay

* No summary records were issued for the 2090th to 2093rd meetings.

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent *within one week of the date of this document* to the Editing Unit, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

The meeting was called to order at 3.05 p.m.

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

Initial and second and third periodic reports of Paraguay (CERD/C/PRY/1-3; HRI/CORE/PRY/2010; CERD/C/PRY/Q/1-3)

1. *At the invitation of the Chairperson, the delegation of Paraguay took places at the Committee table.*
2. **Mr. González** (Paraguay) said that the periodic report under consideration had been prepared with the participation of various public bodies and in consultation with civil society, including women's, indigenous people's and Afro-Paraguayans' rights organizations. His Government had recently taken measures to comply with all its international obligations, including the obligation to submit reports to the treaty bodies established under international human rights instruments. In February 2011, Paraguay had undergone a universal periodic review and had accepted the 124 recommendations emanating from that exercise.
3. With a view to promoting and protecting human rights, his Government cooperated with the Office of the United Nations High Commissioner for Human Rights. The Human Rights Network, which had been established in 2009, had undertaken to draw up the first national action plan on human rights which would involve the executive, legislative and judicial authorities. The first human rights education plan had been finalized and the training of police officers reinforced in 2011, in particular through the issuance of operating instructions prohibiting the excessive use of force and firearms.
4. As far as international instruments were concerned, Paraguay had begun the process of acceding to the 1961 Convention on the Reduction of Statelessness and hoped that Congress would ratify that instrument before December 2011, which would mark the fiftieth anniversary of its adoption.
5. Paraguay was a representative, participatory and pluralistic democracy. The Constitution was the supreme law and took precedence over international instruments ratified by Paraguay. The Convention, which had been ratified in 2003, could be invoked before the domestic courts. The principle of non-discrimination was enshrined in article 46 of the Constitution, which provided that all inhabitants of Paraguay had equal freedoms and rights, and that the State must eliminate all factors which maintained or engendered discrimination. That provision could not be implemented without specific legislation. For that reason, Congress was examining preliminary draft legislation banning all forms of discrimination, which had been drawn up by various NGOs, with the support of the United Nations system. That bill prohibited any discrimination based on race, religion, membership of a political party, age, sex, sexual orientation, birth, origin, descent and numerous other grounds. It empowered the Directorate-General for Human Rights to receive complaints and investigate acts of discrimination in the public and private sectors.
6. Paraguay was a multicultural, bilingual country whose two official languages were Guarani and Spanish. It was the only Latin American country to have made Guarani an official language and had recognized over 20 indigenous peoples, who were educated in their mother tongue and in one of the two official languages. Urgent measures had recently been adopted to help indigenous communities, in particular in the area of food security. In that regard, mention should be made of Decree No. 1,945 of 2009 establishing the National Indigenous Policy Programme, which focused mainly on the distribution of essential goods and agricultural equipment to indigenous communities. In May 2011, the Government had established a multisectoral commission for the promotion of the rights of indigenous peoples, which acted as an inter-agency coordination body responsible for monitoring the

implementation of policies concerning indigenous peoples. Since August 2010, it had been obligatory to consult the Paraguayan Institute of Indigenous Affairs (INDI), the body primarily responsible for protecting the rights of indigenous peoples, on any project involving the use of indigenous lands. In addition, the Secretariat for Women had set up an advisory centre for indigenous women.

7. Paraguay gave priority to action to find solutions to the various problems that arose from issues relating to the rights of indigenous peoples. For that reason, the INDI had adopted a strategic action plan under which, by 2013, 90 per cent of indigenous peoples should have titles for the land on which they lived. In 2010 and 2011, land titles had been issued to 18 indigenous communities and the INDI budget allocated to land acquisition had increased from US\$ 4 million to US\$ 22 million. At the beginning of August, Paraguay, which was committed to complying with all judgements handed down by international courts in relation to Paraguayan indigenous communities, had received a delegation from the Inter-American Commission on Human Rights which had engaged in numerous activities designed to promote human rights in general and the rights of indigenous peoples in particular. On 3 August 2011, an agreement had been signed to transfer over 8,000 hectares of land situated in the west of the country to the Kelyenmagatema indigenous community, whose situation was being closely monitored by the Inter-American Commission.

8. In 2012, his Government would undertake a census of all indigenous communities living in Paraguay. It had also initiated studies on the occasion of the celebration of the International Year for People of African Descent in 2011 in order to identify more closely the efforts needed to combat racial discrimination and related forms of intolerance affecting people of African descent around the world. Paraguay endorsed without reservation the Durban Declaration and Programme of Action.

9. **Mr. de Gouttes** (Country Rapporteur) recalled that the State party, which had ratified the Convention on 7 July 2003, should have submitted its initial report in 2004. Paraguay, at that time, had not made the declaration provided for under article 14 of the Convention recognizing the competence of the Committee to receive and consider communications from individuals or groups of individuals claiming to be victims of racial discrimination. He asked what was the position of the current Government on that issue. He noted that civil society organizations had been consulted during the preparation of the report under consideration and asked the delegation for details of the NGOs which had been involved.

10. In 1989, after a long period of dictatorship, Paraguay had been able to open itself to regional integration by becoming one of the founder members of the Southern Common Market (MERCOSUR). Democracy had later developed, notably thanks to the adoption of a new Constitution in 1992, and another important step had been taken with the election of Fernando Lugo as President of Paraguay in 2008. In 2009, Paraguay had had a population of 6,995,000, 108,308 of whom had been indigenous people belonging to 18 groups and 5 linguistic and ethnic families, the largest group being the Guarani (58.2 per cent). In a census conducted in 2002, 7,637 persons of African descent had been recorded. Generally speaking, the Committee would like to have more precise data on the number and origin of immigrants in the country. In terms of per capita income, Paraguay was among the poorest countries in South America. Poverty particularly affected the indigenous people, who should have the benefit of enhanced protection measures in all sectors.

11. He welcomed the fact that Paraguay had adopted numerous legal provisions and measures aimed at combating discrimination, notably in compliance with the United Nations Declaration on the Rights of Indigenous Peoples and International Labour Organization (ILO) Convention No. 169, which it had ratified. He also welcomed the establishment of such institutions as the INDI and the Ombudsman's Office. He asked

whether Paraguay was planning to adopt a national action plan to ensure the implementation of the Durban Declaration and Programme of Action. He noted that Paraguayan legislation contained no reference either to racial discrimination or to the concept of race, and that it was therefore not in conformity with article 1 of the Convention. With regard to the bill designed to combat discrimination motivated by ethnicity, origin, religion, sex or other grounds, which had been held up in Congress for the past several years, he asked whether it explicitly referred to racial discrimination. Also, what was preventing it from being adopted? He noted that the provisions of criminal law aimed at combating the acts of racial discrimination mentioned in the report covered only the prohibition of propaganda or discriminatory advertising, and public insults against a person on the grounds of his or her beliefs; that did not satisfy the requirements of article 4 of the Convention. He therefore urged Paraguay to criminalize any dissemination of ideas based on racial superiority or hatred, incitement to racial hatred, racial violence or incitement to such violence, racial propaganda activities and the setting-up of racist organizations.

12. The report contained no statistical data on the number of complaints, prosecutions and judgements relating to racist acts. However, the Committee attached great importance to such statistics, and to information on redress provided for victims. In addition, the small number of complaints and prosecutions for racism should not necessarily be considered a positive sign, as it could merely reflect a lack of remedies, of information on rights, or of confidence in the police or the judiciary. He asked for more detailed information on measures taken to strengthen efforts to combat discrimination against indigenous people and to ensure that the latter were consulted, notably regarding the use of their ancestral lands.

13. He expressed concern about the particularly high mortality and illiteracy rates among indigenous women and children. He was also concerned about reports of cases of forced labour, and even servitude in the Chaco region. With regard to the ethnic identity card which ensured the full enjoyment of their rights by indigenous people, he asked what criteria were used for the issuance of that document. He enquired whether the Government was planning to strengthen the capacity of the INDI in order to enable it to achieve the ambitious objectives set for 2013. He requested details on the method of self-identification of persons of African descent and asked whether those persons were issued with specific identity cards. More generally, he asked what measures were being taken to promote the right to work, equal pay and access to social security for persons of African descent. Details on the place of the indigenous customary justice system in civil and criminal matters and the role of the Ethnic Rights Directorate, which was responsible for helping indigenous people in criminal cases, would also be useful.

14. He asked for statistics on the types of offences for which indigenous people were detained. He would like to know how progress with school integration was evaluated, and what measures had been taken to reduce illiteracy and improve the level of education of persons of African descent. Lastly, he asked whether the media and political leaders played a role in the fight against racism and whether indigenous people worked in the media.

15. **Mr. Calí Tzay** asked what specific measures the State party was taking to put an end to the serious and systematic violations of the fundamental rights of indigenous people. Noting that indigenous language teaching was losing momentum in State schools, he would like to know whether the indigenous communities were consulted prior to the adoption of measures designed to encourage the learning of their languages, as provided for by the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169). He asked whether the State party intended to return lands to the indigenous communities that had applied to the Inter-American Court of Human Rights on the same basis as the Kelyenmagatema community, which had won its case. He enquired what the State party expected of the Expert Mechanism on the Rights of Indigenous Peoples, which it had invited to visit the country,

and what it was doing to eliminate the practice of “*criadazgo*” (servitude), which mainly affected indigenous women, children and older people. Taking into account the Committee’s general recommendation No. 25 on gender-related dimensions of racial discrimination, he asked whether racial discrimination had a different impact on women in the State party. Lastly, he enquired about the content of bilingual intercultural education.

16. **Mr. Murillo Martínez** asked whether Paraguay intended to give primacy to international treaties over national laws. He asked what the specific consequences had been of the State party’s endorsement of the United Nations Declaration on the Rights of Indigenous Peoples. He enquired what measures had been taken or were envisaged to increase the visibility of persons of African descent. He asked whether it was planned to determine the exact number of those persons in the census scheduled for 2012, whether they were covered by the positive measures benefiting indigenous people, notably in tax matters, and whether, generally speaking, members of minority groups participated in decision-making on matters of concern to them. Lastly, the Paraguayan delegation was invited to explain what was preventing the adoption of the preliminary draft legislation prohibiting all forms of discrimination and whether persons of African descent, like indigenous people, were entitled to ownership of ancestral lands.

17. **Mr. Avtonomov** expressed surprise at the fact that only 87,900 persons declared themselves to be indigenous even though there were more than 3 million Guarani speakers in the country. He was concerned that a part of the population might be ashamed or afraid to declare that they were indigenous, and asked what efforts the State party was making to ensure that their indigenous identity was more highly regarded. Lastly, the delegation might wish to indicate whether it was possible to use Guarani in the courts and what measures were being taken to promote its use.

18. **Mr. Saidou** asked whether the Ombudsman’s Office was in conformity with the Paris Principles, whether the activities of the numerous human rights departments and units within the executive branch might not overlap, whether there was an authority responsible for regulating public and private media and, if so, whether it was independent and what its composition was.

19. **Mr. Diaconu** expressed regret that only 50 per cent of ancestral lands had been returned to indigenous people and that no judicial mechanism had been created to enable indigenous people to assert their rights. He asked whether the Paraguayan Government had devised a strategy to remedy that situation. He also regretted that only 1 per cent of higher education scholarships were awarded to indigenous students, whereas indigenous people accounted for 15 per cent of the population. He asked how many civil servants were indigenous and what the State party intended to do to improve the registration of births, particularly within the indigenous population.

20. **Mr. Lindgren Alves** asked why discrimination motivated by race had not yet been criminalized, as stipulated by the Convention, and whether measures were being taken by the Paraguayan Government to combat discrimination against persons of Asian origin and *Brasilguayos* (Brazilian migrants). In addition, the delegation might wish to indicate whether the Ombudsman had already received complaints about discrimination from indigenous people, persons of African or Asian descent or *Brasilguayos*; if not, it might explain why.

21. **Mr. Thornberry**, noting that Paraguay was described in the Constitution as a multicultural country, asked how that was reflected in legislation and in practice. He would also like to know whether the draft legislation sponsored by the Network against All Forms of Discrimination, which had been before Congress for several years, contained provisions on indirect discrimination, structural discrimination and de facto discrimination, as well as multiple discrimination. The Paraguayan delegation should indicate whether all elements of

the definition contained in article 1 of the Convention had been incorporated into that bill and whether, in addition to the existing provisions criminalizing racial discrimination, provisions for civil court action for violations of the Convention could be included in that bill.

22. He asked whether certain indigenous languages were disappearing and, if so, whether the authorities had taken special measures to preserve and promote them. He wished to know whether the indigenous peoples living in Paraguay had the right to establish and supervise their own educational systems and institutions providing instruction in their own language, in line with the United Nations Declaration on the Rights of Indigenous Peoples. In its advice No. 1 adopted in 2009 (A/HRC/12/33, annex), the Expert Mechanism on the Rights of Indigenous Peoples had emphasized that States should address past mistakes and, in particular, eliminate stereotypes, inappropriate terminology and other negative references to indigenous peoples in textbooks and educational materials. It would be interesting to know the State party's position on that issue.

23. **Ms. Dah**, noting with satisfaction that Guarani was understood or spoken by almost all of the Paraguayan population, said that urgent measures should be taken to raise it to a level worthy of its status as an official language. Given that Guarani was spoken in neighbouring countries, she wondered whether Paraguay might not make use of regional cooperation in order to enrich that language, in particular by creating neologisms which would make it possible to express the realities of the modern world, e.g. scientific innovations. Furthermore, it could request assistance from the international community, and in particular UNESCO, in order to develop a system for transcribing indigenous languages which did not yet have an alphabet.

24. Referring to paragraph 34 of the report, she asked whether Paraguay envisaged ratifying the International Convention for the Protection of All Persons from Enforced Disappearance in the near future or whether certain obstacles still prevented it from doing so. With regard to persons of African descent, she suggested that Paraguay should take the opportunity afforded by the tenth anniversary of the adoption of the Durban Declaration and Programme of Action, which would be commemorated in New York in September 2011 and would coincide with the celebration of the International Year for People of African Descent, in order to inform the international community of the special measures taken for people of African descent living in Paraguay. Knowing that peoples of African descent had a spiritual relationship with the land, she asked for details of the land rights granted to that category of persons. Lastly, she would like to know what the State party was doing to prevent the press from conveying a disparaging image of indigenous people and people of African descent.

25. **Mr. Ewomsan** said that, as he understood it, people of African descent formed three distinct communities in the State party and asked whether those distinctions were based on linguistic criteria and whether those communities spoke languages other than Guarani. He asked what measures the Paraguayan Government was taking to guarantee the exercise by those people of their right to education and whether there were African migrants among them.

26. **Mr. González** (Paraguay) said that there were only 107,000 Guarani but 80 per cent of the population spoke their language. All members of his delegation spoke it perfectly. Guarani was both a component of national and cultural identity and a unifying factor. Paraguayans were very proud of their two national languages and of their mixed descent. In 2010, on the initiative of the Government, Guarani had been declared a "MERCOSUR language". The existence of a dialect which was a mixture of Guarani and Spanish — "Yopará" — should also be mentioned. The presence in Paraguay of persons of African descent could be explained by the arrival in about 1830 of the Uruguayan politician José

Gervasio Artigas, who had been accompanied by a delegation of Africans. They had first settled in Emboscada and then in other places around the country.

27. **The Chairperson** said that the Committee would resume its consideration of the initial and second and third periodic reports of Paraguay at the following meeting.

The meeting rose at 5.40 p.m.