



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

Distr.  
GENERAL

CERD/C/SR.1934  
7 August 2009

Original: ENGLISH

---

COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Seventy-fifth session

SUMMARY RECORD OF THE 1934th MEETING

Held at the Palais Wilson, Geneva,  
on Monday, 3 August 2009, at 3 p.m.

Chairperson: Ms. DAH

CONTENTS

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY  
STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION

Fourteenth, fifteenth, sixteenth and seventeenth periodic reports of Peru

---

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 3.15 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION

Fourteenth, fifteenth, sixteenth and seventeenth periodic reports of Peru (CERD/C/PER/14-17; CERD/C/PER/Q/17; HRI/CORE/1/Add.43/Rev.1)

1. At the invitation of the Chairperson, the members of the delegation of Peru took places at the Committee table.
2. Mr. VALDIVIESO (Peru) said that his country's report (CERD/C/PER/14-17) was the outcome of exhaustive consultations among all sectors and institutions whose action had a bearing on the implementation of the Convention. Some of the questions in the list of issues (CERD/C/PER/Q/17) referred to events that had occurred after the date of submission of the report. Others stemmed from specific political positions and assessments, and one adopted a critical approach to an article signed by the President of the Republic, setting out his policies in line with his constitutional mandate.
3. The Peruvian Government was determined to dispel any doubts regarding the objectives of State action and to refute any tendentious or unfounded statement that undermined the prestige of Peru's representative democracy or queried the authorities' commitment to the defence of human rights and the rule of law.
4. It was the party currently in power that had recommended, during the constitutional debate in the Constituent Assembly in 1978 and 1979, that most universal and regional human rights instruments should be assigned constitutional status in Peru, which was now the case.
5. Although no single public institution in Peru was mandated to enforce the principle of non-discrimination, a variety of measures aimed at eliminating all discriminatory practices and promoting the formal and substantive equality of all persons within the country's jurisdiction had been adopted. During the current decade, a basic document known as the National Agreement, which sought to consolidate democracy and reaffirm national identity, had been adopted. It noted the persistence of various manifestations of social discrimination and inequality and emphasized the commitment of the State and the country's political forces to according effective priority to the promotion of equal opportunity.
6. Major progress had been made in promoting human rights and fundamental freedoms since late 2000. The President of the Republic was elected but was not eligible for re-election, and there was therefore rotation in the exercise of authority. Provision was made for preferential voting in parliamentary elections to prevent the leadership of political parties from exerting undue influence. Regional presidents and councillors were also elected. Moreover, in departments where there were indigenous communities, their proportional representation in regional councils pursuant to the law in force far exceeded the number of voters that they represented. The mayors of municipalities were assisted by counsellors representing neighbourhood organizations and local communities. Regional, provincial and district authorities could be dismissed by means of popular initiatives, and the law also provided for popular legislative initiatives.

7. The State was based on the separation of powers, and a Constitutional Court had jurisdiction to rule on the constitutionality of administrative acts. Independent bodies such as the Office of the Ombudsman (Defensoría del Pueblo), which was organized in accordance with the Paris Principles, defended citizens' rights. The National Council of the Judiciary appointed and removed judges and public prosecutors. Other independent oversight authorities were the National Electoral Panel, the Central Reserve Bank and the National Bank and Insurance Inspectorate. As there was full freedom of expression, no pretext could be invoked for recourse to violence. Moreover, if private citizens considered that domestic rulings were unfair, they were free to submit complaints to external review bodies.

8. In recent years Peru had recorded high rates of economic growth, which had led to a substantial reduction in poverty. Seventy per cent of the national budget was administered by regional and local governments, so that public expenditure and investment were approved by elected representatives of the people on the basis of an arrangement for popular participation known as the "participatory budget". Most of the remaining 30 per cent of the budget, which was administered by the central authorities, was also channelled to the poorest areas. As a result, within a period of three years, more than 6 million Peruvians had been provided with basic water and sewage services; almost 1.7 million persons living in rural areas had benefited from rural energy projects; some 2 million had acquired ownership of property; and more than half a million had been allocated State-funded housing. In addition, 3,000 kilometres of roads had been repaired. The poverty rate had declined by 12 percentage points from 48 to 36 per cent under the current Government, meaning that 3 million Peruvians had been lifted out of poverty in 1,000 days. The President of the Republic had just announced the formation of focal points for budget implementation, involving youth organizations and organized communities in the Andes and the Amazon who would design their own projects and receive funds directly from the Government for their implementation.

9. Peru was now the country with the highest growth rate - almost 10 per cent in 2008 - and the lowest inflation rate in Latin America. It was one of only five countries in the world whose economy would continue to expand during the current year despite the economic crisis. The upward trend in social justice and quality-of-life indicators also placed Peru among the leading countries in the region.

10. Peru's legal system guaranteed full equality of rights to all its inhabitants, irrespective of religion, sex, race, language, opinion and ethnic or social origin. Article 2 of the Constitution enshrined that provision, as well as the right to equality before the law and the right to ethnic and cultural identity. The Constitutional Court had set important precedents, ruling, for instance, that the notion of equality was both a principle governing the organization and actions of the State based on the rule of law, and a fundamental right of the individual. No exceptions or privileges were permissible if they denied one person a right enjoyed by another. However, the Court held that the principle of equality was not incompatible with the legal recognition of differences of treatment provided that they were based on objective, reasonable, rational and proportional grounds. The basic aim of the State was thus to improve the circumstances of disadvantaged groups, particularly through action against poverty and exclusion.

11. With regard to political rights, the Election Organization Act established a participation quota for indigenous peoples. A quota of at least 15 per cent was required for lists of candidates

for the office of mayor and municipal councillor and for Regional Council seats. The Regional Government Organization Act and the Municipalities Organization Act also promoted indigenous participation.

12. The General Education Act sought to promote access to education for excluded, marginalized and vulnerable social groups, especially in rural areas. It required the State to design and implement projects aimed at reversing situations of inequality or inequity on grounds of origin, ethnicity, sex, language, religion, opinion, economic status, age or any other factor. The Children and Adolescents Code required the educational authority to take appropriate measures to prevent all forms of discrimination.

13. The Law against Discriminatory Acts pertaining to Offers of Employment and Access to Training Facilities stipulated that employment offers could not contain requirements that constituted discrimination or denial of equal opportunity or treatment. The Ministry of Labour and Promotion of Employment was authorized to investigate such cases, to identify those responsible and to impose appropriate administrative sanctions. The Labour Productivity and Competitiveness Act treated manifestations of discrimination on grounds of sex, race, religion, opinion or language as hostile acts equivalent to dismissal.

14. The Consumer Protection Act established the principle of non-discrimination against consumers on grounds of race, sex, socio-economic status, language, disability, political opinions or religious beliefs in commercial premises open to the public. A number of establishments had already been punished for discrimination in that regard.

15. The Framework Law on the Modernization of Public Administration stipulated that any public official who committed a discriminatory act was liable to punishment by virtue of his or her office. The regional and local governments were also actively engaged in the fight against discrimination and had issued regional and municipal orders to impose the principle of non-discrimination.

16. Discrimination was defined as an offence in the section of the Criminal Code concerning offences against humanity. Anyone who, either personally or through a third party, discriminated against one or more persons or a group of persons, or who publicly incited or promoted such acts, was liable to imprisonment for a term of between two and three years or community service of between 60 and 120 days. If the perpetrator was a public official, the term of imprisonment was a maximum of four years.

17. Peru's indigenous population comprised the Andean and Amazonian peoples, who represented 40 per cent of the total national population. However, according to the 2007 National Population Census, Spanish was the language learned in childhood by 83.9 per cent of the population aged 5 and over; Quechua was learned by 13.2 per cent, Aymara by 1.8 per cent and another indigenous language by 0.9 per cent.

18. Peru was a heterogeneous, multicultural and multilingual country. The indigenous population lived in the country's poorest regions, which were also remote rural areas. Poverty maps had been drawn up, showing areas that lacked basic services and where illiteracy and malnutrition rates were high. According to the 2007 census, the population of the indigenous

areas of Amazonia amounted to 299,218 inhabitants, whose level of education differed substantially from the national average, with high illiteracy rates among women, especially those in the 12 to 49 age group.

19. The members of the Afro-Peruvian population had lost their mother tongue during the process of transculturation. They were concentrated in the southern and northern coastal areas and their level of education was close to the national average.

20. The Government's main goal was to reduce the poverty rate to below 30 per cent. That was a major challenge, especially with regard to the provision of basic services such as water, energy and health care to communities living in scattered villages in remote parts of the country. However, rapid progress was being made also in the area of educational reform and teacher training, and thousands of computers had been distributed to children in rural areas.

21. The process required a great deal of investment. During the past three years, 1.5 million jobs had been created and the resulting tax revenue had been used to finance social welfare and infrastructure projects in rural areas. The external and domestic public debt had also been substantially reduced and the country's national reserves had increased to an unprecedented level. The resulting economic stability and low inflation rate had greatly enhanced the well-being of the Peruvian population.

22. In view of the special relationship of rural and indigenous communities with the land, the State guaranteed private, community and other social forms of property rights to land. The environment and natural resources were the property of the nation, and the State had a sovereign right to use them as appropriate, promoting their sustainable use, preserving biodiversity, protecting nature reserves and fostering the sustainable development of Amazonia.

23. The National System of Protected Natural Areas had been established in 1997. It gave indigenous peoples the exclusive right to exploit, in accordance with ancestral and customary practices, the natural resources existing in protected national parks and reserves.

24. It was undeniable, however, that the indigenous peoples of Amazonia objected to existing hydrocarbon and extractive activities because of their potential environmental impact. The Ministry of Energy and Mines had taken action to ensure the integrated development of society and to promote environmental rights. The Environmental Protection Regulation in regard to Hydrocarbon Activities required such activities to be conducted with due respect for indigenous and rural communities. An Environmental Management Plan was being drafted to prevent or alleviate their impact on communities and the environment. The Regulation concerning Citizen Participation during the Development of Hydrocarbon Activities recognized the participation rights of communities affected by environmental management. Similar legislation was applicable to mining and its potential adverse impact.

25. The Congress of the Republic was considering legislation such as the Bill concerning the Consultation and Participation of Indigenous Peoples in Environmental Affairs, which sought to ensure that infrastructural activities that could affect the rights of indigenous peoples were implemented only with their prior free and informed consent. It was also sought to bring national legislation into line with the International Labour Organization (ILO) Convention concerning Indigenous and Tribal Peoples in Independent Countries (No. 169).

26. The National Institute for the Development of the Andean, Amazonian and Afro-Peruvian Peoples (INDEPA) had been established in April 2005 to propose and oversee the implementation of national policies, and to coordinate, with the regional governments, the implementation of projects and programmes for the promotion, defence, investigation and reaffirmation of the rights of the peoples concerned.

27. In response to a question raised by the Committee in its list of issues, he said that military service had been compulsory until September 1999. In June 2008 Congress had enacted Military Service Act No. 29,248, under which persons who performed military service voluntarily were entitled to a number of benefits, including higher training in various branches of technology and facilities for beginning, continuing and completing university or other higher education. The President of the Republic had recently announced the allocation of resources for the creation of a professional army.

28. INDEPA had prepared a new ethno-linguistic map of Peru for 2009, drawing on information provided by institutions and individuals working in the field of indigenous affairs. The proposed map, which represented an update of a similar document drawn up in 1994, had been submitted to Congress in February 2009. The research had identified 76 ethnic groups, 15 ethno-linguistic families and 67 languages: 58 in the Amazon region, 8 in the Andean region and 1 on the coast. The document also contained a photo gallery depicting all of the country's ethnic groups in order to facilitate public familiarity with their physical characteristics and dress. For the first time, those groups' indigenous names had been translated into Spanish in order to create broad awareness of their meaning. Once made official, the map would be used to inform policy development relating to bilingual education, traditional medicine, food security, and indigenous registration of land title, among others.

29. His Government recognized and valued the country's ethnic and cultural diversity, as evidenced by the existence of INDEPA. Afro-Peruvians had contributed greatly to Peruvian culture, and INDEPA worked diligently to promote their participation in political life. One Afro-Peruvian congresswoman had been Vice-President and chairperson of the working group on Afro-Peruvian affairs of the Commission for Andean, Amazonian and Afro-Peruvian Peoples, Environment and Ecology. The 4th of June had been declared the Day of Afro-Peruvian Culture in 2005, and the first museum of Afro-Peruvian culture had been inaugurated in 2009.

30. His Government had adopted a series of political, legislative and administrative measures to protect the civil, political, economic, social and cultural rights of indigenous peoples. The equivalent of US\$ 1.1 and 1.6 billion had been allocated in 2007 and 2008 respectively for social programmes targeting the poorest segments of society. In the framework of the "Juntos" (Together) programme, 460,000 extremely poor families had received assistance in the areas of food, health and education. The Comprehensive Health Insurance (SIS) system, which had 11 million members, provided subsidized health care for the poor. Framework legislation had also been adopted to provide for universal health care. Implementation had commenced in the three poorest departments, namely Huancavelica, Apurímac and Ayacucho.

31. Much progress had been made in the fight against illiteracy through the National Programme of Mobilization for Literacy (PRONAMA) and the new dimension of bilingual education. Nationwide registration campaigns were being conducted in order to ensure the right to an identity for all, including people living in remote areas.

32. Steps had been taken to compensate victims of the violence that had afflicted the country during the 1980s and 1990s. Pursuant to the recommendations made by the Truth and Reconciliation Commission in its final report, Congress had passed legislation for the Comprehensive Reparations Plan (PIR) in 2005. In order to implement the Plan, a Reparations Board had been established in 2006 with the task of drawing up a Victims Registry. To date, 1,400 rural communities affected by the violence had received collective reparation in the total amount of 130 million nuevos soles between 2007 and 2009. That sum did not include allocations for the Reparations Board or the High-level Multisectoral Commission responsible for the formulation and implementation of the Plan. Good progress had been made with the registration of victims; a programme for individual compensation was currently being developed and would be implemented as of 2010.

33. The Government Programme for Free Legal Aid (ALEGRA) was designed to ensure access to justice by the poor. The Programme had got off to a difficult start, owing to a lack of resources, but funds had been made available by the World Bank to address the shortcomings. As a result, poor citizens and people living in remote areas had access to justice; legal support and advice were available free of charge. Information on the services offered by ALEGRA was disseminated by radio in Spanish and Quechua, as well as through graphic materials. A new recently introduced programme provided for the establishment of free legal assistance centres (so-called “casas de justicia”) in rural areas. In addition to the services already offered by ALEGRA, those centres would provide assistance in respect of domestic violence, gender-based violence, birth registration and land title awards.

34. The Academy of the Judiciary, the representative of the judiciary before the National Human Rights Council and the higher courts of justice, offered training in human rights for law enforcement officers, members of the judiciary and civil servants. Since 2000, the Academy had run 68 human rights training courses in different judicial districts, and the representative of the judiciary before the National Human Rights Council had organized 11 academic events on human rights. Provisions introduced in 2001 facilitated the incorporation of human rights as a subject in police training courses. The Handbook of Human Rights Applied to the Civil Police published in 2006 established procedures and techniques for police intervention that were respectful of human rights. The Handbook included the text of the International Convention on the Elimination of All Forms of Racial Discrimination and a chapter on indigenous and campesino communities. Between 2001 and 2008, 258 police instructors had been trained in human rights. Further details on human rights training were provided in the written replies.

35. The legislative decrees challenged by some indigenous and campesino communities had been adopted in the framework of the implementation of the United States-Peru free-trade agreement, which aimed at enhancing the productiveness and adequate use of natural resources and required the construction or modification of infrastructures, without prejudice to the rights of local communities or property. Recognizing that indigenous and campesino communities might need to know more about the content of those decrees, the Government had established a round table to discuss pertinent issues with their leaders and to clarify the content of regulations that might be perceived as infringing their rights.

36. Referring to the violent clashes in Bagua on 5 June 2009, which had resulted in the death of 33 persons, most of them police officers, he informed the Committee that an official

investigation had been launched into the incidents. A committee of inquiry had also been set up within the framework of the above-mentioned round table. The incidents had been widely publicized around the world, but unfortunately the media had distorted the facts. Peru was a participatory democracy and violence could not be justified. The illegal roadblocks had cut off several communities from energy, food and medical supplies and, given their negative impact on the local population, the Government had been compelled to take action. While discussions had been ongoing in the context of the round table, outsiders had instigated violent action, causing indigenous representatives to quit the negotiating table. Unfortunately, a local radio station had disseminated false information about an alleged “massacre” of indigenous people at Curva del Diablo. The police officers sent to restore order had been met with violence and had used force in self-defence. He could provide the Committee with filmed material corroborating his account of the events, including the torture and subsequent killing of several police officers. Given the progress made towards democracy, social inclusion and poverty eradication, there was no excuse for such violence, which was stirred up by extremist groups. The Government deeply regretted the incidents in Bagua, and independent, impartial investigations would be conducted. Any allegations of political interference with those investigations were baseless. It was absurd to accuse Peruvian politicians of acting against a democratic order they themselves had established.

37. Mr. CALITZAY (Country Rapporteur) expressed concern about the violent incidents in Bagua. Although the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people had declared that the incidents did not amount to genocide within the meaning of the Convention on the Prevention and Punishment of the Crime of Genocide, there was no belittling the facts. The Special Rapporteur had recommended the establishment of an independent committee of inquiry composed of experts and indigenous representatives and had expressed his willingness to visit the country to review the situation, within the terms of his mandate. Given the grave nature of the events, he urged the Government to heed those recommendations, which offered a real opportunity to find a peaceful, participatory and legally sound solution.

38. Noting that the State party had adopted a series of legislative instruments on the right to non-discrimination, he said that information before the Committee suggested that those instruments were little known by public servants, the general public and indigenous peoples themselves. It was reported that legislation was not translated into indigenous languages and that human rights training for civil servants was inadequate. The State party itself had acknowledged in paragraphs 4 and 5 of its report that the full enjoyment of rights was not always guaranteed for marginalized and poor sectors of society. More should be done to ensure the practical implementation of the Convention on the ground, with the broadest possible participation of all sectors of society. Although the recognition and protection of ethnic and cultural diversity in the Constitution and legislation of the State party was commendable, those provisions were meaningless unless real opportunities existed for the different ethnic groups to participate in the political life of the country.

39. Noting that the Constitution referred to “campesino and native communities”, rather than “indigenous peoples”, he invited the delegation to elaborate on the meaning of the term “ethnic and cultural diversity” in Peru. The report was inconsistent in its use of terminology, referring variously to “aboriginal”, “native” and “indigenous” groups, and he asked the delegation to comment.



40. Drawing attention to paragraphs 75-77 of the report, he asked whether Afro-Peruvian peoples, by virtue of that designation, were covered by the provisions of ILO Convention No. 169. He also wished to know whether indigenous peoples participated directly in the formulation, implementation and evaluation of the plans and programmes administered by INDEPA.

41. Referring to paragraph 40 of the report, he asked how the State party assessed whether discrimination manifested itself through acts of mental violence.

42. With regard to paragraph 44 of the report, he pointed out that deaf and speech-impaired indigenous persons might suffer from double discrimination, and therefore special measures must be taken to protect their rights.

43. The information provided in the report must be analysed against a background of marked discrimination against indigenous peoples. In that connection, he asked to what extent indigenous peoples participated in the development, implementation and assessment of the employment programme for the rural poor ("A Trabajar Rural") mentioned in paragraph 165 of the report.

44. He requested additional information on the status of the legislative instruments listed in paragraphs 15-39 of the periodic report in relation to the Convention and to other human rights instruments and documents. In particular, it would be useful to learn how Acts No. 26,859; 26,864; 27,683; 27,867 and 27,972 incorporated the provisions of ILO Convention No. 169 and the United Nations Declaration on the Rights of Indigenous Peoples on the real and effective participation of indigenous peoples in all decisions that affected them, directly or indirectly. In that connection, the State party should also bear in mind paragraph 4 (d) of the Committee's general recommendation XXIII on indigenous people's right to effective participation in public life and the requirement for their informed consent to any decisions directly relating to their rights and interests. He asked whether Act No. 28,044 was in accordance with the Convention against Discrimination in Education of the United Nations Educational, Scientific and Cultural Organization. Was Act No. 27,337 consistent with the Convention on the Rights of the Child and the recommendations of the Committee on the Rights of the Child on the rights of indigenous children? He further enquired whether Act No. 26,772 was in keeping with the ILO Convention concerning Discrimination in Respect of Employment and Occupation (No. 111). With reference to paragraph 29 of the periodic report, he asked whether the Convention had been invoked in any of the punishments, investigations or complaints concerning violations of consumers' rights.

45. Several experts and indigenous organizations had reported that the legislative decrees issued by the Government in order to give effect to its free-trade agreement with the United States of America had gone beyond the pre-established limits. The Government had allegedly legislated in areas outside the scope recognized by Congress, ignoring international human rights commitments, particularly those concerning indigenous rights and environmental issues. Indeed, reports indicated that many problems faced by indigenous people in the State party resulted from the lack of consultation with them and the Government's unwillingness to allow them to participate in decisions affecting them. Allegations had been made that the legislative decrees violated the physical and cultural survival of Peruvian indigenous groups. In that connection, he recommended that the State party should take note of the relevant articles of ILO Convention No. 169 and the United Nations Declaration on the Rights of Indigenous

Peoples. On the scope of “free, prior and informed consent”; expert opinion was that consent should result from dialogue in which all parties acted in good faith, ideally leading to a detailed document that was translated into the indigenous language and signed by the parties.

46. While several of the legislative decrees had been repealed, indigenous groups had reported that the Government continued not to promote their rights to participation and consultation. The Office of the Ombudsman had filed an application for unconstitutionality regarding several of the legislative decrees on grounds including violations of the rights of rural communities to participate in decisions affecting the management of their own lands, and the rights of indigenous peoples to cultural identity, to own land and to prior consent. In June 2009, traditional indigenous chiefs from the San Martín region had also submitted a petition requesting that the Constitutional Court declare unconstitutional 10 of the legislative decrees affecting their peoples’ rights to land, territories and identity. Once again, the main reasons cited had been the lack of consultation and information provided about the content and consequences of the decrees.

47. Turning to the information provided in paragraphs 37-39 of the periodic report, he requested further information on the legal status of the norms issued by local or regional governments, and the constitutional and legal provisions that allowed them to do so. He also asked what international instruments were invoked in that process, and whether norms could be issued on other subjects such as land, natural resources, water and cultural activities.

48. Several indigenous organizations had identified discriminatory content in legislative decrees concerning land, water, natural resources and indigenous cultural identity. The discrimination was based principally on the lack of information, consultation and prior consent with regard to the peoples or communities concerned, ignorance or violation of provisions of international human rights instruments, and the undeniable consequences for indigenous peoples and the reactions that would be caused. In connection with water rights, he recalled the Committee’s ruling that the extraction of water on lands of the Aymara indigenous communities of Ancomarca, Tacna, was unjust and discriminatory. He asked whether the problems suffered by that community had been resolved, in accordance with the consent of the Committee’s letter to the State party dated 13 March 2009.

49. He would appreciate the delegation’s reaction to reports received by the Committee indicating that indigenous peoples were currently prevented from expressing their opinion on the Government’s legislative decrees and policies on the environmental management of their own lands and on mining, hydrocarbon and water concessions granted on those lands.

50. He noted the scarcity of information on the Afro-Peruvian population in the periodic report. Other reports received by the Committee had referred to the vulnerability of that group, given that it was not recognized in the Constitution or in the history of the State party. Some Afro-Peruvian communities appeared not to have access to basic services and suffered a high incidence of drug addiction and violence. Many Afro-Peruvians were reportedly stigmatized as common criminals solely on the grounds of their ethnic origin and had little real access to justice. He drew the State party’s attention to the fact that the Afro-Peruvian community was entitled to benefit fully from all the provisions of the Convention, and that the Declaration and Programme of Action of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance were wholly applicable to that population.

51. Finally, turning to issues not covered in detail by the periodic report or by other reports received by the Committee, he asked what role indigenous legal systems played in the provision of free legal assistance, and whether such assistance included non-contentious primary legal aid. He also requested further information on forced sterilization. He noted that family planning programmes in indigenous communities that were not translated into the relevant language and did not provide full information on the meaning and consequences of surgical sterilization could be highly discriminatory. Finally, experience in other countries indicated that the self-defence committees and counter-insurgency controls referred to in paragraphs 128-132 of the periodic report could involve discriminatory practices in recruitment, the operation of the groups, their objectives, the treatment of their enemies and the consequences they had for some communities. He asked what links those groups had with the Ministry of Defence and the Ministry of the Interior, what duties the groups were assigned, what civil or military legal order was applied in the case of conflicts with the law, and to what extent their members were volunteers. He also wished to know whether the compensation granted to the victims of those groups had been in the form of money or land.

52. Mr. DIACONU asked how the Government ensured that the legislative regime on racial discrimination was the same throughout the State party. He also wished to know whether there was a specific reason for the use of the different terms “indigenous people” and “native people” in the periodic report. It would be useful to learn whether the State party intended to adopt specific legislation to comply with the provisions of article 4 of the Convention. He requested clarification on the number of indigenous people in the State party, given that while paragraph 42 of the periodic report stated that they comprised 40 per cent of the population, the table in paragraph 44 seemed to suggest that the percentage was significantly lower. Additional data on socio-economic status would also be useful, including unemployment rates, health statistics and access to housing among different groups. He asked what languages were taught under the bilingual education programme, and how many schools provided bilingual education and at what level.

53. Turning to the issue of natural resources, he requested updated information on the status of the Regulation concerning Citizen Participation during the Development of Hydrocarbon Activities mentioned in paragraph 84 of the periodic report.

54. While the periodic report referred to compensation for the victims of conflict, regulated by the Truth and Reconciliation Commission, he wished to know what steps had been taken to punish those who had been found guilty of acts of violence during the conflict.

55. Finally, he asked whether the case of Ms. Mamérita Mestanza Chávez mentioned in paragraph 178 of the periodic report was an isolated incident, or whether it was indicative of a more widespread practice of forced sterilization.

56. Mr. THORNBERRY requested additional information on the status of international instruments in domestic legislation, particularly ILO Convention No. 169 and the free-trade agreement with the United States of America. He wished to know what normative standards were applied to resolve any inconsistencies that might exist between those instruments and provisions of domestic law.

57. He requested clarification of the legal design of the State party's domestic legislation which referred to both campesinos and indigenous people. In some cases, the two appeared to be used synonymously, while elsewhere they seemed to refer to separate categories.

58. He asked to what extent the Government believed that modernization would complement indigenous rights. It would be interesting to learn whether the model of development to which the delegation had referred was one of so-called "trickle-down economics", particularly given the recognized links between poverty and ethnicity.

59. Noting with interest the delegation's comments on differentiated equality, which were in line with the Committee's thinking, he asked whether the Government's policy on bilingual education could risk leading to indirect discrimination.

60. He asked what measures were being taken to curtail hate speech in accordance with the norms of the Convention. That was important to promote civil dialogues among different sectors of society and to prevent the deterioration of public debate.

61. He requested further explanation of why the situation of relative calm concerning mineral and water resources had changed in 2009.

62. In general, he wished to know what vision the State party had of itself, and how the Government saw Afro-Peruvians and indigenous people fitting in to the modern Peru.

63. Mr. AVTONOMOV, welcoming the renewed dialogue between the Committee and the State party after a break of 10 years and echoing the comments made by Mr. Diaconu and Mr. Thornberry, said that the discrepancy between the number of indigenous people in Peru and the number of people who spoke indigenous languages revealed that those languages were being lost. Although the situation, common to much of Latin America, was complex, with obvious historical factors in play, the table in paragraph 44 of the periodic report showed that the proportion of Peru's population speaking Quechua or Aymara had fallen between 1993 and 2007, both in urban and rural areas, while the number of Spanish speakers had increased. He requested further clarification on the apparent move away from indigenous languages, which could be caused by various factors including reductions in population size, negative perceptions or lack of education in those languages, despite the existence of bilingual schools and the constitutional protection accorded to the rights of indigenous peoples. The data presented in the table did not appear to take account of people who spoke more than one language, and he suggested that future reports might reflect the situation in more detail.

64. He drew attention to the potential, sometimes hidden, ethnic conflict between the police and indigenous peoples, particularly in relation to concerns about water resources and their use, which had a significant effect on Peru's indigenous populations. The issue was addressed by certain parts of ILO Convention No. 169 and the Committee's general recommendation XXIII, but in particular by its general recommendation XXXI on the prevention of racial discrimination in the administration and functioning of the criminal justice system, paragraph 5 of which set out a range of strategies for States parties to pursue. He asked to what extent general recommendation XXXI was being followed in law and practice in order to avoid ethnic conflicts and racial discrimination in the sphere of criminal justice, for example by promoting linguistic and cultural understanding between law enforcement agencies and indigenous communities.

65. Mr. MURILLO MARTINEZ, expressing regret that the composition of the Peruvian delegation did not reflect the country's ethnic and cultural diversity, nevertheless welcomed measures such as the creation of an annual Day and a museum for the Afro-Peruvian population, which would contribute to consolidating the historical memory of the people concerned. It was to be hoped that the election of a member of Congress of Afro-Peruvian descent was not simply an exception to a general rule.

66. Peru's report to the Committee could usefully have contained more disaggregated data, particularly with regard to the Afro-Peruvian population. Having previously participated in a seminar in Peru on integrating ethnicity variables into censuses, he asked what progress had been made in that regard and to what extent indigenous peoples were represented in Peru's census results. Accurate indicators reflecting the situation of all population groups were essential to evaluating economic and other development. He enquired about the effects of the global financial crisis and the free-trade agreement signed with the United States of America on Peru's various ethnic groups, whether decision 391 of the Andean Community approving a common regime on access to genetic resources had caused tensions with indigenous communities, and what reconstruction efforts were under way in Peru following the 2007 earthquake, which had seriously affected the country's indigenous people.

67. He sought confirmation as to whether the death penalty was still on the statute book in Peru, despite the fact that no executions had been carried out for several decades; if it was, did the Government envisage its abolition? He also asked about recent efforts to involve different ethnic groups, particularly Afro-descendants, in decision-making processes. He endorsed the suggestion that a committee of inquiry should be established to examine the events of 5 June 2009. Lastly, he asked whether Peru was conducting any programmes to grant land rights to indigenous groups, particularly Afro-Peruvians.

68. Mr. LINDGREN ALVES, highlighting the detailed legislation on discrimination in various spheres passed in Peru since the 1990s, asked whether the bills referred to in paragraphs 88-96 of the periodic report had yet been enacted. He noted the country's many positive social initiatives based on a "culture of respect for differences". With reference to campesino self-defence groups, he asked whether the Shining Path organization was still active.

69. The discrepancies between the information provided by the State party and its delegation and the reports submitted by NGOs and other groups presented the Committee with some difficulty in making recommendations to the State party as to how to move forward. Although Peru had made great progress in many areas, some indigenous groups now appeared to be suffering as a result. He was, however, greatly encouraged by the fact that more than half of the country's population identified themselves as mestizo, which, he believed, was the best way of steering a path between conflicting concepts such as progress and tradition without racial conflict.

70. Mr. de GOUTTES observed that article 323 of Peru's Criminal Code did not fully implement article 4 of the Convention and invited the country to amend or supplement its legislation accordingly. Noting the small number of complaints of racial discrimination made in Peru, he recalled the Committee's view, expressed in its general recommendation XXXI, that the absence or small number of complaints should not be viewed as necessarily positive, as it could reveal either that victims had inadequate information concerning their rights, or that they feared

social censure or reprisals, or that victims with limited resources feared the cost and complexity of the judicial process, or that there was a lack of trust in the police and judicial authorities, or that the authorities were insufficiently alert to or aware of offences involving racism. He welcomed the ALEGRA legal aid programme intended to facilitate access to justice by indigenous people, and measures to raise awareness of human rights issues among law enforcement officials, although the effectiveness of such initiatives would have to be judged by results. He enquired about the role of the Public Prosecutor in dealing with complaints of racial discrimination.

71. With regard to protecting both the environment and the rights of indigenous and rural communities to land and natural resources, he asked whether the State party had made progress in its legislative efforts in that respect and whether communities affected by mining and other industrial activities were participating in the legislative process. Would such industrial activities be permitted solely with the prior, free and fully informed consent of the communities concerned? How did the system of designated natural areas, the Ministries of Energy and Mines and the Environment and the Regulation referred to in paragraph 82 of the periodic report, contribute to the situation?

72. He asked what conclusions the Truth and Reconciliation Commission had so far drawn on violence in Peru that had affected indigenous communities. With regard to the historical obligation for communities to establish committees for self-defence, he requested further details as to how many remained in place.

73. Concerning forced sterilization, he asked whether cases had occurred other than that of Ms. Mamérita Mestanza Chávez, which had been brought before the Inter-American Commission on Human Rights. He also asked for further information regarding the Government's observation that fertility rates were positively correlated with levels of education.

74. Mr. SICILIANOS, referring to a report submitted by the Juridical Commission for Auto-Development of First Andean Peoples (CAPAJ), requested information on Legislative Decrees Nos. 1064 and 1081 and the National Plan on Human Rights for 2006-2010, particularly with respect to potential discrimination against indigenous peoples and their right to water.

The meeting rose at 6.10 p.m.