



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

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**Committee on the Elimination of Racial Discrimination
Seventy-ninth session**

Summary record of the 2095th meeting

Held at the Palais Wilson, Geneva, on Thursday, 11 August 2011, at 10 a.m.

Chairperson: Mr. Kemal

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The meeting was called to order at 10.10 a.m.

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

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

1. *At the invitation of the Chairperson, the delegation of Paraguay took places at the Committee table.*
2. **Mr. González** (Paraguay), replying to questions raised by members of the Committee at the previous meeting, said that the large number of public agencies involved in addressing human rights issues in Paraguay had not led to a duplication of effort. On the contrary, the sharing of experience and knowledge thus acquired had rendered the agencies' action more effective. They had all been involved, for example, in the preparation of the report currently before the Committee and had coordinated their submissions with the community of non-governmental organizations (NGOs). The following NGOs had contributed to the report: the National Coordinating Committee for Rural and Indigenous Women Workers' Organizations; the Association of Afro-descendants; the Coordinating Committee for the Self-Determination of Indigenous Peoples; the Nivaché Association of Craft-workers; and the Network against All Forms of Discrimination. The report had been shared with Amnesty International at a workshop on discrimination.
3. Paraguay had been governed from 1954 to 1989 by a dictatorial regime. Act No. 2225/2003 had set up a Truth and Justice Commission to investigate acts that had constituted or could have constituted human rights violations during the period from May 1954 until the promulgation of the Act and to recommend measures to prevent their recurrence. Indigenous peoples, especially the Aché and Ayoreo peoples, had been given the opportunity to submit complaints to the Commission. Resolution 1979/2009 adopted by the Ombudsman's Office had converted the Commission into the Directorate-General for Truth, Justice and Reparation, which was currently responsible for investigating all complaints filed and making reparations where appropriate.
4. According to data provided by the Directorate-General for Statistics, Surveys and Censuses, foreigners had accounted for 3.4 per cent of the population of Paraguay both in 1972 when such data had first been compiled (81,100 immigrants) and in 2002 (173,176 immigrants). The next census would be held in 2012. According to the 2002 census, Brazilians had then accounted for 47.1 per cent of immigrants and Argentines for 36.5 per cent. There were more male than female immigrants and more immigrants in urban than in rural areas. In urban areas 29 per cent were Brazilian nationals and 48.8 per cent Argentines, while in rural areas 72.1 per cent were Brazilian nationals and 19.5 per cent Argentines. During the past decade new groups of immigrants of Lebanese, Chinese, Korean and Brazilian origin involved in cross-border trade with Brazil had arrived in Ciudad del Este, Pedro Juan Caballero and Saltos del Guairá.
5. The bill against all forms of racial discrimination, which was currently before the National Congress, stated that, for the purposes of the law, discrimination meant any distinction, exclusion, restriction or preference established on grounds of race, colour, descent, national origin, ethnic origin, language, religion, political opinion or any other ground, including affiliation with a political party or movement, social origin, economic status, age, sex, sexual orientation, gender identity, civil status, birth, filiation, state of health, disability, physical appearance or any other social status. The delay in enacting the bill was due to differences of opinion in Senate committees. The Secretariat for Women and the Human Rights Network fully supported the bill and were lobbying for its enactment and promulgation.

6. The scarcity of complaints concerning racial or ethnic discrimination was attributable to the fact that racial discrimination was a new concept in Paraguay, introduced during the democratization process in the late 1980s and early 1990s. It might also be due to the lack of a law against all forms of discrimination, although the Convention was directly applicable and had been publicized in the country.

7. The Government of Paraguay had assumed full responsibility for compliance with the judgements of the Inter-American Court of Human Rights in the Yakye Axa, Xákmok Kásek and Sawhoyamaya cases and to that end had established the Inter-Agency Commission on the Enforcement of International Judgements (CICSI) in 2009. The Commission was composed of the Minister of the Interior, the Minister for Foreign Affairs, the Minister of Finance, the Minister of Public Health and Social Welfare, the Minister of Justice and Labour, the Minister of Education and Culture, the Attorney-General and the Minister at the Office of the President of the Republic.

8. Article 109 of the Constitution permitted the expropriation of land for social purposes. For instance, indigenous communities could apply for the restitution of their ancestral lands. The executive had submitted two applications for expropriation on behalf of the Yakye Axa, Xákmok Kásek and Sawhoyamaya communities, but the applications had been turned down by the National Congress. The State's sole remaining option was to purchase the land with public funds. The budget for the purpose had been increased from US\$ 4 million to US\$ 22 million, but the owners of the land had not yet been persuaded to agree to the sale. Negotiations were still under way. The Inter-Agency Commission on the Enforcement of International Judgements was seeking to address the sensitive problems involved and had created a working subgroup for the purpose.

9. In the case of the Yakye Axa community, the plan to purchase alternative land belonging to the Pastorel company had failed because the community, which had initially agreed to the deal, had subsequently changed its mind. The representatives of the State had received a fresh offer from the Pastore family but the community had unanimously decided to insist on its claim to the ancestral land where its ancestors were buried. However, it had reduced the claim from 15,000 to 8,000 hectares.

10. Negotiations were continuing with the Sawhoyamaya community on the purchase of alternative land offered by Mr. Heribert Roedel.

11. All existing obstacles had been surmounted in the case of the Xákmok Kásek indigenous community and proceedings to award land titles in respect of 1,500 hectares were at an advanced stage, although that land represented only part of the territory claimed by the community. The community was satisfied with the progress made.

12. In view of the general lack of progress in implementing the judgements of the Inter-American Court of Human Rights, the Inter-Agency Commission was considering the possibility of seeking national or international mediation.

13. In August 2010 the National Institute of Indigenous Affairs had adopted resolution No. 2039 establishing the obligation to request its involvement in all consultations with indigenous communities. According to the resolution, the Institute had received complaints of interference by public and private bodies in such consultations and of frequent non-compliance with the formalities and requirements laid down in the International Labour Organization (ILO) Convention concerning Indigenous and Tribal Peoples in Independent Countries (No. 169). The resolution required that consultations should be conducted on a prior, free and informed basis and in good faith with a view to achieving guaranteed consent. Some indigenous organizations considered that the consultations should be regulated by law and were currently submitting proposals for a protocol concerning consultation and consent procedures with the indigenous peoples of Paraguay. The delegation would distribute to the members of the Committee a model prepared by the

Federation for the Self-determination of Indigenous Peoples with Recognized Legal Personality, a leading organization that represented many indigenous peoples.

14. The Ministry of Public Health and Social Welfare was hiring indigenous health promoters to serve each of the country's indigenous communities, especially those most deprived of health care. As at December 2010, 45 promoters had begun working within their own communities, including those affected by the judgements of the Inter-American Court of Human Rights.

15. The Ministry had also adopted resolution 01/11 on 4 January 2011 creating the Indigenous Health Board, which was currently being constituted and which would assist the Directorate-General for Indigenous Health in taking decisions regarding health care on behalf of the country's indigenous peoples.

16. In 2009 an Interdepartmental Health Care Plan on behalf of the indigenous communities of Yakye Axa, Sawhoyamaya, Puerto Colón and Riacho San Carlos had been elaborated by the health-care regions of Concepción and Presidente Hayes, in coordination with the governors' offices and other public services such as the Secretariat for Social Action at the Office of the President of the Republic and the Ministry of Health. As a result, the Yakye Axa and Sawhoyamaya communities received weekly visits from the Indigenous Family Mobile Health-care Unit of the city of Concepción, which provided medical and preventive care, vaccinations, and family planning and nutritional assistance. Assistance to the Keylenmagategma community (Puerto Colón) was provided twice a month. In December 2010 the Concepción Family Health-care Unit had received support from the United Nations Development Programme for the improvement of its equipment.

17. The Irala Fernández Family Health-care Unit had attended to the Xákmok Kásek community every two months in 2010 because of the large area involved and the 9,000 inhabitants assigned to each Unit. In November 2010 a Unit had been established in the town of Río Verde, which offered medical assistance each month. An indigenous health promoter worked with the community on a permanent basis and maintained contact with the Health-care Unit. A 4x4 vehicle had been donated to the Unit for community visits and the transport of patients.

18. The State was concerned about the lack of an assured water supply and had instructed the entity that was responsible for the distribution of drinking water to supply the communities of Kelyenmagategma and Yakye Axa and some villages of the Sawhoyamaya community.

19. The National Institute of Indigenous Affairs issued ethnic identity cards identifying the owner's community. Such cards were issued solely at the request of members of indigenous communities, who themselves indicated the community to which they belonged.

20. The Deputy Minister of Labour and Social Security attended to the needs of workers and employers without discrimination but took affirmative action in the event of complaints relating to indigenous labour. A Regional Labour Directorate had been established in late 2008 in western Paraguay, where there had been complaints of cases of forced indigenous labour. Furthermore, resolution No. 230/09 of the Ministry of Justice and Labour had established a Commission on Fundamental Labour Rights and Prevention of Forced Labour, which focused on the situation in the Chaco region and was currently developing an action plan. With the help of the ILO, the Commission had printed Convention No. 169 in three languages (two indigenous languages and Spanish) and was completing a reader's guide to the Convention. A high-frequency radio station in Chaco broadcast information on workers' rights and the Convention in Guaraní and Nivaclé. The Inspection and Oversight Office of the Ministry of Justice and Labour had also conducted two preventive inspection operations in Chaco in 2010 and 2011. It had not discovered any major offences, but had detected more customary minor offences relating to wages and social security coverage.

21. An agreement had been signed with the Rural Association of Paraguay on joint action to regularize the situation of the staff of stockbreeding establishments linked to the Association in order to ensure compliance with labour and social security legislation.

22. Indigenous women had recently begun to express concern about their participation and recognition of their leadership. Various initiatives had been launched by women members of indigenous communities. Some focused on their social needs and others wished to become involved in public affairs. Both the National Institute of Indigenous Affairs and the Secretariat for Women were supporting indigenous women's claims. Under one Secretariat project, for instance, research was being conducted into various types of indigenous women's organizations and steps were being taken to raise their profile and make them more proactive. The Secretariat also attended to the needs of indigenous women and was currently developing a protocol designed to take account of the cultural diversity of indigenous women. With a view to facilitating the access of indigenous women to economic resources, it promoted the production of handicrafts and offered training courses in ways of enhancing and marketing the products. The Secretariat also strongly supported the bill against all forms of discrimination with a view to addressing the dual discrimination suffered by indigenous women.

23. Title VI of the Code of Criminal Procedure provided for a special procedure to deal with unlawful acts related to indigenous peoples. For instance, the assistance of a technical consultant with specialized knowledge of indigenous issues was required during the preparatory stages of a criminal investigation (art. 433.1). Where pretrial detention was ordered, the court could demand an expert report on the detainee's prison conditions that took into account his or her cultural characteristics and, if necessary, made recommendations aimed at preventing cultural alienation (art. 433.2). Before ruling on any important issue, the court was also required to hear the opinion of an expert (art. 433.3). The experts were familiar with the rights of indigenous peoples, as set forth in the records of the Supreme Court of Justice.

24. During the intermediate stage, the court was required to convene a hearing of the prosecutor, the accused and the victim, together with members of the community appointed by all three, with a view to arriving jointly at some form of reparation, which could include any measure authorized by the Code or measures accepted by the culture of the ethnic group concerned with a view to closing the proceedings, provided that they did not violate the basic rights enshrined in the Constitution and international law (art. 434.1). With regard to the use of indigenous languages or any other language, the Code required the presence of qualified interpreters in the court.

25. The Directorate of Penal Institutions had adopted a system of disaggregated data collection for maintaining records of untried and convicted indigenous prisoners and their situation. All detention centres were required to include disaggregated data in their prisoner lists as well as the names of the judges and public or private defenders involved in such proceedings and the status or outcome of the proceedings. Paragraph 118 of the report had provided data for 2009 concerning the number of prisoners of indigenous origin in each of the country's prisons.

26. The great majority of indigenous prisoners were attending literacy training courses which could be used to enhance the efficacy of the rehabilitation process.

27. Since 2009, the Directorate of Police Justice of the Ministry of the Interior, the Department of Internal Affairs of the National Police and the Office of the National Chief of Police had been working to enhance police oversight systems through international cooperation aid provided by the United States Department of State. Paraguay also received support from the International Committee of the Red Cross in reviewing and revising the National Police's basic regulations, operating guidelines, instruction manuals, working

methods and procedures in order to incorporate international human rights standards and humanitarian principles.

28. In addition, the Human Rights Directorate of the Ministry of the Interior was developing a model for responding to indigenous demands and monitoring police procedures with a view to preventing any abuses.

29. **Mr. Lahiri** said that, while the State party's report and core document were relatively comprehensive, the Committee would welcome more accessible disaggregated statistics in the fourth periodic report. In particular, it would be useful to see the development of trends in economic and social indicators for different disadvantaged groups. That would help identify the structural factors that resulted in the extreme inequalities that were clear among different sectors of the population.

30. He requested clarification of the data on illiteracy in the population as a whole and among indigenous communities. In addition, terms such as "extreme poverty" should be defined precisely in order to render them meaningful for the Committee.

31. He asked why the anti-discrimination bill had been pending since 2003. The State party should prioritize the introduction of that legislation and the establishment of a complaints mechanism that would enable victims of discrimination to claim compensation.

32. He urged the State party to take steps to ensure that the results of its anti-discrimination and affirmative action measures were regularly monitored and measured against their stated objectives. In that regard, urgent measures were required to ensure that people from indigenous communities and those of African descent were adequately represented in public life.

33. The Committee had received reports that indigenous people were often detained solely on the basis of their physical appearance. He therefore recommended that the State party should take steps to compile accurate records of arbitrary detentions and set up a mechanism for reporting such incidents.

34. **Mr. González** (Paraguay) said that the Government was aware of the need to gather additional disaggregated data; much of the information required by the Committee would be collected during the 2012 census.

35. A census of three communities of African descent conducted in 2006/2007 had registered some 7,600 persons of African origin, with roughly equal numbers of men and women. In 2011, marking the International Year of People of African Descent, particular efforts had been made to raise the profile and ensure recognition of the rights of people of African descent in Paraguay. The Ombudsman's Office had organized various activities to raise awareness of the right of such people to non-discrimination and programmes about the Kamba Kua Association of Afro-descendants had been shown on television. Steps were also being taken to eliminate discrimination against people of African descent in respect of employment, access to social security and health care.

36. **Mr. Murillo Martínez** said that the Committee looked forward to receiving statistics on the Paraguayan population of African descent after the 2012 census, particularly since it appeared to have decreased quite significantly.

37. The State party's anti-discrimination bill gave it an opportunity to join many other countries in the region that had recognized the ethnic and cultural diversity of their populations and had adopted legislation recognizing the rights and promoting the cultural identity of people of African descent.

38. He requested updated information on the fate of the Afro-descendant community of Kamba Kua, which had been dispossessed of most of its ancestral land by the State in 1957 and had been struggling for recognition of its rights and adequate compensation ever since.

He wished to know how the community's civil rights had been affected, and what steps the Government had taken to remedy the situation. It would be interesting to know whether the State party planned to set up a mechanism for consultation with Afro-descendant communities in order to encourage dialogue with community representatives.

39. **Ms. Prieto** (Paraguay) said that the Kamba Kua community had legal ownership of only a small part of its ancestral lands; it had been attempting to recover the remainder from the municipalities that currently occupied it. She welcomed the proposal to set up a consultative commission to promote dialogue and negotiation between the community and the central and local authorities. The Government recognized the cultural values of the communities of African descent and promoted their cooperation in cultural events.

40. **Mr. Calí Tzay** asked whether the State party planned to reform the legal and administrative means available to indigenous communities to bring complaints. While recognizing the Government's efforts to improve the plight of indigenous people, he wished to know what measures had been taken to guarantee their right to own property alone and in association with others, and their right to equal participation in cultural activities. Welcoming the adoption of resolution No. 2039 of August 2010 on consultation with indigenous communities, he asked how many such consultations the Government had conducted. He also requested additional information on the indigenous health councils and the services they offered indigenous communities. It would be useful to learn whether indigenous customary law had been implemented in the State party and, if so, what steps had been taken to ensure that it did not violate the human rights protected under the Constitution and the international instruments to which Paraguay was a party. The Committee would be grateful for additional details of the education available to indigenous people in prisons.

41. **Ms. Prieto** (Paraguay) said that Act No. 904/1981, the Statute of Indigenous Communities, established and recognized the legal personality and civil rights of indigenous communities, including the right to bring claims for the return of their ancestral lands. Such claims were filed with the National Institute of Indigenous Affairs, which assisted the communities in their dealings with the courts and administrative entities. At present there was insufficient political will to introduce legislative or administrative reform on the recovery of indigenous lands; the Institute was hopeful that in future such reform would be given priority.

42. Several consultations had been carried out with indigenous communities. She had participated in one such consultation between a Mbyá Guaraní community and a business wishing to sell the handicrafts produced by the indigenous group to tourists. The consultation had involved several weeks of preparation followed by two meetings at which proposals had been made and decisions taken. It had been an example of good practice in which the wishes of the indigenous community had been met. In her opinion, Paraguay was now fulfilling its obligation to ensure that indigenous communities gave their free, prior and informed consent for development projects.

43. Indigenous prison inmates were able to attend literacy classes and had the opportunity to continue their handicraft work while completing their prison sentences.

44. The indigenous health councils and workers used traditional practices and medicines in indigenous communities where appropriate.

45. **Mr. Avtonomov** said that he appreciated the frank and constructive nature of the ongoing debate. He thanked the Paraguayan delegation for the additional information that it had submitted to the Committee and its responses to the Committee's questions. Although certain questions remained to be answered, he understood that further research would be needed in that regard and looked forward to receiving the relevant information when Paraguay submitted its next periodic report.

46. He noted from Paraguay's report that one indigenous community had received the status of legal entity. Underlining the fact that that was a key step for indigenous communities in their efforts to safeguard their rights, including their rights related to property ownership, he asked why other communities had not yet been able to obtain such status.

47. Noting that States often faced difficulties in their efforts to comply with the judgements of international tribunals, including those of the Inter-American Court of Human Rights, he asked if Paraguay had enacted legislation on land expropriation. In certain States, such expropriation could be sanctioned by the courts when the land in question was required for the public good; the land was purchased and appropriate compensation paid to the party compelled to sell it. He asked if that approach had been studied by the Paraguayan authorities and what obstacles, if any, had been encountered in that regard.

48. Although it was not only ethnic Guaranis who spoke the Guaraní language, which had traditionally served as a lingua franca, Guaraní was mostly used by people of lower socio-economic status. Noting parallels with the Roma in Bosnia and Herzegovina, and with indigenous peoples in Argentina, he said that States sometimes, through no fault of their own, underestimated the size of their indigenous populations. That often occurred because, facing discrimination and of low socio-economic status, members of certain communities chose not to identify themselves as such, choosing instead to hide their identity, culture and traditions. Often they continued to be subject to discrimination, even after taking such action. Deep-seated prejudices were difficult to eradicate; he asked the delegation to consider what steps could be taken to end such discrimination and expressed the belief that a multitrack approach would be necessary in that regard, particularly in Latin America where widespread discrimination had deep roots.

49. **Mr. González** (Paraguay), responding to the points raised by Mr. Avtonomov, said that there were an estimated 109,000 Guaranis in Paraguay, although that figure would be revised following the 2012 census. Their language, which was spoken by a large majority of Paraguayans, was an official language of the country and protected under the Constitution. The Guaraní language was a source of pride and helped bring Paraguayans together both culturally and socially. Furthermore, in sporting events, Paraguayan athletes communicated among themselves in Guaraní, which was akin to their own secret language.

50. The Paraguayan population as a whole identified itself as being of mixed race or mestizo; Paraguayans were descended from Guaranis, Spaniards and other groups. Although the majority of the Paraguayan population spoke Guaraní, most people did not identify themselves as indigenous. Furthermore, indigenous Guaranis did not consider their community to include mestizo Paraguayans. The State promoted self-determination for indigenous peoples based on self-identification and promoted the Guaraní language. All public documents were required to be published in both Spanish and Guaraní, although that was not, as yet, always accomplished due to the cost of translation. Most radio and television programmes were in both languages. Paraguayans used both Spanish and Guaraní on a day-to-day basis, often switching between the two. For most Paraguayans, the indigenous population was seen as constituting an element that enriched the country's heritage.

51. **Ms. Prieto** (Paraguay) said that she was most surprised by the contention that certain segments of the population in Paraguay were ashamed of their ancestral language. Although the Guaraní language had been in danger of dying out at one stage, new policies had been implemented to foster its use. In the war with Bolivia, Paraguayan soldiers had used it as a secret language for communication; they had returned home with a sense of pride about Guaraní and had been determined to overcome any shame associated with speaking it. Maintaining the language was a means to safeguard cultural diversity. People

from all socio-economic groups used Guaraní; well over 50 per cent of the population could speak the language fluently and many people were able to write it. There was also an Academy of Guaraní in Paraguay that worked to preserve the language.

52. One of the most delicate questions to be addressed when dealing with issues related to indigenous people was community representation, which did not always have the same meaning in indigenous communities as it did in other societies. In indigenous communities in Paraguay, there were different types of spiritual, political and social leadership and communities were free to elect their own leaders, who were legally recognized by the State. Only then could communities apply for recognition as legal entities. Such status was granted by executive decree and provided for all civil and political rights to be exercised.

53. Out of the 551 indigenous communities in Paraguay, approximately 480 had obtained the status of legal entity. However, the administrative procedure by which such status was granted was subject to certain public policy conditions being fulfilled. Communities were sometimes slow to elect their representatives. Furthermore, conflicts arising in communities themselves could in some cases result in the removal from office of their leaders. The State could not interfere when such developments occurred because they constituted the internal affairs of the community. As a result, the process by which legal entity status was granted often took some time. The goal of current policy remained, however, to ensure that all indigenous communities would enjoy legal entity status. Indigenous communities were also keen to obtain such status because it was accompanied by the granting of tax exemptions, *inter alia*, for the purchase of property, motor vehicles and mobile phones.

54. **Mr. Diaconu** said it had recently been reported that the Paraguayan parliament had rejected a law that would have provided for the expropriation of an area of land so that it could be returned to a particular indigenous community. That rejection must not be taken lightly; when the parliament of a State rejected such a law, it meant that public opinion, or at least opinion in political circles, was opposed to the concept of granting indigenous peoples their rights. Such a mentality needed to be changed so that the judgements of the Inter-American Court of Human Rights on that issue could be implemented. He asked whether indigenous peoples had representatives in parliament. He also asked what the views of the political parties in parliament were on that issue, and how their stance might affect their performance at the next elections. A strategy must be found to ensure the restitution of lands to indigenous communities occurred, even if individual laws to that end were rejected by parliament.

55. He asked whether the indigenous communities in Paraguay had their own justice system competent to deal with disputes arising within those communities and, if so, whether such disputes could be referred to the national justice system if they could not be resolved in that manner.

56. **Mr. de Gouttes** (Country Rapporteur), referring to the issue of implementing the judgements of the Inter-American Court of Human Rights, asked how it would be possible for the Government, together with parliament and all relevant stakeholders, to facilitate the complicated process of land restitution.

57. On the question of prior informed consent on the part of indigenous people in negotiations relating to their rights, he asked whether the Government intended to follow up on the demand, put forward by certain indigenous communities, that the terms of such negotiations should be set forth in law.

58. In the light of the difficulties faced by Paraguay in its efforts to fully and effectively comply with the judgements of the Inter-American Court of Human Rights, he asked if the Government was planning to resort to national or international mediation mechanisms.

59. Noting the statement that the Xákmok Kásek indigenous community had obtained partial satisfaction in a land restitution case, he asked for further details of what had occurred. Furthermore, although it had been claimed that the Yakye Axa community had rejected offers of alternative lands, according to information obtained by the Committee, that community denied that that was the case. He asked for clarification in that regard.

60. He asked whether the Inter-Agency Commission on the Enforcement of International Judgements could intervene administratively in the process of implementing the judgements of the Inter-American Court of Human Rights, and could coordinate executive and legislative measures in that regard. Such intervention might facilitate Paraguay's efforts to comply with the Court's decisions. Also to that end, he wondered whether the Government had considered asking for international assistance, inter alia from the ILO and the Office of the United Nations High Commissioner for Human Rights.

61. **Ms. Crickley** noted, in connection with the issue of land restitution to indigenous peoples, that the authorities in many States could obtain compulsory purchase orders in order to acquire land.

62. She believed that people became proud of their identity only when those in power created the conditions which fostered such pride and asked what would be done in that regard in the context of the upcoming census. She asked for details on who would conduct the census and how census questions would be formulated. That was a very sensitive matter: to say that it was all right to belong to a certain group did not mean that someone would want to be identified as a member of that group.

63. Noting that Paraguay had accepted all the recommendations made under the Universal Periodic Review mechanism, she encouraged the Government to set specific targets in order to comply with those recommendations.

64. Expressing the view that the provision of traditional health assistance often did nothing to enhance the status of the people involved, and was sometimes ineffective in improving their health, she asked what measures Paraguay was taking to ensure appropriate health care that avoided those pitfalls.

65. She also asked how Paraguay was mainstreaming women's issues, particularly issues related to women from indigenous communities, in its legislation and asked what measures were being considered to protect women and children from minority groups from exploitation, including sexual exploitation.

66. **Mr. González** (Paraguay) said he could show the Committee a copy of the statement in which the Yakye Axa community had rejected an offer of alternative land. The community in question had decided to insist on its initial claim to ancestral land, while reducing the area covered by the claim from 15,000 to 8,000 hectares.

67. Although 1,500 hectares of land had already been returned to the Xákmok Kásek community, that land constituted only part of the total territory concerned. The process to return the remaining land claimed by the community was still ongoing. As far as the delegation was aware, the community was satisfied with the progress made to date.

68. Although Paraguay had accepted all the recommendations made to it under the Universal Periodic Review, it would not be possible to comply with them all immediately. Establishing targets in some fields would be difficult at the current stage, but Paraguay hoped to do so in the future.

69. **Ms. Prieto** (Paraguay) said there was a political and economic backdrop to the difficulties indigenous persons faced in recovering land. The question was not exclusively juridical and the law was often unable to offer solutions. Representatives of indigenous peoples accompanied by international NGOs had visited Congress as part of the

negotiations but, despite all efforts, it had proved very difficult to reach agreement. The problem had led Paraguay to consider national or international mediation, but no decision had yet been made on that point.

70. Very few cases involving indigenous persons reached the Paraguay justice system because many conflicts were resolved within communities, through a system of internal justice rooted in the culture of the indigenous peoples themselves. There had been cases of abuse in that system but, to her knowledge, none in which human rights had been violated.

71. In the absence of an Indigenous Code, indigenous communities and their representatives currently had recourse to the Civil, Criminal or Labour Codes. The question of whether to establish an Indigenous Code within the Paraguay judicial system would continue to be examined, also in light of the fact that such Codes already existed in other countries.

72. The Xákmok Kásek people's ongoing dispute with a landowner had been partially resolved with the award of 1,500 hectares of land to the community. However, the Xákmok Kásek still claimed a further 9,000 hectares.

73. The National Secretariat for Women considered that direct interventions in support of indigenous women risked creating internal community conflict if done without a prior understanding of the nature of the communities to which the women belonged. Thus the Secretariat sought to act as facilitator, raising the profile of women who were already accepted as leaders by their peers. One such programme with women from the Ayoreo people had produced positive results.

74. The question of the sexual exploitation of children was being examined by the National Secretariat for Children and Adolescents, which had a special directorate for indigenous children headed by an indigenous woman of the Ava Guarani people.

75. **Ms. Dah** asked how the forthcoming census in Paraguay would be carried out. Since that census was now only a few months away, preparations should be well advanced and it should be possible to give the Committee an idea of the questions that would be posed.

76. The Committee promoted the concept of self-identification and she wondered how mestizos, who identified themselves as belonging to both Spanish and Guarani culture, would be accommodated by the census. Those elements would be important for the next periodic report of Paraguay to the Committee.

77. **Mr. Lindgren Alves** noted that Paraguay, like his own country, Brazil, was proud to consider itself mestizo. The mixture of European and Guarani heritage contributed to the national identity and without it there could be no Brazil, no Paraguay, no Latin America.

78. **Mr. Kut** noted the statistic supplied by the delegation concerning the percentage of the population accounted for by foreigners. He asked whether the figure given referred only to non-citizens or whether it included members of national groups that had migrated to Paraguay in the nineteenth and twentieth centuries.

79. He enquired what difficulties the draft bill on anti-discrimination was facing and what were the prospects of it becoming law.

80. In view of the claim that ethnic identity cards were issued at the request of members of indigenous communities themselves, he wondered what benefits accrued to cardholders and why so many members of indigenous groups hesitated to register themselves.

81. He noted that the figure given of 71 indigenous persons in Paraguayan prisons was in keeping with the general average. However, it was possible that, because of underreporting and lack of self-identification, members of indigenous communities might actually be overrepresented in the prison population.

82. **Mr. Thornberry** noted that the alternative report contained a reference to article 62 of the Constitution, which was interpreted to mean that indigenous peoples' original rights over their ancestral lands and territories superseded any title or legal action filed by third parties, including the State. That was a powerful argument which facilitated the resolution of the dilemma. Constitutional recognition of collective property and of indigenous peoples' right to self-determination would also be advantageous.

83. Indigenous rights were not privileges but permanent rights, recognized as such by the Committee and by other human rights bodies. In calibrating equality of treatment, the real situation of indigenous groups had to be taken into account.

84. Recourse to international bodies, such as the ILO, could serve to unblock the situation, but in the end the solution had to come from within.

85. **Mr. González** (Paraguay) noted that Ms. Dah's question about mestizo identity had been answered by Mr. Lindgren Alves.

86. People of many different nationalities had emigrated to Paraguay in the past, greatly enriching Paraguayan culture. Whatever their country of origin, today their descendants were Paraguayan citizens. The figure for the percentage of foreigners in the population was approximate and the 2012 census would provide more concrete and up-to-date statistics.

87. The figure of 71 indigenous persons in Paraguayan prisons reflected the real state of affairs.

88. **Ms. Prieto** (Paraguay) said that more than 4,000 indigenous births had been registered in 2010, and more than 10,000 national identity cards issued which gave the holders the same rights as any other Paraguayan citizen.

89. The ethnic identity card did not replace the national identity card; it was an additional document issued only to adult members of indigenous communities, and only at their request.

90. In their dealings with the public authorities, indigenous persons used the same national identity card as the rest of the population. The ethnic identity card could be used in specific circumstances, such as when claiming the tax-free status to which they were entitled under the Statute of Indigenous Communities.

91. Article 62 of the Constitution was invoked in questions involving the expropriation of land but the problem was not just a juridical one. The delegation would inform the national authorities of the Committee's opinions on the possibility of international mediation.

92. **Mr. de Gouttes** (Country Rapporteur) noted that Paraguay had recently been the subject of a Universal Periodic Review exercise by the Human Rights Council and had accepted nearly all the recommendations made. That was an advantage for the Committee, which would take those recommendations into account in its own concluding observations.

93. When formulating those recommendations the Committee would focus on the main issues raised during the discussion with the State party, including: the national action plan to combat racism pursuant to the Durban Declaration and Programme of Action; the draft bill against all forms of discrimination, which should make express mention of racial discrimination as defined in articles 1 and 4 of the International Convention on the Elimination of All Forms of Racial Discrimination; the compilation of data concerning acts of racism; measures to improve protection for the rights of indigenous communities and increase support for the National Institute of Indigenous Affairs; and full and effective implementation of the judgements of the Inter-American Court of Human Rights.

94. The Committee would also address the importance of protecting the Guarani language through bilingual education, and the protection of indigenous culture more generally; the situation of people of African descent and measures to guarantee their rights; and the census of the indigenous population based on free self-identification.

The meeting rose at 1.05 p.m.