



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

Distr.: General  
23 April 2013  
English  
Original: French

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**Committee on the Elimination of Racial Discrimination**  
**Sixty-seventh session**

**Summary record of the 1703rd meeting**

Held at the Palais des Nations, Geneva, on Tuesday, 2 August 2005, at 3 p.m.

*Chairman:* Mr. Yutzis

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*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** (agenda item 4)

*Fourteenth to eighteenth periodic reports of the Bolivarian Republic of Venezuela* (CERD/C/476/Add.4)

1. *At the invitation of the Chairman, the members of the delegation of Venezuela took places at the Committee table.*

2. **Ms. Poitevien Cabral** (Venezuela) said that, since the presentation of the previous periodic report to the Committee, far-reaching political, economic and social changes had been made, in particular by the National Constituent Assembly. A new Constitution had entered into effect in December 1999, with a view to making social justice, peace and prosperity a reality for all Venezuelan citizens, without exception.

3. The Constitution of the Bolivarian Republic of Venezuela enshrined all the rights defined in the international instruments to which Venezuela was party. Comprehensive reforms had been undertaken to bring the constitutions of the different States making up Venezuela into line with that of the Republic. A number of measures had been taken to give effect to the rights set out in the National Constitution. With regard to economic rights, a presidential commission had been established to enable indigenous peoples to exercise their right to ownership by more accurately demarcating their lands and protecting their traditional housing in certain regions. A national bank had been set up to grant credits to women only, in particular indigenous and Afro-Venezuelan women. With regard to social rights, programmes had been started to encourage the integration of youth, in particular the less well-off, into society. Various presidential decrees had been adopted to promote the use of indigenous languages and the participation of indigenous peoples in social life. In the cultural field, the Venezuelan Government had officially recognized the leading role played by indigenous personalities in the history of Venezuela and the numerous obstacles that had stood in the way of indigenous peoples in the exercise of their fundamental rights. No effort had been spared to enable the indigenous peoples to exercise their right to participation. As soon as President Hugo Chávez had taken office members of the indigenous communities had been invited to take part in the proceedings of the National Constituent Assembly and had thus been able to defend their special rights.

4. **Mr. Pocaterra** (Venezuela) said that, according to the national census of November 2001, the total population of Venezuela stood at 23,054,210 inhabitants, of whom 67 per cent were mestizo, 21 per cent white, 10 per cent of African descent and 2.3 per cent indigenous (or 536,863 indigenous). Moreover, 43 per cent of Venezuelans were aged under 18 and 4 per cent over 60. Although Spanish was the official language, the 34 indigenous peoples recognized by the State, belonging to three main linguistic families (Arawak, Caribe and Chibcha), had the right to use their own languages.

5. **Mr. Hernández** (Venezuela) said that the Constitution included no specific definition of racial discrimination, but it proscribed any discrimination based on race, sex, religion, social status or any other criterion that would affect the equal enjoyment or exercise of rights and freedoms. Under the Education Organization Act education was a universal right and any form of discrimination was prohibited. The Labour Organization Act made the prohibition of discrimination a general principle while the Refugees and Asylum Seekers Organization Act and the Health Act both enshrined the principle of non-discrimination.

6. **Ms. Arratia** (Venezuela) said that, in the preamble to the Constitution, the Venezuelan State had laid the foundations for a democratic, multi-ethnic and multicultural

society. Pursuant to article 21 of the Constitution, everyone was equal before the law and, consequently, any discrimination based on race, sex, belief, social condition or other criteria was prohibited. A presidential commission for the prevention and elimination of racial discrimination had been established with the participation of non-governmental organizations (NGOs), in particular those representing Afro-Venezuelans. The Venezuelan State was determined to increase the visibility of Afro-Venezuelans, who had been the victims of discrimination and exclusion for centuries, and 9 May had been declared National Afro-Venezuelan Day. The Government had no disaggregated statistics on the Afro-Venezuelan community but had taken numerous measures in its favour in the areas of education, health and employment.

7. **Ms. Monagas** (Venezuela) said that the National Human Rights Commission remained inactive because the legislative work aimed at giving effect to the human rights related provisions of the Constitution was taking longer than planned. However, the Commission's inactive state by no means signified that the authorities paid little attention to the issue of human rights. Indeed they were trying to pass the fullest possible arsenal of laws and introduce the most effective instruments for the promotion of human rights. The Government had recently established the presidential commission for the prevention and elimination of racial discrimination, whose principal mandate was to prepare a wide-ranging plan of action.

8. **Ms. Poitevien Cabral** (Venezuela) said that the 1998 Violence against Women and the Family Act, mentioned in the report (para. 311), reflected the Government's desire to integrate a gender perspective into State policies and strategies for combating violence, poverty and racism.

9. **Ms. Monagas** (Venezuela) said that the National Human Rights Commission, which had developed plans and programmes for promoting and protecting human rights, cooperated closely with the Office of the Ombudsman (para. 88) on the elimination of all forms of racial discrimination. The delegation could not provide specific information on the social and economic situation of Afro-Venezuelans as there were no disaggregated data on the subject.

10. **Ms. Arratia** (Venezuela), speaking on the subject of cooperation between the Government and NGOs with a view to meeting the objectives of the Convention, said that the Ministry of Culture and Information was carrying out activities with NGOs to eliminate racist stereotypes. The network of Afro-Venezuelan organizations, an association of NGOs supported by the Ministry of Culture, was conducting studies and holding inquiries to identify acts of racial discrimination and determine the causes. Two Afro-Venezuelan organizations had been authorized to host radio programmes on the elimination of racial discrimination and the promotion of an egalitarian society. In 2004, the country had celebrated the 150th anniversary of the decree abolishing slavery and several major events had been held throughout the country to promote multiculturalism and inter-ethnic friendship.

11. She denied allegations that Afro-Venezuelans found it difficult to gain access to political bodies, recalling that they had the right to participate in the running of public affairs at every level. A public campaign had been held to promote their integration at the top of the State institutions.

12. **Ms. Rojas Villamil** (Venezuela) said that members of indigenous communities were not really detained in separate prison facilities, but the State had taken steps to transform and facilitate their detention. Indigenous detainees, for example, were entitled to visits by shamans, were allowed to take traditional medicine and could ask to see indigenous healers. Indigenous organizations were tolerated in prison and officials defending indigenous

detainees had to speak their language. Currently, 169 detainees belonging to ethnic minorities were in prison in Venezuela.

13. Presidential Decree No. 2686 of 13 November 2003 contained the regulations of the Organization Act on the Identification of Indigenous Persons setting out the norms and procedures for providing indigenous persons with identity documents. When the Constitution had been adopted in 1999, the authorities did not know how many indigenous people were living in the country. The Act had allowed them to be identified and counted. The details mentioned on the identity documents of indigenous persons were the same as for all other minorities — the name of their ethnic group and community.

14. **Mr. Breier Castro** (Venezuela) said that the Venezuelan Constitution did not expressly prohibit racial discrimination but the Criminal Code sanctioned acts of racial discrimination or related acts. The Supreme Court had ruled in a recent judgement that racist insults and defamation amounted to racial discrimination. The Radio and Television Social Responsibility Act (para. 132) punished anyone or any groups who disseminated discriminatory messages.

15. Pursuant to Presidential Decree No. 1795 on the mandatory use of indigenous languages in all public and private education institutions in urban and rural areas with an indigenous population (para. 225), the use of indigenous languages was compulsory in the national education and administrative system, alongside the official language. Major national and international documents could also be translated into the indigenous languages.

16. **Mr. Hernández** (Venezuela) said that according to the Venezuelan Constitution everyone was equal before the law and any discrimination based on race, sex or belief was prohibited. Pursuant to the constitutional principle establishing the universality and indivisibility of human rights, everyone was equal before the law, including Afro-Venezuelans or members of indigenous communities. The law criminalized the abuse or ill-treatment of individuals or groups likely to be victims of discrimination, as well as the marginalized and vulnerable. For example, recently, after the murder of three students, allegedly by police officers, 26 criminal proceedings had been instigated against police and intelligence officers, proof of the Government's desire to stamp out police impunity.

17. On the subject of land ownership disputes, he said that they were due to the policy implemented to guarantee fair land distribution. Following recent dramatic events, in particular the massacre of 71 indigenous persons by a landowner militia, the Government had taken draconian measures and national guards had been posted in the countryside.

18. **Mr. Pocaterra** (Venezuela) said that indigenous peoples elected three of the 165 deputies in the National Assembly, pursuant to the electoral law and with respect for their traditions and customs. To be eligible, candidates had to be members of an indigenous community, speak an indigenous language and must have carried out political and social actions in favour of their community.

19. Plans of action had been adopted to promote the fundamental rights of children, adolescents and families and a child-based education programme had been adopted for the period 2001-2007. At the national level, 162 school mediator offices cooperated with psychologists and social assistants to help children and adolescents whose right to education was violated and reduce cases of exclusion and discrimination at school.

20. **Mr. Hernández** (Venezuela) said that domestic law stipulated the remedies available to victims of racial discrimination. Anyone claiming to have been the victim of a subtle form of racism not defined in the Constitution or international instruments could also apply to the courts.

21. **Ms. Monagas** (Venezuela) said that the Ombudsman's Office had received 41 complaints alleging violations of indigenous rights: one alleging a violation of the ownership rights to a sacred site, seven about the maintenance of traditional kinds of trading, eight regarding access to traditional medicine, 10 alleging a violation of the right of indigenous peoples to be given prior notice of projects to exploit natural resources located on their lands and 15 concerning the right to collective land ownership.

22. In a case mentioned in an annex to the report, the Supreme Court had concluded that indigenous peoples' electoral rights had been violated, thus recognizing their rights for the first time.

23. **Mr. Pocatererra** (Venezuela) said that, with regard to the question of the dissemination of the Convention and its translation into the indigenous languages, the text had already been distributed to all public bodies at all levels and it was planned to translate it into the country's five indigenous languages, once the translation of the Constitution, currently under way, was complete.

24. **Mr. Avtonomov** (Country Rapporteur) welcomed the re-establishment of the dialogue with the State party after a nine-year gap, and the frank and open nature of the report under consideration and its oral presentation by the delegation. The report contained a detailed description of the efforts made in the field of human rights, reflected above all in the institutions of Ombudsman and Special Ombudsman for the Protection of the Rights of Indigenous Peoples and the adoption of the 1999 Constitution, a major advance in the establishment of an ideal framework for application of the Convention. He welcomed the fact that in 2003 Venezuela had made the declaration under article 14 of the Convention, vital for enriching the dialogue between the State party and the Committee.

25. With regard to the regional instruments, he wished to know whether Venezuela intended to ratify the 1988 Protocol of San Salvador to the American Convention on Human Rights in the area of Economic, Social and Cultural Rights and the 1999 Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities. He also asked whether the State party planned to ratify the amendment to article 8 of the Convention and accede to the UNESCO Convention against Discrimination in Education. Having learned that there were Roma communities in some Latin American countries, he asked the delegation whether there were any in Venezuela.

26. **Mr. Thornberry** requested more information on the Afro-Venezuelans, in particular whether the community was aware of its special identity or asserted claims. He also wished to know whether Venezuela had communities of descendants from slaves, like the quilombos of Brazil or the Maroons of Jamaica.

27. He wished to know whether the religious missions mentioned in the report (para. 109) were still active and whether their conversion efforts were compatible with the Convention and the Indigenous Peoples and Communities Bill, under which the activity of religious organizations was prohibited without the prior consent and authorization of the respective indigenous communities (para. 220). With regard to the exploitation of natural resources on indigenous lands, he wished to know the position of the State party concerning the principle according to which the indigenous peoples concerned must be consulted and freely give their consent before such projects could even be started. Referring to paragraph 212 of the report and bearing in mind paragraph 5 of the Committee's general recommendation XXIII (HRI/GEN/1/Rev.7), he asked whether the indigenous communities must prove that they were still living on the lands targeted by such projects in order to be able to take advantage of the relevant legal provisions.

28. He requested further information on the intercultural education system (para. 220) and the status of the indigenous languages. For example, when individuals wrote in an

indigenous language to a public administration that used Spanish only, did the State pay for the translation or was it charged to the person concerned?

29. Concerning the situation of indigenous persons in the criminal justice system, he wished to know whether International Labour Organization (ILO) Convention No. 169 concerning Indigenous and Tribal Peoples was applied by the State party, in particular article 10, according to which preference must be given to punishment other than imprisonment when sentencing members of indigenous peoples.

30. **Mr. Herndl**, noting that the report contained a great deal of information on the State party's legislation but few specific examples of its application, asked the delegation to provide the Committee with statistics and quote case law that illustrated, in particular, application of article 23 of the Constitution.

31. Concerning the declaration made by Venezuela under article 14 of the Convention, he wished to know what awareness-raising measures had been taken by the State party to inform the public that individuals could submit communications to the Committee.

32. Referring to paragraph 121 of the report, he wished to know what measures the State party had taken to give effect to the decisions made by international bodies. Recalling that, during consideration of its previous report, the State party had agreed that it needed to incorporate in its domestic legislation a provision prohibiting incitation to racial hatred and noting that the report made no mention of the subject, he recalled that under article 4 of the Convention States parties were obliged to adopt provisions to that end.

33. **Mr. de Gouttes** wished to know why the National Human Rights Commission was no longer active, as stated in the report (para. 89). Did it duplicate the work of the Office of the Ombudsman? With regard to application of article 4 of the Convention, he recalled that since the provisions of the Convention did not provide for punishment of incitement to racial hatred States parties must incorporate specific sanctions in their Criminal Code.

34. With regard to article 5 of the Convention, he requested further information on Colombian refugees, whose situation seemed to be very precarious despite the efforts of the Venezuelan Government. Referring to article 6 of the Convention, he asked for the State party's next report to contain statistics and numerous examples of court decisions, such as the two cases mentioned in paragraph 253 of the report. He asked for details of the indigenous systems for settling disputes described in paragraph 222 of the report and the special arrangements for indigenous inmates in prisons mentioned by the delegation.

35. **Mr. Lindgren Alves** expressed his appreciation of the very complete report submitted by Venezuela, which described numerous initiatives aimed at children, women, foreigners and indigenous people. However, possibly because the legislation was new, the report contained very few details of the application of those measures, a failing that would no doubt be remedied in the next report. He was surprised that the report contained no information on the black population and asked the delegation to confirm that the population really included 77 per cent of mestizos and 2 per cent of indigenous peoples. He also wished to know if in Venezuela, as in Brazil, there were still quilombos, communities descended from slaves who had been emancipated from the landowners and allowed to live independently.

36. **Mr. Sicilianos** asked for further information on the measures adopted by the Venezuelan Government to address the problems of labour exploitation, prostitution, trafficking and sale of indigenous children, mentioned in paragraph 190 of the report. Turning to the draft health bill (para. 200), which included several provisions on indigenous peoples, he asked whether the bill had become law. He also asked what measures had been taken by the Venezuelan Government in application of ILO Conventions No. 111 and No. 143, other than the measures indicated in paragraph 292 of the report, to encourage the

integration of immigrants in the area of work. He wished to know the Government's position on the proposals made by the Special Ombudsman for the Protection of the Rights of Indigenous Peoples, described in paragraph 339, and whether it intended to act upon them.

37. **Mr. Kjaerum** asked for more detailed information about, for example, the rights of children from the perspective of racial discrimination and the Afro-Venezuelan community. At the end of 2004, the body responsible for coordinating policies on the indigenous communities, the Department of Indigenous Education of the Ministry of Education, Culture and Sport, had not yet developed an integrated plan for those communities owing to its inadequate budget. He also wished to know the status of the Organization Act on Indigenous Peoples and Communities due to be passed in early 2005. On the subject of mining and logging activities, which, according to the 2003 report of the Special Ombudsman for the Protection of the Rights of Indigenous Peoples, were inadequately controlled and often posed the biggest threat to the habitat of indigenous communities, he asked what strategies were conducted in general to enable the State to control those regions, which were in the hands of the mining and extraction industries.

38. In view of the seriousness of the problems linked to the health of indigenous communities, he said that it would be helpful to have indications of the budget of the body responsible for coordinating the application of several projects concerning the health of the indigenous communities, which apparently had not yet been approved at the end of 2004. Concerning the demarcation of the lands of indigenous communities, he asked how the current cases were being addressed and how the Venezuelan Government planned to move the process forward.

39. **Mr. Valencia Rodríguez**, emphasizing the importance of article 254 of the Venezuelan Constitution, which enshrined the independence of the judiciary and guaranteed free justice through various provisions, wished to know how judicial staff and the general public had reacted to the application of that norm. He asked the delegation to state whether the Office of the Ombudsman, as the body responsible for overseeing application of the Convention, could receive and examine complaints concerning violations of it, and whether there had been cases of direct application of the Convention by the courts. He wished to know whether the Ombudsman or the courts had been notified of violations of the Convention by individuals.

40. Noting that numerous bodies had powers to defend and protect human rights, he asked why the National Human Rights Commission was inactive and whether it was functioning normally again following the consultations that had taken place. He wished to know more about the measures taken to ensure coordination among the different bodies and avoid overlaps of activities and resources.

41. From the abundant information provided in the second part of the report, it would appear that, despite the mixing of races, social polarization remained, marked by ethnic differences between a privileged minority and a less favoured majority that tended to be excluded. In the indigenous communities in particular, women were marginalized by poverty, ignorance and racial or ethnic origin. It would be helpful to know the practical results of the application of article 21 of the Constitution and other norms intended to prohibit any form of discrimination. It would also be helpful to have indications of measures taken to promote equality in favour of the less favoured groups of the population, in accordance with article 2.2 of the Convention.

42. Concerning the new legislation on indigenous communities, which concerned important aspects such as the management, administration and preservation of natural resources, the recognition of cultures and traditional justice, he wished to know what obstacles had stood in the way of application of the laws and how difficulties had been

overcome. The information provided on compliance with the prescriptions of article 4 of the Convention was inadequate; it would seem that racial discrimination was not defined in any general legislative text.

43. Turning to the situation of women, he asked for details of the way in which the prohibition of any discrimination against women on the grounds of race or ethnic or national origin had been implemented and the obstacles in its way. He also asked for a clarification of application of article 6 of the Convention since it seemed that, in cases of violations of the prohibition of racial discrimination, criminal proceedings had to precede civil action for reparations.

44. **Mr. Tang Chengyuan** wished to know whether measures had been taken to enable the indigenous communities to exercise their political right to take part in public affairs.

45. **Mr. Cali Tzay**, referring to paragraph 190 of the report, which mentioned the issue of watercourses and tributaries on indigenous peoples' territories being poisoned by mercury, asked what the Venezuelan Government was doing to combat the problem. Concerning the indiscriminate felling of trees on their territories (para. 191), he asked whether it was the indigenous communities, or someone else, who exploited the timber. He wished to know whether the Indigenous Peoples Education and Language Use Act had been passed or was still in first reading and, in particular, if bilingual intercultural education meant teaching Spanish with a view to Hispanize the indigenous communities.

46. The report contained no information in response to the Committee's request concerning the existence of separate prisons for non-indigenous and indigenous inmates made following the consideration of the thirteenth periodic report of Venezuela (A/51/18, para. 477). He wished to know if that separation persisted.

47. Venezuela recognized the rights of indigenous peoples only within a "sovereign and indivisible Venezuelan Nation" (para. 329 of the report), as was the case in other countries that often justified that reservation by the need to protect the sovereign State. Since no such condition applied to the majority communities he wondered why it was stipulated and, in particular, whether it was dictated by a fear that the indigenous peoples, who accounted for 2 to 5 per cent of the population, might rise up.

48. **Mr. Shahi** noted that the report contained no information on the follow-up to the Committee's concluding observations on the previous report. He requested information on that subject and also on Afro-Venezuelans and their political representation in Parliament and the local assemblies.

49. **Ms. Dah** said that Venezuela had submitted a fact-filled report but its content was often buried in descriptions of the institutional set-up and legal provisions. She would like to know if the statistics on the ethnic breakdown of the population presented during the oral exposé had been obtained through identification of the communities — i.e. whether the individuals identified themselves as white, mestizo, black or indigenous. In view of the emphasis laid on economic discrimination, it would be helpful to have economic statistics. She asked if such data existed or were being produced and when they could be communicated to the Committee.

50. She requested details of the membership and funding of the National Human Rights Commission and its future activities. She asked why some international conventions had not been ratified, in particular those concerning migrant workers and refugees. With regard to the forthcoming debate on multiculturalism, she asked if the delegation could inform the Committee of the Venezuelan definition of multiculturalism. Venezuela's policy on indigenous communities was at the forefront, but she would have expected more positive discrimination, especially when it came to the political representation of minorities.

*The meeting rose at 6.05 p.m.*