



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

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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION
Sixty-eighth session
20 February-10 March 2006

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION**

**Concluding observations of the Committee on the Elimination
of Racial Discrimination**

EL SALVADOR

1. The Committee considered the ninth to thirteenth periodic reports of El Salvador, which were due on 30 December 1996, 1998, 2000, 2002 and 2004, respectively, submitted as one document (CERD/C/471/Add.1), at its 1741st and 1742nd meetings (CERD/C/SR.1741 and 1742), held on 27 and 28 February 2006. At its 1757th and 1758th meetings (CERD/C/SR.1757 and 1758), held on 9 and 10 March 2006, it adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the State party's periodic report, although it regrets that the Office of the Human Rights Procurator and the human rights non-governmental organizations did not participate in its preparation. The Committee expresses appreciation for the additional information supplied orally by the delegation, as well as its detailed replies to the many questions addressed to it.

B. Positive aspects

3. The Committee notes with satisfaction the beginnings of a change of perspective on indigenous issues in the State party, displayed in the establishment of such agencies as the Multisectoral Technical Committee for Indigenous Peoples, set up in 2001, and the Indigenous Affairs Unit attached to the National Council for Culture and the Arts (CONCULTURA).

4. The Committee welcomes the study entitled *Profile of the Indigenous Peoples*, prepared with the support of the World Bank, which, as the State party indicated, will serve as a basis for the formulation of government policy in this area.

5. The Committee notes with satisfaction article 62, paragraph 2, of the State party's Constitution, which provides that the indigenous languages spoken in El Salvador shall be preserved, disseminated and respected. The Committee also takes note of the project for the revitalization of the Nahuat language, and the fact that the Universal Declaration of Human Rights has been translated into Nahuat and Pipil.

6. The Committee notes with satisfaction that in 2003 the State party ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

C. Concerns and recommendations

7. The Committee notes once again the discrepancy between the assessment made by the State party, according to which society in El Salvador is ethnically homogeneous, and reliable reports indicating that indigenous peoples such as the Nahua-Pipil, the Lencas and the Cacaotera live in the country. The Committee points out that information on the composition of the population is needed to assess the implementation of the Convention and monitor policies affecting minorities and indigenous peoples.

The Committee draws the State party's attention to its general recommendation IV (1973), as well as paragraph 8 of its guidelines for the submission of reports, and again requests the State party to supply disaggregated statistical information on the ethnic composition of the population of El Salvador in its next periodic report.

8. The Committee notes that the State party's domestic legislation confines itself to proclaiming the principle of non-discrimination and does not contain any specific reference to all the elements set out in article 1 of the Convention.

The Committee recommends that the State party should incorporate in its domestic legislation a definition of racial discrimination which includes all the elements set out in article 1 of the Convention.

9. The Committee remains concerned at assertions by the State party that there is no racial discrimination in El Salvador, since, according to the State party, the country does not have different racial groups, and that it has therefore not been necessary to adopt special practical social, economic and cultural measures in order to combat the effects of such discrimination.

Considering that no country is free of racial discrimination, the Committee reminds the State party that, under the Convention, it has an obligation to adopt positive legislative, judicial, administrative and other measures to give effect to its provisions, even in the claimed absence of racial discrimination. Such measures

should also be directed towards preventing acts of discrimination. The Committee also recommends that the State party should consider granting legal recognition to the indigenous peoples (art. 2).

10. The Committee notes that the State party indicates that it has not ratified International Labour Organization (ILO) Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries, on the grounds that some of its provisions conflict with El Salvador's domestic legislation.

The Committee urges the State party to take the necessary legislative steps to enable it to ratify ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries (art. 2, para. 2).

11. The Committee notes with concern the vulnerability of the indigenous peoples in respect of enjoyment of their economic, social and cultural rights, particularly as regards land ownership and access to drinking water.

The Committee encourages the State party to step up its efforts to improve the enjoyment of economic, social and cultural rights by the indigenous peoples, and especially to take steps to guarantee them land ownership and access to drinking water. The Committee invites the State party to take account of its general recommendation XXIII, on the rights of indigenous peoples (art. 5).

12. The Committee notes with concern the precarious situation of migrant workers originating principally from Guatemala, Honduras and Nicaragua, especially as regards women and children, who, for fear of deportation, fall victim to labour exploitation and ill-treatment in public schools.

Bearing in mind general recommendation XXX on non-citizens, the Committee recommends that the State party should ensure the implementation of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. It encourages the State party to implement the agreements concluded with the Government of Nicaragua to regularize the situation of Nicaraguan migrant workers in El Salvador and invites it to submit information on progress made in this area (art. 5 (e) (i) and (v)).

13. The Committee notes with concern the low level of indigenous participation in government, in the management of public affairs at all levels and in the public service in El Salvador.

The Committee recommends that the State party should ensure that indigenous people participate in government and the management of public affairs at all levels, and enjoy equal access to the public service (art. 5 (c)).

14. The Committee notes with concern that the indigenous peoples have no access to their places of worship in the same way as followers of other religions.

The Committee encourages the State party to take the necessary steps to facilitate unrestricted access by indigenous people to pre-Hispanic centres to hold their religious ceremonies (art. 5 (vii)).

15. The Committee notes that, according to the State party, it is difficult to identify indigenous people, since they sometimes prefer not to identify themselves as such. It also notes that, according to some reports, this is due in large part to the events of 1932 and 1983, when large numbers of indigenous people were murdered. The Committee is seriously concerned that the persons responsible for those acts have not been identified, tried and punished.

The Committee urges the State party to take account of the recommendations made by the Human Rights Committee in its concluding observations on El Salvador (2003), to the effect that the General Amnesty Act should be amended to make it compatible with international human rights instruments. The Committee also encourages the State party to put into effect the recommendations made by the Inter-American Commission on Human Rights and adopt a programme of reparation and where possible material compensation for the victims, thus creating a climate of trust that will enable the indigenous people to assume their identity without fear (art. 6).

16. The Committee notes with concern the difficulties facing indigenous groups in securing access to justice owing to the high cost of judicial procedures and the lack of judicial services in remote areas.

The Committee invites the State party to take all appropriate measures to rectify this situation, including possible exemption for the indigenous peoples from payment of legal fees, taking into consideration the provisions of its general recommendation XXXI on the prevention of racial discrimination in the administration and functioning of the criminal justice system, especially paragraphs 6-9 of the recommendation (art. 6).

17. The Committee strongly recommends that the State party should ratify the amendments to article 8, paragraph 6, of the Convention adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention and endorsed by the General Assembly in its resolution 47/111. In this connection, the Committee draws attention to General Assembly resolution 57/194 of 18 December 2002, in which the Assembly strongly urged States parties to accelerate their domestic ratification procedures with regard to the amendment and to notify the Secretary-General expeditiously in writing of their agreement to the amendment. A similar appeal was made by the General Assembly in its resolution 58/160 of 22 December 2003.

18. The Committee urges the State party to make the declaration provided for in article 14 of the Convention, thus recognizing the competence of the Committee on the Elimination of Racial Discrimination to receive and consider communications from individuals or groups of individuals (art. 14).

19. The Committee requests the State party, when preparing its next periodic report, to consult civil-society organizations that are engaged in combating racial discrimination.

20. The Committee recommends that the State party should take account of the relevant parts of the Durban Declaration and Programme of Action when incorporating the Convention, particularly articles 2-7, into its domestic law. It also recommends that, in its next periodic report, the State party should provide information on measures that it has taken to give effect to the Durban Declaration and Programme of Action at the national level, particularly the preparation and implementation of the national plan of action.
21. The Committee recommends that the reports of the State party should be made public as soon as they are submitted and that the Committee's observations thereon should also be published, including in indigenous languages.
22. In pursuance of article 9, paragraph 1, of the Convention, and rule 65 of the Committee's rules of procedure, as amended, the Committee requests the State party to inform it of the implementation of the Committee's recommendations contained in paragraphs 10, 12 and 15 within one year of the adoption of the present conclusions.
23. The Committee recommends that the State party should submit its fourteenth and fifteenth reports, due on 30 December 2008, as a single document, providing updated information on the issues raised during the consideration of the present reports, as well as all the matters raised in the present concluding observations.
