



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

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**Committee on the Elimination of Racial Discrimination**  
**Eighty-fifth session**

**Summary record of the 2301st meeting**

Held at the Palais Wilson, Geneva, on Thursday, 14 August 2014, at 3 p.m.

*Chairperson:* Mr. Calí Tzay

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*The meeting was called to order at 3.10 p.m.*

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

*Combined eighteenth to twenty-first periodic reports of Peru (CERD/C/PER/18-21; CERD/C/PER/Q/18-21; HRI/CORE/PER/2010)*

1. *At the invitation of the Chairperson, the delegation of Peru took places at the Committee table.*
2. **Mr. Ávila Herrera** (Peru), introducing his country's combined eighteenth to twenty-first periodic reports, explained that, in addition to the delegation present in the room, officials were following the meeting via webcast from Peru, from where the Minister of Culture and the Minister of Justice and Human Rights sent their greetings to the Committee.
3. The President of Peru had demonstrated his country's political commitment to tackling the serious problem of racism during a visit to Germany, in which he had drawn attention to the need to combat vigorously all forms of discrimination. Peru's commitment to international human rights law, and in particular to the International Convention on the Elimination of all Forms of Racial Discrimination, was reaffirmed in its Political Constitution of 1993. His country had demonstrated its openness to the scrutiny of civil society and support for international cooperation. By adopting frank and honest language, States could better fulfil their human rights obligations. Peru agreed with the comments of the United Nations Office of the High Commissioner for Human Rights and the Special Rapporteur on Contemporary forms of racism, racial discrimination, xenophobia and related intolerance, to the effect that racial and ethnic discrimination occurred on a daily basis, hindering progress for millions of people around the world, and that racism and intolerance destroyed lives and communities. The struggle against racism was a matter of priority for the international community. His Government welcomed the focus of the United Nations on the elimination of racial discrimination and undertook to eradicate it from both the public and private spheres in Peru. The principle of equality compelled Peru to adopt legal and institutional measures and to develop specific public policies to combat racism and its causes.
4. The World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (Durban, 2001) had prompted States to examine the causes of racism and to find the means to prevent its recurrence, culminating in the Durban Declaration and Programme of Action, which had been supported by Peru. The Durban Review Conference of 2009 had examined the progress made in eliminating racism and had concluded that much remained to be done. The presence of Peru at the current session of the Committee reaffirmed its commitment to work towards that end.
5. Many different races and ethnic groups lived side-by-side in Peru: Quechua, Aymara, white, Asian and Afro-Peruvian peoples, as well as a great number of Amazonian ethnic groups and many people of mixed race, so that it was difficult for the majority of Peruvians to classify themselves according to a particular race. Despite that phenomenon, Peruvians did not consider themselves to be equal as the law prescribed and many highly discriminatory attitudes persisted within all ethnic and social groups.
6. The Political Constitution recognized the multicultural and multi-ethnic nature of society in Peru and highlighted the very different identities of the groups of which it was composed. Peru further recognized the importance of giving an account of the progress it had made in implementing its obligations in accordance with its laws and Constitution and the Convention. The human rights standards developed by the Committee had helped Peru to formulate clear public policies and to amend its legislation since it had ratified the

Convention in 1971. In the context of UN-Women's report for 2011–2012, *Progress of the World's Women: In Pursuit of Justice*, Peru was one of the 125 countries that had outlawed domestic violence and one of the 115 countries that guaranteed equal property rights and women's voice in decision-making. Since 2010, the Ministry of Culture and the Office of the Deputy Minister of Intercultural Affairs of the Ministry of Culture had been responsible for drafting, implementing and monitoring policies and standards aimed at eliminating racism against individual citizens and peoples in Peru, for the promotion and respect of equal rights in society and for combating all forms of discrimination.

7. There were 52 indigenous peoples in Peru, all with their own languages, traditions and knowledge. Although they made an invaluable contribution to national history and culture, they continued to lack access to basic services and to experience difficulty in exercising their fundamental rights. The Government and, in particular, the Ministry of Culture considered it a priority to address that situation. Guaranteeing the fundamental and collective rights of those peoples would require the strengthening of public services in remote areas, targeting social expenditure and distributing investment more evenly, while respecting the cultural identity of indigenous peoples and incorporating cultural differences into the design, implementation and monitoring of public programmes and services. Cultural aspects had been introduced with success in health and education services, leading, for instance, to a reduction in maternal mortality. The Ministry of Culture played a key role in ensuring that a multicultural focus was included at all levels of Government and that programmes were introduced in order to overcome cultural, geographic and linguistic barriers. The Ministry of Culture had assisted in the implementation of a law on indigenous languages, including the training of indigenous translators and interpreters in order to facilitate access to basic services.

8. The best way to celebrate the International Day of the World's Indigenous Peoples, which had taken place on 9 August, was to ensure that they could exercise their full rights. Peru was privileged to be a diverse nation and its challenge was to forge an inclusive national identity. The Ministry of Development and Social Inclusion, established in 2011, had adopted a coherent and effective policy, coordinating the introduction and implementation of programmes on social development, poverty reduction, social inclusion and equality, as well as social protection of populations in situations of vulnerability and risk.

9. The Government had also undertaken important institutional reforms, such as the law establishing the responsibility for human rights of the Ministry of Justice and the creation of the Office of the Deputy Minister for Human Rights and Access to Justice. Public policies on human rights were in the process of being drafted. A first survey on public perceptions concerning human rights in Peru had identified the existence of discrimination and the failure to combat it. A national educational plan on rights and responsibilities for the period 2014–2019 would be implemented from December 2014. In addition, the "National Human Rights Plan 2014–2016" had recently been approved, containing strategies on the promotion of a new culture of rights and responsibilities, the mainstreaming of human rights in public administrations, legal protection for particularly vulnerable groups, and the harmonization of national laws with international human rights instruments. Specific action to combat racial discrimination would be incorporated in public policies and a National Commission against Discrimination had been set up to coordinate effective action in all the different ministries. The National Commission was an important government platform, through which discrimination could be eradicated from Peruvian society, using a multi-sectoral approach and taking advantage of recommendations and models from other countries in the region. In response to the need to raise awareness of behaviours that promoted human dignity, the Ministry of Culture had developed a virtual platform called "Warning against Racism" which enabled citizens to report cases of racial discrimination and allowed legal proceedings to be brought.

10. His delegation could give assurance that Peru's legal norms were compatible with the Convention and that constitutional laws were being developed to ensure that the country fulfilled its obligations with regard to the elimination of both direct and indirect forms of racism. Peru had a duty to protect liberty and equality under the Constitution and the principle of diversity was respected in many laws and institutional practices. One example was article 3 of the Act on equality of opportunity, which covered respect for cultural, linguistic and ethnic diversity and the promotion of social inclusion and multiculturalism. One of the objectives of the National Gender Equality Plan 2012–2017 was the protection of Afro-Peruvian, indigenous and migrant women. In response to the recommendation in paragraph 14 of the Committee's concluding observation of 2009, a bill on the consultation and participation of indigenous peoples had been passed in 2011, which recognized International Labour Organization Convention No. 169. The bill enshrined the right of indigenous peoples to be consulted on administrative and legal issues concerning them and practical measures had been put in place to ensure its implementation, including the training of indigenous leaders.

11. Significant progress had been made with respect to providing protection to Afro-Peruvian and indigenous peoples in the legal and institutional framework, including their right to property, the right to identity, the right to consultation and political participation and the right to personal security and to equal treatment before the courts. Racial and ethnic discrimination had been illegal in Peru since 2006 and the country's cyber laws had been amended to cover prohibition of discrimination on the Internet.

12. Particular concern had been expressed with respect to victims of political violence: financial reparation had been offered to some 54,840 victims, while women who had suffered rape as a result of the 1980–2000 conflict also received subsidized health care. Additional protocols had been introduced in order to ensure equality within the judicial system for women and children and to ensure access for ethnic minorities. Victims of violence and human rights violations were afforded particular protection by the Ministry of Justice and Human Rights.

13. Peru acknowledged that many challenges remained in achieving equality for ethnic minorities, in particular for women and children, and that indigenous peoples encountered many forms of discrimination. Work against racism played a central role in achieving a genuinely democratic country and would require the commitment of State bodies, civil society, political parties, the media and the education system. The Government of Peru renewed its commitment to defending human rights through its Constitution and its adherence to international instruments and it would continue in its quest to fully implement the Convention.

14. **Mr. Avtonomov** (Country Rapporteur) said that the participation by a high-level delegation in the work of the Committee underscored the importance accorded by Peru to its obligations in respect of the Convention. He further commended the delegation for having submitted its combined eighteenth to twenty-first periodic reports on time.

15. The civilizations and cultures of the indigenous peoples of Peru represented some of the world's most ancient societies, and the Túpac Amaru and Katari rebellions had been among the first to challenge colonial rule. The modern State of Peru had made significant strides in combating poverty and illiteracy. He acknowledged the wide-ranging institutional reforms achieved by the State party since 2009, including the law passed in 2011 giving the Ministry of Justice responsibility for human rights. The Government had provided leadership on the theme of human rights, which had been mainstreamed throughout the work of many ministries. The creation of the Office of the Deputy Minister of Human Rights and Access to Justice and the broad definition of "access to justice", which referred not only to access to the courts but also to social justice, were positive steps. He welcomed

the introduction of Act No. 29785 on consultation and participation of indigenous peoples, which had enabled Peru to fully comply with ILO Convention No. 169.

16. Nevertheless, while article 2.2 of the Constitution of Peru referred broadly to discrimination, it might be preferable to include the definition of racial discrimination as it appeared in the Convention, since it was not clear whether the Convention had ever been applied directly in a court of law in Peru. It was important to fully harmonize Peruvian law with the Convention, since racial discrimination did not exist as a separate crime and no provisions had been made with regard to the prevention of racism as set out in article 4 of the Convention. He asked whether the State party intended to formulate a comprehensive, national policy against racism. He asked what methodology would be applied to ensure that accurate information was recorded in the 2017 census, including self-identification by indigenous peoples. A positive, awareness-raising campaign by the Government could encourage people to self-identify and combat the fear of discrimination. A media law ensuring that indigenous people were fairly represented could assist in that respect.

17. He enquired about the progress made towards the adoption of a framework law on the indigenous peoples of Peru, as recommended by the Committee in its previous concluding observations (CERD/C/PER/CO/14-17). The Committee had also recommended that the National Institute for the Development of the Andean, Amazonian and Afro-Peruvian Peoples (INDEPA) should be strengthened and he asked in which way placing the Institute under the umbrella of the Ministry of Culture would further that goal. He was also concerned about the body's independence, and about the fact that it dealt with a wide range of issues.

18. He requested data on Afro-descendant Peruvians, clarification about constitutional recognition of their rights, and information on special measures and action plans targeting that population group.

19. While the adoption of the Act on the right of indigenous or aboriginal peoples to prior consultation (No. 29875) was commendable, implementation was reportedly hampered by insufficient resources, lack of training and a shortage of interpreters. There was also concern that the final decision rested with the State and that the interests of the communities affected might fall prey to development interests. He invited the delegation to comment. He further asked whether it was true that the budget for the collective reparations afforded to victims of violence had been reduced.

20. He would be interested to know why only 1 of the more than 2,000 cases of forced sterilization of indigenous women had been brought to trial. The Committee had received reports that indigenous protest was often looked upon as terrorism and he would welcome the delegation's views in that respect. He requested updated information about follow-up to the events of 5 and 6 June 2009 in Bagua. He also asked the delegation to comment on reports of discrimination against indigenous persons held in residential establishments used for protective custody, so-called "casas-carceles". He would like information on Act No. 30151 on criminal justice reform adopted in January 2014; on the reported delays in decisions on land tenure; on the situation regarding the indigenous peoples' access to water in Ancomarca; and on efforts to increase birth registration in the Amazon region.

21. The Committee welcomed the introduction of a 15 per cent quota for indigenous peoples standing for municipal or regional elections, but was concerned that the system had been introduced without consulting the indigenous peoples themselves. He encouraged the State party to ratify the amendment to article 8 of the Convention.

22. **Mr. Diaconu** commended the State party on its efforts to protect the country's ethnic, cultural and linguistic diversity. However, domestic legislation in the State party did not contain a definition of racial discrimination. Article 2, paragraph 2, of the Constitution did not serve that purpose. The State party report referred to the need to "draw upon

additional evidence to prove that there had been discriminatory treatment” in cases of indirect discrimination, thereby placing the burden of proof on the victim. Most countries provided for reverse burden of proof in such cases, with the alleged perpetrator having to prove that differential treatment did not amount to discrimination, and the State party might want to review its practice in that regard.

23. It was unclear what was meant by exceptions to equal rights of foreigners in regard to “territory” and “the right to own property” and he would welcome additional information. He asked whether the 52 indigenous peoples living in the State party were all formally recognized, and whether the delegation could provide a list of those peoples. The situation was highly complex and more detailed information on the various indigenous peoples and their specific circumstances was needed. He asked whether the land title disputes affecting indigenous peoples had been settled. The cooperation between the Andean States in the promotion and protection of the rights of Afro-descendants was commendable and he encouraged the State party to step up its efforts to collect data on Afro-Peruvians.

24. Welcoming the measures implemented by the State party to enable victims of violence to obtain reparations, he said that recognition of the crimes committed along with compensation were an excellent basis for national reconciliation. He also congratulated the State party on establishing its Reparations Board and a Central Register of Victims. He invited the delegation to explain the relationship between regional and local anti-discrimination ordinances, national law and the Constitution.

25. Racial segregation could occur anywhere and although the State was not always responsible, it had an obligation to take legal measures to prevent such segregation. The adoption of legal provisions on equality and non-discrimination did not suffice. There was no specific legislation on article 4 of the Convention and he encouraged the State party to adopt provisions establishing penalties for acts covered in that article. In the implementation of an intercultural bilingual education programme, it was important to safeguard native languages and promote linguistic diversity. Otherwise, the official language might gradually force out indigenous tongues.

26. **Mr. Murillo Martínez** said that the State party’s commitment to eliminating racial discrimination was clearly manifest in many areas. He asked what concrete measures had been taken to improve the situation of Afro-descendants after 2009, when the President of the Republic of Peru had extended a historic apology and expressed the country’s gratitude to the Afro-Peruvian people. Did the State party envisage ways to enhance the visibility of Afro-descendants, for example in the context of the 2017 census? Obtaining data concerning Afro-Peruvians was vital. He asked whether the State party intended to develop an action plan for Afro-descendants in the context of the International Decade for People of African Descent. He also wished to know whether the State party had engaged in dialogue with ethnic minorities in preparation for the census, and what had been done to promote the census and make it widely known.

27. He enquired what steps had been taken to enhance the efficiency of the National Institute for the Development of the Andean, Amazonian and Afro-Peruvian Peoples, and to what extent indigenous peoples and Afro-Peruvians participated in decision-making. Did the State party envisage the introduction of a quota system to enhance such participation? Additional information was needed on the implementation of the Act on the right of indigenous or aboriginal peoples to prior consultation. He asked what lessons had been drawn from the events of 5 and 6 June 2009 in Bagua, whether those had been subject to investigation, and whether steps had been taken to prevent similar situations in future. Decision No. 391 of the Andean Community on access to genetic resources was of vital importance to indigenous peoples and he would be interested to learn of concrete measures taken by the State party to implement that decision.

28. **Ms. Crickley** asked whether the State party had taken specific measures to enhance the protection of indigenous and Afro-descendant women from domestic violence and to guarantee them access to legal recourse, especially in rural areas. She expressed grave concern over the damage caused by television programmes that perpetuated stereotypes of indigenous women and asked what steps had been taken to ban racist programmes and correct stereotypes through broad awareness-raising initiatives.

29. She commended the State party for adopting the International Labour Organization's Indigenous and Tribal Peoples Convention, 1989 (No. 169), for its efforts to reverse the burden of proof, and for placing an affirmative action duty on the State. In that context, she wished to know what positive measures had been taken to promote literacy among indigenous women. She also asked what would be done to eliminate stereotypes to ensure that indigenous peoples and ethnic minorities were comfortable with self-identifying as belonging to those groups in the 2017 census. She enquired whether indigenous peoples participated in the management and organization of the virtual platform entitled: "Warning against racism". She further wished to know whether the State party planned to involve all groups referred to in the Committee's concluding observations in designing a national action plan on racism in order to implement the Committee's recommendations.

30. **Mr. Bossuyt** said that, while the Constitution did not lay down a definition of discrimination, the jurisprudence of the Constitutional Court cited in the State party report was very relevant. It should be borne in mind that the list of grounds for discrimination set out in article 2, paragraph 2, of the Constitution was indicative and not exhaustive. Noting that foreign nationals had the same rights and obligations as Peruvians except in respect of, inter alia, the right to own property, he enquired as to the nature of the restrictions on that right. He agreed that the State party should take affirmative action to promote material equality among all persons, and with drawing a distinction between the two categories of constitutional law, namely differentiation and discrimination, as stated in paragraphs 23 and 24 of the report. He invited the delegation to elaborate on the role played by the National Commission against Biopiracy in the State party's efforts to protect and promote ancestral knowledge. Referring to the measures taken to protect consumers, he asked what forms of discrimination consumers typically encountered in Peru. Lastly, he enquired about the content of the 58 anti-discrimination ordinances issued in different regions of the country and the reason why they had been issued.

31. **Mr. Vázquez** said that the concluding observations submitted to Peru by the Human Rights Committee in April 2013 (CCPR/C/PER/CO/5) referred to a number of issues also covered by the Convention. The Human Rights Committee had expressed its concern at the continuing discrimination against indigenous peoples and persons of African descent in the State party and had recommended that the Government should carry out broad education and awareness-raising campaigns that promoted tolerance and respect for diversity. He would therefore like to know of the awareness-raising campaigns that the State party had carried out to that end.

32. To his knowledge, the television programme "La Paisana Jacinta" was still being broadcast. The fact that such an offensive programme garnered high television ratings in Peru was a major cause for concern. The Government should use the Committee's general recommendation No. 35 on combating racist hate speech, which highlighted the need to avoid stereotyping minority groups in the media, to guide its awareness-raising efforts.

33. Noting that women and persons from minority groups continued to be underrepresented in decision-making positions in the public sector, he asked what measures the State party was taking to remedy that situation. He also enquired as to the steps taken by the State party to protect migrants who could not be accorded the status of international refugees, but who would face a real risk of death, torture or ill-treatment if expelled from

the State party. He also wished to know of the efforts undertaken by the State party to protect human rights defenders from acts of violence.

34. He requested clarification on which groups were covered by the Act on the Right of Indigenous or Aboriginal Peoples to Prior Consultation. The Committee had received reports that, more often than not, the Government ignored the outcome of consultations with indigenous groups and proceeded with its projects regardless. He invited the delegation to comment on those reports.

35. **Mr. Yeung Sik Yuen** said that the Committee had received reports that, in remote areas of the country, which were mainly inhabited by indigenous groups, a large number of children under 5 years old were not officially registered and therefore had no civil status. Persons who were not registered and had no civil status could encounter problems either in accessing social assistance, or proving their entitlement to a State pension or if they came into conflict with the law. He asked what measures the Government was taking to remedy that situation.

36. **Mr. Lindgren Alves** said that he failed to understand the criticisms levelled at article 2, paragraph 2, of the Constitution, which provided that every person had the right to equality before the law and that no person should be discriminated against on the basis of origin, race, sex, language, religion, opinion, economic situation or any other reason, as that article was clearly in line with the Convention. He did not see the need for Peru to adopt a new law to amend the wording of that article so that it mirrored the wording of the Convention. Despite the fact that Peruvian domestic legislation did not appear to expressly prohibit racial discrimination, a number of individuals had been successfully prosecuted for having committed some of the offences mentioned in article 4 of the Convention. Therefore, it was clear that the existing legislation was adequate. It was important for the members of minority groups to be given the opportunity to self-identify in censuses and surveys. He asked whether the Shining Path movement was an indigenous movement.

37. **The Chairperson**, speaking in his capacity as a Committee member, said that the Committee would appreciate concrete examples of the special measures and affirmative action taken by the Government on behalf of the groups protected by the Convention. He requested more detailed information on the Afro-descendant population in Peru and invited the delegation to explain the difference between “race” and “ethnicity” in the context of the State party report. He would also like to know what criteria were used to classify indigenous peoples. The television programme “La Paisana Jacinta” served to reinforce negative stereotypes of indigenous women and was considered offensive by indigenous groups.

38. The Committee had received reports that representatives of the mining industry did not consult indigenous communities prior to undertaking projects. He invited the delegation to comment on those reports. Referring to the events that had taken place in Bagua in 2009, he noted with concern that no government official had been prosecuted and punished following those events.

39. **Mr. Kemal** said that the television programme “La Paisana Jacinta” seemed to reinforce the idea that European culture was superior to indigenous culture. A survey carried out in Lima had determined that around 70 per cent of people living in the capital had indigenous ancestry. He asked whether that was the case throughout the country.

40. **Mr. Diaconu** said that, the opinions of individual Committee members notwithstanding, the Committee would be doing the State party a disservice by not pointing out inconsistencies between its domestic legislation and the Convention. The concept of discrimination needed to be clearly defined. The State party should refer to the Committee’s general recommendation No. 35 on combating racist hate speech for guidance on implementing article 4 of the Convention.



41. **Ms. January-Bardill** said that some States parties preferred to define discrimination in explicit terms while others did not. Those differing approaches often led the Committee to seek information from other sources in order to gain a better understanding of the demographics of the State party in question. Identifying indigenous peoples by language alone did not provide an accurate overview of the situation and needs of indigenous peoples in Peru. The State party had made significant progress in addressing social issues but the absence of sufficient data and indicators on minority groups made it difficult for the Committee to determine whether those groups had benefited from such progress. She called upon the State party to remedy the lack of data and indicators on minority groups in order to enable the Committee to assess the impact of the measures taken on their behalf in the future.

42. **Mr. Avtonomov** said that the Committee would like to receive additional information on the employment contracts that allegedly forced indigenous persons into servitude, on the discrimination faced by Colombian and Cuban refugees, and on the abuse faced by domestic workers. He asked whether the State party had considered ratifying the International Labour Organization (ILO) Domestic Workers Convention, 2011 (No. 189).

43. Noting that the Constitution called for the adoption of a special law to enable the formal and customary legal systems to operate simultaneously, he enquired as to the current status of that law. Recalling the right of indigenous children to be educated in their own language, he expressed concern at the lack of incentives for Quechua teachers to take up posts in remote areas of the country. He asked what measures the Government envisaged taking to remedy that situation.

44. **Ms. Crickley** said that the television programme “La Paisana Jacinta” should be taken off the air as soon as possible. She asked how the Government ensured the effectiveness of policies and programmes targeting minority groups in Peru.

45. **Mr. Murillo Martínez** said that, in addition to “La Paisana Jacinta”, another television programme had been broadcast which was offensive to the Afro-descendant population of Peru. To his knowledge, that programme had already been taken off the air. Nevertheless, care should be taken to differentiate between the two programmes to avoid confusion. Noting that the individuals who denounced such programmes often received threats, he asked what steps the Government was taking to protect them.

*The meeting rose at 5.50 p.m.*