



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

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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION
Sixty-third session
4-22 August 2003

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

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

BOLIVIA

1. The Committee considered the fourteenth to sixteenth periodic reports of Bolivia (CERD/C/409/Add.3), which were due from 1997 to 2001, submitted as one document, at its 1594th and 1595th meetings (CERD/C/SR.1594 and 1595), held on 11 and 12 August 2003. At its 1610th meeting (CERD/C/SR.1610), held on 21 August 2003, it adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the report submitted by the State party and the additional oral and written information provided by the delegation. It regrets, however, that this new additional written information was submitted late, and members were unable to examine it before the dialogue with the delegation.

3. The Committee expresses appreciation for the helpful responses provided by the delegation of the State party and for its willingness to engage in a constructive dialogue with the Committee. Furthermore, the Committee welcomes the fact that the State party's delegation was headed by the Vice-Minister of Indigenous Affairs.

B. Factors and difficulties impeding implementation of the Convention

4. The Committee notes that, despite the State party's considerable progress and outstanding efforts, Bolivia remains one of the poorest and least developed countries in Latin America. According to the poverty indicators of 2002, 64.3 per cent of the population lives below the poverty line (53.3 per cent of the population of the urban areas and 82.1 per cent of the population of rural areas). The Committee is particularly concerned about this data and underlines that the discrepancy between urban and rural areas especially affects indigenous peoples and their daily living conditions.

C. Positive aspects

5. The Committee acknowledges that the extensive and detailed report of the State party is, in general, in conformity with the reporting guidelines and that it addresses some of the concerns and recommendations formulated by the Committee after the consideration of the previous report.

6. The Committee notes with satisfaction that Bolivia is a party to a range of international human rights instruments, including International Labour Organization, Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

7. The Committee welcomes the numerous measures undertaken for the promotion and protection of human rights, including the recognition in the new Constitution of 1995 of Bolivia as a multi-ethnic and multicultural State, the recent establishment of the post of Ombudsman (Defensor del Pueblo), the entry into force in 1999 of the new Penal Procedure Code and the approval of the gender equality plan 2003-2007. The Committee also notes with appreciation the establishment in each municipality of an Ombudsman for Children and Adolescents.

8. As to article 2 of the Convention, the Committee takes note with satisfaction of the information that local offices attached to the Ministry of Justice and Human Rights have been opened to receive complaints of human rights violations.

9. The Committee commends the State party's efforts aimed at ensuring that members of the indigenous peoples - which, according to the 2001 census, represent 61.8 per cent of the whole population - are free and equal in dignity and rights and free from any discrimination, including legal provisions aimed at recognizing the title to and ownership of land of indigenous groups and individuals as well as the right to exclusive benefit of renewable natural resources situated on their lands. In this respect, the Committee especially welcomes the establishment of the Agrarian Court.

10. While the Committee is seriously concerned about the information that a "neo-Nazi" meeting was scheduled to take place in April 2001, as well as about the existence of such a phenomenon in the country, it welcomes the measures taken by the State party which managed to prevent this gathering taking place, in conformity with article 4 (b) of the Convention.

11. The Committee also takes note with appreciation of the steps taken to give adequate recognition to indigenous languages.

D. Concerns and recommendations

12. The Committee regrets the paucity of information as to article 4 of the Convention and notes with concern the lack of legislative provisions punishing the dissemination of ideas based on racial superiority or hatred, as well as acts of violence or incitement to violence and the organizations promoting racial discrimination, as required under article 4 of the Convention.

In this regard, the Committee reiterates its previous recommendation urging the State party to fulfil its obligation to make all forms of racial discrimination, as specified in article 4 of the Convention, punishable by law.

13. While welcoming the State party's efforts aimed at ensuring the enjoyment and exercise of the rights of indigenous peoples through the adoption of constitutional, legal and institutional reforms, the Committee notes with concern the information received on the issue of indigenous lands allegedly allotted to private companies, especially in the communities of Chiquitano, Beni and Santa Cruz.

The Committee invites the State party to implement consistently in practice the commendable legislation it adopted in order to recognize the fundamental rights of indigenous peoples and to improve their living conditions. In this regard, the Committee draws the attention of the State party to its general recommendation XXIII which, inter alia, calls upon States parties to recognize and protect the rights of indigenous peoples to own, develop, control and use their communal lands, territories and resources and, where they have been deprived of their lands and territories traditionally owned or otherwise inhabited or used without their free and informed consent, to take steps to return those lands and territories.

14. The Committee is also concerned about reports that human rights defenders providing assistance to members of indigenous groups in the context of land disputes continue to be threatened and harassed by police officers, especially in the region of Chapare.

The Committee recommends that the State party take all necessary measures for the protection of human rights defenders against any violence, threats, retaliation, de facto discrimination, pressure or any arbitrary action as a consequence of their activities. In this regard, the Committee recalls its general recommendation XIII on the training of law enforcement officials in the protection of human rights and encourages the State party to improve the training of law enforcement officials, especially police officers, so that the standards of the Convention are fully implemented.

15. The Committee notes the lack of information regarding the Afro-Bolivian community which, according to the information received, accounts for around 31,000 individuals situated at the lower end of the socio-economic scale and who face severe disadvantages in health, life

expectancy, education, income, literacy, employment and housing. The Committee further notes that there are no specific provisions making reference to this group in the domestic legislation.

The Committee recommends that the State party adopt measures with a view to ensuring to members of the Afro-Bolivian community the full enjoyment of the rights enumerated in article 5 of the Convention and that it provide information in this respect in its next periodic report, in particular on their standard of living and other educational and social indices.

16. While understanding the need for policies aimed at reducing the illegal production and trafficking of coca, the Committee is concerned about the possible negative consequences of these policies, particularly for members of the indigenous communities.

In this regard, the Committee recommends that the State party provide in its next periodic report additional and more specific information on the amount of land withdrawn from coca production, the alternative ways of cultivating or utilizing this land, the amount of land continuing to produce coca, the numbers of persons affected and the ethnic origin of those persons, as well as the impact of the State party's policies on their living standards.

17. The Committee notes the lack of information on the legislative, judicial, administrative or other measures which give effect to the provision of article 6 of the Convention. The Committee reminds the State party that the mere absence of complaints and legal action by victims of racial discrimination may be mainly an indication of the absence of relevant specific legislation, or of a lack of awareness of the availability of legal remedies, or of insufficient will on the part of the authorities to prosecute.

The Committee requests the State party to ensure that appropriate provisions are available in national legislation and to provide the public with adequate information about all legal remedies in the field of racial discrimination. The Committee further requests that the State party include in its next periodic report statistical information on prosecutions launched, and penalties imposed in cases of offences which relate to racial discrimination and where the relevant provisions of the existing domestic legislation have been applied.

18. Regarding article 7 of the Convention, the Committee encourages the State party to make additional efforts to disseminate the Convention and other international human rights instruments in the main languages.

19. The Committee encourages the State party to consult with organizations of civil society working in the area of combating racial discrimination during the preparation of the next periodic report.

20. The Committee notes that the State party has not made the optional declaration provided for in article 14 of the Convention and urges that it consider doing so.

21. The Committee strongly recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meetings of States Parties to the Convention and endorsed by the General Assembly in its resolution 47/111. In this connection, the Committee refers to General Assembly resolution 57/194 of 18 December 2002, in which the Assembly strongly urged State 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.

22. The Committee recommends that the State party take into account the relevant parts of the Durban Declaration and Programme of Action when implementing the Convention in the domestic legal order, in particular in respect of articles 2 to 7 of the Convention, and that it include in its next periodic report information on action plans or other measures taken to implement the Durban Declaration and Programme of Action at national level.

23. The Committee recommends that the State party's reports be made readily available to the public from the time they are submitted and that the observations of the Committee on these reports be similarly publicized.

24. The Committee recommends that the State party submit its seventeenth periodic report jointly with its eighteenth periodic report, due on 21 October 2005, and that it address all points raised in the present concluding observations.
