



International Convention on the Elimination of All Forms of Racial Discrimination

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Summary record of the 2268th meeting

Held at the Palais Wilson, Geneva, on Wednesday, 5 February 2014, at 10 a.m.

Chairperson: Mr. Calí Tzay

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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)*

Combined initial and second to fifth periodic reports of Honduras (continued)
(CERD/C/HND/1-5; CERD/C/HND/Q/1-5)

1. *At the invitation of the Chairperson, the delegation of Honduras took places at the Committee table.*
2. **The Chairperson** said that he was pleased that the Committee's cooperation with the International Movement against All Forms of Discrimination and Racism (IMADR) had made it possible for a live webcast of the session to be watched in the State party. He invited the delegation to respond to the questions raised by the Committee at the previous meeting.
3. **Mr. Rizzo Alvarado** (Honduras) said that, under Legislative Decree No. 266-2013, the Ministry for Indigenous and Afro-Honduran Peoples (SEDINAFROH) and the Ministry of Justice and Human Rights had been merged with other institutions. Although they would no longer function as ministries, they would continue to fulfil their respective mandates and retain their budget allocation.
4. The programme "Con chamba vivís mejor" operated on a national scale and was accessible to all, including indigenous and Afro-Honduran groups. It was aimed at young people of working age, with 900 already benefiting and a further 900 set to sign up by the end of February 2014. It was implemented thanks to an agreement between private companies and the Government, which had promised to provide subsidies during the first three months of the young people's work.
5. Turning to the issues of racism and structural racial discrimination, he said that article 60 of the Constitution provided the legal and political basis for the protection of the right to equality and against all forms of discrimination. Moreover, article 61 guaranteed equality before the law to Hondurans and foreigners resident in the country, without discrimination. One of the concrete measures to overcome the issues had been the establishment of SEDINAFROH, through which steps had been taken to improve the inclusion of indigenous and Afro-Honduran peoples.
6. The Strategic Plan for the Comprehensive Development of the Indigenous Peoples of Honduras had directly benefited 11,000 people, both through the development of human capital and the strengthening of institutions. The National Plan of Action against Racism and Racial Discrimination, which sought to address the structural causes of such discrimination, had been developed with the support of the United Nations Development Programme (UNDP) in Honduras and the Office of the United Nations High Commissioner for Human Rights (OHCHR).
7. With regard to the cases of discrimination that had been mentioned, he said that all complaints in that domain had to be filed with the Office of the Special Prosecutor for Ethnic Groups and the Cultural Heritage. Chancellor Enrique Ortez Colindres had immediately been relieved of his duties on administrative grounds. The case involving Professor Miguel Antonio Fiallos had been brought to court and proceedings were ongoing. The case involving Aurelio Martinez Sanchez had been resolved following a conciliation hearing.
8. The Government recognized the importance of Honduras being declared a multicultural and multilingual State. Steps were being taken to include approval of a preliminary bill on the matter in the agenda of the newly elected directive of the National

Congress. The Basic Education Act, which had been in force since 22 February 2012, was proving effective and there was no legal obstacle to its progress.

9. Under article 93 of the Property Act, Honduras recognized the right of indigenous and Afro-Honduran peoples to the lands they traditionally owned. In order to enforce the right to land, the National Agrarian Institute and the Property Institute had granted 76,565 titles to property in the period 2010–2013.

10. With regard to charter cities, the Government was aware of the need to improve levels of communication and coordination with persons living in or near special development regions. To date, there was no known project to develop any such region. The matter remained the subject of much debate in Honduras.

11. The Ministry of Justice and Human Rights had cooperated with Frank La Rue, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, to exchange good practices with the National Protection Unit in Colombia. It had drafted a bill, which had been submitted to the National Congress for its approval, with the aim of establishing a special protection unit for human rights defenders, journalists and judicial workers who found themselves in danger.

12. In response to questions about unprotected diving, he said that, on 31 January 2012, the then President Porfirio Lobo Sosa had passed Executive Decree No. PCM-003-2012, leading to the establishment of an inter-institutional committee to address the problem of dive-fishing. Figures showed that, in the department of Gracias a Dios, around 4,000 men had been left with disabilities as a result of unprotected diving.

13. Turning to the reform of the Criminal Code, he said that Honduras had brought its legislation into line with international standards, partly by including such concepts of torture, enforced disappearance, femicide and discrimination. One significant step forward was the incorporation of discrimination as an aggravating factor under article 27, paragraph 27. Moreover, article 321 had been amended to include, *inter alia*, membership of indigenous or Afro-Honduran peoples, health status, which covered discrimination against persons with HIV, and physical appearance, which had been used as a basis for discrimination in Honduras. In cases where the perpetrator was a foreigner, expulsion would only take place after a judicial review. There had not yet been any recorded cases of a foreigner being expelled for committing a crime.

14. The fact that the term “Afro-Honduran” was used in legislation instead of “persons of African descent” did not free the Government from its obligation to protect, respect and guarantee the human rights of all persons of African descent in Honduras, irrespective of whether or not they were foreigners.

15. With regard to efforts to reflect the linguistic diversity of the country, the Government’s official television channel and radio station broadcast programmes promoting equality and non-discrimination. Community radio stations enabled people to promote their ancestral identity, culture and language. The Ministry of Education was working to design and develop primary-school curricula in seven languages and train teaching staff in intercultural bilingual education.

16. Between 2002 and 2013, the Office of the Special Prosecutor for Ethnic Groups and the Cultural Heritage had provided technical and legal guidance for the investigation and trial of 55 accusations of discrimination against members of indigenous or Afro-Honduran peoples. Of those accusations, 31 were being investigated, 17 had been dismissed, 4 had been brought to court and 3 had been resolved out of court. Since 2010, the National Commissioner for Human Rights (CONADEH) had dealt with 32,349 complaints alleging discrimination, of which 10,310 had been resolved.

17. The Primary Public Policy and the National Action Plan on Human Rights, which were currently being implemented, would go ahead, and resources had been set aside for the realization of 150 elements of the National Action Plan in 2014. It contained strategic guidelines on vulnerable members of the population, including women, the elderly, persons with disabilities and migrants, with short-, medium- and long-term strategies aimed at improving their standard of living.

18. In response to questions about the primacy afforded to international treaties, he said that, in accordance with article 17 of the Constitution, treaties that contravened the Constitution had to be presented to the National Congress for discussion following the same procedure as that used for constitutional reforms. His delegation acknowledged that efforts were still needed to bring Honduran national law into conformity with international standards. The Labour Code and the Civil Service Act were two normative texts that would have to be revised to ensure, *inter alia*, that all persons wishing to participate in a trade union could do so freely.

19. With regard to the long time it had taken Honduras to ratify the Convention and submit the report under consideration, he said that, before the presidency of Porfirio Lobo Sosa, there had been no specialized technical institution to handle the State's international human rights obligations and commitments, which had led to delays in the reporting process. It was the responsibility of the President to ensure that the provisions of international treaties and conventions were honoured. In 2010, the Ministry of Justice and Human Rights had been established with the task of fulfilling the State's obligations and rectifying the delay in the submission of reports.

20. Turning to the question of whether the Inter-agency Commission on Criminal Justice had taken any measures to prevent extrajudicial killings, he explained that the Commission had been created by Legislative Decree No. 248-2010; it was comprised of representatives from the different institutions within the justice system and ensured the effective operation of the entities involved in dispensing criminal justice. It was not involved in the prevention or investigation of criminal offences. A recently formed Judicial Council, consisting of the President of the Supreme Court of Justice, the judiciary and lawyers associations, served as an independent governing body for the judiciary.

21. Concerning the defence and protection of minors from indigenous communities in the judicial system, SEDINAPROH, working in tandem with UNICEF, had developed a model for the protection of children from indigenous and Afro-Honduran communities, which included: protecting the rights of children; access to quality education; and communications strategies with respect to the rights of children. A group of 35 people had been trained as human rights defenders for indigenous children.

22. With respect to the question of how government institutions could protect the Convention, for example in the event of corruption within the national police force, he said that an independent directorate had been set up in 2011 to investigate and monitor police conduct and criminal activity. The directorate had the power to recommend dismissal of a police officer. A decree passed in 2012 had introduced further reform of the police service. A national council for defence and security had been set up in 2013: headed by the President of the Republic, the President of the Supreme Court of Justice, the Attorney General, and the Secretaries for Defence, Security and the National Police Force, its purpose was to prevent and to investigate crimes in Honduras.

23. The definition of disqualification and absolute disqualification, as defined in reform 27, meant that where a main sentence was imprisonment, partial or complete disqualification of an offender's rights could be added to it where there were aggravating circumstances.

24. Concerning the definition of and penalty for torture, Article 29 A of the Criminal Code stipulated that any abuse of position by a State official, within a State prison or detention centre for minors, carried out with a view to obtaining a confession or information, or the causing of physical or mental suffering, would be punished with a sentence of imprisonment of between 5 and 15 years depending on the gravity of the offence.

25. As in any country, there were structural reasons for the disparities between the education, employment rates and nutrition of different ethnic groups; in particular it was difficult for some indigenous peoples to access public services owing to the remote areas in which they lived. The Republic was taking steps to remedy that situation.

26. The purpose of establishing a special prosecutor for ethnic minorities was not viewed as discriminatory but rather ensured that the investigation process and the handling of any crimes committed against indigenous peoples and those of African descent could be dealt with in an appropriate way.

27. The State of Honduras recognized that discrimination on the basis of race, colour or ethnic origin was an affront to human dignity, a violation of human rights and an obstacle to peaceful relations between nations. It had established the Office of the Special Prosecutor for Ethnic Groups and Cultural Heritage in order to protect ethnic minorities, their archaeological and cultural heritage and their collective interests. All individuals in Honduras had an equal right to justice and all allegations of racial discrimination would be dealt with in accordance with the law. The Office of the Special Prosecutor was mandated to investigate allegations of discrimination and to take appropriate action.

28. The State of Honduras had set up a procedure, in partnership with the International Labour Organization, in order to regulate prior consultation, which stipulated that consultation should take place before any mining activity was authorized. It was possible for a district to vote against a mining project and for a project to be called off. Some mining licences had been granted to indigenous communities. Hydroelectric projects had been approved following the necessary environmental and technical studies and had gone ahead without opposition.

29. Although no data was available on the impact of crime on vulnerable groups, a body monitoring violence in Honduras published periodic reports giving the gender, age, cause and place of death, and other data including the number of violent deaths per 100,000 inhabitants.

30. Extortion was a crime that seriously affected all the people of Honduras and not only vulnerable groups. An intelligence unit had been set up in order to investigate the crime and preventive measures had been stepped up. As to whether poverty among indigenous groups amounted to structural racism, it should be noted that some 64.5 per cent of the population of Honduras suffered from poverty, which, added to inequality, prevented people from enjoying their economic, social and cultural rights. It was for that reason that budget allocations to health, education and nutrition had been maintained, an initiative that had helped to improve the situation of the population as a whole, including indigenous Afro-Honduran peoples. Among those households that received assistance, school attendance and visits to health clinics had improved. The Government continued its efforts to improve living conditions and reduce poverty through the implementation of policies on: human rights; social protection; early childhood development; the prevention of violence against children and youth; decentralized development; the rights of persons with disabilities; and gender equality.

31. On actions being taken by the judiciary to avoid contributing to racial discrimination or racism, he confirmed that training was being provided to all members of the legal

profession and to the police and armed forces on human rights legislation, including the theme of racism.

32. Concerning action taken to combat discrimination against indigenous and Afro-Honduran women, all plans, policies and programmes instituted in Honduras incorporated the universal principles of equality and the right not to suffer discrimination. Gender equality and equity plans were fully funded and covered the areas of: social and political participation and the exercise of civil rights; the right to a life free from violence; health rights throughout the life cycle including the right to sexual and reproductive health; the right to education and information and cultural rights; economic and labour rights; gender, access, sustainable use and control of biodiversity and natural resources.

33. In terms of addressing juvenile delinquency among indigenous and Afro-Honduran populations, the Government had approved reforms to legislation concerning the rights of children, adolescents and the family. The reforms covered: specialized jurisdiction for judges concerning childhood; referring the decisions of judges to the Convention on the Rights of the Child; restorative justice as an alternative to detention and with the obligatory participation of the child in conflict resolution; decriminalization in areas where the causes were primarily social; and the prohibition of physical punishment or other inhuman treatment as a form of correction or discipline.

34. The legislature was independent and the National Congress could choose the order in which draft laws were presented. Occasionally, laws were proposed by the President through his secretaries of State, by the Supreme Court of Justice and by the Supreme Electoral Tribunal.

35. Concerning the meaning of the words language and dialect, a language (*idioma*) was a set of signs, symbols and phonemes that were universally accepted; a tongue (*lengua*) was also a form of communication belonging to a specific people; and a dialect was a very specific set of signs and expressions that might well be falling into disuse. The term “ethnic group” (*etnia*) did not represent a people and the indigenous peoples themselves had proposed that the term indigenous and Afro-Honduran peoples should be used instead.

36. **Mr. Lindgren Alves** said that the State party’s written report referred primarily to the 20 per cent of the population that was comprised of indigenous and Afro-Honduran peoples. He asked how the remaining 80 per cent of the population was classified. He wondered on what basis the extensive list of vulnerable groups referred to had been established.

37. **Mr. Rizzo Alvarado** (Honduras) said that the majority of the remaining 80 per cent of the population of Honduras were of mixed background, with a minority being of more recent European, African or Asian descent. There was no record of that population having been subject to discrimination. The definition of vulnerable groups was contained in the country’s human rights action plan.

38. **Mr. Avtonomov** said that he had been pleased to learn of the process of restorative justice as it related to minors. He suggested that the State party might wish to implement some of the Committee’s recommendations, including those contained in general recommendation No. 34 concerning people of African descent.

39. Turning to the theme of language, he asked whether it was envisaged to create or to restore written alphabets to indigenous languages such as that of the Nahua or Maya.

40. **Mr. Rizzo Alvarado** (Honduras) said that linguistic diversity was promoted through the education system, where textbooks had been translated into a number of indigenous languages. He was doubtful whether there had been attempts to recover the Mayan and Nahuatl languages but he would attempt to find out.

41. **Ms. Hohoueto** said that she had been glad to learn from the replies given that measures to combat gender- and sex-based discrimination had been introduced; she recommended that such information be included in the State party's report in future. She noted that the statistics provided covered indigenous and Afro-Honduran populations but that they were not disaggregated by age or gender. The provision of more detailed information would allow the Committee to determine, for instance, whether discrimination was taking place on the basis of gender.

42. **Mr. Rizzo Alvarado** (Honduras) undertook to provide any available detailed statistics to the Committee as soon as possible. He asked whether the information he had provided in his replies could be annexed to the report.

43. **The Chairperson** said that the replies would form part of the Committee's official records.

44. **Mr. Diaconu** said that since race was not a concept defined in law in Honduras it was difficult to understand what the State party meant by that term. He noted that in Norway, the concept of race had been removed from legislation, and a discussion of a similar proposal to exclude the notion of race was currently being debated in the French parliament. He wondered how the term "national origin" was defined in Honduras and whether it was equated with citizenship or with ethnic origin.

45. He wished to know whether the Government of Honduras envisaged adopting special measures in order to provide concrete assistance to regions where, as a result of structural or inherited racism, indigenous peoples had suffered from lack of development. For instance, what had the Government done to improve the situation of people afflicted by illness and disabilities as a result of working for generations along the mosquito-infested coast? He also asked whether the State party had included foreign nationals in its vulnerable persons' category to ensure that they received appropriate State support and assistance.

46. **Mr. Rizzo Alvarado** (Honduras) said that the State party had tried to align any reference to race or racial discrimination in its national legislation with international human rights standards but would bear in mind the Committee's suggested approach concerning the use of such terms. Special measures had been introduced to combat structural racism and racial discrimination and further information concerning such initiatives would be submitted to the Committee at a later date. All foreign nationals fell into the Government's vulnerable persons' category and special centres had been established in several locations to provide them with assistance. A number of the centres also provided support to Honduran nationals returning from an extended period of living abroad and offered accommodation to migrants in an irregular situation.

47. **Mr. Murillo Martínez** (Country Rapporteur) welcomed the State party's progress in combating racial discrimination and said that the Government's recognition of the country's ethnic and cultural diversity was an important step, which would help to strengthen efforts to tackle structural racism. In relation to the national census, he asked whether the Government intended to include an indigenous peoples and persons of Afro-Honduran descent category. He also wished to know whether the Committee responsible for investigating the high rate of deaths and disabilities among Miskito divers had reached any conclusions, and if so, what had been its findings.

48. He expressed concern that the recently established Ministry for Indigenous and Afro-Honduran Peoples had been merged with another national ministry and asked whether the recent change in Government had played any role in the decision. He also wished to know whether the new cabinet would contain any indigenous or Afro-Honduran members.

49. **Mr. Rizzo Alvarado** (Honduras) confirmed that the following national census would include an indigenous peoples and persons of Afro-Honduran descent category and said that the State party would provide the Committee with the resulting disaggregated data at the earliest opportunity. The conclusions of the committee responsible for investigating the high rate of deaths and disabilities among Miskito divers would also be submitted at a subsequent date. As for the Ministry of Indigenous and Afro-Honduran Peoples, he reiterated the Government's commitment to combating the discrimination faced by minorities and stressed that the merger of the ministries in no way reflected a reduction in resource allocation or a shift in policy focus.

50. Concerning the representation of minorities in the Government, he said that it was still too early to confirm whether the cabinet would contain any indigenous or Afro-Honduran members, as appointments had yet to be finalized, but the relevant information would be submitted to the Committee at the earliest opportunity.

51. **Mr. Yeung Sik Yuen** congratulated the State party on the successful implementation of the "Bono 10,000" scheme, which provided families with improved access to education, food and health care for their children, and he asked whether the current Government intended to continue its financing of the programme. Were there any plans to introduce free school transportation as part of the scheme's provisions in the future?

52. **Mr. Rizzo Alvarado** (Honduras) said that the Government would consider introducing free school transportation as part of its ongoing review of the programme and confirmed that the financial assistance provided to families under the "Bono 10,000" scheme would continue.

53. **Mr. Vázquez** requested further clarification on the status of legislation aimed at developing special business zones and asked whether the provisions of the Convention and respective anti-discrimination legislation would continue to apply in those areas.

54. **Mr. Rizzo Alvarado** (Honduras) said that he would look into the matter and would provide the Committee with the required information at a later date.

55. **Mr. Khalaf** asked how the State party assured the independence of the judiciary and wished to know whether there had been any curtailing of judges' and magistrates' powers as part of the recent judicial reform.

56. **Mr. Rizzo Alvarado** (Honduras) said that Honduras was a democratic republic with full separation of powers. Pursuant to the provisions of the Constitution, the legislative, judicial and executive branches were completely separate, with independent powers and areas of responsibility. It was too soon to establish whether the recent judicial reform had had any impact on the powers of the judiciary and further information would be provided to the Committee as soon as it became available.

57. **Mr. Lindgren Alves** emphasized that although some countries had expressed a reluctance to make reference to race or racial discrimination in their national constitutions in light of the belief that race was a social construct, Honduras as a State party to the Convention must ensure that it used the term appropriately as part of its obligations under international law.

58. **The Chairperson** asked the delegation to confirm the equivalent value of the financial support provided under the "Bono 10,000" scheme in United States dollars.

59. **Mr. Rizzo Alvarado** (Honduras) said that at the current exchange rate the financial support provided to families under the scheme amounted to around US\$ 500 per family.

60. **Mr. Murillo Martínez** (Country Rapporteur) urged the State party to consider the Committee's recommendations concerning the criminalization of racial discrimination and

to build on its recognition of the country's ethnic and cultural diversity to combat structural racism at the earliest opportunity. He encouraged the State party to take positive action on behalf of indigenous peoples and persons of Afro-Honduran descent and underscored the importance of introducing measures to comply with the Committee's general recommendation No. 35 on combating racist hate speech. He reiterated his concern at the merging of the Ministry for Indigenous and Afro-Honduran Peoples with another national ministry and asked the State party to provide further information on the outcome of such a change on anti-discrimination initiatives. He urged the State party to continue with its efforts to provide redress and access to health care to Miskito divers with disabilities and asked the delegation to keep the Committee informed of any further developments concerning legislation to develop special business zones. He expressed the hope that the 2013 national census would provide a better overview of the discrimination facing indigenous peoples and persons of Afro-Honduran descent and would result in the collection of more detailed disaggregated data on ethnicity in Honduras.

61. **The Chairperson** thanked the delegation for its in-depth report and expressed the hope that national efforts towards the eradication of racial discrimination would continue. He urged the State party to submit its reports in a timely fashion in order to ensure a more frequent dialogue with the Committee in future.

62. **Mr. Rizzo Alvarado** (Honduras) thanked the Committee for their insightful comments and reiterated the State party's commitment to the Convention. His Government welcomed the Committee's concluding observations and would endeavour to take them into account when devising future measures to combat racial discrimination in Honduras.

The meeting rose at 12.50 p.m.