



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

Distr.: General

7 August 2015

Original: English

---

## Committee on the Elimination of Racial Discrimination Eighty-seventh session

### Summary record of the 2355th meeting

Held at the Palais des Nations, Geneva, on Tuesday, 4 August 2015, at 3 p.m.

*Chairperson:* Mr. Calí Tzay

*later:* Mr. Avtonomov (Vice-Chairperson)

*later:* Mr. Calí Tzay (Chairperson)

## Contents

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

*Combined fifteenth and sixteenth periodic reports of Colombia*

---

This record is subject to correction.

Corrections should be submitted in one of the working languages of the United Nations. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent *within one week of the date of the present document* to the English Translation Section, room E.6040, Palais des Nations, Geneva (trad\_sec\_eng@unog.ch).

Any corrections to the records of the public meetings of the Committee held at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.15-13309 (E) 060815 070815



Please recycle A small graphic of a recycling symbol, consisting of three chasing arrows forming a triangle.



*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**

*Combined fifteenth and sixteenth periodic reports of Colombia  
(CERD/C/COL/15-16; CERD/C/COL/Q/15-16)*

1. *At the invitation of the Chairperson, the delegation of Colombia took places at the Committee table.*

2. **Ms. Vásquez Camacho** (Colombia) said that her Government condemned the recent assassination of Genaro García, leader of the Consejo Comunitario of Alto Mira y Frontera. The relevant investigations were being conducted.

3. Introducing the combined fifteenth and sixteenth periodic reports of Colombia (CERD/C/COL/15-16), she said that Colombia was a multi-ethnic and multilingual State, which had enshrined the principle of equality in its Constitution. As well as providing for affirmative action to promote the rights of marginalized groups, the Constitution stipulated that the communal lands of ethnic groups were inalienable and could not be expropriated or transferred. Moreover, the promulgation of Act No. 70 of 1993 had enabled significant progress to be made with regard to collective land rights.

4. Efforts were being made to strengthen the institutional framework for implementing policies on human rights in general and those of the indigenous communities in particular. In that connection, government directorates had been set up to address the issues of black communities, indigenous affairs, Roma and minority affairs, prior consultation, and human rights, democracy and participation. An observatory on discrimination and racism had also been established, which monitored and evaluated complaints of discrimination on various grounds, including race and ethnicity. Institutional capacity was complemented by presidential programmes on Afro-Colombian and indigenous issues.

5. Decades of violence and armed conflict had seriously affected the most vulnerable sectors of society; forced displacement constituted a particular challenge. The State, through decisions of the Constitutional Court, was giving increasing attention to the situation of displaced Afro-Colombians, indigenous people and women. Numerous ethnic protection plans had been drawn up to address specific aspects of the rights of the various ethnic groups, and progress had been made with regard to victim identification. As at 1 June 2015, 7 million victims had been registered, many of whom were Afro-Colombian, indigenous, Raizal and Palenquero. Pursuant to the Victims and Land Restitution Act, land restitution decisions had been taken in favour of the Embera Katío community and the Renacer Negro Community Council. Those decisions represented the first examples of land restitution for ethnic communities anywhere in the world in the context of internal armed conflict.

6. Regarding the particular vulnerability of community leaders, she drew the Committee's attention to a protection programme to guarantee the right to life, safety, security and freedom of persons, groups and communities. A national process of guarantees was also in place to protect the work of human rights defenders and society and community leaders. An inter-institutional committee had been set up to determine protection measures corresponding to the degree of risk faced by a given individual; 487 members of ethnic groups were currently subject to such measures. Steps were also being taken to train law enforcement officers in the rights of ethnic groups and four police training centres had been established to encourage members of ethnic groups to join the police force. Furthermore, liaison officers had been appointed in the military and national police force to strengthen relations and trust between law enforcement officers and ethnic groups.

7. Although national law criminalized discrimination on the grounds of race, religion, political ideology, ethnicity or cultural origin, and discrimination against people with disabilities, implementation of that law remained a challenge. Efforts were being made to promote the economic, social and cultural rights of ethnic communities, in particular through the National Development Plan, which set out strategic guidelines for public policy and included specific components aimed at improving the living conditions of ethnic communities and strengthening their cultural identity. The current Plan, which had been developed in consultation with indigenous peoples and the Roma community treated equality for all as a priority issue.

8. Efforts had been made to include the specific needs of different population groups in the national health-care model and a comprehensive health-care road map had been elaborated to ensure full access to health care for all. Particular attention was paid to sexual and reproductive health and to child and adolescent health. Regarding the right to education, she said that public education policy had a multilingual and intercultural focus and had been developed with input from indigenous, Afro-Colombian, Palenquero, black, Raizal and Roma leaders. Special education funds were in place to provide support for members of particularly vulnerable groups. More than 16,000 Afro-Colombian students had benefited from those funds, along with other scholarship schemes.

9. On equal rights to participate in cultural activities, she said that steps had been taken to adopt a language policy intended to protect and promote the country's linguistic heritage, which comprised 68 native languages, as well as Spanish. Progress had also been made with regard to formulating public policy that recognized the cultural rights of the Roma population and the traditional Roma authorities as bodies of self-governance. A coordination mechanism for social programmes had been established for the Pacific coastal region in order to bridge social gaps in that part of the country, which was multicultural and rich in biodiversity, natural resources and opportunities. Programmes for family protection, support for the elderly and action on young people had all been successful. Indigenous people had the autonomy to manage their own health, sanitation and education systems.

10. A national business and human rights action plan had been drawn up to address the potential human rights impact of business activities, in particular on ethnic groups. Further to the provisions of the Constitution and the International Labour Organization Indigenous and Tribal Peoples Convention 1989 (No. 169), various arenas had been established for the participation of ethnic groups at all levels. Measures had been taken to guarantee the representation of ethnic peoples in the parliament. In 2013, a presidential order had been issued on the promotion and protection of the right to prior consultation, which had resulted in consultation with ethnic groups when legislation was drafted on issues that affected them, such as land restitution. Between July 2014 and May 2015, agreements on prior consultation had been drawn up between the Government and 794 ethnic communities.

11. Colombia had joined the spirit of international efforts to promote the rights of historically disadvantaged populations; the International Decade for People of African Descent would serve as a significant opportunity to work to promote the situation of descendants of victims of the transatlantic slave trade. In that context, Colombia had launched a campaign against racism, with the support of public figures including the national football team, actors and actresses, and the former United Nations Secretary-General Kofi Annan. Colombia had recently signed the Inter-American Convention against Racism, Racial Discrimination and Related Forms of Intolerance and the Inter-American Convention on the Elimination of All Forms of Discrimination and Intolerance. While she acknowledged that challenges remained, the Government was

committed to ensuring equal rights for all and the elimination of all forms of discrimination.

12. *A film promoting the State party's campaign against racism was shown.*

13. **Mr. Vásquez** (Country Rapporteur) said that the progress made since Colombia had last come before the Committee was commendable, in particular the Government's efforts to take peace negotiations forward in order to end the internal armed conflict, which had disproportionately affected indigenous people and Afro-Colombians. Despite the success of work done by several government bodies to promote human rights, in particular the rights of minority groups, difficulties remained. He paid tribute to the efforts of Colombia's non-governmental organizations, which worked to guarantee the rights of minority groups, often in challenging circumstances, and had contributed significantly to the information that the Committee had at its disposal.

14. He was concerned about serious disparities in the de facto enjoyment of economic, social and cultural rights, as well as civil and political rights. Geographically, the areas where extreme poverty prevailed tallied almost exactly with the areas of high Afro-Colombian population density. Extreme poverty also affected indigenous populations. There were two sides to Colombia: the prosperous side, as seen in Bogotá and other large cities, which were economically and culturally vibrant, and the side that suffered from violence, displacement and lack of access to sanitation and basic services, as found in rural areas, mining enclaves, indigenous areas and areas affected by violence and armed conflict.

15. Owing to their geographic location, Afro-Colombians and indigenous people were often caught in the crossfire of violence related to the drugs trade. The lack of protection afforded to victims and the culture of impunity were particularly worrying. Although efforts had been made recently to increase policing and security, the public was concerned that they would wane over time and he therefore wished to know whether any long-term plans were in place to address the violence faced by the Afro-Colombian and indigenous populations. The Committee had received reports of the underfunding of prosecutorial services and the inability to prosecute high-ranking members of the armed forces. He asked what was being done to rectify that situation.

16. On forced displacement, he said he was concerned at deficiencies in the Victims and Land Restitution Act, which only addressed displacement that had occurred since 1991; a lack of consistency had been observed in its application at the national and local levels. According to information received by the Committee, claimants were frequently threatened with violence or death by those holding disputed land. Although the State party had an obligation to protect such claimants, the protection measures taken were woefully inadequate. He asked what was being done to improve the situation, whether collective prevention measures were in place and whether there were any differentiated protection measures for women.

17. Although the National Development Plan 2014-2018 prioritized economic development as a solution to inequality, projects implemented under the Plan, such as a port development project in Buenaventura, had in fact resulted in increased displacement and violence. Local people did not benefit from such projects. More information on strategies to reduce economic inequality would therefore be welcome.

18. Turning to the question of free prior and informed consent for Afro-Colombian and indigenous communities, he said that the Committee had been informed that the State had ignored the rulings of the Constitutional Court in that regard, either by engaging in consultations and then not acting on their results, or simply not holding consultations at all. More information would be welcome on why the State party had not recognized ANAFRO, an association of Afro-Colombian leaders, and had not

taken account of its comments on the National Development Plan. The Committee would be interested to hear some examples of how consultation with indigenous and Afro-Colombian communities had influenced the drafting of policies and plans. Statements from high-level government officials to the effect that prior consultation stopped infrastructure projects, thus hindering development and bringing the State agenda to a halt, were a cause for grave concern, since they prejudiced the results of consultations and increased the difficulties encountered by those defending the rights of vulnerable communities. He asked whether those statements reflected the point of view of the Government and, if not, whether they had been publicly denounced.

19. The Constitutional Court had identified 24 indigenous groups that were at risk of extinction. Information received by the Committee suggested that the State party's failure to comply with the Court's rulings concerning the Wayúu might even constitute genocide. The construction of a dam over the Ranchería river in 2010 had caused the deaths of Wayúu children, as water was diverted to serve the needs of industry and illegal armed groups. Both the quantity and the quality of water had been severely affected, and he asked what the State party planned to do to remedy the potentially catastrophic situation. Other indigenous peoples faced similar problems: despite recognition by the Constitutional Court that the Itnu were on the verge of physical and cultural extinction, they continued to live in appalling conditions that threatened their life, health and dignity. Armed groups exerted considerable control over vulnerable indigenous peoples and State institutions had failed to respond appropriately.

20. He asked what was being done to facilitate the provision of land titles to people of Afro-Colombian descent. The Constitutional Court had recognized the concept of ancestral lands, but had the State party itself followed suit? In view of the importance of the peace negotiations to the future of Afro-descendent communities and the country as a whole, he asked whether the State party intended to include those communities in the negotiations. Emphasizing the importance of proper information, including disaggregated statistical data, in addressing problems of economic inequality effectively, he said that the discrepancy in estimates of the percentage of the population of Afro-Colombian descent might be attributed to the fact that Afro-Colombian communities had not participated in designing the census and he wondered whether the State party planned to include them in the process in future.

21. The Committee had received information concerning the adverse effects on indigenous communities of illegal mining operations in Cauca department, particularly environmental damage resulting from the use of mercury. Although the operations were controlled by armed groups, they could not take place without the collusion of officials. Moreover, the lack of proper consultation before mining concessions were granted was a matter of concern. He would welcome information on the subject.

22. He asked what steps the State party intended to take to resolve the problem of threats made against human rights defenders, which the President had condemned. With regard to the parliamentary representation of the Afro-Colombian community, he observed that the two members of the parliament representing that community were not Afro-descendants and requested further information on the issue.

23. The State party had an exemplary legislative framework in the area of human rights, and particularly the rights of indigenous peoples, but significant problems persisted in the implementation of laws and court decisions. There was a huge gulf between the theoretical position and the situation on the ground. Even taking into account the challenges presented by the internal armed conflict, the State party's inertia hindered its ability to protect the rights of vulnerable groups and called into question its political will to address such issues effectively. Peace negotiations offered the possibility of improving the situation of indigenous and Afro-Colombian communities, which should be included in the negotiating process.

24. **Mr. Avtonomov**, while welcoming the State party's well-drafted report, observed that it had been submitted late and encouraged the timely submission of future periodic reports. A list of specific actions taken in response to the Committee's concluding observations would facilitate the Committee's understanding of which of its recommendations had been addressed.

25. He asked whether the specific needs of the various ethnic groups recognized by the State party were taken into account in the formulation and implementation of government policy and emphasized the importance of recognizing the Roma as an ethnic group, however small, given the widespread discrimination they faced the world over.

26. Noting that the State party had not made a declaration under article 14 of the Convention concerning individual communications, he enquired about the Government's position on the issue.

27. With regard to the situation in La Guajira department, he drew attention to general comment No. 15 on the right to water adopted by the Committee on Economic, Social and Cultural Rights in 2002, which stated that the right to water was inextricably related to the right to the highest attainable standard of health. Since it was also an intrinsic part of the right to life, States were obliged to respect, protect and fulfil the right to water. Lastly, he asked whether the State party had evaluated the impact of the National Development Plan 2010-2014 and requested that, if so, the Committee should be informed of the results.

28. **Mr. Diaconu** said he welcomed the data provided on the composition of the State party's population. He asked what powers had been granted to the councils formed under article 330 of the Constitution to govern indigenous territories, particularly with regard to existing companies and economic activities in their areas. The State party had taken many special measures to protect minorities, including indigenous groups and Roma, and to promote intercultural awareness, and he encouraged their continuation. Act No. 1482 of 2011 criminalized discrimination on the grounds of race and nationality but made no mention of colour or ethnic origin. He would welcome clarification in that regard and asked whether the definitions of racism and racial discrimination given in the State party's report also appeared in its Criminal Code. Moreover, he would welcome further information on the nature and functions of the National Houses of Justice referred to in the report.

29. The issue of the right to water was urgent and must be resolved. Although some commercial activities affecting that right predated the recognition of the rights of indigenous peoples, the dangers they posed to human life meant that action must be taken. The Government should take steps to ensure that companies respected the right of indigenous groups to a clean water supply. Human needs should take precedence over any other uses of water. Water might even be declared a public resource to be administered by the State.

30. The principle of free, prior and informed consent was now enshrined in law but was not always respected. Ways must be found of ensuring that companies respected human rights, as economic development could not be based on disregard for them. With respect to indigenous lands, he enquired about the progress being made in georeferencing reservations. Lastly, while welcoming the existence of the Ombudsman's Office, he wondered whether such an institution could be truly independent if it was hierarchically subordinate to the Public Legal Service.

31. **Mr. Lindgren Alves** said that, since the only case of genocide to have been confirmed in international law was the Holocaust, the text of the State party's Act No. 1482 of 2011, which criminalized the advocating of genocide, went beyond the content of the Convention. He questioned the extent to which Roma were subject to

discrimination in the State party and other countries in Latin America, by contrast with other regions of the world; care should be taken not to create problems where none existed. The State party had achieved great success in universalizing primary and secondary education and he asked whether indigenous and Afro-descendent children outside cities, particularly in tribal communities, were fully covered. If time permitted, he would welcome the delegation's views on the progress of the ongoing peace negotiations concerning the State party and the positive impact that a successful outcome might have on the elimination of racial and other discrimination.

32. *Mr. Avtonomov (Vice-Chairperson) took the Chair.*

33. **Mr. Bossuyt** said he would welcome clarification concerning the primacy of international human rights instruments, including the Convention, over domestic law in the State party, as provided for in its Constitution. Was the Constitution itself an exception to that rule? Noting that the State party recognized four Afro-descendent groups, which made up 10 per cent of the population, he enquired about the differences among them and how they were defined. He asked whether the special electoral constituencies for indigenous and Afro-Colombian groups were defined geographically or personally and how the material equality required under the Constitution was achieved in practice. In view of an apparent contradiction between paragraphs 24 and 137 of the State party's report, he wondered whether there were any restrictions on the exercise of civil rights by foreigners in the State party. Concerning the State party's Roma community, he asked whether it had been forcibly relocated to the country during the era of Spanish rule or had migrated freely. While welcoming the fact that private interest must yield to the public or social interest, as mentioned in paragraph 99 of the State party's report, he asked whether adequate compensation was paid in the event that a person was deprived of his or her property by the State. With regard to the assertion made in paragraph 101 of the report that everyone was entitled to a job, he asked what happened if no jobs were available. Lastly, with regard to the restitution of land taken during the internal armed conflict, he asked whether people had been forced to leave their lands by the State party's armed forces or by armed rebel groups.

34. *Mr. Calí Tzay (Chairperson) resumed the Chair.*

35. **Ms. Dah** asked what vision the Government had for the outcome of the current peace negotiations. The Committee had viewed the conflict in the State party as the main obstacle to the satisfactory implementation of the Convention. With peace becoming a real possibility, she asked what the potential impact was on territories that would be returned to government control, particularly for inhabitants of those areas who had been forced to move. Was the Government planning to take any special measures once the conflict had ended? She hoped that those affected by the conflict would be involved in reconstruction efforts. Any additional information on the subject would be welcome.

36. **Mr. Yeung Yik Yuen** enquired about the interplay between indigenous jurisdiction, under which indigenous peoples had their own courts, and the national justice system. What would happen in the event that a ruling handed down by an indigenous court was incompatible with the State party's international obligations in the field of human rights, for example? He would also welcome further information on the nature of the standards and procedures that such courts applied and whether the rulings of indigenous courts were subject to appeal.

37. He asked whether action had yet been taken pursuant to Constitutional Court decision No. 005 of 2009, concerning the identification of collective and ancestral lands mainly inhabited by the Afro-Colombian population, and whether the State party had implemented the Constitutional Court's ruling that mining in certain indigenous

areas was illegal unless carried out by indigenous peoples using traditional artisanal methods and that free, prior and informed consent must be obtained. He asked what the outcome had been of the cases of racial discrimination referred to in paragraph 139 of the State party's report. Lastly, he queried the use of the word "arbitrarily" in article 3 of Act No. 1482 of 2011, which could make the commission of the offences covered by that article difficult to prove; however, the legislation was still recent and time would tell whether it would be effective.

38. **Ms. January-Bardill** said that she would welcome clarification of the State party's understanding of the term "social State" used in paragraph 6 of the report. She also asked whether the Government would collect comprehensive disaggregated data in its forthcoming national census, specifically with regard to the composition of the population and the enjoyment of political, social, economic and cultural rights by all ethnic groups. Would efforts be made to collect data disaggregated by race and ethnicity for female-headed households in the country?

39. **Mr. Kemal** asked what steps had been taken to address the serious challenges to the enjoyment of political, social, economic and cultural rights by Afro-Colombians and indigenous peoples and to eliminate the structural causes of racial discrimination at all levels. While welcoming the State party's attempts to provide redress to victims who had suffered violations by armed groups, he wished to know what measures had been adopted to ensure that Afro-Colombian and indigenous victims had equal access to such redress. He also asked what efforts had been made to address the significant obstacles faced by Afro-Colombian and indigenous communities in exercising their rights to land, including violence against their leaders and forced displacement. Lastly, he enquired what action had been taken to improve the quality and accessibility of the national health-care service, particularly for ethnic minority communities.

40. **Ms. Crickley** said that she would like more detailed information about the function of the 10 specialized ombudsmen under the Ombudsman's Office referred to in the State party report and their compliance with the Principles relating to the status of national human rights institutions (Paris Principles). She also wished to know what progress had been made in providing equal opportunities for men and women under the National Development Plan, in particular for Roma and indigenous women. In addition, she asked what steps had been taken to implement gender-sensitive national policies, particularly in the area of health care, and to ensure that women from ethnic minority groups were consulted and participated in the formulation, implementation and evaluation of those policies.

41. As for women's role in the peace process, she wished to know what efforts had been made to include Afro-Colombian and indigenous women community leaders in negotiations and take their opinions into account. In that connection, she asked what measures had been adopted to guarantee the safety of prominent women leaders from ethnic minority groups and safeguard their leadership positions. She also wished to know what steps had been taken to ensure access to redress for women victims who had suffered violations by armed groups, particularly Afro-Colombian and indigenous women. Lastly, she asked what policies had been introduced to provide appropriate sexual and reproductive health-care services for Afro-Colombian and indigenous women and to combat and prevent acts of sexual violence against them.

42. **Mr. Khalaf**, welcoming the investigation into the murder of the indigenous community leader, Genaro García, asked what measures were in place to protect prominent Afro-Colombian and indigenous community leaders from violence and human rights violations in the exercise of their duties. He also wished to know what policies had been introduced to guarantee access to water for indigenous communities and enable them to remain on their ancestral lands. In that connection, he asked whether the Government held prior consultations with indigenous communities



affected by mining projects and took measures to limit any negative impact on their livelihoods and culture.

43. **The Chairperson**, speaking in his capacity as a member of the Committee, asked what specific measures had been taken to protect the indigenous community leader Genaro García before his death. He also wished to know what efforts had been made to prevent forced contact with highly vulnerable uncontacted indigenous tribes and what further information the delegation could provide concerning the Government's protection plans for 34 indigenous peoples. In addition, he would welcome clarification on the State party's understanding of the differences in meaning of the various terms used to describe indigenous peoples in its report. Lastly, with regard to the peace process negotiations, he asked what provisions had been included to address the situation of displaced indigenous peoples and what steps had been taken to consult the affected indigenous communities and involve them in the formulation, implementation and evaluation of such provisions.

44. **Mr. Vázquez** asked whether the Government had consulted the indigenous communities affected by the growth in mining activities before it had granted or renewed concession agreements with mining companies, such as AngloGold Ashanti and Cerrejón. He also wished to know what steps had been taken to prevent acts of violence and human rights violations against human rights defenders. He asked what policies had been introduced to uphold the various commitments made by the Government regarding Afro-Colombian and indigenous people's enjoyment of their land rights, particularly its pledge of support to the Afro-Colombian community of La Toma in Cauca that had suffered threats by armed groups to their territory and livelihoods in traditional mining. As for the Ombudsman's Office, he asked what action had been taken to ensure the transparency of its appointment process and guarantee its plurality and gender balance. Lastly, with regard to Act No. 1482 establishing the penalties to be applied in cases of harassment of a person, groups of person, communities or people, he wished to know what measures had been adopted to prevent the granting of amnesties and ensure that prosecutions were undertaken.

*The meeting was suspended at 5.45 p.m. and resumed at 5.50 p.m.*

45. **Ms. Vásquez Camacho** (Colombia) thanked the Committee members for their detailed comments and said that her delegation would give specific replies to the questions that they had posed at the subsequent meeting.

*The meeting rose at 5.55 p.m.*