



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

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Sixty-eighth session

SUMMARY RECORD OF THE 1732nd MEETING

Held at the Palais Wilson, Geneva,
on Tuesday, 21 February 2006, at 10 a.m.

Chairperson: Mr. de GOUTTES

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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 (item 6 of the agenda) (*continued*)

Twelfth to fifteenth periodic reports of Mexico (CERD/C/473/Add.1; document without reference distributed among meeting participants by the delegation of Mexico in Spanish only) (*continued*)

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

2. Mr. TANG called upon Mexico to intensify its efforts to ensure the right to self-determination for indigenous people and, in that regard, directed the attention of the delegation to general recommendation XXI, adopted by the Committee, on the right to self-determination. Pointing out that minorities must take part in running State affairs at all levels, the expert asked how the leaders of local communities were appointed and to what extent the populace, specifically indigenous peoples, had opportunities in that area. For example, he wanted to know the percentage of offices held by representatives of indigenous peoples in local communities. In addition, he cited sources of information according to which serious agricultural conflicts had broken out in regions in which indigenous peoples lived, and he said he would like to have information in greater detail on the procedures for settling land disputes and on the measures used by the federal government to resolve that problem.

3. The CHAIRPERSON, speaking in a private capacity, requested information in more detail on the special measures that were being taken by the State party in the interests of indigenous peoples in the courts, specifically, for purposes of providing them access to justice and legal assistance, and on the possible imposition of sanctions on indigenous peoples. In that connection, he directed the delegation's attention to the Committee's general recommendation XXI on the prevention of racial discrimination in the administration and functioning of the criminal justice system.

4. Ms. GALLART NOSETTI (Mexico) said that elaborating on the reasons for which 9 of 19 states of Mexico in 2001 rejected the text of the Constitutional amendment regarding the rights and culture of indigenous peoples would take too much time. The Mexican delegation gave Committee members the "White Book on the Constitutional Reforms of 2001", which detailed the amendments adopted, the position of the federal government, and the reservations expressed by various parties objecting to the reforms. The data of the 2000 census put the number of indigenous groups in Mexico at 62, with indigenous peoples numbering approximately 13 million. In conducting the census, State authorities used, first, the criterion of language in order to ascertain whether a given individual belonged to a particular indigenous group, as well as other criteria, such as culture. Article 2 of the Constitution clearly recognized the cultural and ethnic diversity of Mexico. Spanish and indigenous languages were regarded as universal national languages and had identical status throughout the country. The National Institute of Indigenous Languages, which was founded at the request of indigenous peoples and which employed, specifically, representatives of those peoples, was making an effort to

encourage the use of local languages and to protect, in particular, 20 languages that were on the brink of extinction.

5. The federal government was making a considerable effort to provide assistance to indigenous peoples, particularly to improve and develop infrastructure (electrification and road and housing construction) in regions whose residents consisted primarily of indigenous people. Measures were also being taken in health care, specifically to create primary medical care centres and to encourage methods of traditional medicine. The Mexican delegation acknowledged that forced sterilization existed, but that it was not a systematic practice of State health care facilities.

6. In education, the State had initiated 6,248 projects in 24 federal entities to encourage representatives of indigenous groups to enroll in universities. There were also a number of shelter facilities where children from isolated regions were provided meals, housing, and medical assistance and thanks to which the children were able to continue their schooling. These facilities, which, in most cases, were funded by the private sector, also provided the children with scholarships. Furthermore, programmes were under way to expand the opportunities of indigenous communities, particularly in the field of occupational training.

7. At the initiative of the National Commission for the Development of Indigenous Peoples, some 30 studies had been performed to encourage the social and cultural rights of indigenous communities, and a study had been conducted on discrimination against indigenous women.

8. A small number of states recognized traditional methods for settling disputes between indigenous peoples, and efforts were being made to reconcile those methods with the federal judicial system. The so-called assistant judge (*juez auxiliar*) was empowered to decide all matters in his jurisdiction pertaining to representatives of indigenous peoples and was officially regarded as a representative of the local judicial system. It was noteworthy that no other such position existed at the federal level.

9. Indigenous had their own advisory system. Their problems with access to justice stemmed primarily from the fact that indigenous peoples often were not aware of their fundamental rights with regard to access to justice and did not always have a command of Spanish, which was the only language used in the courts.

10. Ms. Gallart Nosetti then said that the Mexican government had adopted measures to educate and inform indigenous peoples, especially women, so that that group of the populace would have truly equal opportunities. For example, a scholarship programme had been developed for indigenous schoolgirls to enable them to continue their schooling, and there were programmes for training women living in rural areas and for giving them access to education.

11. The Mexican representative acknowledged that indigenous women, more often than other women, encountered problems involving access to basic medical care, primarily because they did not speak the national language. To handle that problem, the government had ordered the training of midwives and nurses who spoke indigenous languages. Furthermore, several information campaigns had been conducted among medical workers, and a series of nationwide-radio programmes addressing reproductive health had been broadcast over nationwide radio in

indigenous languages. In addition, local networks were providing information to women on family planning and reproductive health.

12. The Mexican representative also pointed out that several information programmes had been set up for employees of judicial bodies with regard to cultural diversity, but that nothing was yet known of the effects of those programmes. Efforts had been under way for several years to improve the language training of lawyers and to provide them the means to defend the interests of representatives of the indigenous peoples. At present, working in the regional courts were 17 lawyers who spoke indigenous languages. The government, by the way, acknowledged that there was much yet to be done in that area.

13. Mr. PILLAI expressed satisfaction over the very detailed replies given by the Mexican delegation and asked for a clarification of forced sterilization of indigenous women. Although the Mexican delegation said that Mexico did not have a policy of forced sterilization, it would actually be interesting to find out whether such sterilizations were performed by employees of health care authorities. In addition, Mr. Pillai asked the delegation to explain under what circumstances that issue had been examined by the National Commission for the Development of Indigenous Peoples.

14. Mr. BOYD also wanted to know whether forced sterilization was conducted without official authorization and whether Mexican officials had anything to do with such sterilizations.

15. Mr. YUTZIS felt that, although it was always difficult to theoretically and definitively assert that a given State practiced institutional racism, no one could deny the presence of residual elements indicating racist or discriminatory practices. For that reason, it was important to know to what extent Mexico was tracking the practice of forced sterilization of indigenous women, which, although not a result of official State policy, seemed nonetheless entirely real.

16. Ms. JANUARY-BARDILL considered it interesting that Mexico regarded itself both as a country of origin of economic migrants and a country that accepts migrants, since that meant that Mexican society was in constant motion, and its constituent elements were very mobile. Consequently, she was interested in learning of the measures that the Mexican government was taking to correct certain discrepancies and to protect the communities that were the most vulnerable to discrimination as a result of the high level of mobility of their members. Furthermore, she felt that not enough information had been provided by the State party regarding the status of persons of African descent and, more specifically, about the effects of the discrimination against them in education and housing for their level of poverty.

17. Ms. DAH was convinced that the government of Mexico was committed to integrating the indigenous peoples into the political, social, and cultural life of the country, but she was interested in learning whether the government was monitoring private and State mass media in Mexico that were broadcasting programmes that contained racist themes or racist statements.

18. Ms. GALLART NOSETTI (Mexico) noted that the Mexican delegation was unable to provide the Committee with statistical data on the level of representation in terms of indigenous persons in local State bodies. She said that Mexico did not have a policy of forced sterilization; actually, the government was quite alarmed by

the cases of forced sterilization identified by the National Commission for the Development of Indigenous Peoples. In fact, several complaints had been filed by indigenous women who had undergone forced sterilization, whether permanent or temporary, without their consent. An investigation of the complaints was conducted, and the guilty parties had been punished. The government of Mexico acknowledged such a practice still existed and that it must be, in no uncertain terms, stopped. More information on that subject would be provided to the Committee later.

19. As for racial discrimination being practiced by the mass media, Ms. Gallart Nosetti said that most of the mass media in Mexico were privately owned, and she acknowledged that those media often broadcast racist or offensive statements against representatives of indigenous peoples. At the moment, the National Commission for the Development of Indigenous Peoples was conducting a thorough investigation of the situation and would soon submit a report to the government and suggest various measures that could resolve the problem.

20. Ms. MORALES (Mexico) said that the National Council for the Prevention of Discrimination (CONAPRED) was studying three proposals that had been presented to it by the Mexican Association of African Descendants—black Mexicans—regarding the development of a State policy to improve the status of that group of the population, namely: identify African descendants as a separate group in the forthcoming nationwide census, which was slated for 2010; accelerate the procedure for recognizing African descendants as a separate ethnic group at the federal level and in the states where they constituted a considerable portion of the population; and create appropriate mechanisms for assessing the actual status of African descendants.

21. The Mexican representative pointed out that the People's Commission for Research for Combating Discrimination had not been a standing body and no longer existed. Nonetheless, it had successfully done two important things: first, it had published a book titled *Discrimination in Mexico: Toward a New Culture of Equal Rights* (*La discriminación en México: por una nueva cultura de la igualdad*), the first systematic study of the practice of discrimination and social exclusion in Mexico; and, second, it had prepared a draft law on the prevention and elimination of discrimination, which was adopted as law in June 2003. CONAPRED was founded under Article 16 of that law for purposes of providing overall coordination of the policy of the Mexican government in combating discrimination and encouraging equal opportunity and treatment. One of the areas of its activity was oversight of the mass media to avert discriminatory practices.

22. The Mexican representative explained that there were three fundamental differences between CONAPRED and the National Human Rights Commission. The National Council was authorized to review complaints by citizens or organizations of alleged acts or manifestations of discrimination on the part of State employees or private individuals. The Commission addressed only human rights violations committed by federal State employees. The National Council could affect the content of State policy or programmes of the government or any other State body by requiring that they include measures in the interests of certain individuals or groups. The Commission did not have that authority: it could only generate recommendations with regard to specific cases of human rights violations. And finally, the Council could study prevailing laws and regulations for combating discrimination and, in appropriate cases, propose amendments. The activities of

those two bodies, which were called upon constantly and systematically to collaborate, were thus complementary.

23. Vulnerable social groups were identified not on the basis of arbitrary criteria, but on the basis of the precise criteria called for in the Constitution itself and generally in anti-discriminatory law, specifically in the 2003 law to prevent and eliminate discrimination. The complaints received by CONAPRED since its founding had pertained primarily to discrimination based on ethnic origin, age, and sex. The two spheres in which such discrimination was most manifest were place of work and family. To date, not a single complaint of racial discrimination had been received by State authorities. In discrimination cases, CONAPRED could refer the complaint to the courts if the parties rejected reconciliation. As for discrimination in education, CONAPRED had entered into an agreement with institutions of the state of Oaxaca to combat illiteracy. It encouraged the adoption of bilingual school programmes in the state of Hidalgo and in other regions of the country that are home to numerous indigenous communities.

24. Mr. ABOUL-NASR expressed surprise that the Mexican delegation included no representatives of the minorities.

25. Ms. GONZALES (Mexico) said that the Mexican delegation consisted of government representatives who were the most competent representatives in terms of the matters under consideration, in keeping with the request made by the Council in its invitation. She took note of Mr. Aboul-Nasr's comment, which would be taken into consideration for future Mexican delegations.

26. Mr. LINDGREN ALVES understood that the first representative to speak on behalf of the Mexican delegation was from a minority. He also noted that by comparison with the Old World, the problem of ethnic affiliation in the countries of the American continent was of a different nature, and the question was not of affiliation to a given minority, since every person was, to some extent, of mixed race. Similarly, that was probably the case with the members of the Mexican delegation.

27. Mr. HERSHBERGER REYES (Mexico) said that the situation described in paragraph 112 of the report, where it said that "in some regions, indigenous communities do not have a legally vested right of land tenure", could create the impression, as certain experts have noted, of the complete absence of guarantees of the right to land tenure in those indigenous communities. Meanwhile, although there are such cases, they are more the exception than the rule. As for registration of title, Mr. Hershberger Reyes clarified that the deeds of indigenous peoples to land that were made out by the king of Spain (so-called lawful land) were officially recognized as valid before 1992 by a presidential decree. In doing so, the State did not grant land to those indigenous communities, but merely recognized their rights to the land that they had always occupied. Titles to land the rights to which had never been confirmed by the king of Spain (so-called de facto plots) could be officially registered beginning in 1942 within the framework of a procedure for recognition and confirmation on the basis of a decision that, prior to 1992, was taken by the President of the Republic, and later, land judges.

28. As for legally vested rights and the question of whether the new land law encouraged privatization of land, Mr. Hershberger Reyes clarified that peasants and indigenous people had the rights to 52% of the territory of Mexico and, accordingly,

freely decided at general meetings of agricultural or land associations (*ejidos*) questions pertaining to the purpose and use of their lands, as well as to the rights to use them. Plots allocated on the basis of the new law kept the status of being collectively owned and could not be sold. They could be deprived of that status in three instances: via decision to expropriate in the public interest, decision of a local assembly to terminate the collective ownership, and in connection with a concession made to any commercial firm, which was not a sale.

29. Mr. Hershberger Reyes said that the government of Mexico had managed to settle 10 of 14 of the most serious agrarian conflicts that had been recorded and that the four remaining conflicts should be settled in 2006. All those conflicts involved indigenous communities. A total of 130 cases that could have resulted in conflicts had also been reviewed; 130 of them had been settled in 2005, and the rest should be settled in 2006. In all cases, the conflicts were settled by reconciliation in the interests of the indigenous peoples on the basis of the adopted ILO Convention No. 107 on Indigenous and Tribal Populations, which was superseded in 1989 by Convention No. 169 on Indigenous and Tribal Peoples.

30. Ms. GONZALES (Mexico) said that, although indigenous peoples did not make up a majority of the population of Mexico, they did constitute a majority in a number of states.

31. Mr. SHAHI asked what percentage of the Mexicans who immigrate annually to the United States of America were indigenous people.

32. Mr. EWOMSAN was interested in learning whether persons of African descent had access to land tenure.

33. Mr. GOMEZ LEKUONA (Mexico) said that, after Mexico and the United States signed a memorandum of understanding in February 2005 on the safe, orderly, dignified and humane repatriation of Mexican nationals, the number of returnees rose by 5.3% over the figure for 2004. Furthermore, to ensure both the dignified and safe treatment of migrants, a memorandum signed by the ministry of interior and the International Organization for Migration encouraged the use of voluntary repatriation procedures, as opposed to deportation procedures. As to deportation, Mr. Gomez Lekuona noted that Mexico preferred the term “migrant with irregular status” or “undocumented migrant” (*indocumentado*) over the term “illegal migrant”, which equated the person somewhat to a criminal. Moreover, Mexico had proposed to Guatemala closer cooperation with that country in combating human trafficking and smuggling along their common border and was at present awaiting a reply from the Guatemalan authorities. Mexico had also signed a Plan of Action for cooperation in the spheres of migration and consular protection with El Salvador and Honduras, respectively, which called for training specialists capable of detecting false identifications.

34. After allegations that migrants had become victims of abuse, and given the scale of migration, migrant holding centres (*estaciones migratorias*) were inspected to determine whether they were in compliance with health standards, whether there was overcrowding, and whether they were in compliance with standards for services provided to the migrants. In that connection, the representative of Mexico suggested that the Committee members acquaint themselves with paragraphs 91–97 of a document in Spanish that had been disseminated among the meeting participants and that contained the written responses of Mexico to a list of questions to be

discussed, as well as additional information. The document provided new information on programmes for giving official status to migrants from Guatemala, El Salvador, Honduras, Nicaragua, Columbia, and the United States, as well as on a programme geared to giving “non-immigrant” status Guatemalan agricultural workers who come to work in the agricultural associations in the state of Chiapas (articles 116–125). Furthermore, paragraphs 103–113 of that document provided information on the legal status and labour contracts of agricultural migrant workers, both men and women, who come primarily from Guatemalan indigenous communities.

35. Ms. GONZALES (Mexico) said that the adopted ILO Convention No. 169 on Indigenous and Tribal Peoples in independent countries had the same status as other international treaties signed by the President and ratified by the Senate.

36. Ms. Gonzales reported that paragraph 30 of the report being considered was worded poorly. It should be understood that Mexico was striving for universal—not “incomplete”, as was mistakenly indicated—respect for human rights within its borders.

37. As for the complaints filed with ILO by indigenous communities regarding violations of the provisions of the adopted ILO Convention No. 169, the Mexican representative said that the government had responded to all the questions posed to it, and now it was the ILO’s turn to speak out on the issue.

38. Ms. Gonzales noted that a number of reforms involving human rights would very soon be approved by Congress, but that process was being slowed by the fact that the country was in an election campaign. But the reforms on which a consensus had been achieved would be approved immediately after the presidential elections, which were slated for July 2006.

39. And finally, Ms. Gonzales, suggested that Mr. Asatashvili, who represented the National Human Rights Commission, speak about the functions of that Commission.

40. Mr. ASATASHVILI (National Human Rights Commission) said that the National Human Rights Commission was a State body that was independent in terms of management and budget and was endowed with legal standing and adequate resources. As for its jurisdiction, the Commission could not hear complaints regarding the decisions of electoral bodies—the Federal Electoral Commission and the Electoral Tribunal of the Judicial Branch of the Federation (*Tribunal electoral del poder judicial de la Federación*)—or court decisions pertaining to a labour dispute or requiring interpretation of the Constitution.

41. Mr. GONZALES (Mexico) said that the dialogue between the government and the Zapatista National Liberation Army (EZLN) had reached an impasse, but it would be wrong to say it had come to an end.

42. The governments that had come and gone had shown ever-increasing interest in the indigenous peoples, which, ultimately, resulted in the establishment of the National Institute for Indigenous Affairs. On 15 August 2001, a new Article 2 was incorporated into the Constitution that contained a clear-cut definition of indigenous peoples and communities and that acknowledged that those groups were among the most important constituents of the country’s population.

43. Mr. CALI TZAY (Rapporteur on Mexico) welcomed the openness of the delegation, which had made it possible for the Committee members to have a

candid, constructive dialogue with it. As to family planning, which amounted to forced sterilization of representatives of indigenous peoples, he noted that, according to reliable sources, the absence of complaints on the part of members of indigenous communities stemmed primarily from the fact that they feared reprisals and, specifically, the shutdown of access to medical services, which, in itself, explained the substantial growth in the morbidity rate in the states of Chiapas, Guerrero, and Oaxaca.

44. Mr. Cali Tzay was troubled that Mexico regarded indigenous peoples as “vulnerable”, as a result of which their status could be lowered to the status of a “minority”, which should not be confused with the status of an “indigenous people”.

45. As the Rapporteur understood it, the explosive situations (*focos rojos*) resulting from the extremely bitter agrarian conflicts referred to by paragraph 120 of the report under consideration were found primarily in regions with indigenous people because the authorities consciously refused to smooth them over early on precisely because they involved indigenous peoples.

46. The CHAIRPERSON said that the Committee had completed consideration of the fifteenth periodic report of Mexico.

47. *The delegation of Mexico withdrew.*

The meeting rose at 1 p.m.