



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

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## Committee on the Elimination of Racial Discrimination Seventy-eighth session

### Summary record of the 2054th meeting

Held at the Palais Wilson, Geneva, on Wednesday, 16 February 2011, at 10 a.m.

*Chairperson:* Mr. Calí Tzay  
*later:* Mr. Kemal

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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)*

*Seventeenth to twentieth periodic reports of the Plurinational State of Bolivia*  
(continued) (CERD/C/BOL/17-20; CERD/C/BOL/Q/17-20;  
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1. *At the invitation of the Chairperson the delegation of the Plurinational State of Bolivia took places at the Committee table.*
2. **The Chairperson** invited the Committee members who, owing to time constraints, had not been given the floor during the previous meeting to put their questions to the Bolivian delegation.
3. **Mr. Ewomsan**, stressing the exemplary nature of the changes brought about in the State party since the election of President Evo Morales, asked whether the Bolivian Government would have the means to carry out its anti-capitalism policy and how it intended to convince Bolivian and foreign supporters of capitalism of the soundness of its ideas.
4. **Ms. Copa Condori** (Plurinational State of Bolivia) said that, in 2003, indigenous Bolivians would not have dreamt for a moment that their country could one day be governed by one of their own. The process of change set in motion by Evo Morales' assumption of the presidency was only just beginning. The importance of the leading figures in the fight for the rights of Bolivia's indigenous peoples was being increasingly recognized, and symbolic representations of traditional indigenous institutions were starting to be integrated in public institutions, such as the Faculty of Law of San Andrés University, whose walls now sported a mural portraying the administration of indigenous justice. In August 2008, the President had founded three indigenous universities, in the departments of La Paz, Cochabamba and Chuquisaca, where the languages of instruction were Aymara, Quechua and Guaraní, respectively.
5. The changes taking place across the country were translating into changed attitudes to the ancestral practice of chewing coca leaves. Once frowned upon and discriminated against, the practice was now perfectly tolerated. The fight to have it recognized was closely linked to the fight for indigenous peoples' rights and the entry into politics of President Morales, who had once been head of a coca-leaf producers' union. The President had since taken the fight into the international arena, demanding that the United Nations Economic and Social Council should amend the 1961 United Nations Single Convention on Narcotic Drugs to decriminalize coca-leaf chewing, it being an ancestral tradition widespread among the indigenous peoples of several Latin American countries, including Bolivia, and did not pose a danger to health. She hoped that the recent talks on the subject would achieve the anticipated outcome.
6. In 2010 the Legislative Assembly had elected nine women, several of them indigenous members of the electoral body, a situation unprecedented in the history of the country and the region.
7. **Mr. Cárdenas** (Plurinational State of Bolivia), informing the Committee that he belonged to the Aymara people, said that the ancestral principle "*Ama llulla, ama qhilla, ama suwa*" (Be neither lazy, liar nor thief), now written into the Constitution, imposed specific obligations on the State. The injunction not to be lazy must be interpreted as the State's obligation to enable all Bolivians to work for a living through work, even providing them with land, technical support and loans.

8. As far as an intercultural society was concerned, it might be a subtle attempt to assimilate indigenous peoples, and should be rejected.
9. The educational legacy of the colonial era, compounded by its various prohibitions and prejudices, prevented many young indigenous people from acknowledging themselves as such. Fortunately, thanks to the new Education Act, the Vice-Ministry for Decolonization ensured that values and principles that could help children rediscover and reclaim their identity were incorporated into school curricula, from primary school onwards.
10. To make racism at school a punishable offence, all educational establishments, as well as sports, folkloric, cultural or neighbourhood associations, were required to incorporate the provisions of Act No. 45 of 2010 (Act on the Elimination of Racism and All Forms of Discrimination) into their internal regulations. A similar review of the laws and internal regulations governing the armed forces and the police was under way.
11. As to the durability of the process of change that President Morales had embarked upon, the movement was popular and indigenous and rested on solid foundations, being the fruit of years of internecine struggle. It would therefore not run out of steam and there would be no going back. What was more, it would not end with President Morales.
12. With regard to the promotion of indigenous languages, the Vice-Ministry for Decolonization and the Ministry of Education were setting up eight institutes for indigenous languages and cultures. The only matter that was still pending was whether the institutes would form part of the public university system or be autonomous.
13. In the fight against official racism, Bolivia was concentrating on educating people and was working hard to eradicate the legacy of 500 years of colonialism, which still shaped people's daily lives and actions.
14. On the question of whether the change process set in motion by President Morales had shattered national unity, it had, rather, unmasked the true face of the Bolivian elite, who claimed to be patriots but whose creed was money, which had already pushed it to separatism. Thanks to President Morales, the country's indigenous people had reclaimed their dignity and recognized the power of unity.
15. With respect to the celebration of the International Year for People of African Descent, it was the latter, together with the Government, who needed to decide on the joint action required in order to strengthen their identity, esteem and presence in society. The indigenous cultures of Bolivia had possessed their own myths regarding the original family: Manco Pacac and Mama Ocello were the equivalents of Adam and Eve, the masculine being inseparable from the feminine. In their Weltanschauung, everything was both masculine and feminine in keeping with the principle of duality and complementarity. The indigenous communities' entire political and social structure was based on the principle of the duality of the cosmos, with the universe the macrocosm and humankind the microcosm.
16. The indigenous peoples distinguished Western democracy from community democracy. For them the former was corrupt enabling people, as it did, to be re-elected several times, unlike community democracy in which people could be elected to leadership positions only once and power was viewed as a means of community service.
17. As to its vision of the future, the Plurinational State of Bolivia would draw inspiration from its indigenous peoples' philosophy of life to save the planet, threatened by climate, food and financial crises, so as to be able to guarantee the indigenous communities' right to food and water. One need not be of indigenous stock to be so defined: one had only to adhere to indigenous philosophy.

18. **Ms. Paco Durán** (Plurinational State of Bolivia) said that some indigenous communities, having assimilated colonial cultural attitudes, did not support women's participation. Nevertheless, in most indigenous communities the principle of male-female duality dictated that they worked in tandem in order to ensure the proper development of the community. The Gender Committee of the Chamber of Deputies was working on integrating the findings of gender equality research in the Chamber's activities with a view to promoting the full exercise of women's rights and to drafting a bill to that effect.

19. While there were four levels of administrative autonomy in Bolivia (indigenous, municipal, departmental and regional), the Constitution conferred certain exclusive powers on the central Government and the fight against racism fell within that remit; its action extended across the whole country, and all autonomous entities, including the local and departmental, were required to participate.

20. Since the passage of the anti-racism Act in 2008, 19 complaints had been filed under its provisions. A report had been compiled by the Ministry of Justice on the racist attacks on indigenous citizens by some students. Under the Act, teaching manuals and syllabuses in the education sector would now include human rights training. The formation of racist organizations was prohibited. The National Committee against Racism and All Forms of Discrimination had been set up in February 2011, with the participation of civil society. Anti-discrimination measures would be assessed by civil society one year after the passage of the relevant new laws and regulations. Institutions and individuals that had committed racist offences prior to the adoption of the new legislation could not be prosecuted under the new Act, which was not retroactive. The Constitution authorized retroactivity only if the State's patrimony was affected by the offence in question.

21. **Mr. Cox** (Plurinational State of Bolivia) said that the Ministry of Metallurgy had consulted the public in 2010 on indigenous peoples' enjoyment of mining profits. From that moment on, environmental impact studies had to be included in all mining project proposals, and the peoples affected by mining projects had to be consulted. Since 2010, the Coro-Coro mining firm had held consultations with the communities living next to its sites to ensure that its activities did not affect their quality of life.

22. Inquiries had been made into the events of September 2008 in Pando. The report submitted by the commission of inquiry had been approved by the Chamber of Deputies in 2009, and charges, including terrorism, murder and criminal conspiracy, had been brought against Leopoldo Fernández, Prefect of Pando at the time of the events, and 26 others. The trial was being held in the court of the sixth district of La Paz. The Government had awarded special compensation to the families of the victims of the massacre.

23. The National Institute of Statistics was preparing the questionnaires for the forthcoming national census. Bolivia had signed, with the other countries of the region, the Andean Charter for the Promotion and Protection of Human Rights, which provided a legal framework for the implementation of rights in the signatory countries and allowed free movement from one to another.

24. The Ministry of Justice had drawn up a draft bill on protection of indigenous peoples threatened with extinction. Meanwhile, the Ministry for Indigenous and Native Peoples' Affairs had been abolished to allow for cross-cutting, integrated and inter-ministerial coverage of indigenous affairs as they were too vast to be handled by a single institution.

25. International Labour Organization (ILO) Convention No. 169 proved instrumental in improving the lot of indigenous peoples, especially where their right to land title was concerned. A number of measures had been taken to implement the Committee's general recommendation No. 23 on the rights of indigenous peoples. The Government had done its utmost to harmonize indigenous and civil legislation so as to render the two jurisdictions equal. To that end, an Act defining the scope of the different jurisdictions had been passed.

Under that Act, indigenous courts were not competent to handle criminal cases or cases involving, among others, crimes against international and human rights law; crimes against humanity; terrorism offences; trafficking in persons; arms or drug trafficking; rape; murder or homicide; or civil cases in which the State was a party, including those involving legislation on labour, welfare, mining, business or agriculture. That Act guaranteed equality between men and women in access to justice and to government posts.

26. Act No. 70 established various criteria for combating discrimination and exclusion, including at the community level, using a participative approach that also took linguistic and cultural diversity into account. The Act went hand in hand with education measures, such as the preparation of new textbooks, indigenous language learning methods, and the adaptation of school syllabuses to the different regions and ethnic groups.

27. As to possible conflict between the fight against drug trafficking and the protection of coca-leaf farming, he invited the Committee to consult Bolivia's report and the supplementary information provided.

28. With regard to the follow-up given to the so-called "black October" events of 2003, both an investigation and legal proceedings were in hand. On 14 February 2011, President Evo Morales had submitted a written statement he had been asked for by the Supreme Court to help move the case forward, which involved allegations of torture, deprivation of liberty, homicide and genocide.

29. As to a code of ethics for journalists, guidelines had been in existence for 25 years but were not respected. Any citizen who felt that the media had offended his or her dignity could file a complaint with the courts, and the journalist in question could be sanctioned with a warning or a fine, but only two such cases had been filed since the ethics guidelines had been published. Journalists who broke the rules enjoyed impunity on the whole. However, the discourse on racism had recently touched off a debate on journalism and its obligation to society.

30. As for concerns about the Guarani people living in the Chaco region, two programmes had been implemented to reduce the incidence of the worst forms of child labour, slavery, forced labour and debt bondage. An inquiry was due to be opened into expropriations and land title rights. A provisional inter-ministerial plan to defend the rights of the Guarani people had been adopted and within that framework, a comprehensive development plan was being prepared with the eradication of forced labour as one objective. Certain obstacles having prevented the conclusion of agreements with the Guarani people, the project had had to be suspended and the funds had been transferred to the Fund for the Development of the Indigenous Peoples.

31. **Mr. Murillo Martínez** said that, according to some sources, Bolivia was heading towards an extreme situation in which the whites of European descent would become victims of racism and racial discrimination, as the indigenous peoples had been before them and invited the delegation to share its views on the matter with the Committee. It would also be interesting to learn why the State party had chosen to adopt an entire array of specific measures in favour of Afro-Bolivians rather than a comprehensive national plan.

32. **Mr. de Gouttes**, noting that Bolivia had received 695 refugees in the last few years — 74 per cent Peruvian and 18 per cent Colombian — said that immigrants, refugees and asylum-seekers reportedly faced myriad obstacles, some relating to access to health services, education and employment. Some, it was claimed, were even subjected to intimidation by the police. The plight of immigrant women and unaccompanied children was particularly alarming inasmuch as many women were allegedly victims of exploitation, and children had been subjected to various kinds of forced labour. He wished to know what role the National Commission for Refugees played in protecting such persons, who were among the most vulnerable.

33. **Mr. Saidou** asked whether anyone had been officially appointed to the position of ombudsman or whether the post had been only temporarily filled. Given that 65 per cent of the Bolivian population was indigenous, he wished to learn whether the Constitution had been translated into the different national dialects so that non-Spanish-speaking indigenous persons could become familiar with the provisions on their fundamental rights.

34. **Mr. Avtonomov** asked why Bolivia had still not accepted the amendments to article 8, paragraph 6, of the Convention on the Elimination of Racial Discrimination, adopted at the fourteenth meeting of the States parties, or the 1954 Convention relating to the Status of Stateless Persons. He also wished to know how the State party intended to ensure coherence among rulings handed down under customary law, especially among the different regions.

35. **Mr. Kut**, noting that the Government of Bolivia often evoked the concepts of communities and collective rights, said that he wished to know more about the protection of individual rights in the State party. He would also appreciate information on the sources of traditional justice and, in particular, whether there were written rules for guaranteeing some coherence in judicial decisions.

36. **Mr. Amir** asked whether the new form of democracy, dubbed “community-based democracy”, pursued by Bolivia, which transcended the notion of democracy generally accepted in the West, was not essentially utopian and whether Bolivia did not risk sinking into autarchy, including refusing assistance from international institutions such as the International Monetary Fund. He wondered what kind of government might emerge from that notion of community-based democracy.

*The meeting was suspended at 12.10 p.m. and resumed at 12.20 p.m.*

37. *Mr. Kemal (Vice-Chairperson) took the Chair.*

38. **Mr. Cárdenas** (Plurinational State of Bolivia) said that Bolivian society was exceedingly complex, with some people suffering from an inferiority complex and others from a superiority complex. That schizophrenia, a legacy of the colonial era, was now disappearing.

39. The revolution set in motion by President Evo Morales was endeavouring to move away from consumerism. The Bolivian people had clearly chosen to build a society that made the most of the best vestiges of the past, but accompanied by the most positive aspects of modernity. They would like access to cutting-edge technology so that their way of life respected the natural environment, even if the means of accomplishing it had still to be clearly identified. That might be seen as utopian, but to Bolivians it was entirely realistic.

40. **Mr. Chávez Beyuna** (Confederación de Pueblos Indígenas de Bolivia) said that in the past Bolivia’s indigenous peoples had not been able to elect their rulers because they could not read or write, which was partly why the Plurinational State of Bolivia was determined to pursue the path of “community-based democracy”; in other words, democracy based on the participation of members of all communities. As to whether the Bolivian project was utopian, the very establishment of a plurinational State showed that it was possible to turn dreams into reality. True, the reform process had its weak points, but the people were determined that it would proceed unhampered. Bolivians were not fleeing modernity; they were simply trying to ensure that it did not cut them off from their ancestral traditions.

41. **Ms. Paco Durán** (Plurinational State of Bolivia) said that it was because Bolivia had begun to reassert its territorial sovereignty over commerce that the country’s resources were no longer controlled by foreign interests. While only 18 per cent of the earnings of the mining and hydrocarbons sectors previously went to the country, it was now the multinationals that received only 18 per cent of the takings. That additional revenue —

which should lawfully always have belonged to the Bolivian people — had financed the various social policies and development programmes for indigenous peoples implemented under Evo Morales.

42. In reply to the question about why non-indigenous persons were excluded from the indigenous justice system, she explained that for over five centuries the indigenous population had had imposed on them a justice system alien to them, which included sanctions, such as the death penalty and imprisonment, that did not exist in customary law. It was therefore not a question of discrimination against non-indigenous persons, but simply the existence of two different systems side by side. The new Constitution of the Plurinational State of Bolivia recognized for all citizens the same rights as those protected in the Universal Declaration of Human Rights. The Bolivian Government was a democratic, communal and participative Government that encouraged and promoted intercultural dialogue.

43. **Mr. Cox** (Plurinational State of Bolivia) said that the Bolivian Government intended to loosen restrictions on access to asylum and to implement a more dynamic integration policy for refugees and asylum-seekers. A supreme decree currently under consideration would allow applicants whose cases were being reviewed by the competent authorities to stay in the country legally for five years, as opposed to the three months in the past. In 2009 and 2010, a huge effort had been made to train immigration officials, and a sweeping overhaul of the procedures for handling asylum applications was under way.

44. The ombudsman would be responsible, *inter alia*, for investigating all complaints of acts or omissions by agents of the State against citizens, as well as for initiating proceedings, as applicable, against the offenders; recommending amendments to laws and regulations; ensuring decent conditions of detention in prisons; and ensuring respect for the nation's multi-ethnicity. The Government was looking into acceding to the 1951 Convention on the Reduction of Statelessness and making the declaration provided for in article 14 of the Convention on the Elimination of Racial Discrimination regarding recognition of the competence of the Committee to receive and consider communications from individuals or groups of individuals claiming to be victims of a violation of any of the rights set forth in the Convention.

45. **Mr. Coraite Cruz** (Confederación Sindical Única de Trabajadores) said that Bolivia had created a direct and participatory democracy, unlike the capitalist system which in the past had deprived the country of profits from the exploitation of its mineral resources and had plunged its people into extreme poverty. Bolivia was determined to build a new world on the basis of a plurinational State wherein all human beings would enjoy the same rights and opportunities.

46. **Mr. Avtonomov** (Country Rapporteur) welcomed the constructive and fruitful dialogue between Committee members and the Bolivian delegation. He recommended the State party to further efforts to establish close cooperation with all civil society organizations and to move forward in the fight against discrimination. He noted with interest the numerous laws enacted to combat racism and all forms of discrimination, as well as the amendments to the Criminal Code. In the concluding observations and recommendations that it would adopt at the end of the session, the Committee would make every effort to indicate new paths that the State party could explore to fulfil the task it had set itself.

47. **The Chairperson**, thanking the Bolivian delegation for the constructive exchange of views that had taken place, said that the Committee's concluding observations on the seventeenth to twentieth periodic reports of Bolivia would be communicated to the State party as soon as they had been adopted.

48. *The Bolivian delegation withdrew.*

*The meeting rose at 1 p.m.*