



International Convention on the Elimination of All Forms of Racial Discrimination

Distr.: General
12 October 2012
English
Original: French

Committee on the Elimination of Racial Discrimination Eightieth session

Summary record of the 2129th meeting

Held at the Palais Wilson, Geneva, on Tuesday, 14 February 2012, at 3 p.m.

Chairperson: Mr. Avtonomov

Contents

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

Combined sixteenth and seventeenth periodic reports of Mexico

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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 (*continued*)

Combined sixteenth and seventeenth periodic reports of Mexico (CERD/C/MEX/16-17; CERD/C/MEX/Q/16-17; HRI/CORE/MEX/2005)

1. *At the invitation of the Chairperson, the delegation of Mexico took places at the Committee table.*
2. **Mr. Negrín Muñoz** (Mexico) said that, since it had presented its previous periodic report in 2006, Mexico had made great strides in the area of human rights, in particular through a constitutional reform in June 2011 which included recognizing human rights and related guarantees, placing international human rights instruments to which Mexico was a party on a par with the Constitution, ascribing to all government bodies the obligation to prevent, punish and redress human rights violations, strengthening the National Human Rights Commission's investigative powers and including human rights education in school curricula. The reform also prohibited discrimination based on sexual orientation and made the Convention an instrument immediately enforceable by judges.
3. Mexico had adopted the Federal Act on the Prevention and Elimination of Discrimination, as well as general laws on social development and gender equality. Several State bodies were responsible for protecting vulnerable groups, the main one being the National Council for the Prevention of Discrimination and the National Commission for the Development of Indigenous Peoples.
4. Local anti-discrimination laws had been drafted in most of the 32 federated states, prohibiting discrimination on grounds of race, language, skin colour, nationality or ethnic origin. Various inter-institutional mechanisms had been set up, including the Intersectoral Commission to Prevent and Punish Trafficking in Persons and the National Campaign for the Cultural Diversity of Mexico. The country had also strengthened legislation for protecting the rights of migrants and refugees by recognizing their fundamental rights, irrespective of their status.
5. As part of the International Year for People of African Descent, Mexico had organized a series of events, including a dialogue between the authorities and civil society, and policy consultation.
6. The National Council for the Prevention of Discrimination currently chaired the Ibero-American Network of Agencies and Organizations against Discrimination, a forum for international cooperation in combating all forms of discrimination, initiated by Mexico in 2007. Programmes and budgets in the area of health and education services for indigenous peoples had been strengthened and efforts were being made to increase their participation in politics. Tools for better assessing the issue of discrimination had also been designed for consolidating protection mechanisms.
7. Mexico had taken anti-discrimination measures, following several rulings of the Inter-American Court of Human Rights and had been very active in consultations with United Nations bodies, including encouraging the adoption of principles governing the functioning of international organizations for combating racial discrimination, xenophobia and intolerance.
8. Mexico was a multicultural federal State with a population of 112.3 million in 2010, 52 per cent of them women. Nearly 20 per cent of its 2,450 municipalities were governed in keeping with their own practices and customs. The sheer size of the territory made it very difficult to provide public services and infrastructure across the country.

9. Despite progress on the legislative front, Mexico was aware that much remained to be done to improve public policy and judicial mechanisms in order to ensure that the rights of all population groups were upheld and effectively combat racial discrimination, the main challenge being the persistence of biased mindsets and cultural obstacles. The 2010 Second National Survey on Discrimination in Mexico, provided an overview of the situation and a better idea of which persons were particularly vulnerable to discrimination, thereby enabling decision makers to refine public policy. All too aware that its strategy for preventing and eliminating racial discrimination needed further strengthening, Mexico was experiencing difficulty in formulating political and social objectives at all levels of government, particularly in the municipalities; however, it intended to continue building up institutional capacity to that end.

10. **Mr. Durán Ortégón** (Mexico) said that Congress was examining a bill on consultation with indigenous peoples and communities, based on the principles of the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169) and the United Nations Declaration on the Rights of Indigenous Peoples. There were several organizations responsible for promoting and protecting the rights of indigenous peoples, in addition to the National Commission for the Development of Indigenous Peoples, such as the Special Indigenous Affairs Unit of the Office of the Attorney-General of the Republic and the Directorate-General for the Education of Indigenous Peoples. Those entities promoted the social and educational development of indigenous peoples and facilitated their access to health care, while championing their linguistic and cultural diversity. The federal budget for indigenous affairs had risen more than 149 per cent in the six years from 2006 to 2012.

11. In recent years, the Supreme Court had issued rulings recognizing indigenous rights in the administration of justice, including the right to interpretation and translation services and the right to use indigenous legal systems in internal litigation. The Programme to Promote Agreements in the Area of Justice aimed to build capacity among indigenous populations, particularly by offering advice and through counselling and support for settling land disputes, in cooperation with civil society organizations.

12. The International Year for People of African Descent celebrated in 2011, had presented the opportunity for numerous activities for promoting the rights of Mexico's 450,000 inhabitants of African descent and to foster inter-community dialogue. A forum had been held in 2011 to assess progress made since the adoption of the Durban Declaration and Programme of Action, and a handbook had been prepared on State actions to combat discrimination and promote equality and the integration of Mexico's population of African descent. The handbook focused on recognition of cultural diversity and realization of the right to non-discrimination with a view to promoting the participation of Afro-Mexicans in the design of public policies. Official constitutional recognition of that group was under consideration.

13. Mexico assigned particular importance to protecting the rights of migrants and had decided in 2008 to decriminalize undocumented migration, as part of amendments to the Population Act. Under the Migration Act of 2011, the authorities were required to respect the rights and dignity of migrants and combat discrimination. The National Institute for Migration had been running the southern border migration programme since 2007, regularizing the situation of many border workers from Guatemala and Belize. Steps had also been taken in the State of Chiapas to facilitate family reunification.

14. With a view to protecting the rights of Mexican migrants, the Government had established a platform dedicated to assisting indigenous migrants by providing volunteer interpretation services and defending and raising awareness of the rights of Mexicans living abroad. Mexico condemned the abuses perpetrated against migrants transiting through its territory, which had been attributed to groups with links to organized crime, and asserted that the perpetrators had been or would be prosecuted. Some 10,000 workers from Central

American countries had been regularized in 2008–2011, pursuant to the migrant regularization programme.

15. Mexico was determined to protect the rights of asylum seekers and refugees and, in that connection, had enacted the Refugees and Subsidiary Protection Act in line with relevant international norms, including provisions to grant refugee status for reasons of gender-based violence. Mexico actively promoted the Mexico Declaration and Plan of Action to Strengthen International Protection of Refugees in Latin America and, at the national level, took steps to raise awareness among the population of the situation of asylum seekers and improve mechanisms for filing discrimination complaints.

16. The Director-General for the Protection of Human Rights provided free advisory services to all victims of violence, thereby ensuring their access to justice.

17. Regarding follow-up to the Committee's recommendations, the latest census had not yielded specific data on the population of African descent, but such data would be gathered during the next census, slated for 2015. In 2011, the population of African descent had been directly consulted with a view to greater consideration of its needs in public policy. Pursuant to the strategy to train and accredit interpreters of indigenous languages for the judicial system, 444 interpreters had been trained since 2007 in order to meet the needs of 27 indigenous peoples.

18. Indigenous peoples' right to prior consultation had been incorporated in the Constitution and was applied in the areas such as land rights and environmental issues. The State of Potosí had adopted a law on consulting indigenous communities, in keeping with relevant international norms, and the authorities hoped to see that practice spread to the rest of the country. Indigenous peoples were broadly consulted on a variety of matters, such as recognition of sacred sites and natural resources, and no infrastructure project requiring expropriation could be carried out without their consent. Moreover, land laws recognized indigenous peoples' right to retain their land: in the region of Huasteca, over the previous 6 years, 50 agricultural disputes had been successfully resolved in favour of members of the Teenek, Nahuat and Pame ethnic groups, among others, who had been granted official land titles.

19. The authorities were carrying out a variety of actions in the area of the sexual and reproductive health of indigenous women to prevent maternal mortality: provision of prenatal care, awareness-raising workshops on sexual health, and research into traditional medicine. The Office of the Attorney-General had received no record of complaints of forced sterilization. In order to ascertain the situation of indigenous women, they had been consulted and allowed to describe the difficulties they faced and submit proposals.

20. Regarding the Committee's concern about the right of indigenous peoples to elect political representatives, electoral districts had been redrawn with a view to broadening indigenous participation at the local and federal levels alike. In a recent decision, the Electoral Judiciary Tribunal of the Federation had established a precedent by both recognizing the right of the Cherán indigenous community, in the State of Michoacán, to organize elections according to ancestral customs, basing its decision directly on the provisions of ILO No. 169 and the criteria set forth in the United Nations Declaration on the Rights of Indigenous Peoples.

21. Various instruments had been designed to combat the use of discriminatory stereotypes and rhetoric concerning indigenous peoples in advertising and the media. The National Council for the Prevention of Discrimination had launched awareness-raising programmes against stereotypes and prejudices and defended victims of racial discrimination in the media on an ongoing basis.

22. The Government of Mexico was fully aware that it needed to continue its efforts to meet its obligations under the Convention and that, despite legislative and judicial reforms, much remained to be done, in particular to provide indigenous peoples with effective access to justice and to formulate and implement measures for victims of racial discrimination.

23. **Mr. Murillo Martínez** (Country Rapporteur), welcoming the diversity of the high-level delegation, noted that for several years the Government of Mexico had spared no effort in combating drug trafficking and confronting related violence. To that end, the army conducted operations in the federated states, which appeared to be causing some tension between the central Government and local authorities, and there were allegations of human rights violations during those operations. The delegation might wish to comment on that allegation and say whether the San Andrés Accords of 2004, meant to appease the indigenous revolts in Chiapas, had had any practical results.

24. The delegation's presentation had highlighted the adoption of a number of plans and programmes to combat racial discrimination and promote and protect indigenous culture. However, the report did not clearly state whether they had had a tangible outcome, in particular the National Programme for the Prevention and Elimination of Discrimination for 2006–2010. According to a report on the situation of indigenous women in the States of Chiapas, Guerrero and Oaxaca by the Mexican branch of the Office of the United Nations High Commissioner for Human Rights, indigenous women were allegedly subject to multiple discrimination and could not exercise their rights, including land rights, on a par with men. It would be useful to know whether the Government had taken affirmative action to counteract those inequalities and if, in so doing, it had based itself on general recommendation No. 32 on the meaning and scope of special measures in the International Convention on the Elimination of Racial Discrimination (CERD/C/GC/32).

25. In another report published in 2008, the Mexico office had stressed that discrimination was structural and pervasive in Mexican society and that programmes, policies and laws benefiting some of the most underprivileged groups in the capital did not lessen inequalities because they did not address the root causes. The delegation might comment on that assertion and on an NGO report noting that in 2009, only 8 per cent of the 406 indigenous women in detention had had access to an interpreter and that the relevant law was hardly ever applied in rural areas. Additional information on the Second National Survey on Discrimination in Mexico would be useful.

26. Regarding minorities and their culture, NGOs had reported several cases of registrars refusing to register individuals under their indigenous names. Moreover, Mexicans of African descent seemed to remain an "invisible" minority whereas other non-indigenous minorities, such as Jews, were officially recognized as ethnic groups. The State party should therefore promote the idea that persons of African descent in Mexico were a minority ethnic group in their own right.

27. He would like information on the cases of José Trinidad de la Cruz, a human rights defender who had been tortured and murdered by paramilitaries during a land dispute; José Ramón Aniceto and Agustín Cruz who had been arrested and arbitrarily detained owing to a dispute over access to water; and Hugo Sánchez, whose case was before the Supreme Court.

28. He enquired how the State party had followed up on the recommendations of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression in the report on his 2010 mission to Mexico (A/HRC/17/27/Add.3), and what had happened to the members of the Tarahumara community who, in 2011, had threatened mass suicide, faced with the drought that had deprived them of any means of subsistence and left them starving.

29. Information on progress made with regard to maternal mortality and sexual and reproductive health among indigenous women and to what extent the cultural specificities of female indigenous patients were taken into consideration would be useful. He also wished to know whether the 2010 census had uncovered a significant gap in life expectancy between the indigenous and the general population.

30. Regarding the hundreds of migrants in an irregular situation who, according to the media and some NGOs, had allegedly been massacred by armed gangs with the complicity or tacit consent of the security forces, the delegation was asked to provide information on any prosecutions and convictions of police officers for those acts and say whether the Government had taken steps to ensure that such violations did not recur.

31. Statistics on the number of and follow-up to complaints of racial discrimination and on the specific application of relevant legislation would be welcome given that, from information submitted to the Committee, discrimination towards indigenous persons was widespread, especially with respect to access to public places, and very few victims dared to file complaints.

32. In the report on his 2010 mission to Mexico (A/HRC/14/25/Add.4), the Special Rapporteur on the right to education had noted that barely 1 per cent of indigenous students who had completed primary education went on to university, compared with 17 per cent of the general population. He wished to know if the situation had changed and measures taken to encourage indigenous persons' access to tertiary education and would like statistics on access to health services by the indigenous and the Afro-descendant population.

33. The Committee had been informed that the State of Sonora had allegedly built a tourist centre in the Yaqui River region without prior consultation with the interested indigenous communities. He would like to know how the Government went about obtaining the free, prior and informed consent of indigenous peoples and communities, with a view to avoiding conflict stemming from their opposition to the exploration and exploitation of open-pit mines, before authorizing the launch of projects that might damage their interests. What mining projects had the Ministry of the Economic Affairs authorized over the previous six years and which had been problematic? He wondered why, given the mining industry's considerable profits, the communities living in mining areas posted very high rates of marginalization, poverty, malnutrition and unemployment. He also wished to know whether the murders and human rights violations allegedly committed during demonstrations against the exploitation of natural resources located on lands inhabited by indigenous communities had been investigated.

34. **Mr. Calí Tzay** noted that the First National Survey on Discrimination in Mexico, conducted in 2005, had revealed that 43 per cent of respondents believed that indigenous people would always face social restrictions because of their "racial" characteristics and that 40 per cent would be willing to form a group with others to lobby against allowing a group of indigenous people to settle near their community. That attitude was extremely worrying, demonstrating as it did that Government action to combat discrimination against indigenous peoples was ineffectual.

35. He expressed surprise at some Mexican officials' belief that indigenous peoples did not seek to escape poverty because the concept supposedly did not exist in their world view and that they sought, instead, merely to provide for their daily needs. That anthropological notion had been completely discredited in the 1990s and the fact that the Mexican authorities continued to think that some people enjoyed poverty was indicative of a paternalistic view of the role of the State. It was alarming that the Mexican authorities could feel that indigenous peoples were poor and marginalized mainly because of the prevalence of alcoholism, particularly given the now widespread knowledge that countries such as Canada and the United States of America had for years pursued a policy of

encouraging alcoholism among indigenous populations for the purpose of marginalizing them.

36. The delegation could perhaps comment on information that a Honduran national had allegedly been expelled from Mexico on account of his race, and on the fate of the indigenous persons arrested during demonstrations against mining activities on their ancestral lands without prior consultation.

37. **Mr. de Gouttes** said that the periodic report under consideration lacked concrete data on the implementation of the many legislative and institutional measures taken to promote indigenous rights, although by and large, it was very honest. Analysis of the living conditions of indigenous individuals, peoples and communities revealed that, despite the efforts and progress made in recent years, the prevalence of discrimination showed that significant gaps in well-being and access to basic services had not been bridged. Moreover, ignorance of the Act on the Linguistic Rights of Indigenous Peoples among not only the population, including speakers of those languages, but also the authorities, hindered the elimination of discrimination, since ignorance of those rights entailed a failure to uphold them. The State party should take all necessary measures to deal with the situation.

38. He asked if, following the constitutional reform of 2011, citizens could assert their rights by directly invoking the provisions of the treaties ratified by Mexico. He also wished to know why the Federal Act on the Prevention and Elimination of Discrimination explicitly prohibited only ethnic or national origin, and not race, as grounds for discrimination, the status of the bill to consult indigenous peoples and communities; and the results of the specialized courts set up to ensure that traditional indigenous methods of conflict resolution were respected.

39. Surprised that only six complaints had been filed for discrimination in 2004–2010, he recalled that according to Committee doctrine, as defined in general recommendation No. 31 on the prevention of racial discrimination in the administration and functioning of the criminal justice system, the absence or scarcity of complaints of racial discrimination should not be seen as positive and could be the result of the victims' lack of awareness of their rights, the fear of reprisals or a lack of confidence in the police and judicial authorities. He therefore requested data on the number of complaints, prosecutions and court decisions relating to racial discrimination.

40. He also requested information on the results, scope and effects of the training in basic indigenous rights regarding public security which the Human Rights Directorate offered to civil servants, particularly police officers.

41. **Mr. Diaconu** welcomed the constitutional recognition of the general rights, collective rights and right to self-determination and autonomy of indigenous peoples. Mexico should be applauded for its policy to revitalize indigenous languages and cultures through the Programme for the Revival, Strengthening and Development of National Indigenous Languages.

42. Observing that, according to the report, the State was obliged to set up mechanisms for reparation and the promotion of the rights of persons belonging to historically marginalized and discriminated groups, he asked what measures had been taken in that connection. He also wished to know why certain Mexican states had not yet criminalized acts of discrimination on grounds of ethnic or national origin and whether the Criminal Code was binding on all the federated states, or whether each had its own criminal legislation. He also enquired why, since 2001, only 15 of the federated states had carried out local constitutional reforms and promulgated laws on indigenous rights and cultures.

43. Noting that persons of African descent felt isolated from political and social organizations and believed that they were not entitled to government programmes, he asked

what steps had been taken to change that perception and integrate them into Mexican society. Given that both the National Council for the Prevention of Discrimination and the National Human Rights Commission were empowered to receive and investigate complaints for human rights violations, he wished to know how that power was shared.

44. **Mr. Thornberry** said that the murder of human rights defenders, including that of Hugo Sánchez, demonstrated that the police equated ethnicity and linguistic identity with criminal behaviour. He asked if the opinion, held by nearly one third of Mexicans, that “the only thing indigenous people could do to escape from poverty was to not behave like indigenous people” resulted from cultural or structural factors or both, if norms had been issued to prohibit racial and ethnic profiling, if both federal and local police were trained in human rights and if women from ethnic minorities suffered multiple discrimination.

45. Since Mexico had made the declaration under article 14 of the Convention and, in so doing, had accepted the individual complaints procedure, one might well wonder why civil society had not yet submitted any communications to the Committee. It would be interesting to know whether the State party refused to use the term “race” because it did not wish to give credence to theories that acknowledged the existence of several human races and, if so, what ground for discrimination it had defined to punish acts usually described as “racially” motivated.

46. **Mr. Saidou** asked about the nature of the relationship between the National Human Rights Commission, to which the International Coordinating Committee of National Human Rights Institutions had awarded “A” status, and the 32 other human rights protection institutions in the country which did not enjoy that status.

47. Noting that the literacy rate among the overall population was in the region of 90 per cent whereas 44 per cent of indigenous persons were illiterate, he would like to know if the principles enshrined in the federal laws to combat discrimination against indigenous peoples had been incorporated into the laws governing the education system and were taught in police academies. Lastly, it would be interesting to learn whether cases of discrimination had been reported in the world of sport, especially football and, if so, what measures the Federal Government had taken to counter the problem.

48. **Ms. Dah**, taking issue with the excessive length of the report — some 100 pages rather than the recommended 40 — and the absence in the core document (HRI/CORE/MEX/2005) of information on the history and civilization that constituted Mexico’s cultural wealth and prestige, recommended that the State party should include in its future reports statistics from the 2011 census on the ethnic composition of the population and the number of indigenous or Afro-descendant women elected to public office, held decision-making positions in the executive or judicial branches, and followed diplomatic careers.

49. More detailed information would be appreciated on the rights enjoyed by workers in an irregular situation and undocumented, seasonal or domestic workers in Mexico, as well as on women’s access to justice, including female migrants who were victims of sexual assault; any compensation they received; and penalties meted out to the perpetrators, including civil servants. Further information on living conditions in detention centres would also be appreciated.

50. Recalling that the Federal Government was responsible for fulfilling Mexico’s international commitments, she would be interested to learn how the State party ensured that the rights enshrined in the Convention were upheld across the country, what measures it considered taking to combat organized crime and impunity in cases of human rights violations and how it intended to revoke the army’s public security mandate, which was hardly justifiable except in states of emergency.

51. **Mr. Vázquez** requested confirmation of claims by reliable sources that the anti-crime policy implemented some years earlier had actually increased the number of arrests and detentions of innocent individuals, especially indigenous persons, and, if true, what measures the State party was considering to remedy the situation.

52. **Mr. Lahiri** expressed his satisfaction with the fact that the State party endeavoured to ensure special protection for indigenous persons, Afro-descendants and migrant workers. In light of the richness and diversity typical of Latin America, he estimated that the 80 million individuals that made up the rest of the population could not be a homogenous group; he therefore sought disaggregated demographic data in order to assess the evolution of the various population groups in the State party.

53. **Mr. Lindgren Alves**, expressing surprise that only 9.8 per cent of Mexicans declared themselves to be indigenous, asked whether the rest — except for persons of African descent — self-identified as mestizo or white. He also wished to know if the State party's definition of cultural rights conformed to that of the 1948 Universal Declaration of Human Rights.

54. **Mr. Ewomsan** asked what measures the State party had taken to guarantee the right of indigenous peoples to take part in the conduct of public affairs. Given that indigenous peoples were poor, isolated, marginalized and victims of prejudice, tended to experience problems in accessing social and education services and generally did not get a fair trial; and that indigenous women were often exploited, relegated to domestic work and subjected to forced sterilizations, what steps had been taken to improve their circumstances? Since the report was silent on the situation of persons of African descent, the delegation might also indicate whether the State party was taking measures in favour of the country's most vulnerable visible minority.

The meeting rose at 6 p.m.