



International Convention on the Elimination of All Forms of Racial Discrimination

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Summary record of the 2743rd meeting

Held at the Palais des Nations, Geneva, on Wednesday, 7 August 2019, at 3 p.m.

Chair: Mr. Amir
later: Ms. Li (Vice-Chair)
later: Mr. Amir (Chair)

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The meeting was called to order at 3 p.m.

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

Combined eighteenth and nineteenth periodic reports of El Salvador
([CERD/C/SLV/18-19](#) and [CERD/C/SLV/Q/18-19](#))

1. *At the invitation of the Chair, the delegation of El Salvador took places at the Committee table.*

2. **Mr. López Doradea** (El Salvador), introducing his country's combined eighteenth and nineteenth periodic reports ([CERD/C/SLV/18-19](#)) with a brief statement given in the Nahuatl indigenous language, for which no interpretation was provided, said that in the period since the previous dialogue with the Committee, his country had made efforts to fulfil its obligations under the Convention, in particular with regard to the recognition of the indigenous peoples. The current Government was fully committed to further advancing the rights of the indigenous population and highlighting the multicultural and multi-ethnic nature of the country. A major step forward in that regard had been taken in 2014, when article 63 of the Constitution had been revised to affirm the recognition of the indigenous peoples and the adoption of policies to maintain and develop their ethnic and cultural identity, world view, values and spirituality. The amended article had been used as the basis for subsidiary legislation, such as the Culture Act of 2016, which established that indigenous peoples enjoyed individual and collective rights, and the Act on the Promotion, Protection and Development of the National Handicrafts Sector, which sought to recognize the value of artisans, particularly those of indigenous origin, and their contribution towards enriching the cultural heritage and development of the country. At the local level, municipal ordinances had been adopted in seven municipalities with large indigenous populations, which were designed to help develop indigenous communities by protecting and preserving their culture, territory and organization, as well as the use of renewable and non-renewable natural resources, which constituted their social and spiritual essence. Four more such ordinances were currently in preparation. Efforts had been undertaken at the same time to protect and preserve indigenous languages, including through the establishment of the National Day of the Nahuatl Language.

3. The indigenous and Afrodescendent communities had long been marginalized by Salvadoran society and excluded from decision-making. In 1932, they had faced ethnocide, which had forced many communities to abandon their cultural traditions and indigenous languages in order to safeguard their lives. The scars ran so deep that some communities still continued to do so. In addition, the 1980–1992 civil war had seen the fragmentation of society and the massacre of several indigenous communities.

4. Aware of that cruel chapter in the country's history, the current Government had set itself various objectives for the coming years. In the two months since it had taken office, it had created the Social Welfare Office, which had been given a mandate to provide comprehensive support to the most vulnerable communities, including indigenous communities, by incorporating a human rights perspective. The Office had defined five strategies for action in the areas of cultural, economic and social development, environmental sustainability and State administration. With regard to the indigenous communities, those strategies included ensuring access to basic services, decent wages and employment, promoting indigenous culture and identity, and fostering the proper use of the natural resources and environment of indigenous communities in a symbiotic manner. A process of institutional modernization was currently under way, with a view to facilitating comprehensive monitoring of the different communities, raising the profile of indigenous women and persons of African descent, and developing policies to strengthen the cultural, linguistic and spiritual traditions of the indigenous population.

5. Seizing on the opportunity presented by the fact that 2019 had been declared by the United Nations as the International Year of Indigenous Languages, the Government had decided to launch a number of measures aimed at protecting and promoting the country's indigenous languages. It intended to conduct a census to find out how many Salvadorans spoke indigenous languages; create "language nests" to facilitate indigenous-language

teaching from the earliest years of education; promote the recognition of indigenous languages as official languages; and develop a protocol to ensure the free and informed prior consultation of indigenous peoples on all issues that affected them. It also intended to declare as “living treasures” those persons who spoke indigenous languages or possessed ancestral knowledge in danger of being lost with the passing of time.

6. The National Directorate for Indigenous Peoples and Cultural Diversity was to be strengthened as the lead agency in the field, with responsibility for coordinating and monitoring the implementation of public policies, such as the Public Policy for the Indigenous Peoples and the National Policy on Indigenous Peoples’ Health. With regard to persons of African descent, whose presence in the country had long been denied, the Government had resolved to bring about changes in how that community was treated. For instance, it proposed to conduct awareness-raising activities concerning the Afrodescendent population, declare its traditional dances as intangible cultural heritage and establish memorial sites for slavery victims, which it hoped would also be included in the United Nations Educational, Scientific and Cultural Organization (UNESCO) Slave Route Project.

7. The Government recognized that debts were owed to the indigenous and Afrodescendent populations and was convinced that, through dialogue and awareness-raising, it could eliminate all forms of discrimination against them. To that end, he wished to express his Government’s hopes that the Committee’s comments and forthcoming concluding observations would serve as a guide to enable the country to better fulfil its obligations under the Convention.

8. **Mr. Calí Tzay** (Country rapporteur) requested updated information on population size. The Committee was pleased to learn of the broad participation of Government institutions in the preparation of the report but wished to learn more about the extent to which civil society organizations and indigenous peoples had been involved in the process.

9. The definition of racial discrimination contained in the Municipal Ordinance of Panchimalco coincided with article 1 (1) of the Convention, but the definition enshrined in the State party’s Constitution did not. Without wishing to belittle the value of progressive local legislation, it was somewhat disconcerting that a municipal ordinance should be more closely aligned with an international treaty than the State party’s Constitution. Could the delegation offer any views in that regard?

10. It would be helpful to obtain additional information on the steps taken to implement the Act on the Rights of Indigenous Peoples. It was unclear why legislation on indigenous peoples emanated from the Ministry of Culture, rather than the Legislative Assembly, and why that Ministry was responsible for all matters pertaining to indigenous peoples and persons of African descent, since matters affecting those population groups were hardly limited to “culture”. Could the delegation describe the specific measures set forth in the National Action Plan for Indigenous Peoples and indicate which agency or agencies were entrusted with its implementation?

11. While it was encouraging to note that the Municipal Ordinance of Panchimalco established the right to prior, free and informed consultation, it would perhaps be more effective to enshrine that right in national legislation. It was unclear to what extent indigenous peoples’ right to consultation in decisions on matters affecting them was implemented in practice. Although the State party had asserted that indigenous peoples had been consulted in the development of the National Action Plan for Indigenous Peoples, for example, information brought to the Committee’s attention suggested the contrary. It would be useful to know how the State party defined “consultation”, with whom it was consulting, and whether the opinion of indigenous peoples was sought in the selection of indigenous representatives for consultation. He wished to know how the State party intended to close the gaps in the legal and institutional framework for combating discrimination, and who would be responsible for the development of action plans to promote the rights of indigenous peoples and persons of African descent.

12. Given the lack of data on civil proceedings or reports of cases of racial discrimination, it would be useful to find out whether the State party had conducted any campaigns to raise the population’s awareness of complaints mechanisms. The absence of complaints was not necessarily an indication of the absence of discrimination. Instead, it

often reflected a lack of trust in government institutions, or unresponsiveness on the part of those institutions when complaints were lodged. Were the police, judges and prosecutors trained to deal with cases of racial discrimination?

13. In the light of the global increase in racial discrimination, stigmatization and the incitement to racial hatred, it would be useful to know what measures the State party intended to take to prevent and combat the propagation of racial hatred and stereotyping, especially with regard to indigenous peoples and persons of African descent. Hate crimes had been incorporated in the 2015 Criminal Code – although there were no recorded cases of prosecutions – and racist motivation had been incorporated as an aggravating circumstance in the prosecution of murder. Did the State party plan to allocate additional resources for the prosecution of racially motivated crimes committed against indigenous peoples and ethnic minorities? The State party was among the countries with the highest murder rates in the world and it would be helpful to obtain statistical data on racially motivated murders, the ethnicity of murder victims and the number of hate crimes committed on grounds of race, ethnicity or gender.

14. Well over half the State party's indigenous population lived below the poverty threshold. At the same time, only 5 per cent of indigenous peoples owned land. It was unclear why the State party had not ratified the International Labour Organization (ILO) Indigenous and Tribal Peoples Convention, 1989 (No. 169), which was a powerful instrument to address indigenous poverty. Poor indigenous children were particularly vulnerable to child labour and trafficking, but the State party report made no mention of those issues. The report also remained silent about the fact that rural-indigenous populations bore the brunt of the water crisis. Could the delegation kindly indicate whether there was an action plan to address the lack of access to safe drinking water which, although a health and environmental problem, affected poor indigenous populations disproportionately? The State party might wish to consider the establishment of a work programme with clear timelines to end the societal and institutional discrimination of indigenous peoples and people of African descent and lift them out of poverty.

15. The State party report made repeated reference to action plans for the economic empowerment of rural women and it would be useful to learn about the timeline for implementing those plans. He enquired whether indigenous women, who made up the greatest proportion of rural women, had been consulted in that regard and if not, when such consultations would take place. Given the reported lack of health-care services for indigenous peoples and the absence of a specific plan to address the situation, it would be useful to know whether indigenous peoples and persons of African descent had been consulted in the development of the National Health Policy 2015–2019 in order to integrate an intercultural perspective. Efforts to ensure indigenous peoples' right to prior, free and informed consultation needed to be stepped up in all areas.

16. **Mr. Kut** said that it was regrettable that the State party had provided no response to the Committee's request for information, within one year, on its follow-up to the recommendations contained in paragraphs 14, 15 and 16 of its concluding observations on the combined sixteenth and seventeenth periodic report (CERD/C/SLV/CO/16-17). Also, the periodic report currently under consideration had been submitted one year late. The Committee encouraged the State party to fulfil its reporting obligations in a timely fashion in future.

17. It was encouraging to note that, in response to the Committee's request for the State party to repeal the Amnesty Act of 1993 and implement the decisions of the Inter-American human rights system, in July 2016 the Constitutional Division of the Supreme Court of Justice had declared the Act unconstitutional and ordered the investigation of grave human rights violations that took place during the internal armed conflict. The Committee would like to obtain information about the activities carried out by the special unit for the investigation of cases associated with the internal armed conflict established by the Attorney General's Office. While the State party had provided a useful description of its efforts in that regard, more information was needed on the practical consequences and the impact on the target population.

18. With regard to the steps taken to ensure that the authorities acted in accordance with the obligation not to discriminate and adopted public policies aimed at eliminating racial discrimination, the delegation might wish to elaborate on the fate of the draft special act on migration and aliens. Had it eventually been enacted?

19. It emerged from the report that the Committee's request for the State party to ratify International Labour Organization (ILO) Convention No. 169 (1989) had not been met. In that connection, it would be helpful to learn more about the "impact plan" to be developed to ratify Convention No. 169. The delegation might further wish to elaborate on the "harmonization of laws with the United Nations Declaration on the Rights of Indigenous Peoples". Had the State party taken any specific measures to that effect?

20. **Mr. Avtonomov** said he would be interested to know how what progress had been made towards the ratification of the International Labour Organization (ILO) Indigenous and Tribal Peoples Convention, No. 169 (1989). He asked what actions had been carried out since the adoption of the General Culture Act to protect the institutions and cultural values of indigenous peoples. He requested further details on the measures taken to implement the municipal ordinances passed to guarantee the rights of indigenous communities and preserve their historical memory. Lastly, he would also appreciate information on the measures taken to promote indigenous matters through the Five-Year Development Plan 2014–2019, and in particular its goal regarding the revitalization of indigenous culture.

21. *Ms. Li (Vice-Chair) took the Chair.*

22. **Mr. Diaby** said he wished to hear more about the Ministry of Health's development of a national policy for indigenous peoples, in particular whether the policy would include the provision of primary health-care services in indigenous languages and whether it would also be applied in areas with large populations of African descent. He asked whether medical professionals working in rural areas spoke the languages of the indigenous and Afrodescendent communities they were serving. Regarding education, he requested further information on the success rates of education for indigenous children and asked whether statistics were available on the number of indigenous students attending and completing primary, secondary and higher education. He wished to know how many cases of disciplinary action had been brought against law enforcement officers found guilty of discrimination. On the question of non-citizens and stateless persons, he asked what was preventing the Legislative Assembly from passing the bill on regularizing the migration of people of Central American Origin, and whether the State party would consider ratifying the 1961 Convention on the Reduction of Statelessness. In closing, he expressed dismay that the State party had not included on its delegation a representative of the Office of the Human Rights Advocate.

23. **Mr. Albuquerque e Silva** said he wished to commend the considerable progress in attitude made over the past 15 years since the submission of the ninth to thirteenth periodic reports of El Salvador ([CERD/C/471/Add.1](#)), in which the State party had denied the existence of racial minorities and thus of racial discrimination. The Government's official position in that regard had changed fundamentally and for the better. While the development of policies on self-determination for people of African descent were welcome, the Committee would appreciate further information on the policies for equality that were already in place and being implemented, and wished to know in particular whether the State party had instituted any special measures under Article 1, paragraph 4 of the Convention. Lastly, he inquired after the status of the proposed amendment to article 63 (2) of the Constitution to include recognition of the existence of persons of African descent as part of the cultural diversity of El Salvador.

24. *Mr. Amir (Chair) resumed the Chair.*

25. **Mr. Murillo Martínez** said that the State party's report focused on the aspirations of the new Government; while those were indeed positive, he wished to hear more about the progress made in implementing the policies already in place to promote equality. He also wished to know how those aspirations would be translated into reality, and would be particularly interested to know whether minority groups would be involved in policymaking. He asked what activities were being undertaken to honour commitment to

the International Decade for People of African Descent. El Salvador was facing major challenges caused by the large-scale migration of its population to the United States of America. The Committee would like to know more about the root causes of that exodus and what proportion of those leaving the country were of African descent. When considering the situation of indigenous peoples, account needed to be taken of current global challenges, in particular climate change; the role of indigenous peoples in tackling such issues was important and they ought therefore to be included in political dialogue at the national, regional and international levels. He requested further information on the distribution of land and the terms of land deeds and titles. He also wished to know what measures were being taken to ensure the effective implementation of the 1992 Chapultepec Agreement.

26. The criminalization of abortion in the State party affected population groups of interest to the Committee. He would appreciate receiving any statistics that might be available on women from indigenous and Afrodescendent communities who had been penalized for resorting to abortion.

27. **Mr. Bossuyt**, referring to paragraph 52 of the State party's report, asked whether the creation of a specialized jurisdiction for women was a temporary or a permanent measure. He said that he wondered whether the establishment of courts to deal with a specific category of victims and not others might risk instituting a form of segregation.

28. The groups of non-citizens mentioned in paragraph 69 of the report did not include persons in an irregular situation. He wondered what the new Government's policy towards foreigners in an irregular situation was. Did they enjoy social rights such as the right to work, health and housing?

29. He would appreciate an explanation of the description of housing for indigenous people, in paragraph 97 of the report, as "*culturellement adaptés*" (culturally appropriate). How did such housing differ from other forms of housing? He would also like to know what "intercultural health" meant, as mentioned in paragraph 102.

30. He would appreciate an explanation of the "comprehensive" school system (para. 109) and how it differed from other education systems.

31. Referring to paragraph 140 of the report, he asked whether he was right in assuming that the "three branches of government" referred to the executive, the legislature and judiciary. He said that he would like more information about the 56 gender units and policies mentioned and how they were distributed among the branches of government.

32. **Ms. Chung** said that it was not clear whether the Office of the Human Rights Advocate was the State party's national human rights institution. She would appreciate an explanation of its role and status. She would also like to know what status international treaties ratified by the State party, including the Convention, enjoyed in the State's legal order.

33. Referring to paragraph 90 of the State party's report, she noted that workers were not permitted to be members of more than one trade union. She would appreciate an explanation of the background to that rule and its underlying intention. Lastly, with regard to the right to education, she wondered whether children from indigenous communities received education in their own languages as well as in Spanish.

34. **Ms. Shepherd** said that, if she had understood the delegation's introductory statement correctly, the Government intended to institute recognition of certain days or dates that were of importance to the Afrodescendent population; she would be interested to know what those dates were.

35. Table 1 in the State party's common core document ([HRI/CORE/SLV/2017](#), para. 22) presented social and economic indicators for the period 2010–2015. She would like to know whether any more up-to-date information was available. It would be useful to have the statistics disaggregated by population group such as indigenous peoples, persons of African descent and other ethnic groups, for that would help the Committee to compare the situations of the various groups within society as a whole.

36. **Mr. Yeung Sik Yuen** said that he would appreciate clarification of the Attorney General's role and status. He wondered whether the Attorney General was also the Minister of Justice and an elected member of Congress. Was the Attorney General also a senior adviser to government or simply the State official in charge of prosecutions?

The meeting was suspended at 4.55 p.m. and resumed at 5.10 p.m.

37. **Ms. Mohamed** asked whether indigenous women were free to marry non-indigenous men without fear of reprisals. Were they also free to join the associations of their choice? She said that she would like to know whether there was any law guaranteeing indigenous women the right to own property. She wondered whether places of religious and spiritual importance to indigenous peoples were protected by law.

38. **Mr. Calí Tzay**, noting the delegation's reference, in its opening statement, to the ethnocide of 1932 and its continuing repercussions in Salvadoran society, said that he wondered whether the Government had any plans to issue a State apology to the indigenous peoples or make some other gesture of reparation. It was not necessarily a matter of financial reparation – it might be sufficient to erect a monument, for example, in acknowledgement of the historical facts.

39. He was encouraged by the Government's commitment to recognize all its human rights obligations under international instruments (report, para. 8). He wondered whether the State party intended to make the fight against racial discrimination part of a cross-cutting policy covering all ministries, rather than keeping it effectively under the purview of the Ministry of Culture alone.

40. He would like to know what progress had been made towards amending article 63 of the Constitution to recognize the existence of the Afrodescendent population. He wondered what practical significance such recognition would have for that community, and how it would translate into the application of specific rights.

41. Recalling that, in 2014, the Committee on Economic, Social and Cultural Rights had recommended that the State party should create mechanisms for recognizing the indigenous peoples' rights to their ancestral lands (E/C.12/SLV/CO/3-5, para. 27), he asked whether any legislation had been passed establishing the indigenous peoples' collective right to land.

42. **Mr. Avtonomov** said that, if he understood correctly, a special fund was to be set up to assist victims of trafficking. He wondered whether it had indeed been established and whether any funds had been allocated to it. The Committee's interest was in protecting trafficking victims from possible racial discrimination.

The meeting rose at 5.30 p.m.