



International Convention on the Elimination of All Forms of Racial Discrimination

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Committee on the Elimination of Racial Discrimination

Concluding observations on the combined sixth to eighth periodic reports of Honduras*

1. The Committee considered the combined sixth to eighth periodic reports of Honduras, submitted in a single document (CERD/C/HND/6-8), at its 2685th and 2686th meetings, held on 28 and 29 November 2018. At its 2700th meeting, held on 10 December 2018, the Committee adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the combined sixth to eighth periodic reports of the State party in a single document. The Committee expresses its appreciation for the open and constructive dialogue with the State party's delegation and for the additional information provided after the dialogue.

B. Positive aspects

3. The Committee welcomes the accession by the State party to the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights on 16 January 2018.

4. The Committee welcomes the legislative and institutional measures adopted by the State party during the period under review, in particular:

(a) The adoption, in April 2015, of the Act on the Protection of Human Rights Defenders, Journalists and Other Media Professionals, and Justice Officials;

(b) The establishment in 2015 of the National Council for the Protection of Human Rights Defenders;

(c) The adoption of the Public Policy against Racism and Racial Discrimination for the Comprehensive Development of Indigenous and Afro-Honduran Peoples 2016–2022;

(d) The establishment of the Ministry of Human Rights, which began operating in January 2018.

5. The Committee notes with satisfaction that the State party has extended an open, standing invitation for special procedures mandate holders of the Human Rights Council to visit the country. In that connection, the Committee welcomes the fact that the State party has received a significant number of visits by mandate holders. It welcomes, in particular, the visit by the Special Rapporteur on the rights of indigenous peoples in November 2015 and encourages the State party to ensure that all the recommendations contained in her report (A/HRC/33/42/Add.2) are duly implemented.

* Adopted by the Committee at its ninety-seventh session (26 November to 14 December 2018).



C. Concerns and recommendations

Implementation of the Convention

6. While the Committee notes that the Convention has force of law in the State party and that, according to the delegation, the Convention has been invoked in some legal proceedings by the Office of the Special Prosecutor for Ethnic Groups and Cultural Heritage, it regrets the failure to provide concrete information and specific examples of its application by the courts (arts. 1 and 6).

7. **The Committee recommends that the State party take appropriate steps, such as training, to ensure that judges, prosecutors and lawyers are familiar with the provisions of the Convention and are able to apply them in relevant cases. The Committee requests that the State party include, in its next periodic report, specific examples of cases in which the Convention has been applied by domestic courts.**

Compilation of data

8. While the Committee takes note of the action taken by the State party to compile statistical data, it regrets the failure to provide comprehensive information on the living conditions and the socioeconomic status of persons belonging to indigenous peoples, including Afro-Hondurans (art. 2 (1)).

9. **The Committee recommends that the State party continue its efforts to compile reliable, up-to-date and comprehensive statistics on the population's demographic composition and socioeconomic situation, disaggregated by ethnic origin, gender, age, departments, and urban and rural areas, including the most remote areas. It also urges the State party to continue its efforts to develop human rights and socioeconomic indicators that enable it to assess and implement the necessary adjustments in terms of the sustainability, scope and impact of public policies on behalf of segments of the population that are vulnerable to racial discrimination, and to assess the implementation of the Convention vis-à-vis the groups that make up society.**

Legislative measures

10. The Committee takes note of the amendments to the Criminal Code. However, it remains concerned by the fact that the legal provisions on racial discrimination do not encompass all the components of articles 1 and 4 of the Convention (arts. 1 and 4).

11. **The Committee recommends that the State party review its legislation in order to ensure that the definition and prohibition of racial discrimination encompass all the components of article 1 of the Convention, and address acts of direct and indirect discrimination in all areas of law and public life. It also recommends that the State party ensure that its criminal legislation is fully in line with article 4 of the Convention. The Committee refers the State party to its general recommendations No. 14 (1993) concerning article 1 (1) of the Convention and No. 29 (2002) concerning discrimination based on descent.**

Office of the National Commissioner for Human Rights

12. While the Committee takes note of the steps taken to enhance the independence and increase the budget of the Office of the National Commissioner for Human Rights, it is concerned that, among other things, the procedure for the selection and appointment of the Commissioner is still insufficiently broad, transparent and participatory, and the resources allocated to the Office remain inadequate for the full implementation of its mandate (art. 2).

13. **The Committee urges the State party to step up its efforts to ensure that the Office of the National Commissioner for Human Rights is in full compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles) and pays due regard to the recommendations of the Sub-Committee on Accreditation of the Global Alliance of National Human Rights Institutions.**

Institution-building

14. The Committee takes note of the information provided during the dialogue on action taken to revitalize the National Commission against Racial Discrimination, Racism, Xenophobia and Other Related Forms of Intolerance. It remains concerned, however, that the Commission is not yet operational. It also regrets that the Ministry for Indigenous and Afro-Honduran Peoples has been converted into a Directorate of the Ministry of Development and Social Inclusion, since this restricts its scope and decision-making authority.

15. Bearing in mind its previous recommendations (CERD/C/HND/CO/1-5, paras. 11 and 12), the Committee recommends that the State party step up its efforts to revitalize the National Commission against Racial Discrimination, Racism, Xenophobia and Other Related Forms of Intolerance as an institution that combats racial discrimination, ensuring its full autonomy, broad representation of indigenous and Afro-Honduran peoples, and access to sufficient human, technical and financial resources to ensure its full functioning. The Committee encourages the State party to consider restoring the status of the Directorate for Indigenous and Afro-Honduran Peoples to that of a Ministry, ensuring that it is broadly representative of the indigenous and Afro-Honduran peoples.

Structural discrimination

16. The Committee is concerned that the indigenous and Afro-Honduran peoples in the State party face persistent structural discrimination, which is reflected in the inequality gap in the exercise of human rights between these peoples and the rest of the population. While the Committee takes note of the data provided by the delegation concerning the results of the implementation of the Better Life Platform, it is concerned at the high rates of poverty and social exclusion that continue to affect the indigenous and Afro-Honduran peoples, particularly those living in rural and remote areas (arts. 1, 2 and 5).

17. Based on its general recommendations No. 32 (2009) concerning the meaning and scope of special measures in the Convention and No. 34 (2011) concerning racial discrimination against people of African descent, the Committee urges the State party:

(a) **To ensure the effective implementation of the Public Policy against Racism and Racial Discrimination for the Comprehensive Development of Indigenous and Afro-Honduran Peoples 2016–2022, inter alia through the adequate allocation of human, technical and financial resources, the creation of effective mechanisms for coordination between different authorities responsible for its implementation at the national and local levels, and the full participation of indigenous and Afro-Honduran peoples;**

(b) **To ensure the effective implementation of social programmes for poverty reduction, taking into account inequality gaps and the specific needs of indigenous and Afro-Honduran peoples in order to achieve a marked reduction in poverty and levels of inequality that affect them, taking into account the Sustainable Development Goals;**

(c) **To adopt special measures or affirmative action to terminate the structural racial discrimination faced by indigenous and Afro-Honduran peoples in the State party.**

Prior consultation

18. The Committee takes note of the delegation's information to the effect that, prior to the adoption of the bill on the right of indigenous and Afro-Honduran peoples to prior consultation, which is currently before the National Congress, the process of dialogue will be expanded in response to the concerns that have been expressed by some sectors. However, the Committee is concerned that, in addition to the need for a broad and representative consultation process on the bill, there are concerns regarding shortcomings in its content, such as the definition of its scope, the mechanisms foreseen for its implementation, the stages of the consultation process and the concept of consent. It is also

concerned that the drafting of the bill was not based on an appropriate process of consultation and participation of indigenous and Afro-Honduran peoples. The Committee is also seriously concerned that investment projects are implemented in the territories of indigenous or Afro-Honduran peoples in a manner that does not fully respect their right to be consulted with a view to obtaining their free, prior and informed consent (arts. 2 and 5).

19. The Committee urges the State party:

(a) **To develop and adopt, in consultation with the indigenous and Afro-Honduran peoples, an appropriate procedure and methodology that guarantees their right to be consulted regarding any legislative or administrative measure that may affect their rights, with a view to obtaining their free, prior and informed consent, and that also takes into account the traditions and cultural characteristics of each people;**

(b) **Prior to the discussion and adoption of the bill on prior consultation that is currently before the National Congress, to carry out a thorough review of the bill, in the light of internationally recognized standards, and to guarantee the active, full and transparent participation of all indigenous and Afro-Honduran peoples;**

(c) **To guarantee due respect for the right of indigenous and Afro-Honduran peoples to be consulted with a view to obtaining their free, prior and informed consent regarding economic development, energy, tourism and infrastructure projects as well as projects involving the exploitation of natural resources that may affect their territories and resources; the State party should also ensure that such consultations are conducted in a systematic and transparent manner, with due representation of the affected peoples;**

(d) **Without prejudice to the proposed regulations, to guarantee the right to prior consultation in accordance with the terms set forth in the Indigenous and Tribal Peoples Convention, 1989 (No. 169), of the International Labour Organization (ILO), as well as other internationally recognized standards;**

(e) **To take due account of the recommendations made by the Special Rapporteur on the rights of indigenous peoples concerning prior consultation.**

Lands, territories and natural resources

20. While the Committee takes note of the steps taken to grant land titles to indigenous and Afro-Honduran peoples, it is concerned about the lack of effective mechanisms to protect their rights to their lands, territories and resources. The Committee is concerned about the serious social conflicts concerning the possession and use of lands and territories that arise between indigenous or Afro-Honduran peoples and third parties that occupy or are interested in exploiting the natural resources in such territories (arts. 2 and 5).

21. The Committee recommends to the State party:

(a) **That it establish an appropriate and effective mechanism, in coordination with the judicial and agricultural authorities and other relevant institutions, that enables ancestral lands and territories to be claimed and restored, and ensure that it has adequate human, technical and financial resources;**

(b) **That it guarantee protection of the rights of indigenous peoples to possess, use, develop and control their lands, territories and resources in full security, including through an appropriate process of territorial regularization, legal recognition and legal protection, in accordance with international standards;**

(c) **That it step up its efforts to give full effect to the judgments of the Inter-American Court of Human Rights in the cases of the *Garífuna Punta Piedra Community* and the *Garífuna Triunfo de la Cruz Community*.**

Development of economic projects

22. The Committee is seriously concerned about the impact of the development of energy, extractive, tourism, agro-industrial and infrastructure projects on the territories and

resources of indigenous and Afro-Honduran peoples, as well as on their traditional ways of life and subsistence.

23. **Given that the protection of human rights and the elimination of racial discrimination are an essential component of sustainable economic development, and mindful of the role played by both the State party and the private sector in that regard, the Committee urges the State party:**

(a) **To ensure that, as part of the prior consultation process, independent and impartial entities conduct studies on the social, environmental and cultural impact that economic development projects and projects involving the exploitation of natural resources may have on the territories of indigenous and Afro-Honduran peoples, and ensure that indigenous and Afro-Honduran peoples duly participate in order to protect their traditional ways of life and subsistence;**

(b) **To specify, in consultation with the indigenous and Afro-Honduran peoples whose territories and resources are affected, mitigation measures, compensation for damages or losses suffered, and participation in the benefits obtained from such activities.**

Human rights defenders

24. While the Committee acknowledges the efforts made by the State party to bolster the legislative and institutional framework that provides protection for human rights defenders, it is seriously concerned about the high rates of violence against human rights defenders, including leaders of indigenous and Afro-Honduran peoples. While the Committee notes that seven persons were convicted of the assassination of the indigenous Lenca leader Berta Cáceres, it is concerned about the continuous difficulties that human rights defenders who have been subjected to attacks encounter in obtaining access to justice, as well as the persistence of high levels of impunity for violations of their rights. Furthermore, the Committee is concerned that the measures adopted to provide them with protection are not sufficiently effective, partly owing to the failure to allocate sufficient resources for their implementation (arts. 2, 5 and 6).

25. **The Committee recommends that the State party:**

(a) **Adopt effective and timely measures to prevent acts of violence against human rights defenders, including leaders of indigenous and Afro-Honduran peoples, and to protect their lives and personal integrity;**

(b) **Ensure that all reports of attempted killings and acts of violence, threats, molestation, harassment and defamation committed against human rights defenders, including leaders of indigenous and Afro-Honduran peoples, are investigated in a comprehensive, impartial and effective manner, so that the perpetrators are prosecuted and duly sanctioned;**

(c) **Ensure the effective implementation of the Act on the Protection of Human Rights Defenders, Journalists and Other Media Professionals, and Justice Officials, and the effective functioning of the protection mechanism and the Office of the Special Prosecutor for the Protection of Human Rights Defenders, Journalists, Social Communicators and Justice Officials, inter alia through the allocation of adequate resources and measures to review and improve current protection strategies, taking into account the needs, cultural and regional differences, and the collective nature of the rights of indigenous and Afro-Honduran peoples, and ensuring that the beneficiaries are duly consulted regarding the measures of protection to be granted;**

(d) **Organize information and awareness-raising campaigns on the crucial work undertaken by human rights defenders with a view to creating a climate of tolerance in which they can perform their work free from all forms of intimidation, threats and reprisals.**

La Mosquitia

26. While the Committee takes note of the information provided by the delegation concerning action in support of the development of the region of La Mosquitia, it is concerned that such measures fail to provide a comprehensive response to the situation of poverty and social exclusion affecting the indigenous peoples who live in the region. The Committee reiterates its concern (CERD/C/HND/CO/1-5, para. 19) about the deplorable situation of Miskito divers, who continue to be the victims of precarious working conditions and the lack of adequate occupational safety measures. It is also concerned at reports concerning an increase in the number of divers who are victims of accidents due to underwater fishing (arts. 2 and 5).

27. The Committee urges the State party:

(a) **To adopt culturally appropriate and comprehensive public policies to combat the poverty and social exclusion affecting the indigenous and Afro-Honduran peoples who live in the region of La Mosquitia, in order to ensure their full enjoyment of human rights, in particular economic, social and cultural rights;**

(b) **To adopt the necessary measures to ensure that Miskito divers benefit from fair and satisfactory working conditions, both in law and in practice, including remuneration that guarantees decent living conditions for them and their families and access to social security;**

(c) **To step up its efforts to strengthen the labour inspection mechanism in the region and to establish adequate and effective mechanisms to report, investigate and prosecute cases of abuse and exploitation of Miskito divers.**

Identity documents

28. While the Committee takes note of the efforts undertaken by the State party, it is concerned that persons living in remote border areas known as “Bolsones” reportedly face challenges when it comes to obtaining identity documents (arts. 2 and 5).

29. The Committee recommends that the State party step up its efforts to ensure that all citizens living in remote areas, particularly in border areas known as “Bolsones”, have access to identity documents in order to guarantee their effective enjoyment of civil, political, economic, social and cultural rights.

Right to health

30. The Committee is concerned about the weak infrastructure, shortage of medicines, and the poor quality and availability of health-care services in rural and remote areas, which are inhabited mainly by indigenous peoples (art. 5).

31. The Committee recommends that the State party take the necessary action to achieve universal health coverage and to ensure the accessibility, availability and quality of health-care services and benefits, including essential medicines, taking into account the needs, traditions and cultural specificities of indigenous peoples.

Right to education

32. The Committee is concerned about the persistent difficulties encountered by indigenous and Afro-Honduran peoples in obtaining access to education. It is particularly concerned about:

(a) The deteriorating conditions in schools located in regions inhabited mainly by indigenous and Afro-Honduran peoples and shortcomings in terms of materials, personnel and infrastructure;

(b) The high school dropout rate among indigenous and Afro-Honduran children and adolescents;

(c) Shortcomings in the implementation of bilingual intercultural education, particularly in regions such as La Mosquitia;

(d) The high proportion of the indigenous population who are unable to read or write (art. 5).

33. **The Committee recommends that the State party adopt the necessary measures to effectively guarantee the right to education, particularly on behalf of indigenous and Afro-Honduran children and adolescents. The Committee urges the State party, in particular:**

(a) **To increase the number, quality and infrastructure of schools in rural and remote areas where there is a greater concentration of indigenous and Afro-Honduran inhabitants;**

(b) **To adopt the necessary measures to reduce dropout rates among indigenous and Afro-Honduran children and adolescents;**

(c) **To provide for the effective implementation of the Basic Act on Bilingual Intercultural Education, while ensuring that it does not lead to the assimilation of indigenous and Afro-Honduran peoples, among others, by elaborating intercultural curricula that meet the objective of promoting and preserving the cultural identity of indigenous and Afro-Honduran peoples;**

(d) **To step up efforts to eradicate illiteracy, including through an assessment of progress in implementing the National Plan on Compulsory Literacy, Academic Underachievement and Popular Education 2014–2017 with a view to setting new targets and defining new objectives and strategies.**

Political participation

34. The Committee welcomes the information concerning the increase in the number of parliamentary members belonging to indigenous and Afro-Honduran peoples, as well as the submission to the National Congress of a bill establishing political participation quotas for various groups, including indigenous and Afro-Honduran peoples. It is nonetheless concerned about the limited representation of persons belonging to indigenous and Afro-Honduran communities in decision-making positions in public administration (art. 5).

35. **The Committee recommends that the State party, in consultation and with the active participation of indigenous and Afro-Honduran peoples, proceed with the enactment of the bill establishing quotas for political participation that was mentioned during the dialogue. It also recommends that it establish appropriate mechanisms to guarantee its effective implementation and to ensure equality of opportunity for the participation of members of indigenous and Afro-Honduran peoples in all bodies and at all levels of public administration, including in decision-making positions, at both the national and local levels, in order to facilitate the formulation and implementation of public policies that guarantee their rights. The Committee also recommends that the State party promote awareness among members of indigenous and Afro-Honduran peoples of the importance of their active participation in public and political life.**

Multiple forms of discrimination

36. The Committee is concerned about the multiple forms of racial discrimination that indigenous and Afro-Honduran women continue to endure in the State party, and which are reflected in impediments to their access to work, education and health, particularly sexual and reproductive health. It is also concerned about the limited political participation of indigenous and Afro-Honduran women. It is seriously concerned about the high rate of violence against women, which is also a wide-ranging phenomenon among indigenous and Afro-Honduran women (arts. 5 and 6).

37. **The Committee recommends that the State party ensure that a gender perspective is included in the implementation of policies to combat racial discrimination in order to eliminate the multiple and cross-sectoral discrimination suffered by indigenous and Afro-Honduran women. It recommends, in addition, that the State party adopt measures, based on an intercultural approach, to guarantee indigenous and Afro-Honduran women: (a) access to education, employment, health,**

and sexual and reproductive health; (b) participation in decision-making processes, particularly in prior consultation processes; and (c) access to justice and appropriate protection mechanisms in cases of gender-based violence. The Committee draws the State party's attention to its general recommendation No. 25 (2000) on gender-related dimensions of racial discrimination.

Access to justice

38. The Committee notes that, notwithstanding the action taken by the State party to strengthen the Office of the Special Prosecutor for Ethnic Groups and Cultural Heritage, the resources allocated for the purpose are still limited. It is also concerned that access to justice for indigenous and Afro-Honduran peoples continues to present a challenge, partly because of limited awareness of the Convention and the rights of indigenous and Afro-Honduran peoples among members of the judiciary and lawyers, the lack of judicial independence and the lack of capacity to conduct exhaustive investigations (art. 6).

39. **The Committee urges the State party:**

(a) **To redouble its efforts to strengthen the Office of the Special Prosecutor for Ethnic Groups and Cultural Heritage by allocating the human, technical and financial resources required to guarantee its proper functioning and coverage at the national level, in order to facilitate access to justice for members of the indigenous and Afro-Honduran peoples;**

(b) **To adopt the necessary measures to guarantee the independence and security of the judiciary as a means of safeguarding the enjoyment of human rights and supporting action against racial discrimination;**

(c) **To provide systematic training for public officials, judges, magistrates and law enforcement officers in order to ensure the effective implementation of the Convention and laws concerning racial discrimination, and to ensure that, in the performance of their duties, they respect and defend all human rights and take steps to eliminate racially discriminatory acts and practices;**

(d) **To organize awareness-raising campaigns for rights holders concerning the provisions of the Convention and the legal framework for protection against racial discrimination.**

The fight against racial prejudice

40. The Committee reiterates its concern regarding the persistence of stereotypes and prejudice in society against indigenous and Afro-Honduran peoples, which continues to be an impediment to the building of a multicultural society (art. 7).

41. **The Committee urges the State party to organize awareness-raising and education campaigns on behalf of society in general on the negative impact of racial discrimination, with a view to combating the propagation of stereotypes and prejudice against indigenous and Afro-Honduran peoples and promoting tolerance among different ethnic groups. The Committee draws the State party's attention to its general recommendation No. 35 (2013) on combating racist hate speech.**

D. Other recommendations

Ratification of other treaties

42. **Bearing in mind the indivisibility of all human rights, the Committee encourages the State party to ratify the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, the Inter-American Convention against Racism, Racial Discrimination and Related Forms of Intolerance of 2013, and the Inter-American Convention against All Forms of Discrimination and Intolerance of 2013.**

Declaration under article 14 of the Convention

43. The Committee encourages the State party to make the optional declaration provided for in article 14 of the Convention with a view to recognizing the competence of the Committee to receive and consider individual communications.

Amendment to article 8 of the Convention

44. The Committee recommends that the State party ratify the amendment to article 8 (6) of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention and endorsed by the General Assembly in its resolution 47/111.

Follow-up to the Durban Declaration and Programme of Action

45. In the light of its general recommendation No. 33 (2009) on follow-up to the Durban Review Conference, the Committee recommends that, when incorporating the Convention into its national legislation, the State party take into consideration the Durban Declaration and Programme of Action, adopted in September 2001 at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, as well as the outcome document of the Durban Review Conference, held in April 2009. The Committee requests that the State party include specific information in its next periodic report on the action plans and other measures taken to implement the Durban Declaration and Programme of Action at the national level.

International Decade for People of African Descent

46. In the light of General Assembly resolution 68/237 declaring the International Decade for People of African Descent (2015–2024) and resolution 69/16 on the programme of activities for the Decade, the Committee welcomes the adoption of the Plan of Action and Agenda for the International Decade of People of African Descent in Honduras and encourages that State party to adopt concrete measures to ensure their effective implementation. In addition, the Committee requests that the State party include, in its next report, specific information on tangible results achieved in this regard, taking into account its general recommendation No. 34.

Dissemination of information

47. The Committee recommends that the State party make its reports available to the general public as soon as they are submitted, and that it disseminate the present concluding observations in the official language and in other languages commonly used in the State party.

Consultations with civil society

48. The Committee recommends that the State party consult and expand its dialogue with civil society organizations working in the area of human rights protection, in particular those combating racial discrimination, in connection with the preparation of its next periodic report and its follow-up to these concluding observations.

Follow-up to the present concluding observations

49. In accordance with article 9 (1) of the Convention and rule 65 of its amended rules of procedure, the Committee requests the State party to provide information, within one year of the adoption of these concluding observations, on its follow-up to the recommendations contained in paragraph 19 (d) and (e) (Prior consultation), paragraph 21 (c) (Lands, territories and natural resources), and paragraph 25 (a) and (b) (Human rights defenders).

Paragraphs of particular importance

50. The Committee also wishes to draw the attention of the State party to the particular importance of the recommendations contained in paragraphs 17 (Structural discrimination), 33 (Right to education), 37 (Multiple forms of discrimination) and 39 (Access to justice), and requests the State party to provide detailed information in its next periodic report on the specific measures taken to implement them.

Preparation of the next periodic report

51. The Committee recommends that the State party submit its combined ninth to eleventh periodic reports in a single document by 9 November 2023, taking into account the treaty-specific reporting guidelines adopted by the Committee at its seventy-first session (CERD/C/2007/1) and addressing all the points raised in these concluding observations. In the light of General Assembly resolution 68/268, the Committee urges the State party to observe the limit of 21,200 words for periodic reports.
