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## 人权理事会

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#### 议程项目 9

种族主义、种族歧视、仇外心理和相关的不容忍现象，  
《德班宣言和行动纲领》的后续行动和执行情况

## 当代形式的种族主义、种族歧视、仇外心理和相关不容忍 现象问题特别报告员穆图马·鲁泰雷的报告

增编

### 对多民族玻利维亚国的访问\* \*\*

#### 概要

应多民族玻利维亚国政府邀请，当代形式的种族主义、种族歧视、仇外心理和相关不容忍现象问题特别报告员于 2012 年 9 月 4 日至 10 日对该国进行了访问。

在关于这次访问的报告中，特别报告员讨论了该国在打击种族主义、种族歧视、仇外心理和相关不容忍现象方面面临的主要挑战，包括与土著农民族群、包括非洲裔玻利维亚人在内的族裔少数群体以及移民和难民的权利状况相关的问题。他对该国政府和其他利益攸关方的建议所涉及的主要问题包括：落实种族主义和所有歧视形式方面的行动计划；相关机构的能力建设；提高认识；对土著人民、非洲裔玻利维亚人和其他群体的结构性歧视；有罪不罚和诉诸司法问题；以及媒体和教育在打击种族主义和种族歧视方面的作用。

\* 本报告的概要以所有正式语文分发。报告本身附于概要之后，只以原文和西班牙文分发。

\*\* 迟交。

**Annex***[English and Spanish only]*

**Report of the Special Rapporteur on contemporary forms of  
racism, racial discrimination, xenophobia and related  
intolerance on his visit to the Plurinational State of Bolivia  
(4 – 10 September 2012)**

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## **I. Introduction**

1. At the invitation of the Government, the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance visited the Plurinational State of Bolivia (La Paz, Sucre and Santa Cruz) from 4 to 10 September 2012. He held extensive meetings with authorities from the executive, legislative and judicial branches.

2. In addition to meetings with Government and State institutions at the national, regional, departmental and local levels, the Special Rapporteur met with the Office of the Ombudsman (Defensoría del Pueblo) and the Permanent Council of the National Committee against Racism and All Forms of Discrimination. He also had extensive meetings with representatives of political parties, civil society organizations, indigenous communities and organizations, Bolivians of African descent (Afro-Bolivians), victims of racism and racial discrimination, as well as with other relevant groups and individuals.

3. The visit to Bolivia by the Special Rapporteur had a special significance, given that it was the first official visit to the country by a Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance. In addition to the information collected during his visit on the country's progress in the fight against racism, racial discrimination, xenophobia and related intolerance, the Special Rapporteur was informed of and built upon the recommendations made by other mandate holders who had visited Bolivia, as well as those made by relevant human rights mechanisms. He also followed upon the relevant recommendations and commitments made by the Government during the seventh session of the universal periodic review, in February 2010.

4. The Special Rapporteur wishes to express his sincere gratitude to the Government of the Plurinational State of Bolivia for its full cooperation and openness in the preparation and conduct of the visit. He also wishes to express his appreciation to the United Nations country team in Bolivia and the Office of the United Nations High Commissioner for Human Rights (OHCHR) in Bolivia for their assistance and support, as well as to the different civil society interlocutors that cooperated with him throughout the visit. The conclusions and recommendations made in the present report were based on the broad discussions and exchanges with Bolivia-based interlocutors and the Special Rapporteur's own analysis. He hopes that they will contribute to determining concrete ways and means of addressing the challenges raised in the report in an effective and human rights-compliant manner.

## **II. General background**

### **A. Social and political context**

5. The Plurinational State of Bolivia is a landlocked country, bordering Brazil, Peru, Chile, Argentina and Paraguay. After 300 years of colonialism, Bolivia proclaimed its independence in 1809. In 1825, the Republic of Bolivia was established.

6. The Constitution of the Plurinational State, adopted in 2009, acknowledges Bolivia as a unitary, plurinational and secular State, formally known as the Plurinational State of Bolivia. It recognizes the coexistence of 36 different indigenous nations and peoples, and states that the country is founded on political, economic, legal, cultural and linguistic pluralism. The Constitution declares 36 indigenous languages, as well as Spanish, as official languages.

## **B. Demographic and ethnic composition**

7. One of the main characteristics of Bolivia is its ethnic, cultural and linguistic diversity. It has the largest number of indigenous communities and population in South America. According to the 2001 national population and housing census, about 66.4 per cent of the country's population belong to indigenous ethnic groups.<sup>1</sup> The main indigenous ethnic groups are the Quechua, about 2.53 million people; the Aymara, about 20 million; the Chiquitano 181,900; the Guaraní, 126,160; and the Mojeño, around 68,800. About 124,000 people belong to smaller indigenous groups.<sup>2</sup> The community of Bolivians of African descent was not included in the census of 2001. German, Croatian, Serbian, Asian, Middle Eastern and other minorities also live in the Plurinational State of Bolivia.

8. A national census was scheduled for November 2012; the results of the census had not been published at the time of writing. The new questionnaire for the population and housing census will allow respondents to self-identify as belonging to any nationality, indigenous peoples or the community of Bolivians of African descent.

## **III. Legal and institutional framework**

### **A. International human rights legal instruments**

9. At the international level, Bolivia is a State party to most United Nations human rights treaties. It has not yet ratified the second Optional Protocol to the International Covenant on Civil and Political Rights on the abolition of the death penalty or the Optional Protocol to the Convention on the Rights of the Child on a communications procedure.

10. At the regional level, Bolivia has ratified the American Convention on Human Rights, the Andean Charter for the Promotion and Protection of Human Rights, the Inter-American Convention on Forced Disappearance of Persons, the Protocol to the American Convention on Human Rights to Abolish the Death Penalty, the Inter-American Convention to Prevent and Punish Torture, the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women, the Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities, the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights and the Ibero-American Convention on the Rights of Young People.

### **B. Constitutional provisions and legislative reforms**

11. The Constitution of the Plurinational State of Bolivia 2009 provides that the objective and essential function of the State is “to establish a just and harmonious society, founded on decolonization, without discrimination or exploitation, with social justice, to strengthen the plurinational identities.” Its article 14, paragraph II, provides that:

the State prohibits and punishes all forms of discrimination based on sex, colour, age, sexual orientation, gender identity, origin, culture, nationality, citizenship, language, religious creed, ideology, political or philosophical affiliation, marital status, social

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<sup>1</sup> “Los pueblos indígenas de Bolivia: diagnóstico sociodemográfico a partir del censo del 2001”. Economic Commission for Latin America and the Caribbean (available from [www.eclac.org/publicaciones/xml/3/23263/bolivia.pdf](http://www.eclac.org/publicaciones/xml/3/23263/bolivia.pdf)), p. 42.

<sup>2</sup> *Ibid.*, p. 47.

or economic status, occupation, level of education, disability, pregnancy, or others with the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on equality, of the rights of every person.

12. The Constitution ensures a wide range of collective and individual rights for indigenous nations and peoples, Bolivians of African descent and other relevant groups and individuals. These include (a) the prohibition and punishment of discrimination; (b) recognition of native indigenous peasants, nations and peoples, and their rights; (c) recognition of Afro-Bolivian people and their rights; (d) recognition of the native indigenous campesino justice system; (e) promotion of agrarian reform and the granting of land to native indigenous campesino peoples, intercultural communities of indigenous peoples, Bolivians of African descent and campesino communities whose members have no land or insufficient land; (f) provision on profit-sharing from extraction of natural resources in the territories of native indigenous campesino peoples and nations; and (g) the right to asylum or refuge on grounds of political or ideological persecution, and the principle of non-refoulement.<sup>3</sup>

13. As at February 2010, the Plurinational State of Bolivia had adopted the fundamental laws as called for by the Constitution: the Law on Judicial Authority, the Law on the Electoral Body, the Law on the Electoral System, the Law on the Plurinational Constitutional Court and the Framework Law on Autonomy and Decentralization.

### **C. Legislation prohibiting racism, racial discrimination, xenophobia and related intolerance**

14. The Special Rapporteur welcomes the adoption of Law No. 045 against Racism and All Forms of Discrimination on 8 October 2010. The purpose of the Law is to establish mechanisms and procedures for the prevention and punishment of acts of racism and all forms of discrimination. It identifies relevant measures in such areas as education, communication, information dissemination, public and economic life. It also establishes the procedures and mechanisms for filing complaints by victims of racism or discrimination, and provides that courts at all levels should prioritize cases related to racism and discrimination.

15. On 5 February 2011, the Government approved Supreme Decree No. 762, which sets out the regulations for implementing Law No. 045 and establishes prevention and information policies, the categories of misconduct that constitute racism and discrimination and respective penalties.

16. Law No. 045 also amended article 281, chapter V (crimes against human dignity), of the Penal Code, on the criminalization of acts of racism, such as incitement to racism and racial discrimination and verbal attacks on racist and discriminatory grounds.

## **IV. Institutional human rights framework and public policy**

17. During his visit, the Special Rapporteur noted that important changes had been made in recent years in the governmental structures responsible for issues relating to his mandate. They include, in particular, the creation of the National Committee against Racism and All Forms of Discrimination in 2011 (see paragraph 19 below), the Office of the Vice-Ministry for Decolonization and the Directorate-General for the Fight against Racism and All Forms

<sup>3</sup> CERD/C/BOL/CO/17-20.

of Discrimination in 2009. Act No. 139 of 14 June 2011 declared 24 May the “National Day against Racism and All Forms of Discrimination”.

18. In February 2009, the Vice-Ministry of Decolonization was created as a part of the Ministry of Cultures, with the tasks of (a) coordinating the implementation of programmes and projects of decolonization; (b) implementing policies and actions to reassess ancestral knowledge of native indigenous peasants, nations and peoples, Bolivians of African descent and intercultural communities; (c) encouraging the elimination of practices based on patriarchal, racist and bureaucratic patterns; (d) developing policies for the prevention and eradication of racism and cultural intolerance; (e) promoting interculturalism; and (f) implementing training programmes in the official languages of the Plurinational State.

19. The National Committee against Racism and All Forms of Discrimination was established in 2011 under Law No. 045 to prepare an assessment for a national plan of action against racism and all forms of discrimination, as well as to monitor and follow up on claims of acts of racism and discrimination. The Committee also focuses on awareness-raising activities, for instance by preparing media programmes and messages to promote social tolerance. Its membership includes 61 institutions, such as State institutions at various levels, indigenous and Afro-Bolivian organizations, and various civil society organizations.

20. The Office of the Ombudsman was first set up in 1994. It was then re-established under the Constitution of 2009 to protect and promote the human rights enshrined in the Constitution, relevant laws and international instruments. Its mandate also applies to the rights of native indigenous peoples, inter-urban communities and Bolivians abroad. The Ombudsman is tasked with a broad range of duties, including dealing with complaints; investigating and reporting on incidents of abuses by State authorities upon a complaint or on the Office’s own initiative; requesting information from State authorities to carry out its investigations and issuing recommendations, including modifications to the laws, decrees and non-judicial resolutions; promoting equal opportunities and non-discrimination against women and indigenous peoples; and informing and educating the general public in understanding and exercising their rights. The Special Rapporteur was informed that, thanks to its credibility and presence throughout all nine departments of the country, the Office of the Ombudsman probably receives the highest number of complaints when compared with other complaint-receiving mechanisms.

21. In December 2011, the National Committee against Racism and All Forms of Discrimination adopted a preliminary draft of the plan of action against racism and all forms of discrimination in accordance with the Law No. 045, and entrusted its Permanent Council with the further elaboration of the plan of action following the observations received from public entities and other civil society actors. The plan of action is based upon an assessment conducted in 2010 and 2011 on the current situation of racism and discrimination in Bolivia, prepared with the participation of a broad spectrum of public and civil society actors and stakeholders. The Special Rapporteur welcomes the elaboration and the initial approval of the plan of action, and commends the participatory process through which such an assessment was done. The plan of action defines a long-term vision of Bolivia as a country grounded on social justice and dignity, while setting out key strategic objectives in the fight against racism and discrimination for the period 2012 - 2015. In terms of its legal framework, the plan of action incorporates legal mandates provided under the new constitutional framework, and the principles and scopes of operation set forth in the Law No. 045. It also incorporates international human rights instruments, norms and standards.

22. On 15 February 2012, the Permanent Council of the National Committee against Racism and All Forms of Discrimination approved the plan of action, and has since held technical meetings with ministries to allow coordinated implementation of the 17

programmes in the plan of action. For the programmes under the plan of action to be launched, however, the approval of a supreme decree by the Executive branch, which would define the implementation procedures of the plan of action, is still required. Regardless of the pending formal approval of the plan of action, some entities have already initiated action under their respective competencies; for instance, the Ministry of Education is currently seeking to mainstream the fight against racism into curricula at different levels of the education system. The Ministry of Development Planning approved the 2013 planning guidelines for public bodies across the State, in which it has included programmes on more than one area of development for the fight against racism and discrimination.

23. The Special Rapporteur welcomes the fact that, in late 2011, departmental committees against racism and all forms of discrimination began to be formed in Tarija and Chuquisaca Departments under the auspices of the departmental governments and with the participation of civil society organizations. The initial activities of the committees include working on the elaboration of departmental plans action against racism and discrimination with the participation of public and civil society actors.

24. The National Committee against Racism and All Forms of Discrimination and the Ministry of Cultures, through the Vice-Ministry of Decolonization, are responsible for compiling statistical information on recorded complaints and the monitoring of administrative and judicial processes on cases of racism and discrimination. The objective of the system and the database is to analyse racist and/or discriminatory behaviours and attitudes and to use the results in the formulation of relevant public policies; to generate periodic analytical reports on the implementation of Law No. 045 and trends of racism and discrimination in Bolivia; and to involve all levels of the Government in the work of recording and monitoring administrative and judicial proceedings on racism and discrimination.

25. The national plan of action on human rights was approved by Supreme Decree No. 29851 of 10 December 2008. This instrument, prepared by the Ministry of Justice with the participation of relevant institutions and civil society, includes important provisions on the fight against racism and racial discrimination, as well as on the protection of the rights of indigenous peoples and Afro-Bolivians.

## **V. Main challenges in the fight against racism, racial discrimination, xenophobia and related intolerance**

### **A. Implementation of policy and legal measures**

26. The fight against racism and racial discrimination is recognized as a priority policy matter of the State. It was noted, however, that the implementation of relevant legislation and plans of action still posed significant challenges owing to lack of capacity, expertise and adequate resources. The Government has declared its commitment to the effective implementation of Law No. 045 and the plan of action, and recognizes existing challenges, such as the lack of financial and human resources.

27. Many of the interlocutors felt that the existing political polarization within the country impedes effective implementation of the legislation against racism. Social fragmentation remains prevalent owing to the legacy of a colonial structure, the centuries-long exclusion of indigenous peoples and communities in political and social life, and economic exploitation.

28. According to Government data for 2012, the statistics on complaints relating to acts of racism and discrimination showed a considerable increase when compared with the

period that preceded the enactment of Law No. 045 in October 2010. While only 22 complaints on racism and discrimination were handled during the two years prior to the enactment of Law No. 045, between the entry into force of the Law and 30 November 2012, the General Directorate for Combating Racism received a total of 323 complaints. Complaints relating to racism mainly covered cases of discrimination on the basis of national or ethnic origin, skin colour, clothing and the language of the victim.<sup>4</sup>

29. According to the Government, a considerable proportion of complaints on racism and discrimination concern incidents in public institutions: 24.35 per cent in education and health institutions; 17.3 per cent in executive organs; 10.89 per cent in municipal governments; 6.41 per cent in social organizations; and 4.4 per cent in the police.<sup>4</sup> The Special Rapporteur notes that human rights training for public servants in the executive and judicial branches would be vital to enhance the implementation of relevant laws and policies, as well as to instil the culture of non-discrimination and tolerance. The Government pointed out that it encouraged the adoption of internal rules and procedures against racism and racial discrimination in all of its ministries and organs.

30. It was stressed during the meetings with State and non-State actors that regional, departmental and local governors and city mayors should also be a part of the fight against racism and racial discrimination by facilitating compliance with Law No. 045 by all relevant authorities and the implementation of the plan of action.

## **B. Situation of indigenous peoples**

### **1. Structural discrimination**

31. The Special Rapporteur recognizes that progress has been made in recent years in the fight against racism and discrimination against indigenous peoples and ensuring their inclusion and integration. Still, native indigenous campesino peoples and communities continue to suffer from structural inequality and discrimination in access to employment, education and health care. Persistent socioeconomic marginalization, poverty and the exclusion of native indigenous campesino peoples require more vigorous action from the Government.

32. Many interlocutors stressed that racial prejudice and negative stereotyping against native indigenous campesino peoples and communities remained deeply rooted in various parts of society. The Special Rapporteur was particularly alarmed to hear from several interlocutors that racism and racial discrimination against indigenous peoples was still present even within public institutions.

33. The Special Rapporteur was informed that important legal provisions had been introduced to eliminate racism and racial discrimination within the police. Article 6 of Law No. 045 provides for the police to introduce a curriculum on prevention of racism, and Law No. 101 of 2011 on disciplinary rules for the Bolivian police establishes a disciplinary regime, and identifies relevant forms of misconduct and punishment, including for acts of racism by police officers, that range from a fine or suspension to dismissal. The Special Rapporteur was informed that the Police Authority had issued instructions to all its units to ensure compliance with Law No. 045. Moreover, a special unit has been set up to receive cases of racist crimes. Since 2009, new rules of admission to the police academy have been introduced to facilitate the inclusion of people of all races and ethnic or national origins.

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<sup>4</sup> See [www.noracismo.gob.bo/index.php/reportes-de-denuncia-de-racismo-y-discriminacion-de-enero-al-31-de-diciembre-2012](http://www.noracismo.gob.bo/index.php/reportes-de-denuncia-de-racismo-y-discriminacion-de-enero-al-31-de-diciembre-2012).



Human rights training is also being conducted, while manuals and guidelines for police officers have been developed.

34. While welcoming such steps, the Special Rapporteur remains concerned about the persistence of racial profiling of native indigenous campesino peoples, Afro-Bolivians, migrants and refugees by law enforcement officials, in particular by police officers. Some interlocutors, including indigenous peoples, themselves victims, also indicated that police investigations on reported racist crimes against indigenous people had been very limited.

35. It was reported that the armed forces were in the process of reform to ensure social inclusion and equal opportunity by removing the legacy of institutionalized racism of the former colonial system. The armed forces have introduced human rights trainings for officials and a programme of social inclusion, thereby allowing for the recruitment of indigenous peoples and other marginalized groups. During the meetings with the Special Rapporteur, it was also noted that the armed forces should play a much bigger role in the fight against racism in view of its broad outreach and potential to educate young people.

## 2. Access to employment, education, health care and other services

36. Various interlocutors expressed concerns about the situation of indigenous peoples and communities in the Plurinational State of Bolivia, a situation mainly characterized by precarious health, low education levels, scarce income and a high rate of illiteracy. Such unfavourable socioeconomic conditions for the indigenous population are mainly due to the consequence of centuries of economic, social and cultural exclusion and discrimination based on ethnicity and social class. The Special Rapporteur was informed that the Government had made efforts to eradicate extreme poverty among indigenous peoples and communities, particularly in the Amazon area. It was expected that the results of the new population census might facilitate a reassessment of the Government's priorities with regard to the delivery of basic services.

37. Indigenous people are often discriminated against in the area of employment and remuneration and face high rates of unemployment. In a report of 2010 on the situation of indigenous peoples given to the Special Rapporteur, the Office of the Ombudsman estimated that non-indigenous men earn a salary that is 2.9 times higher than that of indigenous men, and 3.4 times higher than of indigenous women. The lack of education and qualifications further limits their access to jobs.

38. It was noted that indigenous peoples faced two challenges in their access to education: insufficient access to education facilities, and exclusion of their culture and traditions from formal education curricula. It was reported that, although Law No. 1565 on Education Reform of 1994 reinforces bilingual and intercultural education, its implementation remains weak. Access to formal education for indigenous peoples and communities is severely restricted, particularly in rural areas. According to the 2001 census, the illiteracy rate for the indigenous population reached 19.61 per cent as against 4.51 per cent for the non-indigenous population. Of particular concern is the situation in rural areas, where illiteracy rates of indigenous women largely exceeds that of men. The recent alphabetization campaign *Yo si puedo* produced positive outcomes. According to information provided by the Ministry of Education, the campaign is expected to slash the illiteracy rate for the entire Bolivian population. It is not yet clear, however, how the expected reduction will directly benefit indigenous peoples.

39. In the report of the Office of the Ombudsman received by the Special Rapporteur (see paragraph 37 above), it was estimated that 80 per cent of the indigenous population lacked health facilities in their communities and, where these existed, equipment was old or insufficient. The demand for health assistance has become acute in indigenous territories owing to significant environmental pollution, lack of access to water and increasing

exposure to toxic agents as a result of the exploitation of natural resources. Access to health services continues to be a major challenge for indigenous peoples and communities, also owing to racial discrimination. Reports were received about serious cases of unfair treatment by health professionals who denied or delayed medical assistance to indigenous persons. Many interlocutors stressed the need to establish a supervisory authority to hear complaints on the infringement of the rights of patients, and to elaborate specific programmes to raise awareness among medical staff about the situation of indigenous peoples.

40. The Government has set new priorities to improve the efficiency, accessibility and quality of health services. A national sectoral health plan for 2010-2015 contains important provisions on ensuring universal access to health services. It places emphasis on objectives of promoting an intercultural health-care system that combines conventional and traditional indigenous medicine, provides culturally appropriate health services to underserved rural population, and empowers rural and urban communities to participate in decision-making at the local, district and municipal levels on issues of health-care provision.

41. The economic exclusion of indigenous peoples was an issue often raised during the Special Rapporteur's meetings. A great majority of indigenous peoples and communities are still excluded from major sectors of the economy, experiencing discrimination in their access to insurance, credit and banking, and communication services, as well as in housing. Nevertheless, the Government of the Plurinational State of Bolivia has been carrying out projects for indigenous communities through the Development Fund for the Native Indigenous Population and Peasant and Intercultural Communities, whose board is composed of indigenous organizations.

### **3. Racial violence, access to justice and impunity**

42. The Special Rapporteur was informed that native indigenous campesino peoples continue to be subjected to racial discrimination, which is particularly alarming. It was reported that, despite considerable progress, the issue of impunity remains a major concern in the Plurinational State of Bolivia, particularly with regard to the serious human rights violations reported during the incidents of racial violence in 2008. Acts of racism, including verbal attacks and physical violence against indigenous residents and representatives, were rampant in Sucre in 2007 and 2008 during the sessions of the Constituent Assembly. During the racial violence in Sucre in May 2008, some local political opposition members and their supporters attacked, harassed and severely humiliated indigenous persons and native peasants. In September 2008, in Pando Department, during the national political crisis, indigenous people and native peasants were subjected to racial violence as a result of which 13 people died, more than 80 were injured and 15 taken hostage. With regard to the incidents of racial violence in Pando and Sucre, it was reported that, although perpetrators were brought to justice, the trials had been delayed, and no concrete results had been reached owing to the cumbersome justice system.

43. According to the information received, ill-treatment and discrimination against native peasant communities, as well as lack of access to justice and basic services, still persist, particularly in Pando Department. Despite the attempts by the Government to provide compensation and assistance, many victims of the Pando massacre reportedly have not received reparation and medical assistance to help them overcome the physical and psychological damage they suffered. Concerns were expressed that some of the victims had been subjected to harassment even in the aftermath of the Pando massacre, allegedly by the perpetrators or their affiliates.

44. The need to create an effective judicial system to deliver justice services and make it more responsive to the demands of victims of racism and racial discrimination was stressed by representatives of the legislative branch, indigenous peoples and civil society, as well as

by victims of racism and racial discrimination. Some interlocutors in the judicial branch stressed the need for more clarity on the policy for implementation of the plural legal system, as well as difficulties posed by the pluri-linguistic nature of society. It was recommended that indigenous languages should also be used broadly in the legal system.

45. Many victims of racism and racial discrimination and representatives of civil society raised concerns about the weak complaints-reporting mechanisms. It was reported that, in cases of racism and racial discrimination, most often people do not know where to report and are not able to keep track of their complaints.

46. The Special Rapporteur was informed that the work of some organizations and human rights defenders in providing counselling and legal assistance to indigenous peoples and victims of racism was being negatively affected by lack of support from, and sometimes by undue restrictions imposed by, relevant authorities at different levels. Representatives of civil society suggested that the State should fully comply with its international obligations concerning human rights defenders and adopt a collaborative approach with regard to non-governmental organizations and human rights defenders who assist indigenous people in defending their rights.

#### **4. Political participation**

47. Many interlocutors pointed to the efforts made by the Government to realize a social policy of inclusion, given the fact that native indigenous campesino peoples and communities had been excluded from social, economic and political spheres to a significant extent as a legacy of the discriminatory policies and practices of colonization. The Government has, for example, paid particular attention to advancing a policy of decolonization as well as depatriarchalization to enhance women's participation, and in particular the role of indigenous women, in the new political context in Bolivia. The authorities also pointed out that significant advances had been made in enhancing the political participation of indigenous peoples who are now represented in executive and legislative organs at various levels.

48. The national census planned for November 2012 was expected to bring important changes to the situation of indigenous people by ensuring the right to self-identification. The results of the census should provide important data and statistics about the situation of the population of indigenous peoples, Afro-Bolivians and other ethnic communities, which inform policymaking in all areas of concern such as education, health, employment and social welfare. The census is also expected to bring further improvements in the inclusion of indigenous peoples, Afro-Bolivians and other marginalized communities and groups in political, social and economic life.

49. Despite the considerable progress made in the promotion of the political inclusion of indigenous people, it was noted that much more had to be done in this regard. For instance, there were reports that not all indigenous nations and communities were represented in the Plurinational Assembly. It was reported that some smaller indigenous communities and ethnic groups, such as the Qhara Qhara, had not been provided with the right to self-identification and to their ancestral territory.

50. According to the relevant authorities, major steps had been taken in terms of legislation on consultation and autonomy. The Plurinational State Constitution contains important provisions on the right to consultation and indigenous autonomy. The Government informed the Special Rapporteur a framework law on consultation was being discussed; that the Framework Law on Autonomy had been adopted. However, the need to strengthen the implementation of the right of indigenous peoples to consultation was reiterated by some State and non-State interlocutors, in particular in the context of major development projects planned or under way in indigenous territories. It was reported that,

although the Government had been conducting consultations, there was no systematic application of the consultation process, and consultations often did not comply with the standards set by the Convention concerning Indigenous and Tribal Peoples in Independent Countries (Convention No. 169) of the International Labour Organization. It was noted by State interlocutors that the practice of conducting a consultative process was still new to Bolivian society and was thus a “work in progress”.

#### **5. Indigenous autonomy**

51. The Plurinational State of Bolivia allows for indigenous autonomy and has signed the United Nations Declaration on the Rights of Indigenous Peoples, and elevated the Declaration to the status of law by means of Act No. 3760 of 5 November 2007. The new Constitution grants greater self-determination to indigenous groups and communities. Framework Law No. 031 on Autonomy and Decentralization Framework, of 19 July 2010 establishes procedures for indigenous communities that wish to declare their autonomy and set up governmental and social structures based on their own identity, culture, norms and institutions.

52. Many indigenous representatives nonetheless expressed their concern and frustration at the difficulties associated with the implementation of the procedures for access to indigenous autonomy. They indicated that the process for access to indigenous autonomy was prohibitively complex, and that more accessible mechanisms should be created.

#### **6. Indigenous justice system**

53. The adoption of the new Constitution was a significant breakthrough for indigenous justice. The Constitution recognizes indigenous jurisdiction at the same level as ordinary jurisdiction, and allows indigenous campesino peoples to administer their own justice on the basis of their own principles, cultural values, norms and procedures.

54. According to the Constitution, indigenous jurisdiction has competence to deal with “cases related to rural native indigenous subjects”, although it does not define its material and personal scope of application. Law No. 025 on Judicial Authority, adopted in June 2010, determines the new structure of the judicial system. In addition to restructuring the Bolivian courts and creating a greater number of specialized jurisdictions, it creates an indigenous justice system, and provides that decisions adopted by indigenous jurisdiction are binding upon any authority or person (Law No. 025, art. 162). Law No. 073 on Jurisdiction Boundaries, which determines the scope of native indigenous courts and coordination and cooperation mechanisms between the indigenous, ordinary and agro-environmental jurisdictions (art. 5) was adopted on 29 December 2010.

55. Various interlocutors from indigenous groups pointed out that article 10 of the Law on Jurisdiction Boundaries had a rather limited scope for indigenous jurisdiction, and that an increasing number of areas of justice go to the ordinary justice system at the expense of the indigenous one. Moreover, it was reported that there was a tendency among State authorities and officials to ignore indigenous authorities elected by indigenous tradition and that, despite being on an equal footing under the Constitution, in practice ordinary justice is often considered superior to indigenous justice.

#### **7. Land issues and the exploitation of natural resources in indigenous territories**

56. The Constitution of 2009 contains important provisions on the distribution and ownership of land, the rights of native indigenous campesino peoples to share in the benefits of the exploitation of natural resources in indigenous territories and the right to consultation. During the visit, various interlocutors informed the Special Rapporteur about existing challenges and the issues relating to the access to and tenure of land, the

consultation process on major extraction and construction projects and the environmental and social effects of activities of exploitation of natural resources in indigenous territories, as well as the distribution of benefits from the exploitation of natural resources to affected indigenous peoples.

57. The right of access to, and tenure of, land, the administration of the land tenure system and the procedures involving the regularization, restitution, expropriation and distribution of land are regulated by Law No. 3545 on the Extension of Agrarian Reform and its regulations adopted in 2006. The reform of the land tenure system, aimed at increasing the allocation of land to the entire spectrum of the population, in particular to indigenous peoples and native peasants, is still underway. To meet claims to ancestral land by indigenous groups and communities, the National Land Reform Institute has enabled the adoption of a new category for collective land property, “tierras comunitarias de origen”, (native community lands), subsequently called “territorios indígenas originarios campesinos” to bring the native community lands into line with the legal framework of the new Constitution by granting indigenous groups exclusive rights over the use of renewable resources on their territories. The Government continues its work of identifying fertile land that may be allocated to indigenous peoples and peasants. Some, however, criticized that granting land titles did not fully address the reality on the ground, given that significant areas of fertile land remained in the hands of large landowners.

58. Concerns were expressed by various interlocutors at the negative impact of the exploitation of natural resources on indigenous peoples and communities, particularly in the Andean region. Exploitation has resulted in environmental pollution of indigenous territories and hindered basic subsistence activities, and had a negative impact on the health of affected indigenous peoples and farmer communities. The law on hydrocarbons of 2005 and the “Reglamento de consulta y participación para actividades des hidrocarburíferas” of 2007 require respect for the practices and traditions of indigenous communities and establish a mechanism for mandatory consultation. Concerns were, however, expressed that a large number of concessions for the exploitation of wood and mining exploration to private businesses were approved without prior consultation of the indigenous and other communities affected.

59. It was reported that important steps had been taken to address the above concerns. Under the coordination of the Vice-Ministry of Decolonization, the Office of the Ombudsman jointly with other relevant institutions have made a number of recommendations on the use of natural resources that affect the lives of indigenous peoples and communities, highlighting the importance of respect for the right to consultation. A framework law on consultation is being drafted in consultation with the Ombudsman and indigenous communities. The Agro-Environmental Court was established in January 2012 to deal with cases relating to land tenure and the protection of the environment and flora, fauna and water resources.

60. The representatives of indigenous communities recommended that their views and the suggestions of affected indigenous peoples and communities should be taken into account, and the current process of consultation be reviewed to make it more effective. Moreover, they also recommended that contract provisions should be incorporated to ensure that affected indigenous peoples and communities receive tangible benefits from development projects to be carried out in indigenous territories.

61. During meetings with various interlocutors from indigenous groups and civil society, concerns were raised with regard to the consultation on the issue of the Isiboro Sécure Indigenous Territory and National Park, a national park covering 1.2 million hectares straddling the southern part of the Beni Department and the northern part of Cochabamba. The project of building a road through the national park has been a subject of dispute between the indigenous groups living in the area and the Government. Representatives of

indigenous peoples expressed concerns about the potential negative impact of building a road through this ecological reserve, such as the effects on the way of life of indigenous people, destruction of forest, and damage to animals and plants, while State authorities emphasized the geopolitical and developmental benefits of the project. A consultation was organized by the Government with indigenous communities on the proposed project, although some reported it was inadequate and decided not to participate. Reports were received about the use of excessive force by the police during the indigenous march in Chaparina, Beni, in September 2011, as well as of the harassment of indigenous leaders during peaceful demonstrations of indigenous peoples who opposed the project. In this context, the Government pointed out that the Prosecutor's Office had launched an investigation process to identify those responsible for the use of force during the march. The Government has recognized the need for an effective consultation mechanism with the indigenous groups affected, and reiterated its commitment to address the underlying structure of the problem.

#### **8. Situation of the Guaraní and other vulnerable indigenous communities**

62. The situation of the Guaraní population, an indigenous group mostly located in the eastern Chaco region, was raised during the meetings with various State and non-State interlocutors. It was reported that many Guaraní families and communities, defined as "captive communities", were still subjected to contemporary forms of slavery by landowners. According to the national census of 2001, the Guaraní has a population of 81,011 15 years or older, 71.7 per cent of whom reside in the department of Santa Cruz, 10.8 per cent in Chuquisaca, 8.4 per cent in Tarija, and the rest in various other departments.<sup>5</sup> It is estimated that approximately 600 Guaraní families still live in conditions of captivity and forced labour on the various estates of the Chaco.

63. It was noted that various past and ongoing initiatives taken by successive Governments, organizations of indigenous peoples and civil society to eradicate servitude and forced labour had not produced sufficient outcomes, despite some progress. According to the information received, in the Chaco region, the captive communities – Guaraní of all ages and conditions – continued to endure degrading treatment and excessive physical labour, for negligible pay. Many of them live under the threat of corporal punishment and must work to repay debts that the estate owners have forced them to contract. It was reported that there was a significant lack of access to justice and few public services in the Chaco region. Often, cases of violence against Guaraní people are not duly investigated, and the perpetrators (mostly land-owners and their accomplices) are not prosecuted. According to the Government, the Vice-Ministry of Decolonization is paying special attention to combating impunity in cases of racial discrimination against vulnerable indigenous communities. On the recommendation of the Office of the Ombudsman, labour contracts with minimum wage level have been introduced to some extent in the Beni and Chaco regions, where cases of forced labour and servitude are still common. Complaints were received that requests for land submitted by members of the Guaraní people were not given due consideration.

64. The Special Rapporteur also received information about the situation of the Ayoreo people, who are indigenous to the Chaco Boreal, in the border area between Paraguay and the Plurinational State of Bolivia. A total of 1,700 Ayoreos are grouped in 10 communities located in the provinces of Germán Busch and Chiquitos, in the Department of Santa Cruz.

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<sup>5</sup> "Captive Communities: Situation of the Guaraní Indigenous People and Contemporary Forms of Slavery in the Bolivian Chaco, 24 December 2009. Inter-American Commission on Human Rights

It was reported that the Ayoreo are isolated and marginalized, and no major policy measure has been taken to support their social and economic integration.

### **C. Situation of the Afro-Bolivian community**

65. It is estimated that there are 30,000 to 35,000 Afro-descendants in the Plurinational State of Bolivia, mainly in the Yungas region and in the city of La Paz (department of La Paz), but also in Cochabamba, Santa Cruz and Sucre. The Special Rapporteur welcomes the recognition of Afro-Bolivians as a distinct ethnic and cultural group and their economic, social, political and cultural rights as provided for under the Constitution of 2009. He remains concerned about the persistent cases of discrimination against Afro-Bolivian communities, which as a whole still live in a situation of invisibility and social exclusion, and suffer from widespread discrimination, in particular in the fields of education, health and employment.

66. The Special Rapporteur was informed that, given that Afro-Bolivian persons were not included in the census conducted in 2001, there is a lack of relevant statistics and data on how many Afro-Bolivians actually live in the country and the percentage that has access to education, health and other public services. As noted above, Afro-Bolivians were included in the census in 2012.<sup>6</sup> Although the situation of indigenous peoples, communities and other ethnic groups has improved, the situation of Afro-Bolivians has remained unchanged. It was reported that even in the current plurinational structure of the State, the representation of Afro-Bolivians remains too limited, and their voices and views are generally not given due consideration.

67. Representatives of the Afro-Bolivian community expressed serious concerns that many cases of racial discrimination, racist attacks and verbal abuse against Afro-Bolivians had not been addressed in accordance with the Law against Racism and All Forms of Discrimination (see paragraph 14 above). The Special Rapporteur was informed that a large number of Afro-Bolivians still suffered systematically from the lack of justice, reporting mechanisms and impartiality of public administration and police officials. He shares the concern that, although there has been a significant drop in racist expressions and language in the media since the adoption of Law No. 045, racist abuse and attacks against and racial profiling of Afro-Bolivians is still prevalent in everyday life contexts – on the street, in workplaces, schools, universities and other public places, and by the police.

### **D. Migrants and refugees**

68. According to the Office of the United Nations High Commissioner for Refugees (UNHCR), as at January 2012, a total of 716 refugees and 18 asylum seekers from 20 countries currently live in the Plurinational State of Bolivia.<sup>7</sup>

69. The new Constitution provides for the right to seek and be granted asylum, and the principle of non-refoulement. The Plurinational State of Bolivia enacted its first law on refugee law, Law No. 251, on 20 June 2012, which represents a major step in the reinforcement of the protection framework of refugees. Until the adoption of the Law, the domestic legal instrument on the granting of asylum in the Plurinational State of Bolivia was Supreme Decree No. 28.329 of September 2005, which was not in line with international standards in key areas of refugee protection. The new law guarantees

<sup>6</sup> CERD/C/BOL/17-20.

<sup>7</sup> See [www.unhcr.org/cgi-bin/tehis/vtx/page?page=49e492916&submit=GO](http://www.unhcr.org/cgi-bin/tehis/vtx/page?page=49e492916&submit=GO).

international standards in procedures for determining refugee status, exclusion clauses and documentation. In recent years, capacity-building and training initiatives for the National Commission for Refugees, relevant Government officials, border agents and human rights institutions have been implemented in collaboration with UNHCR.

70. Despite such positive legal and policy measures, the Special Rapporteur was informed that racism, racial discrimination, xenophobia and intolerance against refugees and migrants, including irregular migrants, persist. According to some interlocutors, negative stereotypes of refugees and migrants are deeply entrenched in the general public. Refugees and migrants often experience racial discrimination and xenophobia on a regular basis, especially in employment, health, housing and education, as well as from the police and immigration services. In addition, the media have, on occasion, stigmatized the immigrant population, refugees and asylum seekers by stereotyping them as responsible for certain types of common crimes reported throughout the country.

## **E. Role of the media**

71. Various interlocutors pointed out that some organizations, journalists and media outlets have, at times, disseminated racist hate speech and messages of racial superiority, as well as racial stereotypes and expressions of hatred against indigenous, original campesino peoples and nations and Bolivians of African descent. It was also noted that indigenous, original campesino peoples and nations and Bolivians of African descent continue to be underrepresented in the media, which also impede their political participation and inclusion, given that many media outlets still discriminate against them.

72. The Special Rapporteur would like to emphasize that it is important that the media take responsibility in combating racism and racial discrimination, and contribute to eradicating the prejudices and stereotypes existing in society and persistent tensions, all of obstruct intercultural acceptance and the creation of an inclusive and pluralistic society. According to the Government, self-regulation by media outlets has not been sufficiently effective in eliminating racist contents and coverage, and progress has been poor in this regard. The Government has often called upon mass-media outlets to refrain from disseminating offensive expressions based on racial hatred, colour and origin, and is willing to enter into dialogue and discussion with media outlets on cases where racist content or messages have been disseminated.

73. Article 16 of Law No. 045 against Racism and All Forms of Discrimination prohibits and criminalizes the dissemination of racist expressions through the media. Concerns were expressed by media representatives that these provisions of Law No. 045 may impede the enjoyment of the right to freedom of expression and opinion by leading to media censorship. Although some media outlets have undertaken awareness-raising programmes about Law No. 045, disseminated messages to promote values of respect and equality and devoted a certain amount of coverage to anti-racism programmes, much remains to be done in this area. The Government authorities informed the Special Rapporteur that measures had been taken to increase the visibility of indigenous peoples in audiovisual and print media, and a monitoring system has been established to ensure compliance of media outlets with the relevant obligations set out in Law No. 045.

## **F. Role of education**

74. The authorities pointed out that important aspects of the new Plurinational State Constitution – respect for indigenous communities, the principle of non-exclusion, the full recognition of interculturality and multilingualism – had been incorporated into the current



education system. The national plan of action for human rights of 2008 includes specific actions on introducing intercultural and multilingual education, and has provided a significant impetus to the adoption of the Education Act No. 070 of December 2010, which promotes the process of decolonization of education in Bolivia, as well as the strengthening of multiculturalism and multilinguism. In 2008, three intercultural indigenous universities were established by Government decision: including Tupac Katari University, an Aymara university located in the town of Warisata, near La Paz; Casimiro Huanca University, a Quechua university in the central province of Cochabamba; and Apiahuyqui Tupa University, a Guaraní university in the southern province of Chuquisaca. The universities offer various programmes useful for students to apply their knowledge for the development of their regions, including high plains agronomy, food and textile industry studies, veterinary medicine, animal husbandry, forestry, fishery and hydrocarbons. Furthermore, a plurinational institute of languages has been established for the study and standardization of the languages of indigenous peoples, and to define linguistic policies.

75. It was noted, however, that educational sector reform is still in progress, and much needs to be done to ensure that education serves as a major instrument of social inclusion. Indigenous peoples, Bolivians of African descent, migrants and other marginalized groups continue to experience significant disadvantages in terms of educational outcomes. The Ministry of Education aims at delivering different levels of educational services to remote areas, in particular to the excluded indigenous communities or to areas where various forms of forced labour and servitude still exist.

76. During the meetings held with the representatives of indigenous communities and Afro-Bolivians, concerns were expressed about the persistence of the legacy of the former colonial system, in particular in public universities, where indigenous peoples and Afro-Bolivians still face various barriers to access, and the number of students from those communities is still very low. The Special Rapporteur shares the concern expressed at the reported incidents of racial discrimination against indigenous peoples and Afro-Bolivians in schools and universities. In some instances, students of indigenous origin are still not able to attend universities in their traditional clothing owing to persisting racist attitudes and behaviours of other university students.

## VI. Conclusions and recommendations

### A. Implementation of legislative, institutional and policy measures

77. **The Special Rapporteur notes that the Plurinational State of Bolivia has demonstrated strong commitment and made significant progress and achievements that provide a favourable legal and policy framework for the elimination of racism and racial discrimination in the country. These include the adoption of the new Plurinational State Constitution in 2009 and related legal, political and institutional reforms that the country has undertaken to build a pluralistic and inclusive society.**

78. **The Special Rapporteur welcomes the important legislative and policy initiatives taken, including the adoption of Law No. 045 against Racism and All Forms of Discrimination in 2010 and the development of the State policy against racism and all forms of discrimination (plan of action for 2012-2015). These steps comply with the requirements of the International Convention on the Elimination of All Forms of Racial Discrimination, the Durban Declaration and Programme of Action and the recommendations made by the Committee on the Elimination of Racial Discrimination. The Special Rapporteur would nonetheless like to point out that the inadequate implementation of these measures and initiatives, mostly owing to**

insufficient financial and human resources, remains a key challenge. In this connection, he urges the Government to finalize immediately the formal approval of the plan of action against racism and all forms of discrimination, and to commence implementation by allocating adequate human and financial resources.

79. The Special Rapporteur notes that, at the institutional level, important steps have been taken, such as the establishment of the Vice-Ministry of Decolonization, which is also tasked with preventing and eliminating racism, and the National Committee against Racism and All Forms of Discrimination. He encourages the Government to strengthen the capacity of these institutions by ensuring that they are provided with the human, financial and technical resources necessary.

80. The Special Rapporteur shares the concerns expressed about the widespread prejudice against and stereotypes of indigenous peoples, Afro-Bolivians, migrants and other vulnerable groups and individuals, as well as at the considerable number of incidents of racism and racial discrimination and persistent tensions and polarization within Bolivian society. He believes that these factors impede the creation of an inclusive and pluralistic society. The Special Rapporteur encourages the Government to enhance its awareness-raising campaigns aimed at combating racial discrimination, stereotypes and all existing forms of discrimination, and to continue its programmes to promote intercultural dialogue, tolerance and mutual understanding.

## **B. Structural discrimination**

81. The Special Rapporteur welcomes the positive steps taken by the Government to combat racism and racial discrimination against indigenous peoples, Afro-Bolivians and other marginalized groups, and to ensure their inclusion. Indigenous peoples and Afro-Bolivians continue, however, to experience structural discrimination in their access to employment, education, health care and other services. The Special Rapporteur recommends that the Government take relevant measures to address the underlying structural factors that allow discrimination that leads inequalities in the enjoyment of economic, social and cultural rights, and that it set concrete equality targets and monitor their implementation.

82. In the light of the serious concerns expressed about the manifestations of structural discrimination in a large number of health-care, education and business services institutions against indigenous peoples, Afro-Bolivians and other marginalized communities and groups, the Special Rapporteur stresses that a significant shift in the policies, practices and procedures of the said institutions is required to address institutional racism and to create inclusive and responsive organizational cultures.

83. The Special Rapporteur recommends that the Government take specific measures to create more accessible and responsive mechanisms to receive and act upon complaints of unlawful discrimination by both public and private sector actors on the basis of ethnicity.

84. The Special Rapporteur is concerned that racial profiling, discriminatory acts, prejudices and negative stereotypes against indigenous peoples and communities remain a reality, also in public institutions, including law-enforcement authorities, the judiciary and the police. He therefore urges the Government to conduct regular training activities and awareness-raising campaigns, and to apply non-discrimination standards and procedures in public sectors. The Special Rapporteur moreover recommends that the Government develop concrete strategies to increase police

responsiveness to the claims and concerns of indigenous and Afro-Bolivian communities with regard to issues of racism and racial discrimination.

**C. Political, economic and social rights of indigenous peoples, Afro-Bolivians and other vulnerable communities and groups**

85. The Special Rapporteur notes the important steps taken by the Government to enhance the political participation and representation of indigenous peoples. He encourages the Government to continue to promote the rights of indigenous peoples in the political arena.

86. While noting the significant advances made in the recognition of Afro-Bolivians as a distinct ethnic and cultural group and the granting of economic, social, political and cultural rights to Afro-Bolivians under the new Constitution, the Special Rapporteur recommends that efforts be intensified to promote the political participation and representation of Afro-Bolivians.

87. The Special Rapporteur reiterates the need for the effective implementation of the right of indigenous peoples to consultation, particularly in the context of planned or ongoing development projects in indigenous territories.

88. While underlining the considerable advances made in indigenous justice, the Special Rapporteur recommends that the Government take all measures necessary to ensure that the traditional indigenous justice system is fully in line with the international human rights treaties ratified by the Plurinational State of Bolivia and contributes to strengthening inclusion and social cohesion within the country.

89. The Special Rapporteur encourages the national Government, in consultation with the representative organizations of indigenous peoples, to identify more accessible mechanisms to realize the aspirations of indigenous peoples to autonomy and self-determination.

90. The Special Rapporteur expresses his concern at the structural inequality of and discrimination against indigenous peoples and Afro-Bolivians, especially in the areas of education, health and employment, which persist despite the numerous efforts made by the Government. He recommends that the Government prioritize the delivery of quality basic services to indigenous peoples and Afro-Bolivian communities, particularly in remote areas, and take far-reaching policy measures to improve their access to employment and eradicate discriminatory practices in employment in both the public and private sectors.

91. The Special Rapporteur moreover urges both the public and private sectors to address the exclusion of a considerable part of native indigenous campesino peoples from important sectors of the economy, such as insurance, credit and banking, communication services and housing.

92. The Special Rapporteur welcomes the holding of the national census on 21 November 2012, which will be an important source of data on the situation of indigenous peoples, Afro-Bolivians and other ethnic groups and communities. He recommends that disaggregated data on the situation of indigenous peoples, Afro-Bolivians and other ethnic groups and communities collected by the census be utilized to develop and implement appropriate policies in all areas of concern, such education, health, social welfare and others.

93. The Special Rapporteur recommends that the Government consider taking special measures or affirmative action to assist or protect disadvantaged groups. In

doing so, the Government may consider general recommendation No. 32 on special measures made by the Committee on the Elimination of Racial Discrimination in 2009, in which the Committee stated, *inter alia*, that special measures should be appropriate to the situation to be remedied. Appraisals of the need of such measures should be carried out on the basis of accurate data, disaggregated by race, colour, descent and ethnic or national origin and incorporating a gender perspective, on the socioeconomic and cultural status and conditions of the various groups in the population and their participation in the social and economic development of the country. Special measures should be designed and implemented on the basis of prior consultation with affected communities.<sup>8</sup>

94. With regard to the situation of the Guaraní people and other vulnerable indigenous communities, such as the Ayoreos, the Special Rapporteur recommends that the Government take appropriate measures in consultation with affected communities to address specifically their socioeconomic needs, including by eradicating forced labour, the restitution and clarification of land titles, ensuring better access to public and economic services, providing opportunities for employment and development, and helping in capacity-building.

#### **D. Racial violence, access to justice and impunity**

95. The Special Rapporteur shares the concerns about the considerable number of incidents of discriminatory practices and acts of racial violence committed against indigenous peoples, Afro-Bolivians and other vulnerable groups, and the low level of prosecution and sanctions in such cases. He recommends that the Government intensify its efforts and take further measures to eradicate impunity by bringing to justice perpetrators and prosecuting all cases of racial violence and discrimination, particularly with regard to the incidents in Sucre of May 2008 and the massacre in Pando of September 2008. He also urges the Government to enhance the provision of various forms of assistance and medical services to help victims of racial violence overcome the physical and psychological damage caused by racist incidents.

96. The Special Rapporteur recommends that the Government intensify its efforts to prevent, investigate and prosecute all cases forced labour and servitude, and ensure access to justice to the Guaraní people.

97. Sharing the concern about the widespread impunity for cases of racist attacks and verbal abuse, the Special Rapporteur stresses the need to create effective structures to deliver smooth justice services, and to set up accessible complaints-reporting mechanisms.

98. The Special Rapporteurs recommends that the Government provide appropriate training for judges and prosecutors in handling cases of racism and racial discrimination, given that various interlocutors reported that the cases on racism and racial discrimination have not progressed owing to a lack of expertise and knowledge of judges and prosecutors.

#### **E. Situation of migrants and refugees**

99. The Special Rapporteur recommends that the Government enhance its actions to address racism, racial discrimination, xenophobia and intolerance against refugees

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<sup>8</sup> CERD/C/GC/32, paras. 16-18.

and migrants, including irregular migrants. It is important that relevant authorities, such as the police and immigration services, implement the provisions of Refugee Law No. 251 and of international standards.

100. The Special Rapporteur recommends that sustained public campaigns and initiatives be undertaken to change the social perception and public attitude towards refugees and migrants.

## **F. Role of the media**

101. The Special Rapporteur encourages the media to take responsibility in the fight against racism and racial discrimination and in the creation of an inclusive and pluralistic society, and refrain from reporting racist, stereotypical, stigmatizing and discriminatory messages and contents against indigenous peoples, Afro-Bolivians and other communities. In this connection, the Special Rapporteur recommends the strengthening of codes of conducts and regulatory compliance of the media to prohibit the propagation of racism, racial hatred, xenophobia, racial discrimination and related intolerance.

102. With regard to the concern expressed by some interlocutors at the incompatibility of anti-racism legislation with the protection of freedom of expression, he emphasizes that the prohibition of the promotion of ideas of racial superiority and of racist propaganda is compatible with the obligation to protect and respect freedom of expression and opinion in accordance with international human rights law. He, however, believes that any incompatibility or otherwise of the Law on Racism and All Forms of Discrimination with the obligation to protect freedom of expression and opinion would need to be determined by the judiciary in accordance with the provisions of the Constitution and in accordance with the State's obligations under international human rights law.

103. The Special Rapporteur recommends that media organizations enhance the representation of native indigenous campesino peoples and nations, Bolivians of African descent and other marginalized groups and communities in the media, thereby helping to preserve indigenous peoples' cultures and challenging existing stereotypes and narratives that perpetuate racism and racial hatred. In this regard, the Government should undertake training programmes on the media and communication to help stereotyped and underrepresented groups and communities to make better use of powerful media tools in boosting their representation and making their voices heard.

## **G. Role of education**

104. While noting that such important principles as respect for indigenous communities, non-exclusion and the full recognition of intercultural relations and multilingualism are enshrined in the current education system in the Plurinational State of Bolivia, the Special Rapporteur recalls that special attention should be paid to the delivery of educational services to excluded indigenous groups and communities.

105. The Special Rapporteur is concerned at the persisting barriers to access for indigenous peoples to institutions of higher education, and recommends that the Government take further action to support the access to education for indigenous peoples, Afro-Bolivians and other disadvantaged communities and groups.

106. The Special Rapporteur recommends that schools and universities develop culturally-responsive practices and policies to improve access for and educational achievements of students from disadvantaged groups and communities. It is vital that tertiary institutions create a supportive and discrimination-free environment, and that they tailor programmes and initiatives to the specific needs of students from disadvantaged groups and communities.

## **H. International cooperation**

107. The Special Rapporteur calls for continued dialogue and cooperation between the Government of the Plurinational State of Bolivia and relevant United Nations institutions and agencies, such as OHCHR and the United Nations country team in Bolivia, other appropriate international organizations and multilateral and bilateral donors in providing the technical assistance and expertise necessary to facilitate the effective implementation of relevant legislation and policy actions in combating racism, racial discrimination, xenophobia and related intolerance in the country.

108. The Special Rapporteur recommends that technical cooperation assistance be extended in particular to training judges, lawyers, magistrates, police and immigration officers and other relevant public officials in dealing with issues related to racism, racial discrimination, xenophobia and related intolerance in the country.

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