

ARGENTINA

CERD 26th (A/8418) (1971)

28. From its 56th to its 58th meetings, the Committee proceeded to determine formally its view as a Committee (as distinct from the views expressed at previous meetings, which were those of the individual members) as to which reports were “satisfactory”, in the sense that they furnished all or most of the required information, and which reports were “unsatisfactory” or “incomplete” and therefore needed to be supplemented by further information. The initial report (and supplementary report, if any) of each State Party was put before the Committee separately by the Chairman. Where there was no consensus, the question whether a State Party’s report (or reports) was “satisfactory” or whether, failing that, the Committee wished to request additional information from that State Party, was decided by vote.

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30. On the other hand, the reports submitted by the following 17 States Parties were considered by the Committee “incomplete” or “unsatisfactory”, in the sense that significant categories of information were either totally lacking or insufficiently provided in them: Argentina . . . At its 58th meeting, held on 23 April 1971, the Committee adopted the text of a communication which it decided to request the Secretary-General to submit to the aforementioned States Parties, in accordance with rule 65 of its provisional rules of procedure. (The text of this communication is reproduced in annex V.)

CERD 28TH No.18 (A/9018) (1973)

84. The initial report of Argentina, dated 30 December 1969, was considered by the Committee at its third session - together with a supplementary report dated 27 April 1970 - and deemed unsatisfactory. Additional information was requested but not received by the Committee. The second periodic report, submitted on 10 November 1971, was considered at the seventh session of the Committee (126th and 127th meetings).

85. Some members of the Committee noted that the Government of Argentina had tried to respond to some points raised during the discussion of its previous reports; that the present report contained information on legal provisions corresponding to some articles of the Convention; and that such information covered not only certain provisions of the Criminal Code describing prohibited acts of racial discrimination but also the penalties prescribed for such crimes. Special note was taken of the statement, that, in accordance with articles 20 and 21 of the Constitution, “the civil equality of the alien and the citizen is guaranteed” and “the political status of the alien ... is one of the most advantageous”.

86. On the other hand, it was observed that the report did not follow the guidelines laid down by the Committee and did not always provide the texts of the legal provisions to which it referred. Furthermore, article 80, paragraph 4, of the Criminal Code appeared to some members to be more restrictive in its scope than article 213 bis, which had been repealed.

87. Some members wished that demographic information had been included in the report. It was inquired whether any legislative, administrative or other measures had been taken in order to implement the provisions of the Convention that required positive action by States parties or to prevent the possible commission of acts of racial discrimination. Noting that information was submitted which referred to legislative provisions corresponding in part to the requirements of paragraph (a) of article 4 of the Convention, some members asked whether there was any legislation satisfying the requirements of paragraph (b) of that article, the implementation of which the Committee considered mandatory. It was also asked whether any measures had been adopted to implement article 7 of the Convention. The representative of Argentina was asked whether he had any information to convey to the Committee regarding the status of his country's relations with the racist régimes of southern Africa, in accordance with general recommendation III, which was adopted by the Committee after the submission of the report under consideration. Specific questions were asked about the scope of articles 80 and 209 of the Criminal Code.

88. In the statement he made before the Committee at its 127th meeting, the representative of Argentina expressed his delegation's hope that the report under consideration, which was submitted almost a year and a half earlier, would be brought up to date and improved on the basis of the Committee's guidelines and the comments made during the Committee's debate. He offered some clarification of the scope of articles 80 and 209 of the Criminal Code. Regarding Argentina's relations with the racist régimes in southern Africa, he referred to Act 19,846 of September 1972, by which the provisions of Security Council resolution 253 (1968) had been incorporated into Argentine positive law.

89. The Committee decided to consider the report satisfactory and expressed confidence in the

continued co-operation of the Government of Argentina.

CERD 30TH NO.18 (A/10018) (1975)

79. Members of the Committee noted that the information contained in the third periodic report of Argentina, together with the information supplied in earlier reports, described the compliance of the reporting State with its obligations under articles 4, 5 and 6 of the Convention. It was noted also that, in addition to constitutional articles and legislative provisions, the report referred to judicial measures, as required by article 9, paragraph 1, of the Convention. It was observed that the complete texts of all the relevant articles of the Constitution and all the legislative provisions, to which the report under consideration or earlier reports referred, were supplied. On the other hand, there was no information on compliance with the obligations under article 7 of the Convention; nor was the information envisaged in general recommendations III (on relations with racist régimes) or IV (on population) furnished by the reporting State.

80. Some members doubted that the information at hand was sufficient to show full compliance by the reporting State with the requirements of article 4 of the Convention, and others were left uncertain as to the present status of legislation corresponding to the subject-matter of paragraphs (a) and (b) of that article. Members were of the opinion that the requirements of articles 5 and 6 of the Convention were only partially met by existing legislation, as reported.

81. Questions were asked about the scope of “derechos civiles” in Argentinian law; the connotation of the expression “prerogatives of blood and birth” used in article 16 of the Constitution; the rights enjoyed by migrant workers; whether the rights enjoyed by aliens under articles 14 to 20 of the Constitution - which appeared to assure aliens of equal rights with citizens - included political rights; the applicability of amparo proceedings to acts of racial discrimination perpetrated by private individuals or groups; and the territorial scope of application of the act concerning amparo proceedings, and in particular whether it applied to Antarctica.

82. The representative of Argentina commented on the questions relating to rights of migrant workers and the applicability of amparo proceedings to Antarctica. She stated that she would convey the comments made by members of the Committee to her Government so that they might be taken into consideration in future reports.

CERD A/31/18 + Corr. 1 (1976)

99. While observing that the fourth periodic report of Argentina did not contain new information not already contained in earlier reports, members of the Committee took note of the replies to some of the questions raised at earlier sessions, and in particular, those relating to the rights enjoyed by migrant workers and other aliens, cases of racial discrimination brought before the courts, and relations with the racist régimes of southern Africa. It was noted, however, that the remaining questions had not been answered; and it was emphasized that, accordingly, the comments made during the consideration of the third report remained valid.

100. In addition to the unanswered questions raised at an earlier session, two additional questions were raised during the current discussion: (a) Did article 31 of the Argentine Constitution, under which the Convention had the force of a national law, imply that the Convention would supersede only earlier and contrary provincial laws or constitutions, or did it imply that the Convention would apply also in cases where an earlier federal law was at variance with the aims of the Convention? (b) Was the 1853 National Constitution still in force?

101. It was observed that the report did not provide information on the forms of racial discrimination existing in the Malvinas (Falkland Islands), a territory occupied by a foreign Power and claimed by Argentina.

102. The representative of the Government of Argentina commented first on some of the questions which had been raised at previous sessions but had remained unanswered. Regarding the implementation of article 7 of the Convention, he stated that responsibility for public education lay primarily with the provincial authorities, 11 of which had primary education programmes which met the requirements of the article. Regarding foreign workers and other aliens, he said that they were treated for legal purposes on exactly the same basis as Argentine workers, that their rights and obligations were set out in bilateral agreements and that the Constitution guaranteed foreigners civil rights equal to those enjoyed by Argentine nationals. Regarding the political rights enjoyed by aliens, he referred the Committee to his Government's second periodic report. He confirmed that amparo proceedings could be instituted in the event of racial discrimination by individuals or groups. And he informed the Committee that the procedure was applicable also in the Argentine portion of Antarctica. The remaining questions, which he was unable to answer, would be communicated to his Government. Regarding the two questions raised at the current session, he said that, under article 31 of the Constitution, the Convention took precedence over all contrary legislation, whether provincial or federal, and that the 1853 Constitution, which contained that article, remained in force and had not been amended by any subsequent legislation. As for the observation (mentioned in para. 101, above) that his Government's report did not provide information on the situation the Malvinas (Falkland Islands), he reaffirmed Argentina's sovereignty over that territory, but said that he would transmit the question concerning the forms of racial discrimination practised there to his Government.

CERD A/33/18 (1978)

244. The fifth periodic report of Argentina was considered by the Committee together with the introductory statement made by the representative of the reporting State, which supplemented and brought up to date the information given in the report.

245. Article 31 of the Argentine Constitution gave rise to the question whether a treaty, upon entering into force, automatically superseded laws which were not compatible with it or whether special legislation had to be promulgated to that effect.

246. The information regarding the “aboriginal” population and the measures taken by the Government with respect to them received much of the Committee’s attention during its consideration of the report. The doubts expressed by some members about the appropriateness of the word “aboriginal” were not shared by other members. Requests were made for the texts of the directives related to the development of the “aboriginal” communities, and for additional information on their implementation. It was emphasized that the policy of “voluntary integration” must be gradually implemented in order to ensure that “aboriginal” communities retained their cultural identity, and that the purpose of that policy should be to secure the economic and social development of the ethnic groups concerned while at the same time enabling them to preserve their cultural characteristics. The following questions were put to the representative of Argentina: Were the characteristics of “aboriginal” persons enumerated in the report considered to be essential prerequisites for the enjoyment of the benefits of special measures adopted in their favour? What were the institutions responsible for applying those measures, and what were the sources of their financing? And did ignorance of the Spanish language prevent an “aboriginal” person from voting and participating in the local public administration of regions in which his dialect was spoken?

247. The representative of Argentina assured the Committee that, in its next periodic report, her Government would supply additional information and the requisite clarifications concerning the laws and regulations in force. She affirmed that great efforts were being made to preserve the culture of the indigenous inhabitants, including their crafts. There were official bodies, such as the National Arts Fund, and provincial and private bodies which were seeking to preserve that culture. At the same time, the Government was attempting to raise the levels of living of the “aboriginal” communities, despite the difficulties of reaching those groups, which were often nomadic and “were not composed exclusively of indigenous persons”. The competent body was the Secretariat of State for Social Development and Welfare, which was not concerned exclusively with the “aboriginal” communities but with the rest of the populations as well, especially the most underprivileged groups. She observed that lack of knowledge of Spanish was a serious problem, for the indigenous languages existed only in oral and not in written form, so that when the “aboriginal” inhabitants learned to read and write they could not apply that knowledge in their own language. The right to vote was granted universally and without exception; but in order to be a public official it was necessary to know how to read and write.

248. The committee took note of the information, given by the representative of Argentina in her introductory statement, that a commission, presided over by a former member of the Committee on the Elimination of Racial Discrimination, had been established to prepare a reform of the Criminal Code and that that commission was considering a text based on article 4 of the Convention, which

it was hoped would be completed in time for inclusion in the next Argentine report. A member of the Committee referred to article 80 of the Argentine Criminal Code and observed that it seemed to provide only for the case of homicide and did not include acts of violence or to incitement to such acts against a group of persons, as stipulated in article 4 of the Convention. Another member asked for an interpretation of the phrase “to form associations for useful purposes”, contained in article 14 of the Constitution. The representative of Argentina said that that phrase meant that persons could form associations for any purposes that were not unlawful and, in addition, not detrimental to others; the Argentine Civil Code stated that the law did not protect the abuse of rights.

249. Referring to the information on measures adopted by the Government in the field of education to implement article 7 of the Convention, a member of the Committee asked for information on the use of radio and television programmes. The representative of Argentina confirmed that there were official measures to ensure that the press reflected official anti-racist attitudes. Thus, official communiqués were issued on special occasions and were widely disseminated by the press.

250. A member of the Committee requested additional information on the rights of migrant workers, and in particular their rights with regard to trade unions, housing and social benefits; and he asked whether any legislation had been enacted in that field.

251. A member of the Committee requested that the information contained in the report in response to general recommendation III and decision 2 (XI) of the Committee be expanded in the next report.

CERD A/35/18 (1980)

268. The sixth periodic report of Argentina (CERD/C/66/Add.6) was introduced by the representative of the reporting State, who pointed out that the report mainly dealt with three matters that had previously attracted the attention of the Committee: special measures taken by the Argentinian Government with regard to the indigenous population living in the country; recent developments with respect to the implementation of article 4 of the Convention with particular reference to the reform of the Argentinian Penal Code, and measures concerning the problem of seasonal or migrant workers.

269. The Committee commended the Government of Argentina for its report, which showed that the Government continued to seek to co-operate with the Committee, and took note with particular interest of the information provided therein on many practical measures and programmes dealing with the actual situation and rights of the various ethnic groups in the country. Some members of the Committee, however, felt that a summary providing an over-all picture of the results of the various measures taken by the Government was lacking in the report and, in this connection, expressed the wish to receive a general view of the effect of such governmental measures as well as a description of all indigenous groups giving details of their size and location, and referring to them by their ethnic name. It was asked, in particular, whether more factual information, such as the average per capita income, the literacy rate, the mortality rate and the average life expectancy of the indigenous peoples in the various regions, could be made available to enable the Committee to evaluate the progress that the Government had made in assisting such peoples. It was also noted that although there were provisions in various provincial constitutions dealing with the situation and rights of the various ethnic groups, there was no information in the report on similar provisions which applied at the national level, and it was asked in this connection whether representatives of the ethnic groups were able to participate at the national or local levels in the formulation of policy affecting their life and work, and whether there was some degree of autonomy or self-government or other machinery for dealing locally with internal problems. Citing article 71 of the Constitution of Chubut Province dealing with special legislation to be enacted for the defence of aborigines, one member asked whether such legislation had, in fact, been enacted.

270. Referring in particular to the information provided by the Argentine Government on its implementation of article 2, paragraph 2 of the Convention, members of the Committee noted that in the activities relating to area co-ordination for community development priority was given to aboriginal communities and communities established in frontier areas, and asked whether there were rules and regulations to guide the authorities in the assignment of priority or if the matter was left to the discretion of the authorities concerned; whether there was any kind of participation of the people directly concerned in the area co-ordination work; and whether the projects of the Indigenous Affairs Sector handled during 1979 were to be considered isolated projects. Noting that one of the goals in creating primary sources of labour was to prevent an exodus of populations in search of better labour opportunities, it was asked whether there was any law to prevent an individual or group of individuals from leaving an area if they so wished. Members of the Committee referred also to the information provided in the report concerning the legislation regulating the system of land tenure and the disposition of different provinces. It was noted in this regard that an attempt had been made to secure for indigenous populations in Argentina possession of the land they occupied, and it was asked whether that attempt had been successful. In addition, it was noted that differences existed

in the laws of the various provinces concerning land ownership, and clarification was requested with regard to the criteria at the basis of such legislative differences, with regard to the criteria at the basis of such legislative differences, with regard to the possibility for aborigines to be entitled to the royalties derived from the exploitation of third-category minerals found in areas covered by reservations, and on the Government's policy concerning the amount of land granted per person. In this connection, information was requested on the number of reservations existing in Argentina and the global amount of their populations. Members of the committee also stressed the importance of protecting the cultures and languages of the ethnic groups living in Argentina and asked whether there were any cultural or other organizations for different ethnic groups.

271. With reference to article 3 of the Convention, information was requested about relations between Argentina and the racist régime of South Africa.

272. The Committee was of the view that the provisions of the Civil and Penal Codes of Argentina referred to in the report did not meet the requirements of article 4 of the Convention, especially paragraph (b) of that article, and expressed the hope that the Commission established to reform the Penal Code would take the requirements of the Convention fully into account before completing its work. Some members asked, in particular, whether there were any provisions in the Penal Code protecting ethnic groups, and what was the meaning of "unlawful association", referred to in article 210 of the existing Penal Code, or whether the new Penal Code would provide a new definition.

273. In connection with article 5 of the Convention, members of the Committee asked for more information on the working conditions of seasonal workers and unskilled migrant labour, in particular statistical data showing the progress made in raising their wages to the national standard, with a breakdown for the various areas and regions. The question was raised whether there was any law to prevent individuals from leaving an area in search of better labour opportunities. Members also asked whether there were in Argentina any legal provisions relating to prosecution of violations of Act No. 22105 of 15 November 1979 on trade unions, in particular its article 7 dealing with discrimination in their formation, and what was the meaning and purpose of that article which provided that "trade unions shall not be constituted on the basis of political ideologies". Moreover, information was requested on the responsibilities and actual performance of both the Government and employers in ensuring the availability of proper living conditions, basic amenities and welfare for migrant workers, on the observation in Argentina of the ILO Convention on migratory workers and on the guarantees relating to the right of access to public places and services in accordance with article 5, paragraph (f) of the Convention.

274. With regard to article 6 of the Convention, members of the Committee asked whether any machinery or recourse procedure had been set up for possible victims of racial discrimination. It was also noted that, at the administrative level, it appeared that in Argentina a victim of discrimination by an official body had no means of readily safeguarding his rights.

275. The Committee noted with interest the information by the Argentine Government on measures taken for the implementation of article 7 of the Convention; however, it requested more details concerning in particular the school curricula, the measures to disseminate information in schools about the evils of apartheid, and the measures to impart tolerance and to increase awareness and appreciation of other religions in an effort to liberalize attitudes to non-Christians.

276. The representative of Argentina, replying to questions raised by members of the Committee, referred to the information already provided in her Government's reports and explained that the population of her country included a great many individuals of mixed parentage and that her Government was unable to provide exact figures for the number of indigenous people. She also explained that the projects aimed at promoting the integrated development of the indigenous communities differed considerably from province to province according to the need of the various indigenous groups and provided details on the criteria governing the distribution of land. The representative stated, in addition, that even though each province had its own policy, there was nevertheless co-ordination at the national level to ensure that certain standards were met in the results obtained.

277. On the subject of relations with South Africa, the representative underlined the international commitments of Argentina against the policy of apartheid; and as regards measures for the implementation of article 4 of the Convention she provided more information on the application of the existing penal provisions and on the relevant work of the Commission established to reform the Argentine Penal Code which, she stated, would deal with acts of violence motivated by racial hatred.

278. Referring to some of the questions raised in connection with article 5 of the Convention, the representative explained that the aim of article 7 of the Act No. 22105 on trade unions was to ensure that no individual would be prevented from joining a trade union on the grounds of his membership in a political party or his political beliefs and to ban the establishment of trade unions whose membership was open exclusively to those subscribing to the same political ideology. She stated that the right of access to places or services intended for use by the general public was fully protected in Argentina.

279. With regard to the remedies available to the victims of racial discrimination, the representative stated that those victims, like the victims of any crime, could bring suit in courts, but that no special legal machinery had been set up in connection with article 6 of the Convention. The fact that no cases involving racial discrimination had so far been brought before the courts could perhaps be explained by the effectiveness of social mechanisms in her country in checking racial prejudice and inhibiting racial violence.

280. With reference to article 7, the representative provided some details concerning the teaching of religious and racial tolerance in primary schools and assured members of the Committee that her Government would endeavour to provide the information requested by them in the next periodic report. Regarding the situation of migrant workers, she pointed out that detailed information was provided at the request of the Committee in the annexes to the Argentine report which, however, had not been translated.

CERD A/37/18 (1982)

296. The seventh periodic report of Argentina (CERD/C/91/Add.8) was introduced by the representative of the reporting State who stated, in particular, that the report had been prepared to reflect social and legal developments over the past two years in order to supplement the information provided in previous reports and to respond to the concerns expressed by members of the Committee during their discussion of the sixth periodic report. The report contained detailed information on the situation of the aboriginal communities, the subject which had elicited the most comments by members. In reply to questions concerning the existence of multiracial or integrationist associations in Argentina, the representative stated that a great many such organizations existed and, by way of example, read out a list of some 40 civic, fraternal, cultural and other organizations. He stated that racial and religious hatred constitute aggravating circumstances in the case of offences against the person and against liberty under the Penal Code of Argentina. Although no case of racial discrimination had occurred, the Supreme Court had recently handed down a judgement annulling an administrative act which it had found to be discriminatory. The case, which affected the religious and educational rights of a foreigner, illustrated by analogy the remedies available to all inhabitants for the enforcement of their rights.

297. The Committee commended the Government of Argentina for the comprehensive and detailed report it had submitted. With regard to the policy adopted by the Government toward indigenous populations, reference was made to the history of Argentina as a country of settlement for immigrants from Western and Central Europe, which had resulted in the displacement of the indigenous peoples. The Government was praised for its programme of land distribution to the indigenous peoples, although the problems posed by the existence of latifundia and by the size of the national territory and its federal structure were pointed out. Some members remarked that, while the report contained a wealth of detail on the various regions, it was difficult to understand the precise legal and constitutional position of the indigenous peoples and what their rights were, particularly in view of their grouping in reservations. Questions were also asked concerning the socio-economic position of those groups, their cultural and linguistic development and their participation in all levels of political and public life in Argentina. Information was also requested concerning the composition and functioning of the governmental bodies established to deal with the question, and the extent of participation by the indigenous peoples in their decision-making, as well as on the results of the measures adopted. The Government of Argentina was invited to include such information in its next periodic report to the Committee.

298. Concerning article 3, satisfaction was expressed at the measures already taken against apartheid. Additional information was requested concerning diplomatic, economic and other relations still existing between Argentina and South Africa.

299. In connection with article 4, several members observed that the provisions of the Penal Code mentioned in the report did not satisfy the obligations laid down in that article. It was pointed out that article 4 required the enactment of specific legislation by States parties declaring an offence punishable by law the dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination and acts of racial violence as well as prohibiting organizations and activities promoting racial discrimination. Legislation simply declaring racial hatred an aggravating circumstance for other types of crime was therefore insufficient. The Committee expressed the hope

that the governmental Commission which was working on a reform of the Penal Code would recommend the adoption of appropriate legislation in order to satisfy the obligations undertaken by Argentina under article 4 of the Convention. The Government was invited to inform the Committee in its next report of steps taken in this direction.

300. With respect to article 5, the members pointed out that the relevant section of the report referred mainly to constitutional provisions and requested information regarding any specific legislative provisions in implementation of the rights to freedom of thought, conscience and religion, freedom of opinion and expression, and freedom of peaceful assembly.

301. Information was also requested with respect to article 6 regarding the availability of remedies against governmental acts. It was recalled that, during the Committee's consideration of the sixth report of Argentina, the representative had stated that there were no special remedies and that they were unnecessary. However, the seventh report made mention of remedies against arrest and incarceration. It was asked what remedies were available to victims of racial discrimination not involving arrest.

302. Additional information was also requested concerning the implementation of article 7, in particular on whether there was any instruction in civics in primary schools for the benefit of the majority of children who did not go on to secondary schools.

303. The representative of Argentina stated that it was impossible at this stage to reply to all the questions raised about the report, which had been prepared by an interministerial commission. The requests for information would, however, be conveyed to the Government of Argentina with an indication of the desire expressed by the Committee for greater conciseness and the inclusion of a general overview in future reports. Referring to his Government's policy toward indigenous peoples, the representative pointed out that it was very different to promote development without integration and the danger was ever-present of segregating people on the pretext of autonomy. He indicated that the indigenous reservations were not ghettos or prisons but farm unit areas provided with services to develop their potential. People from the reservations could attend school in any part of the country, and had the same right to travel as anyone else. As to the concern expressed about the participation of indigenous peoples in development projects which affected them, noteworthy progress had been achieved, as shown by the formation of associations on the part of communities and groups, and the participation of their natural leaders (chiefs, mayors, teachers and the like) in the different stages of project activities. Together with indigenous groups, immigration flows had long held the attention of Argentine authorities. Argentina was now host to 5,000 Laotian families among other nationals. The representative of Argentina further assured the Committee that minorities enjoyed the same rights as other inhabitants of Argentina under articles 14 and 15 of the Constitution. With reference to article 3, he stated that Argentina not only condemned apartheid but had also placed a ban on sporting or cultural activities with South Africa and had reduced its diplomatic ties to trade attaché level.

304. In reply to the comments regarding implementation of article 4 of the Convention, the representative stated that international agreements had the force of supreme law in Argentina under article 31 of the Constitution. Since the Convention contained no penalties for infringement, the relevant provisions of domestic legislation, as described in the report, were applied. Regarding the

promotion of notions of racial superiority, there were a number of measures prohibiting publication of racist propaganda and specific provisions to deal with specific situations. With reference to article 5, he stated that the Argentine legislature had, since 1853, incorporated in all its laws and jurisprudence provisions expressing the principle of equality in accordance with article 5 (d) (vii), (viii) and (ix) of the Convention. Regarding the concern expressed as to the legal remedies available to victims of discrimination, in connection with article 6, he stated that the court case already described showed that the requirements of that article had been met and that all inhabitants, including minorities and foreigners, had access alike to the courts for redress.

CERD A/39/18 (1984)

438. The eight periodic report of Argentina (CERD/C/118/Add.1 and Add.16) was considered by the Committee together with the introductory statement of the representative of the reporting State, who pointed out that the report had been prepared on the basis of material emanating from the de facto authorities that had been in power before 10 December 1983. The new Government was engaged in the arduous task of reconstructing the country to enable it to emerge from the profound political, social and moral crisis prevailing at the moment. She also stated that the Government was paying special attention to the position of the indigenous communities and had adopted various measures, including an emergency programme, to enable them to settle on their own land under their own organization. Moreover, the representative informed the Committee about several other political, juridical and socio-economic measures taken to implement the Convention to reaffirm respect for individuals, as well as to help low-income sectors of the population.

439. The Committee congratulated the representative of Argentina on the full and comprehensive information which she had provided, especially with regard to the question of the indigenous population, and noted with interest the considerable efforts being made by the Government of Argentina to establish a system in which all people would have equal rights with due respect to national unity. Members looked forward to closer co-operation with the Government of Argentina and expressed the hope that the next periodic report would be even more substantive.

440. Members of the Committee paid tribute to the humanitarian approach of the new Government which was designed to ensure rapid improvement in the condition of the indigenous population in conformity with article 1, paragraph 4, and article 2, paragraph 2, of the Convention. However, some members wished to receive new data on the ethnic groups in the country and a complete picture of the demographic composition of the nation in order to ascertain whether the position of particular groups had improved or deteriorated. Members asked whether, and to what extent, the vulnerable sectors of the population had better access to government jobs at the district and higher level; whether they were confined to traditional activities, such as handicrafts and subsistence agriculture, or whether they were able through education to enter the mainstream; and whether there were any specific measures for indigenous groups relating to the marriage laws. Additional information was requested on the new Government's strategy regarding national minorities, in particular on reservations for indigenous groups, and it was asked whether the Government planned to maintain such reservations or whether it would attempt to put an end to them so that their inhabitants could live like other citizens.

441. The Government was invited to inform the Committee in its next report of the specific areas in which foreigners were assigned a role in exploiting natural resources and how the exploitation of national resources by foreigners would affect the land and resources of indigenous groups.

442. Additional information was requested on the position of the Argentine Government regarding the Falkland Islands (Malvinas), particularly as to whether it differed from that of the previous régime.

443. With regard to article 3, the Committee welcomed the fact that Argentina had maintained its decision not to grant visas to representatives of South African sports organizations and that flights

by its national airline to South Africa had been discontinued. The hope was expressed that the new Government would go a step further in that direction so as to comply fully with the many General Assembly resolutions on the subject.

444. In connection with article 4, members of the Committee looked forward to receiving information in the next periodic report on the outcome of the consideration by the Congress of the Nation, in December 1983, of the scope of the specific measures referred to in that article.

445. With regard to implementation of article 5, the Committee requested information on the questions raised during consideration of the seventh periodic report concerning the right to freedom of conscience and religion, freedom of thought and freedom of opinion and expression, as well as on what action the Government could take if private educational establishments, which adhered to the official education system, indulged in discriminatory procedures. One member asked for information on the question of the missing persons.

446. With reference to article 6, members recalled that, during its consideration of Argentina's seventh periodic report, the Committee had requested information on action against governmental acts of racial discrimination. In this connection it was asked whether any progress had been made or was contemplated beyond the stage obtaining at the time of the consideration of the seventh report, and whether any measures were being taken to educate persons in vulnerable positions about their rights and the remedies available.

447. In reply to questions raised by members of the Committee, the representative stated that it was the Government's policy to ensure full participation by the indigenous communities in all plans and programmes devised for them, that her Government was fully aware that the indigenous population was entitled to reparation on historical grounds and that such reparation would be based on the granting of land rights to indigenous groups. A preparatory meeting had already been convened for a National Meeting on Indigenous Policy to be held soon, which was expected to be fully and effectively representative of all communities. She also said that her Government was conscious of the need to obtain and analyse demographic data and the bill envisaged for that purpose would contain a section concerning the registration of individuals belonging to indigenous communities. The representative assured the Committee that the aim of her Government's education policy for indigenous communities was to ensure their integration in national life while strictly preserving their identity through the teaching of indigenous languages and special educational curricula. There was no question of their being completely absorbed into the mainstream of society with the consequent disappearance of the indigenous culture.

448. In reply to the question concerning Argentine policy towards the Falkland Islands (Malvinas), she stated that one of the main bases of her Government's policy was the defence of its national sovereignty and it had absolutely no doubt with regard to its legitimate sovereign rights over the Falkland Islands (Malvinas), South Georgia and South Sandwich Islands. At the same time, her Government supported the principle of the peaceful solution of international disputes and fully endorsed General Assembly resolution 38/12. In a desire to negotiate for peace, her Government had sent representatives, at the invitation of the Swiss Government, to a meeting held at Bern on 18 and 19 July 1984. Unfortunately, the Government of the United Kingdom had not been prepared to negotiate on the sovereignty of the Falkland Islands (Malvinas) at that meeting. However, she

assured the Committee that her Government would continue to employ all peaceful means for a solution until its legitimate rights to the Falkland Islands (Malvinas) were recognized.

449. So far as article 3 was concerned, she said that Argentina had always condemned apartheid and been in favour of self-determination for the people of Namibia. Its national airline had discounted flights to South Africa and the Government would continue to refuse to issue visas to South African athletes.

450. Concerning the provisions of article 4, the representative pointed out that as soon as the bill became law a copy would be sent to Committee members for study so that they could assure themselves that it covered all aspects of that article.

451. With regard to questions on the right to education, there were absolutely no elements in the curricula of the private schools mentioned in the report which might be conducive to racial discrimination. Those schools received Government subsidies and their programmes were approved by the Ministry of Education which would never accept the inclusion of such elements.

452. Replying to another question, she stated that the Committee was familiar with the problem of missing persons; unfortunately many of those missing persons were refugees from neighbouring countries who had been subjected to repression by the military authorities, but the Government was doing its utmost to find a solution to the problem. Many concrete measures had also been taken by the Government for the return of Argentine exiles. A national commission for the return of exiles had been set up and an agreement had been signed with UNHCR and the Intergovernmental Committee for Migration (ICM), as a result of which a programme of repatriation of Argentine refugees had begun.

453. The representative of Argentina finally assured the Committee that her Government would be ready to provide more comprehensive information even before its next periodic report was due.

CERD A/42/18 (1987)

467. The ninth periodic report of Argentina (CERD/C/149/Add.1) was considered by the Committee at its 783rd meeting, on 5 March 1987 (CERD/C/SR.783).

468. The report was introduced by the representative of Argentina, who said that the primary objective of the democratic Government which had taken office on 10 December 1983 had been to re-establish the rule of law, together with full respect for human rights, after a long period during which the military dictatorship had flagrantly and systematically violated fundamental human rights. During the period under review, Argentina had taken steps to ratify all the international conventions on human rights, which could then be invoked directly before domestic courts and administrative authorities. On 30 September 1985, the National Congress had adopted Act No. 23 302, which was designed to enable indigenous communities to participate in the task of government and preserve their cultural and linguistic identity, and to compensate them for the lands of which they had been dispossessed. On 22 May 1986, the Argentine Government had decided to sever diplomatic relations with the racist Government in Pretoria in compliance with article 3 of the Convention. A bill opposing any type of discrimination or incitement thereto, consistent with article 4 of the Convention, had been adopted by the Chamber of Deputies and was now before the Senate. In May 1986, Argentina had organized a Latin American seminar against discrimination within the context of article 7 of the Convention. The representative of Argentina assured the Committee that the Convention was being implemented throughout Argentina, but not in the Falkland Islands (Malvinas), where his Government had been prevented from exercising its sovereignty.

469. The Committee paid tribute to the Government of Argentina for the impressive work of reparation and healing, which it had carried out with speed and determination after the years of havoc wrought by military dictatorship. The Government and Congress of Argentina had succeeded in restoring a system of democracy. Members of the Committee commended the report for its frankness and for its new spirit. Argentina, once a problem case, was now taking an active part in the struggle against discrimination both at home and abroad. The enactment of domestic legislation and the ratification of international human rights instruments were impressive measures to build up a strong system of guarantees for preserving human rights and were evidence of the Government's will to overcome problems inherited from the past. The report, which had been submitted on time, followed the Committee's guidelines (CERD/C/70/Rev.1) and had been supplemented with valuable information by the representative of Argentina. One member noted with regret that the report could cover only the mainland territory of Argentina.

470. Members of the Committee pointed out that the report did not contain data on the demographic composition of the population, requested on previous occasions, and expressed the hope that that information would be included in the next periodic report. Additional information on the numbers of refugees and exiles and how that issue had been dealt with was also requested. Members wished to know to what extent the debt burden and austerity measures imposed by the International Monetary Fund (IMF) had affected the implementation of the Convention and other human rights instruments in Argentina, and in particular, how it had affected the situation of indigenous peoples and the poorest sections of the population.

471. In relation to article 2 of the Convention, members of the Committee noted with appreciation

that the Government had enacted a series of laws for the benefit of indigenous peoples and wished to receive more detailed information regarding the National Institute of Indigenous Affairs, the National Register of Indigenous Communities and the registration of indigenous names. They would welcome information on the land redistribution measures, such as which authority would be responsible for the indigenous populations, when the indigenous peoples would be provided with land, whether indigenous communities were to be relocated, brought back to the land which was originally theirs or resettled where the Government considered that their conditions would improve, whether any budgetary provision had been made to enable the persons concerned to make a living on the land they would occupy, and who would determine the price of land in cases of expropriation. Clarification was requested as to how indigenous peoples could both preserve their historical and cultural identity and, at the same time, be assimilated into national society. Further information was requested on the size of indigenous communities, the percentage of the total population they represented, the number of schools for indigenous communities and language of instruction. It was also asked whether the communities were dispersed throughout the territory or concentrated in specific areas, and whether nomadic and semi-nomadic peoples were included under indigenous communities. Members of the Committee expressed the hope that Argentina's next periodic report would contain information on the extent to which the Government's policy and measures had been implemented, the amount of land transferred, the number of indigenous peoples given land rights, the steps taken to promote agricultural production, and the programmes designed to give indigenous peoples access to all levels of education, health care and governmental schemes.

472. With regard to the implementation of article 3, members of the Committee commended the action taken by the Government. However, they hoped that all relations with Pretoria would be severed. Members wished to receive information on the private trade that Argentinian citizens maintained with South Africa and on Argentina's position with regard to mandatory and comprehensive sanctions. It was asked how the Argentine Consular Official in Cape Town was empowered to sign on behalf of the Embassy which had been closed in Pretoria. Information was also requested regarding Argentina's relations with liberation movements other than the African National Congress of South Africa (ANC) and the South West Africa People's Organization (SWAPO) in southern Africa.

473. In connection with article 4, members of the Committee congratulated the Government on the legislation being enacted to implement its obligations under that article. The amendments to the Penal Code proposed in the bill currently before Congress appeared to meet the requirements of article 4. The only missing elements seemed to be the financing of racist organizations by persons who were not themselves members. That would be considered an offence under article 4, but did not appear in the bill. More detailed information would be appreciated. It was also asked whether anti-Semitism was still a problem in Argentina and how it was tackled.

474. In relation to article 6, members welcome the establishment of the Office of the Under-Secretary for Human Rights within the Ministry of the Interior. They wished to know how it was organized, how it functioned, how many persons were involved and whether it was also responsible for indigenous peoples. It was also asked whether it might not have been more appropriate to place it within the Ministry of Justice. Members were interested to know how successful the efforts of the Office of the Under-Secretary for Human Rights to report infringements of human rights to the authorities had been and what subsequent action had been taken. They noted with satisfaction that

the Ministry of Education had reinstated all teaching staff dismissed on political grounds during the military dictatorship and asked whether those reinstated had been compensated for their lost salaries and whether other Ministries had taken similar action. It was asked whether article 5 of the bill to combat discrimination, which provided for compensation in certain circumstances, was currently in force and how speedy the legal process was. Members expressed concern about the “Punto Final” legislation and requested an explanation of the real implications of establishing a statute of limitation for human rights offences committee by the military during the “dirty war”. They raised the question of whether the “Punto Final” legislation might not be contrary to article 6 of the Convention, since the limitation which it established might have the effect of depriving victims of an effective remedy.

475. Regarding article 7 of the Convention, the Government was congratulated on the course on human rights for civil servants, organized by the Office of the Under-Secretary for Human Rights. It was asked whether police officers were regarded as members of the civil service for that purpose.

476. As to article 14 of the Convention, members were interested to know whether the Government was considering making the declaration provided for under that article recognizing the competence of the Committee to deal with individual communications.

477. Replying to the members of the Committee, the representative of Argentina said that, according to the latest census taken, in 1965, the estimated indigenous population was 150,000, but that it could well be twice the size. It represented 0.64 per cent of the total population. The main ethnic groups lived in nine provinces. The former educational system, in which indigenous children who did not understand Spanish were taught in that language, had been an additional source of marginalization for the indigenous peoples. It was intended to remedy that situation through the new legislation. Efforts were being made to provide for the promotion of education and indigenous culture, with emphasis on indigenous aspects, employment of indigenous teachers and teaching in indigenous languages. He informed the Committee that the new draft law on indigenous communities envisaged granting them land in the areas where they lived. They would not be moved to other areas; the land would be situated where they lived or nearby and would be appropriate for development. He explained that integration of the indigenous people into society on equal terms meant the elimination of oppression and marginalization and the granting of equal opportunities. The new Act No. 23 162 authorizing the registration of indigenous names would fill a legislative gap. The operation of the new National Institute of Indigenous Affairs, proposed by a new draft law, would be determined by the executive and it would have the same competence, but not the bureaucratic drawbacks, of the former Institute, which it would replace. In accordance with the relevant provisions of that draft law, the authorities would conduct a census of the indigenous peoples in order to obtain the data required as a basis for the law. He trusted that adequate data would be provided in the next periodic report.

478. Regarding the external debt, the representative said that, while Argentina could restore civil and political rights, it was obviously difficult to ensure the exercise of economic, social and cultural rights in a situation where an unjust international economic system caused overwhelming debts, because interest on those debts exceeded the balance of trade.

479. Referring to the questions on South Africa and Namibia, he informed the Committee that, in

addition to the information given in the report and to breaking off diplomatic relations with South Africa, Argentina had voted for all United Nations resolutions on South Africa and Namibia, including a Security Council resolution sponsored by his delegation.

480. He indicated that the observations made by members of the Committee in relation to the draft law against discrimination to implement the provisions of article 4 of the Convention would be transmitted to the relevant authorities. He added that the Committee had made a valuable contribution and that the summary of the dialogue would be transmitted to Congress together with the recommendations concerning the declaration under article 14 of the Convention.

481. A series of regulations had been adopted on the question of remedies under the law incorporating international law within Argentine internal law. Argentina had in fact adhered to nearly all international conventions relating to refugees, since it wished to amend its internal law so that the right of asylum would apply to all refugees. The previous law implied that only Nazis could apply for asylum, since that right applied only to people defeated in war. In 1984, Congress had enacted a law withdrawing such a reservation.

482. The Office of the Under-Secretary for Human Rights, which had replaced the National Commission on Missing Persons, was responsible for continuing the work of that Commission, providing evidence and bringing the guilty to justice. It was not only the Ministry of Justice that would be dealing with missing persons. Other departments would be involved and courses were being organized for civil servants on the law, human rights and other relevant subjects. Concerning the reinstatement of teachers and former officials, he said that each Ministry tried to provide compensation and each one had a list of applications from former employees who had returned from abroad. Many, of course, had disappeared.

483. Regarding the punishment of crimes perpetrated under the military dictatorship, which had resulted in the disappearance of thousands of people, he referred to the repeal of the law enacted by the former Government granting itself amnesty for its acts and to the spectacular trial of the former military President who had been given a life sentence. The fact that Parliament had now adopted a law setting a time-limit for such penal action did not mean that all criminals would be protected. There was ample evidence and the trials would continue until guilt had been established.

484. Lastly, in connection with the territory over which Argentina exercised authority, he recalled that his Government had always contested efforts by the United Kingdom to extend the coverage of any convention to the Falkland Islands (Malvinas). He added that in the case of Non-Self-Governing Territories, the Committee was not competent to receive information directly from States parties to the Convention regarding such Territories and referred to the provisions of article 15 of the Convention and General Assembly resolution 1514 (XV).

CERD A/46/18 (1991)

48. The tenth periodic report of Argentina (CERD/C/172/Add.18) was considered by the Committee at its 892nd and 894th meetings, held on 6 and 7 March 1991 (see CERD/C/SR.892 and 894).

49. The report was introduced by the representative of the State party, who declared that Argentina had a long-standing republican tradition, under which equality of opportunity was regarded as the cornerstone of every aspect of public life. The Constitution guaranteed equal treatment for all citizens regardless of race or origin and left no room for discrimination. Argentina took pride in its indigenous roots and regarded indigenous culture as an essential element of its nationhood. The next national census, which was to be held on 14 May 1991, would make it possible to make an accurate estimate of the number of indigenous inhabitants, leaving no room for doubts or misunderstandings. Like the majority of Latin American countries, Argentina was now undergoing a severe economic crisis, which made it difficult to meet the just demands of all its citizens and to give full effect to the principle of equality of opportunity. Argentina had consistently rejected the segregationist regime in South Africa, as was evidence by its refusal to trade with that country until it put an end once and for all to the odious system of apartheid, granted every South African citizen the same civil and political rights, and allowed enjoyment by all of economic, social and cultural rights. Argentina had also strongly denounced the various forms of discrimination practised against Palestinian workers in the Israeli-occupied territories and had joined in condemning violations of the human rights of minorities, notably the Kurds.

50. The Government's policy on the indigenous population was to give priority to promoting indigenous interests, within the limits imposed by the country's current situation. Through application of that policy, it was intended to improve the situation of the indigenous communities, particularly the Guaranis, who lived in the province of Misiones, in the socio-economic, health and cultural fields. The Government of Argentina was determined, as part of its policy of social justice, to preserve the historic and cultural asset represented by Argentina's indigenous communities and was pleased that 1993 had been proclaimed International Year for the World's Indigenous People.

51. Members of the Committee commended the Government of Argentina for the efforts it had made to strengthen the democratic process initiated in 1983, following the dark days of the military dictatorship, in adopting legislation to guarantee human rights and introducing a programme to promote cultural freedom and national identity. They also commended the Government for having fulfilled its obligations in regard to periodicity and for having submitted an excellent report, which strictly followed the Committee's guidelines for the preparation of reports, took account of the questions raised by members during the Committee's consideration of Argentina's previous report and was amply documented.

52. With reference to the measures taken by the city of Buenos Aires and by the province of Cordoba to safeguard human rights, members wished to know what was the situation in other provinces, which did not have the benefit of such measures. Having noted the information on the new Act No. 2627.89 relating to the protection of the Guaraní community in the province of Misiones, they asked for information on the situation in other provinces; similarly, more recent information was sought on Act No. 23.302, which had been amended following consultations with the indigenous communities. More precise and up-to-date information was also requested on the

current economic, social and political situation in the country and on problems encountered; on rates of migration of the rural population to the towns and on any resulting tension in the shanty towns surrounding large cities; on how the setting-up of a new Ministry of Justice would affect government machinery responsible for implementing human rights policy; and on reports by certain human rights non-governmental organizations alleging discrimination in the courts against certain members of left-wing organizations who had been implicated in the attack on La Tablada barracks in Buenos Aires in 1989. With reference to the establishment of an Ombudsman's Office by the Buenos Aires City Council, members wished to know whether the Argentine Government was considering establishing similar offices in other areas of the country; whether any cases of racial discrimination had been brought before the Ombudsman's Office since its creation in 1985; and whether any cases had been referred to the Prosecutor-General for action.

53. In connection with the implementation of article 2 of the Convention, members of the Committee expressed a wish to have details concerning the planned revision of Act No. 23.302, particularly with respect to the replacement of the National Indigenous Institute by an authority to be designated by the Executive. They asked in that regard what arrangements were being made to prevent the risk of government control and what role the indigenous population itself would play in the new authority. Since the definition of an indigenous community was to be based on self-recognition, it was important to learn whether a community could reject an individual's application for membership and how the legal personality of a community could be terminated. With reference to the proposal to make provision for bilingual inter cultural curricula in education, members asked what guarantees were provided to ensure that the indigenous population would have access to the teaching of its own culture, pending the implementation of the proposed new legislation. Members also wished to know whether the survival of the indigenous communities was in danger, whether action was being taken to improve their chances of survival and whether the indigenous population was tending to move from the countryside into shanty towns.

54. Regarding article 3 of the Convention, members of the Committee welcomed Argentina's brave decision of 22 May 1986 to break off diplomatic relations with South Africa, despite the large loss of trade involved, and asked whether that policy was still being maintained. They also wished to know whether there were still political contacts or trade or investment relations between Argentina and South Africa.

55. Concerning article 4 of the Convention, members of the Committee noted that racial hatred was considered to be an aggravating factor in various offences under Argentina's Penal Code and inquired whether incitement to racial hatred and racist remarks were in themselves punishable offences. They also pointed out that the report gave no examples and no statistics of sentences imposed for offences connected with racism. Members asked whether any groups or organizations referred to in article 4 (b) existed in Argentina and, if so, whether criminal proceedings had been taken against their members. In that connection, they observed that the scope of the Act of 1988 relating to the punishment of discriminatory acts was not entirely clear, and they asked for further clarification. Noting that Argentina had a history of anti-semitism, which occasionally produced anti-semitic incidents, members pointed out that no reference to this aspect had been made in the report. Noting also that the systematic exclusion of Jews from important institutions such as the armed forces was also discriminatory, members asked if any action had been taken on such grounds against the persons responsible for recruitment.

56. With reference to article 5 of the Convention, members of the Committee wished to receive information on the degree of indigenous representation in Parliament and particularly in legislative bodies of provinces with large indigenous concentrations; on the use of indigenous languages in the courts; and on the general educational level of the indigenous population. They also wished to know whether it was possible to expropriate land for transfer to indigenous communities and whether the authorities could declare former unfair purchases of such land to be illegal or void; how the provision for bilingual inter cultural curricula was working out in practise, particularly in the light of difficulties mentioned in the report; and whether it was true that immigrants from the Republic of Korea had to pay a large sum in order to qualify for residence in Argentina.

57. In connection with the implementation of article 6 of the Convention, members of the Committee wished to know the nature of offences in respect of which criminal proceedings were initiated automatically and what the system was for initiating proceedings in respect of other offences, as well as how frequently the special remedies referred to in paragraph 66 of the report had been applied for and what the respective roles were of the Under-Secretariat for Human Rights within the Ministry of Interior and the ordinary courts in that regard.

58. In his reply to the questions raised and comments made, the representative of the reporting State emphasized that Argentina had absorbed individuals from many different cultures, and for that reason racism in the European sense was unknown in Argentina. During the past 10 years, the country's output had fallen by 10 per cent, largely due to international conditions such as growing protectionism in overseas markets and unfavourable terms of trade. While economic hardship could affect the living conditions of the population, it did not affect human rights because of the widespread awareness of fundamental rights and freedoms among the population. Subsequent to the period of military rule, there had been a consolidation of democracy in terms of freedom of speech, freedom of the press and observance of all the guarantees specified in the International Convention on the Elimination of All Forms of Racial Discrimination. The right to grant amnesty or pardon was the personal prerogative of the President of Argentina alone. The Argentine judicial system was independent, and the Executive was not permitted to intervene in the work of the courts. The Ombudsman system also existed in the provinces of Rio Negro and San Luis, and the possibility was being investigated of introducing it in Chubut in the south. The amendments proposed by the Government to Act No. 23.302 had not yet been approved and the Act therefore continued in force in its existing form. Decree No. 2347 of 17 December 1986 had established the Directorate-General for Women, within the Under-Secretariat for Human Rights in the International Sector of the Ministry of Foreign Affairs and Worship. There was no recent information on population movements from rural areas to urban centres.

59. In connection with article 2 of the Convention, the representative of the reporting State indicated that much provincial legislation, particularly in the north and in the Andean region, went back a long way in time, and frequently there was no compilation of such legislation. The aim of the amendments to the Indigenous Policy and Assistance to Indigenous Communities Act was to protect the indigenous communities from persons or entities fraudulently claiming property in the name of indigenous communities that no longer existed. The amendments to Act No. 23.302 would be adopted in consultation with the indigenous communities.

60. With regard to article 3 of the Convention, the representative said that diplomatic relations with

South Africa had been broken off in 1986, leaving only relations at the consular level. Cultural ties were maintained and there was no bar on relations between individual citizens of the two countries. There were no laws against South African investment and property ownership in Argentina.

61. With reference to article 4 of the Convention, the representative of the State party pointed out that engaging in racist propaganda was a punishable offence. Any incitement to, or acts of, discrimination within the meaning of article 4 of the Convention constituted a breach of the law, including the Civil and Penal Codes and laws passed to give effect to the international conventions to which Argentina was a party. Anti-semitism was a thing of the past. Isolated incidents had occurred, but they were not symptomatic of a wider social phenomenon in Argentina, which had the largest Jewish population in Latin America and also had substantial Arab communities in the north of the country.

62. In connection with article 5 of the Convention, the representative stated that there was no official distinction between indigenous and non-indigenous members of Parliament, although many parliamentarians belonged ethnically to indigenous groups. While Spanish was the official language in the courts, the defence of non-Spanish-speaking citizens was guaranteed by the provision of interpretation services. The Government was trying to strengthen the position of individual indigenous communities in respect of land ownership. The period during which land awarded could not be sold or transferred had been extended from 20 to 40 years. A continuing problem, however, was the lack of adequate registers of land ownership in areas more than 400 kilometres from Buenos Aires. Education was now non-denominational, free and compulsory for all, although there were clearly difficulties for pupils living in very remote areas. Overall, the educational standard was high and Argentina's literacy rate of 94 per cent was the highest in Latin America. The Government was aware of the need to preserve indigenous culture through appropriate programmes, such as the bilingual curricula, still at the drafting stage, and through the media. Special radio programmes existed in some provinces, such as La Pampa and Misiones. Bilingual education could be provided only in provinces with large indigenous communities. A current problem was to safeguard those languages, such as Guarani, Quechua and Mapuchi, which were disappearing. In that connection, the problem of a lack of teachers in indigenous languages was a perennial one.

63. With respect to article 6 of the Convention, the representative pointed out that although there had been abuses against the indigenous population in the past, no recent cases had been reported. Other questions would be answered in Argentina's next report.

Concluding observations

64. In concluding the consideration of Argentina's tenth periodic report, members of the Committee said that the report had made a positive contribution in so far as it had presented a fairly complete picture of the situation regarding the adoption of international instruments and had analysed new domestic legislation, particularly Act No. 23.302 on Indigenous Policy and Assistance to Indigenous Communities and the 1988 Act relating to punishment of discriminatory acts on the grounds of race, religion or nationality. The analysis of the new institutions set up to combat discrimination, such as the Ombudsman and the Under-Secretariat for Human Rights, had also been interesting. There had, however, been certain gaps in the report. For example, no information had been given regarding court decisions relating to racial discrimination, and no figures had been given to show

the extent to which the indigenous population participated in Congress, the Administration or institutions dealing with indigenous affairs. The oral replies given by the representative of Argentina had been excellent.

CERD A/52/18 (1997)

530. At its 1228th and 1229th meetings, held on 12 and 13 August 1997, the Committee considered the eleventh to fourteenth periodic reports of Argentina (CERD/C/299/Add.11) and, at its 1240th and 1241st meetings, held on 20 and 21 August 1997, it adopted the following concluding observations.

A. Introduction

531. The Committee welcomes the opportunity to continue the dialogue with the State party based on the eleventh to fourteenth periodic reports and on the core document. The information provided orally by the delegation and the replies to the many questions asked by the members of the Committee filled the gaps that resulted from the limited information which the report contained on some articles of the Convention and gave the Committee a clearer idea of the situation with regard to the implementation of the Convention in Argentina.

B. Factors and difficulties impeding the implementation of the Convention

532. The Committee noted that Argentina is going through a difficult economic period which makes the implementation of the Convention more difficult, since some of the main victims of unemployment and poverty are members of indigenous populations and ethnic minorities.

C. Positive aspects

533. It notes with satisfaction that international human rights treaties, including the Convention, rank higher than domestic law, in accordance with article 75, paragraph 22, of the 1994 Constitution, and that individuals have the possibility of directly invoking the provisions of the Convention in the courts.

534. The establishment, by Act. No. 24284 of 1 December 1993, of the post of Ombudsman as an independent body responsible for protecting the rights and interests of individuals and communities against acts or omissions by the national public administration and with the power to launch investigations on its own initiative or at the request of an individual is welcomed as a positive measure.

535. The Committee notes with satisfaction that, under article 43 of the 1994 Constitution, an application for amparo may be filed in the event of discrimination of any kind.

536. The constitutional provisions concerning indigenous peoples, which were introduced during the reform of the 1994 Constitution, are a definite step forward. This is true, for example, of the granting of legal personality to indigenous communities; guarantees of respect for the cultural identity of such communities; community possession and ownership of land; and the participation of indigenous persons in the management of natural resources and in other activities of concern to them.

537. The Committee welcomes the establishment in the Ministry of the Interior of the National

Institute to Combat Discrimination, Xenophobia and Racism, which was given the responsibility by Act No. 242.515 of 28 July 1995 of developing national policies and practical measures to combat discrimination, xenophobia and racism.

538. It also notes that the National Institute to Combat Discrimination, Xenophobia and Racism has adopted important measures relating to bilingual and cross-cultural education, the integration of indigenous scholarship students in the traditional school system and financial assistance for projects to raise the standard of living of certain communities. It welcomes, in particular, the projects being implemented for the Wichí ethnic group in the Chaco region.

539. The Committee welcomes the steps taken by the National Institute of Indigenous Affairs to transfer ancestral lands and property to the indigenous communities which have always occupied them, including cooperation with provincial authorities in regularizing land titles.

540. In connection with article 5 of the Convention, it welcomes the conclusion of a bilateral agreement with Bolivia to regularize the situation of some 500,000 Bolivians living illegally in Argentina, as well as the legalization of the situation of 250,000 foreigners in Argentina under Decree No. 1033/92.

541. The establishment of the Refugee Eligibility Committee and its close cooperation with the Office of the United Nations High Commissioner for Refugees are positive developments.

542. It views positively the adoption of Decree No. 232/92, providing that documents on Nazi criminals are no longer confidential for reasons of State, as a means of speeding up investigations of Nazi criminals who might have found refuge in Argentine territory, and the establishment in 1992 of the Commission to Shed Light on Nazi Activities in Argentina.

543. It notes with satisfaction the organization of seminars and training programmes on human rights and the prevention of racial discrimination for judges and the staff of the Federal Prison Service.

544. It also notes with great interest the implementation by the Ministry of the Interior of the National Anti-Discrimination Programme, which is designed to support popular education programmes conducted by non-governmental organizations and which provide for the possibility of emergency action to deal immediately with acts of discrimination.

D. Principal subjects of concern

545. It regrets the lack of information on the subject of the representation of indigenous populations and other ethnic minorities in the civil service, police, judicial system, Congress and more generally, in the socio-economic life of the country, since it hampers a full evaluation by the Committee of the implementation of the provisions of the Convention relating to such populations.

546. While noting with satisfaction that racial motivation is deemed by Act No. 23-592 of 1988 as an aggravating circumstance in the case of various offences punishable under criminal law, the Committee regrets that the provisions of article 4 of the Convention have not been fully

implemented through the specific criminalization of the various acts referred to in that article, such as dissemination of and propaganda in racist ideas, incitement to racial discrimination, racial violence and the establishment of racist organizations.

547. It regrets the scant information provided on the implementation of the provisions of article 5 of the Convention, even though reference was made to discrimination against members of indigenous populations and minorities in the enjoyment of certain rights, including those provided for in article 5 (e) (i), (iv) and (v) of the Convention.

548. With regard to the transfer of ancestral lands and property to indigenous communities, it notes with concern that problems continue to exist in practice and that, in some cases, enormous difficulties, which are often caused by land owners, are delaying these transfers. It also notes with concern that some communities are reported to have been subjected to intimidation and pressures to renounce their claims to such land. It also regrets that information has not been provided about the procedures for consulting indigenous communities during the land transfer process.

549. The Committee regrets that there is still a lack of information on remedies filed, rulings handed down and compensation awarded for acts of racism, as well as on amparo proceedings instituted as a result of discrimination. In view of this lack of information, the Committee has been unable to determine to what extent article 6 of the Convention is effectively implemented in Argentina or to assess the role and shortcomings of the judicial authorities in this regard.

E. Suggestions and recommendations

550. The Committee recommends that additional information should be provided in the next report on the statutes, membership and activities of the National Institute to Combat Discrimination, Xenophobia and Racism, on the National Institute of Indigenous Affairs and on the implementation of the National Anti-Discrimination Programme.

551. The Committee requests the State party to include in its next report any available information on the socio-economic situation of members of indigenous communities and ethnic minorities, particularly their participation in the political and economic life of the country and their representation in federal and provincial governments. It also invites the State party to provide in its next report specific information on the practical implementation of all the rights which article 5 of the Convention provides for all inhabitants of Argentina. In this connection, the Committee draws the attention of the State party to the need to develop indicators to evaluate policies and programmes for the protection and promotion of the rights of vulnerable population groups.

552. The Committee urges the State party to fulfil its obligation under article 4 of the Convention to declare as an offence punishable by law any form of racial discrimination, including dissemination of and propaganda for racist ideas, incitement to racial discrimination, racial violence and the establishment of racist organizations.

553. With regard to the transfer of land to indigenous communities, the Committee recommends that the implementation of provisions adopted for that purpose should be closely monitored by local and federal authorities, including the judicial authorities, in order to prevent and clarify any

misunderstanding of such provisions. It invites the State party to report to it fully on this question in its next report by specifying to what extent indigenous peoples have been consulted during this process. In this connection, the attention of the State party is drawn to the Committee's General Recommendation XXIII on indigenous peoples.

554. The Committee recommends that the State party's fifteenth report should include information on the number and situation of refugees and immigrants in Argentina and on the legal regime applicable to them.

555. Recalling its decision No. 3 (45) of 16 August 1994, the Committee invites the State party to take all measures within its power to expedite the ongoing proceedings in connection with the 1992 and 1994 anti-Semitic attacks and draws its attention to articles 5 (a) and 6 of the Convention in this regard.

556. With regard to article 6 of the Convention, the Committee recommends that the next periodic report of Argentina should contain detailed information on remedies filed, rulings handed down and compensation awarded for acts of racism.

557. In connection with the implementation of article 7 of the Convention, the Committee recommends that the State party should take all necessary measures to guarantee the training and education of law enforcement officials, teachers and students in human rights and in the prevention of racial discrimination.

558. The Committee recommends that the eleventh to fourteenth reports of the State party and the present concluding observations should be made public and be widely disseminated to the population.

559. The Committee recommends that the State party should, as soon as possible, ratify the amendments to article 8, paragraph 6, of the Convention, which were adopted at the Fourteenth Meeting of States Parties.

560. It notes that the State party has not made the declaration provided for in article 14 of the Convention and that some members of the Committee have requested that Argentina consider the possibility of making that declaration.

561. The Committee recommends that the State party's next report, due on 5 January 1998, should be an update dealing with all the issues raised in the present observations.

CERD A/56/18 (2001)

41. The Committee considered the fifteenth periodic report of Argentina (CERD/C/338/Add.9), which was due on 4 January 1998, at its 1439th and 1440th meetings (CERD/C/SR.1439 and 1440), on 6 and 7 March 2001. At its 1457th meeting (CERD/C/SR.1457), on 19 March 2001, it adopted the following concluding observations.

A. Introduction

42. The Committee welcomes the report submitted by Argentina and appreciates the supplementary updated information provided by the delegation orally and in writing, and also its detailed and frank answers to the questions and comments formulated by members of the Committee.

B. Factors and difficulties impeding the implementation of the Convention

43. The Committee notes that Argentina is still experiencing difficult economic circumstances which affect in particular vulnerable population groups, such as indigenous groups, and immigrants from neighbouring countries, many of whom are undocumented. The economic situation is also responsible for budgetary constraints of government agencies charged with combatting racial discrimination and taking measures in favour of the most vulnerable groups.

C. Positive aspects

44. The Committee welcomes the measures to strengthen the National Institute to Combat Discrimination, Xenophobia and Racism (INADI). It also welcomes the activities of the Institute, such as the organization of seminars to train primary and secondary school teachers to embrace pluralism, training courses for law enforcement officials and publicity campaigns in the media, and the establishment of a mechanism to receive complaints and take action thereon through mediation and intervention in the courts.

45. The Committee welcomes with satisfaction the measures designed to give greater autonomy to the National Institute of Indigenous Affairs, to build its capacity and to elaborate a national plan for indigenous peoples. It notes with interest the progress made thus far by the Institute in the context of the programme to transfer estate land to the indigenous communities that have traditionally occupied it.

46. The Committee welcomes Argentina's recent ratification of the Convention concerning Indigenous and Tribal Peoples in Independent Countries (No. 169) of the International Labour Organization Convention.

D. Concerns and recommendations

47. The Committee notes that the Government's plans to conduct an updated census which would, inter alia, take into account information on membership of indigenous groups, have not been sufficiently resourced. The Committee encourages the Government to take the measures necessary

to conduct the census as soon as possible.

48. The Committee notes the absence in the periodic report of detailed information concerning the representation of indigenous peoples in the civil service at the federal and provincial levels, the police, the judicial system and Congress. It also notes the lack of information on the extent to which these segments of the population enjoy economic, social and cultural rights. The Committee reiterates its request to the State party to include in its next periodic report detailed information on these aspects.

49. The Committee notes with concern a statement made by the State party that the territories in which indigenous peoples have settled coincide with the areas with the highest index of unmet basic needs, and that the poverty and unemployment indices among indigenous populations and other vulnerable groups have risen as a result of the economic crisis. The Committee recommends that the State party take steps to alleviate this situation and that it keep the Committee informed.

50. The Committee also notes with concern that, although progress has been made regarding consultation with indigenous peoples so that they may participate in decisions which affect them with a view to securing their agreement, there are still situations in which consultation and participation do not occur. The Committee recommends that the State party find ways and means to facilitate such participation.

51. The Committee further notes with concern the difficulties that arise in some cases of transferring estate land to indigenous peoples owing, primarily, to the existence of individual title deeds and to the conflict of jurisdiction between the national and the provincial governments. The Committee recalls the relevant provisions of its general recommendation XXIII and recommends that steps be taken to overcome these difficulties.

52. The Committee notes with concern the lack of a social security system which takes into account the specific needs of indigenous peoples and recommends that steps be taken in that regard.

53. The Committee is concerned at the existence of xenophobic attitudes towards immigrants, primarily those from neighbouring countries, asylum-seekers and persons of African descent. These attitudes, which are manifested even in some of the media, seem to have increased as a result of the present economic crisis and have given rise, on occasion, to violent incidents. The Committee recommends that the State party monitor such attitudes and incidents closely and take appropriate steps to deal with them.

54. The Committee notes with concern the difficulties that immigrants, primarily those from neighbouring countries, have in meeting the cost of obtaining residence papers and the lengthy and excessively bureaucratic immigration procedures, and recommends that the State party take steps to deal with this, inter alia, by offering advice free of charge. The Committee recommends, in particular, that the immigration bill currently under discussion include provisions to deal with these problems.

55. The Committee regrets the slow pace of the proceedings relating to the anti-Semitic attacks in 1992 and 1994, although it notes that progress has been made, and calls for these proceedings to be

completed as soon as possible.

56. The Committee notes with concern that there have been reports of police brutality committed on a variety of pretexts, on grounds of race, colour or ethnic origin; it therefore recommends that, in the courses and seminars organized to provide human rights education for the police, the armed forces and immigration and prison officials, particular attention be given to the dissemination and implementation of the Convention.

57. The Committee notes that INADI is experiencing difficulties in covering the entire national territory with regard to receiving and handling complaints of racial discrimination and recommends that steps be taken to address this situation.

58. The Committee requests the State party to include in its next report statistical information regarding legal actions carried out in Argentina against acts of racism. It also requests information regarding the conclusions of the Ministry of Justice commission responsible for adapting domestic laws to international instruments as regards the Convention.

59. The Committee recommends that the reports of the State party be made public when they are submitted to the Committee, and that the concluding observations of the Committee thereon be widely disseminated.

60. The Committee takes note of the proceedings under way at the level of the executive organs with a view to formulating the optional declaration provided for in article 14 of the Convention and encourages the State party to complete these proceedings.

61. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention which were adopted on 15 January 1992 at the Fourteenth Meeting of States Parties.

62. The Committee recommends that the State party submit its sixteenth and seventeenth periodic reports jointly with the eighteenth periodic report on 4 January 2004, and that it address the points raised in the present observations.

