



**International Convention on
the Elimination
of all Forms of
Racial Discrimination**

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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION
Sixty-fourth session
23 February-12 March 2004

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION**

**Concluding observations of the Committee on the
Elimination of Racial Discrimination**

BRAZIL

1. The Committee considered the fourteenth to seventeenth periodic reports of Brazil, which were due on 4 January 1996, 1998, 2000, and 2002, respectively, submitted as one document (CERD/C/431/Add.8), at its 1632nd and 1633rd meetings (CERD/C/SR.1632 and 1633), held on 5 and 8 March 2004. At its 1641st meeting, held on 12 March 2004, it adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the report submitted by the State party and expresses its appreciation for the opportunity to engage in a frank and constructive dialogue with the State party.

3. While noting that the report is not fully consistent with the reporting guidelines, the Committee welcomes its self-critical tone and the fact that the State party has addressed some of the concerns and recommendations expressed by the Committee in its previous concluding observations (CERD/C/304/Add.11).

B. Positive aspects

4. The Committee welcomes the adoption, in 2002, of the National Affirmative Action Programme, as an important mechanism to implement the Durban Declaration and Programme of Action, as well as the second National Human Rights Programme.
5. The Committee commends the entry into force, in January 2003, of the new Civil Code, which is in line with the 1988 Constitution and eliminates discriminatory restrictions on the exercise of civil rights by indigenous peoples contained in the former 1916 Civil Code.
6. The Committee takes note of the enactment of Law No. 9459 of 13 May 1997, which modifies Law No. 7716 of 1989 by expanding its focus to include acts arising not only from discrimination based on race or colour, but also discrimination based on ethnicity, religion or nationality.
7. The Committee notes the establishment of specialized institutions to combat racial discrimination, demonstrating the commitment of the State party in this area, such as the National Council for Combating Discrimination established in 2001, which will become the National Council to Promote Racial Equality in 2004, and the Special Secretariat for the Promotion of Race and Equality (SEPPIR) established in 2003.
8. The Committee welcomes the fact that in 2002 the State party made the optional declaration provided for in article 14 of the Convention.
9. The Committee notes with satisfaction the entry into force in August 2003 of International Labour Organization Convention No. 169 concerning indigenous and tribal peoples in independent countries.
10. The Committee acknowledges with satisfaction the open standing invitation to all thematic rapporteurs of the Commission on Human Rights to visit Brazil.
11. The Committee also expresses satisfaction with the statement that non-governmental organizations were consulted in the preparation of the report.

C. Concerns and recommendations

12. The Committee reiterates the concern expressed in its previous concluding observations (CERD/C/304/Add.11) about the persistence of deep structural inequalities affecting black and mestizo communities and indigenous peoples.

The Committee recommends that the State party intensify its efforts to combat racial discrimination and eliminate structural inequalities, and provide information on the implementation of measures taken, in particular those provided by the second National Human Rights Programme and the National Affirmative Action Programme.

13. The Committee is concerned about de facto racial segregation faced by some black, mestizo and indigenous peoples in rural and urban areas, such as the commonly known “favelas”, and regrets that the State party has not provided sufficient information in this regard.

In the light of its general recommendation XIX, the Committee reminds the State party that racial segregation may also arise without any initiative or direct involvement by the public authorities, and encourages the State party to continue monitoring all trends which may give rise to racial or ethnic segregation and to work for the eradication of the resulting negative consequences. Furthermore, the Committee invites the State party to provide information on the measures taken to address this issue.

14. The Committee takes note that a new Statute of Indigenous Peoples (*Estatuto da Sociedades Indigenas*) is currently being elaborated in the National Congress.

The Committee recommends that the State party provide an update of developments in this regard.

15. While the Committee takes note of the State party's objective to complete the demarcation of indigenous lands by 2007 and considers it an important step towards securing the rights of indigenous peoples, it remains concerned at the fact that effective possession and use of indigenous lands and resources continues to be threatened and restricted by recurrent acts of aggression against indigenous peoples.

In the light of general recommendation XXIII on the rights of indigenous peoples, the Committee recommends that the State party complete the demarcation of indigenous lands by 2007. Furthermore, the Committee recommends that the State party adopt urgent measures to recognize and protect, in practice, the right of indigenous peoples to own, develop, control and use their lands, territories and resources. In this connection, the Committee invites the State party to submit information on the outcome of cases of conflicting interests over indigenous lands and resources, particularly those where indigenous groups have been removed from their lands.

16. The Committee is concerned that only a few *quilombo* areas have been officially recognized, and that an even smaller number of these communities have received permanent title deeds to their lands.

The Committee recommends that the State party accelerate the process of identification of *quilombo* communities and lands and distribution of the respective title deeds to all such communities.

17. The Committee is concerned by allegations concerning discrimination faced by Gypsies with regard to birth registration and access to schools for their children.

In the light of general recommendation XXVII on discrimination against Roma (Gypsies), the Committee invites the State party to clarify this matter.

18. The Committee is concerned that, despite the widespread occurrence of offences of discrimination, the relevant domestic legal provisions against racist crimes are reportedly rarely applied.

The Committee recommends that the State party provide statistical information on prosecutions launched, and penalties imposed, in cases of offences which relate to racist crimes, and where the relevant provisions of the existing domestic legislation have been applied. It also recommends that the State party improve the awareness and training programmes regarding the existence and treatment of racist crimes on the part of the persons engaged in the administration of justice, including judges, public prosecutors, lawyers and law enforcement officials.

19. The Committee is disturbed by the increase in the number of racist organizations, such as neo-Nazi groups, and the spread of racist propaganda on the Internet.

The Committee recommends that the State party clarify further the content and application of the relevant provisions of domestic law that address the existence and activity of racist organizations, as well as those that prohibit racist propaganda on the Internet.

20. The Committee reiterates the concern expressed in its previous concluding observations over the fact that illiterate citizens, who are found especially among the indigenous, black or mestizo groups, do not have the right to be elected to public office.

In light of article 5 (c) of the Convention, the Committee recommends that the State party adopt adequate measures to combat illiteracy and allow all citizens the enjoyment of all political rights, in particular the right to be elected to public office.

21. The Committee takes note that the report has not provided sufficient information on the cultural rights of persons belonging to minorities, in the context of article 5 of the Convention. In particular, no reference is made to the right of minority and ethnic groups to receive education in their own languages.

The Committee recommends that the State party provide further information in this regard.

22. The Committee takes note that the Brazilian Geographic and Statistical Institute (IBGE) is considering implementing changes in the methodology it uses to classify the various groups of the population.

The Committee invites the State party to provide an update of developments in this regard.

23. The Committee encourages the State party to continue consulting with organizations of civil society working in the area of combating racial discrimination during the preparation of the periodic reports.

24. The Committee urges the State party to ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention and endorsed by the General Assembly in its resolution 47/111. In this connection, the Committee refers to General Assembly resolution 57/194, in which the General Assembly strongly urges State parties to accelerate their domestic ratification procedures with regard to the amendment, and to notify the Secretary-General expeditiously in writing of their agreement to the amendment. A similar appeal has been reiterated by General Assembly resolution 58/160.

25. The Committee recommends the State party to disseminate widely information on the available domestic remedies against acts of racial discrimination, on the legal avenues to obtain compensation in cases of discrimination, and on the individual complaints procedure under article 14 of the Convention.

26. The Committee recommends that the State party's reports be made readily available to the public from the time they are submitted and that the observations of the Committee on these reports be similarly publicized.

27. The Committee recommends that the State party submit jointly its eighteenth, nineteenth and twentieth periodic reports in one document, due on 4 January 2008, as an updating report addressing all points raised in the present concluding observations.
