

HAITI

CERD 29th No.18 (A/9618) (1974)

208. The initial report submitted by Haiti was found to be incomplete. It consisted of the texts of three articles of the Constitution; there was no information about other legislative measures or about judicial, administrative or other measures, as required in accordance with article 9, paragraph 1, of the Convention. Nor did the report contain the information envisaged in the Committee's general recommendations III and IV and decision 3 (VII). The Committee was unanimously of the opinion that the report did not fulfil the requirements of article 9, paragraph 1, of the Convention; and it unanimously decided to request the Government of Haiti to submit a report satisfying those requirements as soon as possible, but no later than the opening of the eleventh session. Because no representative of the reporting State participated in the Committee's consideration of the report, it was decided that the Committee's decision should be conveyed to the Government of Haiti by means of a communication to be sent to that Government through the Secretary-General. At its 215th meeting, held on 22 August 1974, the Committee adopted the text of that communication, prepared by the Rapporteur. The text, as adopted, may be found in annex IV, section C, below.

209. During the discussion of the initial report of Haiti, concern was expressed at the provisions of article 16 of the Constitution, which stated in paragraph 1: "All Haitians are equal before the law, but certain privileges are reserved for native-born Haitians." The ambiguity of the term "native-born" was noted, as was the possible incompatibility of the reservation of unspecified privileges to some persons on the basis of their origin with the provisions of article 1, paragraph 1, of the Convention.

CERD 30th No.18 (A/10018) (1975)

149. It will be recalled that, at its tenth session, the Committee considered the initial report of Haiti without the participation of a representative of the reporting State; that it was unanimously of the opinion that the report did not fulfill the requirements of article 9, paragraph 1, of the Convention; and that it unanimously decided to request the Government of Haiti to submit a report satisfying those requirements as soon as possible, but no later than the opening of the eleventh session (on 31 March 1975). 19/

150. At its twelfth session, the Committee had before it a report from Haiti, dated 24 April 1975 which, apart from the opening and closing sentences, was identical with the first report. It heard a statement by the representative of Haiti in which he, inter alia, commented on some of the observations made by some of the members of the Committee during its consideration of his Government's initial report at the tenth session. After a preliminary discussion of the new report, on which the representative of Haiti, in a second statement, made some comments, the Committee decided to inform the Government of Haiti, through its representative, that in its view the report before it, being identical to the report considered at the tenth session, could not be regarded as a reply by the Government of Haiti to the communication addressed to it at that session, and that it hoped that a satisfactory reply would be received by the Secretary-General in time for consideration at the Committee's thirteenth session.

19/ [See Official Records of the General Assembly, Twenty-ninth session, Supplement No. 18 (A/9618)], paras. 208-209, and annex IV, sect. C.

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

243. The Committee noted that the second periodic report of Haiti contained the texts of some provisions of the Constitution and of some legislative provisions requested by the Committee at an earlier session, as well as a detailed commentary on observations made by members of the Committee during the consideration of the initial report of Haiti. The Committee took note of the statement that no administrative or judicial decisions relating to racial discrimination had been taken. It was regretted that the information envisaged in general recommendation III had not been supplied.

244. The Committee took note with appreciation of the assurance given by the Government of the Republic of Haiti in its report, that “if, despite the measures in force, there were signs that the spirit of the Convention was not being observed or had been violated, it would proceed without delay to the adoption of such other legal measures as would be required to remedy the situation and prevent its recurrence in the future”. The Committee took note also of the statement: “The committee in the Ministry of Justice which is responsible for recasting codes is preparing new codes which will undoubtedly, in the proper time and place, spell out the principles established by the Convention.”

245. Members of the Committee emphasized that States parties to the Convention had undertaken, when they ratified or acceded to that instrument, to submit the reports mentioned in article 9, paragraph 1, of the Convention, containing information on “the legislative, judicial, administrative or other measures which they have adopted and which give effect to the provisions of the Convention”. When a State party states that, at the time of its accession to the Convention, the norms established in the Convention were already recognized and observed, the Committee feels duty bound to request supporting evidence in the form of legislative provisions satisfying the requirements of articles 2 to 7, inclusive, of the Convention. Some of the provisions of those articles - such as article 4, for example - required express legislative action to prohibit and punish certain acts, regardless of whether or not the acts of racial discrimination to which they referred were practised in the reporting State, except when legislative provisions fully satisfying the requirements of those articles already existed; in that case, the Committee had always maintained, the reporting State should provide the texts of the relevant provisions, in order to facilitate the Committee’s discharge of its responsibilities under article 9, paragraph 2, of the Convention.

246. The second periodic report of Haiti commented on the views expressed in the Committee, when it considered the initial report of that country, about article 16 of the Haitian Constitution, paragraph 1 of which states: “Haitians are equal before the law, except that native-born Haitians have certain privileges.” ^{18/} It stated: “The purpose of the article is to safeguard the integrity of the national territory by making sure of a naturalized Haitian’s loyalty before such a person may hold an important public office. The content of article 16 relates not to the ethnic origins of persons who are not Haitian by birth, but rather to such persons’ loyalty towards the Haitian State.”

^{18/} See Official Records of the General Assembly, Twenty-ninth Session, Supplement No. 18 (A/9618), para. 209.

Some members of the Committee observed that that interpretation did not entirely accord with the

text of the article, and that the statements contained in the report intimated that the difference between persons who were Haitians by birth and other Haitians lay in their loyalty to the State of Haiti, whereas the text of article 16 did not seem to corroborate those statements.

247. The report under consideration contained the following statement: “Since the purpose of giving effect to the Convention is not to engender racial discrimination in countries where it does not exist but rather to combat it among peoples who practise it, the Haitian Government would hardly wish to conduct an anti-racist campaign in Haiti the results of which would, on the contrary, tend to arouse racist feelings in certain segments of the population.” It was recalled by members of the Committee, however, that the provisions of article 7 of the Convention, which were mandatory, called for measures aimed at the following objectives: first, combating prejudices which lead to racial discrimination; secondly, promoting understanding, tolerance and friendship among nations and racial or ethnical groups; and, thirdly, propagating the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights, the United Nations Declaration on the Elimination of All Forms of Racial Discrimination, and the International Convention on the Elimination of All Forms of Racial Discrimination.

248. Members of the Committee expressed the hope that, in its next report, the Government of Haiti would supply the texts of all relevant legislative provisions which showed that “the norms established in the Convention were already recognized and observed in the country”, as well as the information envisaged in general recommendation III of the Committee.

249. The representative of the Government of Haiti commented on the observations summarized in the three foregoing paragraphs: (a) He reaffirmed that the purpose of article 16 of the Constitution of Haiti was solely to ensure that civil servants were loyal, and that that article referred not to the ethnic origin of persons who were not Haitian by birth but to their loyalty to the State. (b) He stated that, in the view of his Government, the innocence of the Haitian people must be protected so that no problems of discrimination arose in the future; and that an anti-racist campaign might be counterproductive in that it might generate racial feelings. (c) He said that the position of the Government of Haiti with regard to apartheid was well known and there was no need to reiterate it.

CERD A/37/18 (1982)

112. The Committee considered the third and fourth periodic reports of Haiti (CERD/C/64/Add.5) after a brief introductory statement of the representative of the reporting State in which he referred, in particular, to a decree of 4 February 1981 proclaiming any act of racial discrimination, or any behaviour motivated by considerations of race, colour or ethnic origin, a punishable offence.

113. The Committee thanked the Government of Haiti for the reports submitted in a consolidated document which was considered informative, interesting and more complete than previous reports. It was noted, however, that the reports dealt mainly with the legislative measures taken to give effect to the provisions of the Convention, making hardly any mention of the administrative and judicial measures adopted in that regard, and information was requested on the subject as well as on the ethnic composition of the country. In this connection, reference was made to article 1, paragraph 4, of the Convention and the question was asked whether special measures were in fact taken in Haiti with a view to ensuring the enjoyment and exercise of the fundamental freedoms for groups that needed to be protected.

114. Members of the Committee noted that the decree of 4 February 1981 took account of the Committee's appeals to the Haitian Government to comply with its obligations under the Convention, in particular its article 4, and they wished to know whether, how often and in which cases the provisions of that decree had already been applied. It was observed, on the other hand, that article 1 of that decree did not provide for the case of persons who incited to discrimination, as referred to in article 4 (a) of the Convention, that article 5 of the decree spoke only of propaganda without any reference to the dissemination of racial ideas, and that no mention was made of measures against organizations or associations which encouraged racial discrimination or racial hatred as required by article 4 (b) of the Convention; specific information was therefore requested on provisions relating to these matters. Furthermore, with regard to the first part of article 4 of the decree, concerning measures which were not considered discriminatory, more information was requested about the origin and nature of that provision, what distinctions, exclusions, restrictions or preferences were established by a State, whether the State in question was any State or only the State of Haiti and, in the latter event, what Haitian legislation provided for those exclusions, distinctions or restrictions.

115. The attention of the Committee was focused, in particular, on measures to give effect to article 5 of the Convention in Haiti. It was observed that some of the rights listed under that article had not been considered in the reports of Haiti and it would be useful to know Haiti's position on the right to leave the country, the right to housing, the right to health, medical care, social security and social services and the right to equal participation in cultural activities. It was also observed that article 16 of the Constitution proclaimed that "Haitians shall be equal before the law, subject to the special advantages conferred on native-born Haitians" and it was asked whether the term "advantages" did not denote a measure of discrimination. It was also noted that article 52 of the Immigration Act of 1953 provided that the entry to the territory of Haiti could be refused on the basis of ideological considerations and it was asked how the Haitian Government differentiated among the various elements referred to in that provision. With regard, in particular, to article 9 of the Constitution, according to which a foreign woman married to a Haitian must renounce the nationality of any other

country and assume Haitian nationality, it was asked whether that was a measure designed to prevent alien women from marrying Haitians, what happened in the event of a refusal to take the oath in question, whether there was any arbitral body in this regard and how many applications for naturalization had been submitted since Haiti's last report, namely, in the past three years. Reference was also made to article 14 of the Constitution of Haiti and the Committee asked why an alien residing in that country could not own more than one dwelling in the same locality, why that alien might in no case engage in the business of renting real estate, and whether the fourth paragraph of article 14 dealing with the liquidation of the property for cessation of residence of an alien in Haiti applied solely to persons who voluntarily left the country. As regards, in particular equal enjoyment of economic and social rights, members of the Committee wished to know the reasons for the emigration of numerous Haitians to other countries, especially the United States of America; the number of migrant workers from Haiti; whether there were any bilateral agreements between Haiti and the host countries or any machinery for supervising working conditions, what conditions had to be met to obtain a passport and exit visa; whether the Government of Haiti was taking any steps to ensure integral economic and social development for the full flowering of a humanitarian society; whether there was a programme of agrarian reform and if health and housing programmes were available to avoid any discrimination against the rural sector of the population in the general development of society. With reference to the labour legislation of Haiti, clarification was requested on the meaning of the text of article 3 of the Labour Code, on whether the State protected workers and trade-union freedoms, how many trade unions there were in Haiti and whether there was a social security system.

116. In connection with article 6 of the Convention, members of the Committee wished to know in particular, whether the victims of acts of racial discrimination could act in a personal capacity to obtain reparation in the event the public prosecutor's office abstained from prosecuting, whether they could independently bring an action before the civil courts and how they could institute proceedings against the administration to obtain material or moral reparation.

117. In connection with article 7 of the Convention, the question was raised as to how the ideals of national unity, pan-Americanism and universalism, which were considered in Haiti the most effective means of combating racial discrimination, were reflected in the spheres of education and culture and what practical steps had been taken to put them into effect. Members of the Committee regretted that no information had been provided in the report concerning measures adopted in Haiti for the implementation of the various provisions of article 7 of the Convention.

118. In replying to some of the questions raised by members of the Committee, the representative of Haiti stated that the provisions of the decree of 4 February 1981 had been implemented only with respect to access to civil service posts and that in paragraphs 2 and 3 of its article 5, the decree implicitly condemned the dissemination of ideas based on racial superiority or hatred.

119. With reference to article 5, he pointed out that, according to the Haitian Constitution, naturalized foreigners did not immediately enjoy political rights, that the provisions of article 52 of the Immigration Act were intended for anarchists and terrorists and were necessary to maintain an atmosphere of peace in the country; that a foreign woman married to a Haitian became Haitian only if she took the oath and that restrictions on the right of a foreigner to own real property were necessary to prevent foreigners with large amounts of capital from buying up all the real estate in

the country. As regards the reasons for Haitian emigration, the representative referred to the unfavourable geographical conditions of his country and to the extreme vulnerability of its national economy. While there was no problem in obtaining a passport, it was difficult to obtain visas especially for the United States and the Haitian migrants were often exploited. The Government was, however, constantly engaged in making representations to the Governments concerned with a view to protecting the rights of its migrants. A comprehensive development programme had also been drawn up in Haiti, but its execution was running into problems of financing. The rights of workers in the country were protected by the labour legislation and the establishment of trade unions was authorized under article 32 of the Constitution.

120. Referring to article 6 of the Convention, the representative stated that the Haitian law conferred upon citizens who felt that their rights had been infringed the right to bring the matter before the courts, directly or indirectly. All judicial decisions were open to appeal at two levels. There were no administrative courts, but the recently created Administrative Commission was preparing a framework law on the civil service which would take account of the decree of 4 February 1981.

121. With regard to article 7 of the Convention, the representative provided information on a school building programme on which the Government had embarked with a view to putting an end to inequality and to eradicate any form of racist ideology.

122. The representative of Haiti finally stated that the suggestions and recommendations made by the Committee to his Government would be taken fully into account in the preparation of his country's next periodic report.

CERD (A/38/18) (1983)

191. The fifth periodic report of Haiti (CERD/C/89/Add.2) was considered by the Committee together with the introductory statement of the representative of the reporting State, who pointed out that his Government's report sought to provide an overview of the measures adopted in Haiti pursuant to the observations and recommendations made by members of the Committee during the consideration of Haiti's fourth periodic report. Accordingly, it contained excerpts from the Decree of 27 February 1974 governing the acquisition of Haitian nationality, and the text of the Decree of 4 February 1981 on the elimination of all forms of racial discrimination which brought into line the criminal laws in force in Haiti with international conventions signed and ratified by the Haitian Government.

192. Commenting on the report of Haiti, some members noted that the report did not follow the guidelines set out by the Committee and did not contain answers to questions which had been put to the representative of Haiti during the consideration of that country's fourth periodic report. Some information was requested concerning the ethnic composition of Haiti based on the latest census figures. One member was of the view that most of Haiti's problems in complying with the Convention were linked to its level of socio-economic development. Thus, there existed an obvious need for a more fundamental change in the country's social structures in order to foster social and racial equality, better distribution of wealth, greater freedom of expression and greater access to goods and services. A heavy social and economic burden had been created by clandestine emigration; information was requested on the success of the measures taken by the Government to combat its causes.

193. With regard to articles 1 and 2 of the Convention, some members were interested to know the exact definition of a native-born Haitian and the meaning of the "special advantages" conferred on native-born Haitians under article 16 of the Constitution. A question was asked whether those advantages might not result in instances of discrimination on the basis of race, colour or national or ethnic origin. A member stated that, while he could understand the purposes of article 6 of the Constitution, which reduced the minimum period of residence required for naturalization in certain cases, he wondered whether it, too, might not lead to instances of racial discrimination within the meaning of the Convention. It was asked whether the Government had opted for planned development. If it had, were there specific regions which had been assigned higher priority in the plan and which had been earmarked for increased investment because of their less-developed status.

194. As far as the implementation of article 3 of the Convention was concerned, it was noted that the Government of Haiti had a very good record.

195. With reference to article 4 of the Convention, some members welcomed the Decree of 4 February 1981, which amply fulfilled the requirements of that article. It was stated, however, by other members that the Decree did not cover incitement to racial discrimination as distinct from acts of racial discrimination; and that it penalized but did not declare illegal - as was required under the Convention - organizations engaging in or inciting to racial discrimination, although at least officials had been brought within the purview of article 4 (c) of the convention. It was also noted that any repression of freedom of opinion could only be deplored since it ran counter to all democratic ideas

of penal law.

196. With regard to article 5 of the Convention, it was noted that the Decree of 5 April 1982 made the teaching of Creole compulsory in primary schools throughout the country. A question was asked, therefore, that, if French was the lingua franca, at what stage did a Creole-speaking child begin to learn French and were such children given special assistance in learning French, so that they were not at a disadvantage when competing for jobs. Members also wished to know what was the status of Creole as a language, namely, was it compulsory for local officials, or was French the administrative language at that level too. If the latter was the case, the question concerning interpretation facilities in the courts for persons who did not have a command of French would be very relevant. Members wished to know how the rural literacy rate compared with the urban literacy rate and what progress was being made in raising the literacy level.

197. As for the Decree of 7 March 1978, which established two systems of education, the need to make the rural population literate could be understood; nevertheless, the dual system might in time lead to the practice of discrimination among different strata of the population. Moreover, if such a system was maintained for a long time, it might prove to be contrary to the provisions of the Convention. Turning to the provisions of article 5, paragraph (e) (ii), of the Convention, it was noted that article 24 of the Haitian Constitution said that “each worker shall belong to the trade union representing his particular occupation”, and a question was asked as to whether trade unions were organized by the Government and therefore not fully autonomous, in which case it might appear that the right to establish trade unions did not exist. One member wondered whether Haiti was a party to the ILO Equal Remuneration Convention. More information was also required concerning political parties in Haiti. It was asked, in particular, how many parties were there, how many participated in the Government and how many were represented in the National Assembly. Also a number of questions regarding the general observance of human rights were asked by members of the Committee.

198. In connection with article 6 of the Convention, it was noted with satisfaction that an injured party could bring an action directly before the competent court and that a civil action to obtain reparation could be brought before a civil court. A question was asked, however, as to whether there was any provision to make the courts more easily accessible to the people through, for instance, free legal aid.

199. With reference to article 7 of the Convention, it was noted that Haiti’s education policy as described in the report responded to an important provision of that article and the practical steps which had been taken to promote pan-Americanism were also impressive. However, more information was requested concerning the teaching of human rights and courses in the culture, civilization and religion of other countries. It was asked, in particular, whether teachers and officials were taught about the ideals of the United Nations and the provisions of the Convention; whether there were United Nations associations or UNESCO clubs in Haiti to promote awareness of the human rights listed in the various United Nations instruments; and whether the mass media had been assigned a concrete role in fostering awareness of human rights or in promoting the national ideal of universalism.

200. Replying to questions raised, the representative of Haiti assured the Committee that his

Government would take its comments into account and would continue to pursue its dialogue with the Committee. With regard to the five-year period during which naturalized citizens were not permitted to exercise their political rights, he stressed that the restriction was temporary and limited to the political sphere. Apart from certain very rare exceptions, such as their ineligibility for the post of President of the Republic, naturalized citizens were subject to no other restrictions. Questions regarding trade unions in his country had been answered fully by the representative of Haiti during consideration of the previous periodic report. The representative stressed that the teaching of Creole in Haitian schools was the result of deliberation which had lasted for more than 50 years. The decision was significant in view of the fact that the entire population of Haiti spoke Creole, and in view of the cultural relevance of the language to the lives of the majority of the population. The teaching of Creole did not preclude the teaching of French; rather, the Haitian authorities were attempting to reach a state of "peaceful coexistence" between the two languages. Turning to the question concerning the underlying causes of Haitian emigration, he stressed the fact that in Haiti the amount of land suitable for farming was small, while the population was large. The Government had established short-term and long-term projects aimed at giving new impetus to the Haitian economy and information regarding those projects would be contained in future reports.

CERD A/40/18 (1985)

531. The sixth periodic report of Haiti (CERD/C/116/Add.2) was considered by the Committee at its 736th and 737th meetings, on 12 and 13 August 1985 (CERD/C/SR.736 and SR.737)

532. The report was introduced by the representative of the State party who emphasized that his Government attached particular value to its dialogue with the Committee and made every effort to give effect to the provisions of the Convention. The representative also outlined the main issues dealt with in his Government's report and pointed out that his Government realized that the difficult economic situation, both national and international, was hampering its efforts to raise the living standards of the underprivileged masses and to enable every Haitian to take an active part in the country's social and economic life. He explained that the problem of illegal emigration was also linked to the question of the level of development and measures taken by the Government to attack the root of that problem should be seen in the context of overall development policy. The aim of that policy was to provide food security, medical care and work for all. A programme designed to boost the agricultural sector had been launched in 1983 and was already producing favourable effects. A vast amount of the country's resources were being devoted to educational reforms, and the recent constitutional reforms and the adoption of the law on political parties were designed to encourage more active participation of citizens in political life.

533. Members of the Committee commended the Government of Haiti for its regularity in submitting reports and in maintaining its dialogue with the Committee. They particularly welcomed the information on legislative measures aimed at safeguarding human rights in Haiti and the Government's compliance with article 3 of the Convention. However, members of the Committee regretted that information on the demographic composition of Haiti had not been provided by the Government on the grounds that the results of the census were not yet available. They stated that data on the ethnic and linguistic composition of the country were essential to enable the Committee to assess the situation of the various minority groups and, in addition to a detailed breakdown of the demographic composition of the population, they requested more information on the poorest and most vulnerable sectors of Haitian society.

534. With reference to article 4 of the Convention, it was noted that the provisions of article 48 of the Haitian Constitution referred only to discrimination on the part of public officials or the authorities and included no specific provision to cover acts of discrimination perpetrated by private citizens. Furthermore that article did not relate to the conditions and qualifications required for the performance of public functions and it was observed that those provisions appeared to be unsatisfactory in terms of implementation of the Convention. It was also observed that it was disquieting that the prosecution of senior officials for racial discrimination and other offences was subject to Government consent. In addition, members of the Committee emphasized the need for States parties to enact specific legislation to implement article 4 of the Convention as a protective measure, even when, as stated by the Government of Haiti, organizations which practised or encouraged racial discrimination did not exist in their territory.

535. Turning to article 5 of the Convention, members of the Committee wished to know whether there was full freedom to form political parties in Haiti, what the requirements were for enjoying the right to vote, whether illiterates were able to vote, and if so by what method, what the relationship

was between the presidency for life and the legislative, judicial and executive powers, whether the public could have any say in regard to the system of life presidency via the electoral system, upon what basis people were elected to other governmental posts, what the structure of the legislature was and at what intervals elections were held. Clarification was requested on the definition of “native-born Haitian” referred to in article 11 of the Constitution. In addition, members of the Committee wished to know who owned the newspapers, whether there was freedom in Haiti to express opinions in the press, on radio and television that ran counter to the accepted Government view, and whether the provisions of the Haitian Press Law of 1979, requiring all journalists to register and acquire a permit before practising their profession, was still in force and, if so, on what grounds permits were refused. Furthermore, members of the Committee asked whether trade unions could be established freely in Haiti, whether they were independent or government-sponsored organizations, whether the right to strike was allowed and whether any strikes had in fact taken place in Haiti over the past year. Concrete information was also requested on efforts to restructure agriculture, on legal aid and on the literacy campaign and, in particular, on the number of schools in rural and urban areas respectively and on measures taken to ensure the proper nutrition of children attending school.

536. With regard to article 7 of the Convention, it was asked what measures had been undertaken in the information field with a view to increasing public awareness of the evils of racial discrimination.

537. Replying to questions raised by members of the Committee, the representative of Haiti stated that the Haitian people exercised their political rights through democratic elections and referendums. In that connection, he informed the Committee that a constitutional amendment and a law on political parties had been voted in June 1985. The amendment provided for the appointment of a prime minister chosen by the head of State from among the members of the party having the largest number of deputies in the legislative chamber. The law on political parties allowed for an unlimited number of parties, which were authorized to publicize their programmes once they had been legally established. The only restriction on the parties was that they did not have the right to use emblems based on race. He also stated that there were a number of trade unions in Haiti and that they functioned freely. Legal aid was available for criminal cases and was administered by the regional bars. In the field of literacy, an agreement had been reached with the Catholic Church in March 1985 to promote progress in that sector and priority zones for education had been set up.

CERD A/45/18 (1990)

283. The seventh periodic report (CERD/C/147/Add.2) and eighth and ninth periodic reports of Haiti, submitted in one consolidated document (CERD/C/195/Add.1), were considered by the Committee at its 879th meeting, held on 16 August 1990, without the participation of a representative of the reporting State (CERD/C/SR.879).

284. The members of the Committee regretted that there was no representative of the reporting State to take part in the Committee's proceedings. In that connection, members, being aware of the country's perilous economic situation, expressed the view that it would have been easier for Haitian representatives to attend had the Committee's session been held in New York.

285. Members of the Committee, having noted that the reports merited the Committee's positive appreciation, stated that consideration of the Haitian reports was particularly important from a human rights standpoint, since that country was troubled by problems other than those relating strictly to racial discrimination, including extreme poverty, inequalities between the rural and urban population, great insecurity with the activities of the "Tontons Macoutes" - who remained to be disarmed, summary executions and acts of torture, including recent attacks on human rights activists. Another crucial problem was that of ensuring security during the forthcoming elections and the regularity of those elections, about which it was hoped that full details would be provided in the next report. Members also expected that that would include further information on the general situation prevailing in the country, on demographic composition of the Haitian society, on the relationship between the black, mulatto and white populations. Members were also interested to know whether there was or was not some form of racial discrimination in the business sphere. Members also sought further clarification of the statement that racial discrimination, as defined in article 1 of the Convention, did not exist in Haiti, contained in the reports, and they pointed out that relevant provisions of article 1 were to be seen in conjunction with those of article 4 of the Convention.

CERD A/53/18 (1998)

361. At its 1285th meeting, on 10 August 1998, the Committee reviewed the implementation of the Convention by Haiti based upon its previous report (CERD/C/195/Add.1) and its consideration by the Committee (see CERD/C/SR.879). The Committee noted with regret that no report had been submitted to the Committee since 1989.

362. The Committee regretted that the State party had not responded to its invitations to participate in the meeting and to furnish relevant information.

363. Although the situation in Haiti has recently improved somewhat, the State party is still experiencing a political and economic crisis. Social differences are very severe and this, indeed, has generated discrimination among the population. These factors are significant obstacles to the full implementation of the Convention.

364. The Committee requests the State party to provide it with relevant information on the implementation of legislation prohibiting and sanctioning racial discrimination. It also wishes to receive updated information on emigration, on the demographic composition of the population and on measures taken to ensure that perpetrators of acts of violence related to racial discrimination are not benefiting from impunity. In view of the prolonged absence of a dialogue between the State party and the Committee, the Committee also requests information on the results of cooperation with United Nations agencies, especially in areas related to the implementation of the Convention.

365. The Committee urges the State party to resume the dialogue with the Committee as soon as possible.

366. The Committee suggests that the Government of Haiti, if it wishes, avail itself of the technical assistance offered under the advisory services and technical assistance programme of the United Nations High Commissioner for Human Rights, with the aim of drawing up and submitting as soon as possible a report drafted in accordance with the reporting guidelines.

CERD A/54/18

253. The Committee considered the tenth to thirteenth periodic reports of Haiti (CERD/C/336/Add.1) at its 1334th and 1335th meetings (see CERD/C/SR.1334 and 1335), on 2 and 3 August 1999. At its 1354th meeting (see CERD/C/SR.1354), on 16 August 1999, it adopted the following concluding observations.

A. Introduction

254. The Committee welcomes the tenth, eleventh, twelfth and thirteenth periodic reports submitted by the Government of Haiti in one document as well as the opportunity thus offered to renew its dialogue with the State party. Although the Committee welcomes that the report followed the guidelines, it is of the view that the information in the report was too concise and that the report did not sufficiently address the Committee's concluding observations relating to the previous report of the State party. The Committee is encouraged by the presence of a high-ranking delegation and expresses its appreciation for the constructive dialogue with the delegation and the additional information provided in response to the questions asked.

B. Factors and difficulties impeding the implementation of the Convention

255. The Committee notes that the situation of human rights in the State party has improved, despite the continuing threats to its political and economic stability. In this connection, the Committee draws attention to the negative effects of the current political, economic and social crisis in the State party which have exacerbated discrimination among the different ethnic groups of the population. These factors are significant obstacles to the full implementation of the Convention.

C. Positive aspects

256. The Committee expresses its satisfaction with the information provided in the State party's report that international instruments, including the International Convention on the Elimination of All Forms of Racial Discrimination, become an integral part of its domestic legislation and are binding on the judicial and other authorities of the State.

257. The Committee notes that the State party's Constitution (1987) embodies the principles enshrined in the Universal Declaration of Human Rights, including the prohibition of racial discrimination.

258. The Committee notes with appreciation the State party's implementation of an international cooperation programme in the field of human rights in cooperation with the Office of the United Nations High Commissioner for Human Rights.

D. Principal subjects of concern

259. Concern is expressed at the State party's repeated assertion that there is no racial discrimination as defined in article 1 of the Convention. In this connection, the Committee is of the opinion that the absence of complaints and legal action by victims of racism may possibly be an indicator of a lack of awareness of the existence of available legal remedies in cases of racial discrimination, and that members of the public may not be sufficiently aware of the protection against racial discrimination provided by the Convention.

260. While noting that the State party's domestic legislation (*Decree of February 1981*) makes all acts of racial discrimination punishable by law, concern is expressed at the lack of information on the implementation of article 4 of the Convention, especially on how this principle is applied by judges, lawyers and civil servants.

261. Although it is noted that the State party's Constitution (1987) guarantees the enjoyment, without discrimination, of most of the rights enshrined in article 5 of the Convention, concern is expressed about reports of human rights violations committed by members of the Haitian National Police and that too little is done to prevent persons perpetrating, with impunity, acts of violence related to racial discrimination. Concern is also expressed at the lack of domestic legislation to prevent acts of racial discrimination by individuals in implementation of articles 2 (1) (d) and 5 (e) of the Convention.

262. While noting that the State party's Civil Code (arts. 1168 and 1169) establishes a legal mechanism for reviewing complaints of racial discrimination on the part of the State, concern remains that this legislation does not fully reflect the provisions of article 6 of the Convention.

263. With regard to the implementation of article 7 of the Convention, concern is expressed that the Convention has not yet been translated into Creole, since this is the other official language.

E. Suggestions and recommendations

264. The Committee recommends that the State party in its next periodic report provide full information on the demographic composition of the population in the light of paragraph 8 of the reporting guidelines, together with socio-economic indicators on the situation of the various ethnic communities.

265. Emphasizing the role of the judicial system in eliminating racial discrimination, while noting the current reforms to that system, the Committee requests the State party to include in its next periodic report a description of the existing legal mechanisms available to lodge complaints in cases of racial discrimination (e.g., in the light of the *decree of 4 February 1981* and the relevant articles of the Civil Code). In this connection, the Committee further recommends that the State party review its domestic legislation in accordance with articles 4 and 6 of the Convention.

266. In the light of articles 2 and 5 of the Convention, the Committee recommends that the State party enact legislation for the prevention of racial discrimination in the private sector. In this connection, the Committee recommends that the State party consider the establishment of a national institution to facilitate the implementation of the Convention, in accordance with the Committee's general recommendation XVII.

267. The Committee recommends that the State party include in its next report information on the restrictions upon foreigners of different racial or ethnic origin and upon non-native Haitians, with respect to the enjoyment of the rights enumerated in article 5 of the Convention.

268. The Committee recommends that the State party consider providing education and training on racial tolerance and human rights issues to law enforcement officials, in accordance with article 7 of the Convention and general recommendation XIII of the Committee. In addition, the Committee suggests that the State party review its disciplinary action against perpetrators of police brutality with a view to reinforcing measures against such perpetrators.

269. The Committee requests the State party to include information in its next report on measures undertaken or envisaged for improving public awareness of the Convention. The Committee further suggests that the State party may wish to avail itself of the technical assistance offered under the advisory services and technical assistance programme of the Office of the United Nations High Commissioner for Human Rights.

270. It is noted that the State party has not made the declaration provided for in article 14 of the Convention, and some members of the Committee requested that the possibility of such a declaration be considered. The Committee also recommends that the State party 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.

271. The Committee recommends that the State party's next periodic report, due on 18 January 2000, be an updating report and that it address the points raised during the consideration of the report.