

MEXICO

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

231. The Committee noted with satisfaction that the initial report of Mexico supplied information on relevant constitutional provisions as well as administrative and other measures giving effect to the provisions of the Convention, furnished the texts of the articles of the Political Constitution to which it referred, and provided the information envisaged in general recommendation III. It was regretted that the report was not organized in accordance with the guidelines laid down by the Committee at its first session.

232. Members of the Committee noted with appreciation that article 1 of the Political Constitution of Mexico applied not only to Mexican citizens, but to “every person in the United Mexican States”; that the Government of Mexico had taken diverse measures to improve the living conditions of all inhabitants of the Republic, such as the Land Reform Act, the extension of welfare or social security services and the creation of a specialized agency for ensuring adequate housing; that Mexico had taken an active stand against the racist régimes in southern Africa and had complied with the relevant resolutions of the United Nations; and that the Mexican authorities had denied entry visas to South African representatives to a projected symposium on uranium deposits sponsored by IAEA. It was noted with regret that, as a result, IAEA had decided to change the venue of the symposium; some members suggested that IAEA should be asked to define its position regarding South African participation in symposia it organized.

233. Members of the Committee expressed the hope that information would be supplied in the second period report of Mexico on administrative and other measures taken in accordance with the provisions of articles 2 (paras. 1 (e) and (2) and 7 of the Convention, and on existing provisions of the Mexican legal system fulfilling the requirements of articles 4, 5 and 6 of the Convention. It was hoped also that the Mexican Government would furnish the demographic information envisaged in general recommendation IV, and additional relevant information that would enable the Committee to appreciate more accurately the situation of ethnic groups forming part of the Mexican population and the measures taken for the protection of ethnic groups that had not achieved full integration into Mexican society.

234. The following inquiries were made by members of the Committee: (a) Notwithstanding the provisions of article 1 of the Political Constitution of Mexico - which provides that every person in the country shall enjoy the guarantees that that Constitution grants - it was not clear whether racial discrimination was explicitly banned and whether any sanctions were provided under Mexican legislation. (b) Article 29 of the Mexican Constitution did not fully explain under what circumstances people’s rights could be suspended; the Committee should be provided with legislative texts which clearly showed that such suspensions would not apply to the guarantees against racial discrimination. (c) What was the philosophy underlying Mexico’s policy relating to race? It was recalled in that connexion that some Latin American Governments had reported that their policy was based on the desire to create an amalgam of the various races in their respective countries, while other Governments of Latin American countries are attempting to integrate all the

ethnic groups into the body politic while preserving their respective ethnic characteristics. (d) To what degree did the various ethnic groups hold public offices and participate in representative bodies in Mexico?

235. The representative of the Government of Mexico assured the Committee that, in preparing its next report, his Government would take into account the comments made during the consideration of its initial report.

CERD A/34/18 (1979)

79. The second periodic report of Mexico (CERD/C/16/Add.1) was praised for its quality and comprehensiveness and demonstrated that country's readiness to co-operate actively with the Committee.

80. Reference was made, in particular, to the part of the report concerning indigenous populations, which, according to some members, could serve as a model for countries in the same situation as Mexico. With regard to the situation of the indigenous population, the Committee welcomed the information it had received on the demographic composition of Mexico and on the measures being taken to help the indigenous and least favored sections of the population to achieve a higher level of educational and cultural development. The Committee noted with satisfaction that considerable effort was being made to promote respect for human rights, to protect the cultural heritage of minorities and to improve the conditions and standards of living of the indigenous population, in particular since the establishment of the National Institute for Indigenous Affairs.

81. With regard to article 4 (a) and (b) of the Convention, the report stated that Mexico's obligations under article 4 (a) of the Convention were met by article 63 of the Federal Radio and Television Law. It was noted in that respect by several members that article 4 (a) applied to all forms of dissemination of racist ideas and incitement to racial discrimination, not just to radio and television broadcasters. Moreover, article 9 of the Constitution, which was quoted in the report in connection with article 4 (b) of the Convention, did not contain the kind of positive legislation which the Committee considered to be necessary. Another member, elaborating on the same point, stated that the provisions of article 4 (a) and (b) of the Convention, in his opinion, necessitated recourse to penal procedures and in that regard Mexican legislation seemed to lack specificity. It would be desirable for offences governed by the said provisions to be more clearly defined so that legal proceedings could be instituted without it being necessary to interpret or stretch the meaning of the texts. In connection with possible conflicts between the right to assemble or associate and the obligations under article 4 of the Convention to declare illegal any organization engaging in activities which incited racial discrimination, some members asked whether Mexican courts had ever had to rule on such conflicts and recommended that Mexico should communicate to the Committee the text of article 164 of the Penal Code.

82. The Committee's concern was also expressed in connection with the obligations imposed under article 6 of the Convention concerning which the report cited articles 16 and 17 of the Mexican Constitution. The amparo proceedings, as described in the report in connection with article 6 of the Convention, were also extensively discussed by members. The report stated that Mexican law includes, in addition to the ordinary procedural remedies, a constitutional remedy known as the writ of amparo or writ of guarantees, governed by article 107 of the Constitution and by the law of amparo, whose purpose is to protect the individual against laws or acts of the authorities that may restrict or impair his safeguards or social guarantees as established by the Constitution. It was noted by some members that all persons, even minors, had the right to institute proceedings for amparo and asked for confirmation on the point that article 107 of the Constitution may be invoked in the event of cases of racial discrimination. Another member noted that amparo proceedings the purpose of which was to settle "disputes", could be instituted only with respect to acts by authorities. He

asked what remedy existed against violations committed by individuals. Another member wondered whether amparo proceedings could be compared with writ petitions filed in High Courts under the Anglo-Saxon legal system.

83. As regards articles 5 and 7 of the Convention, members of the Committee were generally satisfied with the exhaustive details given on the application of those articles, and particularly the attention paid to the rights of the indigenous people and the care taken in attending to their social needs. It was pointed out that any measures taken should apply equally to all sections of the population. It would be useful if the next report could give information concerning other population groups such as immigrants and half-breeds.

84. The representative of Mexico assured the Committee that the full text of the Law of Amparo and article 107 of the Constitution would be supplied to the Committee and that the next report of her country would provide additional information relating in particular to application of the part of the Mexican Constitution that concerned individual freedoms and guarantees.

CERD A/35/18 (1980)

453. The third periodic report of Mexico (CERD/C/63/Add.1) was considered by the Committee together with the introductory statement made by the representative of the reporting State.

454. Members of the Committee expressed appreciation for the detailed information contained in the report and noted with interest that, under article 133 of the Political Constitution of the United Mexican States, treaties concluded in accordance therewith acquired, upon ratification, the status of Supreme Law of the entire Union. In this connection, one member, noting that the Convention was ipso facto the law of the land, requested a clarification on whether there was any need to enact legislation specifically to implement the substantive articles of the Convention, or whether they already had force of law in Mexico. Members of the Committee were of the view that even if the Convention was part of the law of the land, further legislation was needed to give effect to the provisions of the Convention, such as legislation declaring acts of racial discrimination punishable by law and imposing the necessary penalties.

455. The Committee observed that it was difficult to ascertain from the information provided in the report whether the requirements of article 4 and article 6 of the Convention were actually fulfilled by Mexican legislation, and it was suggested that the next periodic report should include all the provisions of Mexican legislation that applied to those articles so that such provisions, as a whole, could be considered in the light of the relevant obligations incumbent upon States parties. It was recalled that the Convention was intended not only to combat racial discrimination where it existed, but also to prevent racial discrimination and that the purpose of article 4, in particular, was to ensure that States parties established provisions in their legal systems to prevent any outbreak or resurgence of racial discrimination. It was asked, in this connection, which acts of racial discrimination precisely constituted an offence under the Penal Code and the wish was expressed that the relevant legal texts would be made available to the Committee.

456. Further information was also requested with regard to the full implementation of rights covered by article 5 of the Convention. One member asked, in particular, whether Mexico had acceded to Convention No. 111 of the International Labour Organization concerning discrimination in respect of employment and occupation.

457. With reference to article 6 of the Convention, the Committee expressed its particular appreciation for the very detailed information provided on the amparo proceedings. The hope was expressed, in this connection, that information would be provided on specific examples of judicial decisions which would enable the Committee better to understand how amparo proceedings were conducted. It was also noted that, while such proceedings were admissible in respect of decisions taken by the authorities, it was not clear what recourse was available to an individual whose rights had been violated by other individuals, unless the Public Prosecutor's Department brought a criminal action; it was asked what happened if the Public Prosecutor's Department considered that, under the circumstances, it could not succeed in its action, or if it refused to institute such action because the offence had been committed by a State body, and whether any of the provisions of Mexican legislation enabled an individual to institute such action himself. As to the very important role of review of the Supreme Court of Justice, particularly in determining whether a law was

unconstitutional, it was asked what happened if the Supreme Court ruled that a particular law was in fact unconstitutional, and whether the law ceased to apply in the specific case in question or whether it was rescinded entirely.

458. Members of the Committee were of the view that, although the previous report contained satisfactory information in connection with article 7 of the Convention, the next periodic report should provide updated information on measures taken by the Mexican Government in implementation of the provisions of that article.

459. In replying to questions raised by members of the Committee, the representative of Mexico confirmed that, upon ratification, treaties were published in the Diario Oficial and entered into force in his country, taking precedence over the law of the land. Specific information would be provided on what procedure applied, should an individual wish to invoke the provisions of the Convention to ensure protection of his or her rights before a Mexican court. As regards the comments made by the Committee on the implementation of article 4 of the Convention, he emphasized that the Government and people of Mexico had great difficulty in legislating on matters of racial discrimination, because the very concept was alien to their philosophy and culture. An effort would be made, however, to explain in the report which of the various forms of racial discrimination were covered by the penal law in force in the country.

460. With reference to questions raised in connection with article 6 of the Convention, the representative stated that, to his knowledge, no case of racial discrimination had ever been brought before the courts in Mexico. He explained that the amparo procedure was available to any individual in Mexico, including a foreigner, and could be invoked against an act of racial discrimination. He also explained that in cases where individuals violated the rights of others, the Public Prosecutor's Department could take action on its own behalf, whether or not specific complaint had been lodged and that, while an individual could not institute criminal proceedings, proceedings could be instituted before the civil courts and damages could be awarded, as provided by the law. As for the decisions of the Supreme Court stating that a law was unconstitutional, the representative stated that the law would not remain in force if it embodied regulations deriving from another law; however, decisions of the Supreme Court relating to amparo proceedings, did not prejudge the nature of the law concerned, the role of the Supreme Court in such cases being simply to protect the right of an individual in a specific case. The representative assured members of the Committee that their comments and requests for information would be transmitted to his Government and complied with in the next periodic report.

CERD A/37/18 (1982)

359. The fourth periodic report of Mexico (CERD/C/88/Add.1) was considered by the Committee after a brief introductory statement by the representative of the reporting State, who explained that the report merely supplemented previous reports, clarified some points and answered the questions asked by members of the Committee.

360. The Committee commended the report of Mexico for the comprehensive information contained in it and for reflecting a constructive dialogue by providing replies to questions which had been asked during the consideration of the previous report. Some members pointed out that the analysis of the constitutional provisions contained in the report attested to the equality of Mexican citizens and attention was drawn to the fact that Mexico had acceded to all the international conventions dealing with human rights. A member noted that, although extensive information was included in the report, certain provisions of the legislation cited were at times omitted and extraneous information was included in the discussion of specific articles.

361. Updated information was requested regarding the demographic composition of Mexican society, including data on the indigenous people. With respect to article 2 of the Convention the Committee inquired about the policy of the Government to ensure the enjoyment of basic civil rights and freedoms by indigenous populations and ethnic minorities. In that connection, it was also asked how the Government's programmes for the indigenous peoples referred to in previous reports had developed and what results had been achieved.

362. With regard to article 3 of the Convention, it was pointed out that it was clear from the report that the Government of Mexico had taken concrete steps to condemn all forms of racial discrimination and, in that connection, updated information was requested regarding the state of relations of the Mexican Government with South Africa.

363. Referring to article 4 of the Convention, the Committee made extensive comments on the Mexican Constitution, the Penal Code and the Press Law. The Committee agreed that it was clear from the report that racial discrimination and unequal treatment were inconsistent with the Mexican legal system. Some members pointed out, however, that the legislation described in the report was not adequate, at least in connection with the implementation of paragraph (a) of article 4. Legislation relating to paragraph (b) could be considered sufficient if the provisions concerning illegal organizations also made the very subject of such organizations and activities illegal. No special penalties were provided to implement the provisions of article 4 (c), although the acts referred to in that article were, in general, declared illegal and the remedy of amparo could apply in that respect. With reference to article 364 of the Penal Code, the opinion was expressed that that provision was not sufficient to make violation of constitutional guarantees a criminal offence and that it could not cover all the offences envisaged in paragraph (a) of article 4 of the Convention. Moreover, in order for articles 164 and 164 bis of the Penal Code to cover organizations and associations promoting and inciting racial discrimination, it was first necessary for racial discrimination to be declared an offence punishable by law. A member expressed the opinion that the Press Law adequately satisfied the provisions of article 4 with regard to the dissemination of ideas based on racial superiority and that, although articles 164 and 164 bis of the Penal Code could

conceivably be invoked in cases of incitement to racial discrimination, it was essential that the act of incitement itself be declared an offence beforehand. Another member thought that articles 164 and 164 bis of the Mexican Penal Code could be considered as implementing provisions of article 4, although perhaps somewhat obliquely. Finally, the hope was expressed that the Mexican Government would provide further explanations concerning its existing legislative provisions in the next report or enact new legislation to fill the gaps to which attention had been drawn.

364. In connection with the Mexican report, the Committee held a brief discussion concerning the interpretation of article 4 of the Convention. Most members suggested that article 4 constituted a mandatory requirement for States parties to enact specific legislation while the other articles of the Convention left it to the discretion of the States parties to take the measures which they deemed appropriate in order to comply with specific provisions. In that connection, it was pointed out that article 4 had the force of jus cogens. Moreover, it involved the question whether the freedom of speech and association could or could not be limited. A member expressed the opinion that the mere fact that a State became party to the Convention fulfilled its obligation to condemn racist propaganda. Other members viewed the implementation of article 4 more as a process which could not be finalized in one stroke and felt that public opinion ought to be educated and prepared for the enactment of legislation designed to give effect to the provisions of that article.

365. Turning to article 5 of the Convention, the question was asked how the requirement that deputies and senators - besides the President - of the Republic ought to be Mexican citizens by birth was reconciled with the right of everyone to stand in an election according to paragraph (c) of the article; and what the level of participation of the indigenous population was in elections at all levels. Information was requested concerning the economic, social, cultural and educational level of the different sectors of society, especially of the various ethnic groups; the result of agrarian reform; the benefits, social services and health care; the benefits of education, the literacy rates and the percentage of school attendance, especially for secondary school. With regard to paragraph (f) of article 5, it was observed that no penalty seemed to be provided in Mexican law in cases in which an individual was excluded from a place or service that was privately owned.

366. With respect to article 6 of the Convention and the role of the Supreme Court of Justice in declaring a law or provision of a law unconstitutional, it was pointed out that the requirement that such a decision should be upheld in five consecutive judgements seemed quite stringent, since the circumstances were unlikely to be the same on each occasion. As to the right of petition, it was noted that amparo proceedings could be instituted against any public official or employee who failed to reply to such a petition.

367. In connection with article 7 of the Convention, more detailed information was requested. It was asked, in particular, how the curriculum in primary schools sought to inculcate an appropriate attitude toward racial discrimination and how that effort was pursued at the secondary level.

368. The representative of Mexico replied to some of the questions raised. With regard to comments made concerning the implementation of article 4 of the Convention, he pointed out that, according to the Constitution, any international instrument to which Mexico acceded automatically became the law of the land and had the same force as the provisions of the Constitution. Thus the Convention could be invoked before the courts and it would take precedence over any provision that

was not consistent with its terms. He stressed that the term amparo covered a whole set of judicial procedures intended to ensure effective enjoyment of constitutional guarantees and could be invoked by an individual who believed that such guarantees were denied by the laws or actions of the authorities; such laws or actions had to be suspended as soon as the proceedings were instituted, especially in cases involving a violation of human rights or a denial of individual freedom; and public officials guilty of abuse of power were liable to punishment.

369. In reply to questions concerning the implementation of article 5 of the Convention, he said that, given the financial resources of Mexico, the Government had to concentrate on such basic needs as health and education. However, provision existed for social security, such as limited unemployment benefits, workman's compensation insurance and maternity benefits and child-care centres. Social security had also been extended to those marginal populations who did not work sufficiently to be made eligible for collective social security and could not afford to contribute to an individual scheme; marginal workers were asked to do community work so that social security would not be seen as a charity. In reply to other questions, he said that special attention was paid to the needs of the rural communities in an effort to involve them fully in the nation's progress and cultural life. Efforts were made to teach Spanish to those populations and there was no discrimination in the curricula taught in the cities and in the villages. State-provided education was free at all levels. Regarding the education of the indigenous population, he said that there were many educational programmes designed for them and that radio and television facilities were being used in providing instruction. Besides, employers had an obligation to provide schooling for uneducated workers, as well as training in various skills.

CERD A/40/18 (1985)

151. The fifth periodic report of Mexico (CERD/C/115/Add.1 and Corr.1) was considered by the Committee at its 706th and 707th meetings, on 8 March 1985 (CERD/C/SR.706 and SR.707).

152. The report was introduced by the representative of Mexico who emphasized the multiracial and multicultural character of his country and drew the attention of the Committee to the programmes launched by the Government to overcome the economic, social and cultural disadvantages of Mexico's indigenous population. He indicated that the international human rights conventions to which Mexico was a party were part of the supreme law of the land, took precedence over any domestic legislation and could be invoked in national courts with binding force.

153. The Committee congratulated the Government of Mexico for its thorough and comprehensive report which contained a great deal of useful information and reflected a determined effort to eliminate racial discrimination. The report closely followed the Committee's general guidelines (CERD/C/70/Rev.1).

154. With reference to article 2 of the Convention, the Committee commended the government for its efforts to improve the conditions of its indigenous communities and enable them to participate fully in decisions regarding their own development. Further information was requested concerning the ethnic groups which made up Mexico's mixed population and it was asked whether indigenous communities were found predominantly in urban or rural areas. An explanation was sought concerning the discrepancy between the figure of 8.5 per cent in the report and that of 27.9 per cent in a United Nations study regarding the proportion of the indigenous people in the global population. Members wished to be provided with a statistical breakdown of the indigenous population and figures which would indicate where they were concentrated as well as what proportion of administrative and high-level posts was occupied by the different ethnic groups. Members pointed out that, whereas the legal guarantees of equality before the law for all citizens conformed with the provisions of the Convention, in reality the indigenous people still faced conditions of inequality and marginalization. They inquired about the impact of urbanization and industrialization on the indigenous population as well as the impact of the payment of Mexico's external debt on the country's capacity to create better living conditions for the population in general and for marginal groups in particular. Additional information was requested on national policy reforms, particularly agrarian reform. It was asked what compensation was paid for land which had been expropriated, whether there was a ceiling on the acquisition of land and what percentage of the indigenous population have benefitted from that policy. Members were interested in receiving further information about the National Council of Indigenous Peoples. It was also asked what new plans had been drawn up to protect and promote ethnic cultures, what percentage of government expenditure was allocated to education, health, housing and social services and to what extent that expenditure benefitted the most vulnerable sectors of society. Further information was needed on the percentage of indigenous people in the different enrolment programmes of the Mexican education system and on the impact of that system on the literacy of the indigenous population. Members noted that handbooks on the subject of land reform had been published for indigenous farmers, and asked whether the literacy rate of the indigenous population enabled it to profit from such publications. Information was also requested on emigration trends from Mexico to the United

States.

155. With respect to article 3 of the Convention, members of the Committee praised the Government for the way it was implementing that article and for its active role at the international level to eliminate racial discrimination and to combat apartheid.

156. In relation to article 4 of the Convention, the Committee did not agree with the statement by Mexico that there was no need for the Government to devise specific penalties for acts of racial discrimination since there was no problem of racial discrimination in the country. Members pointed out that, in developing countries which had suffered the most from colonialism, whole sectors of the population were most likely to remain on the fringes of development. In such cases, the distinction between social and economic discrimination and racial discrimination was frequently blurred. They took note of the view of the Mexican Government that the requirements of article 4 of the Convention were basically covered by constitutional guarantees, the violation of which was a penal offence. They indicated, however, that in the spirit of the Convention, a more direct approach was needed in order to make it clear to the general public that certain acts were punishable by law. The Government was required under article 4 (a) of the Convention to provide specific penal sanctions.

157. Regarding article 5 of the Convention, members of the Committee wished to know on what basis the collective holdings (ejidos) were organized and they requested an explanation regarding the disparity between the figures in the report which showed, on the one hand, that such holdings constituted 47 per cent of the national territory and employed 65 per cent of the agricultural work force and, on the other, that 73 per cent of the capital invested in the agricultural sector was concentrated in private holdings. Clarification was also sought concerning the figures relating to employment among the population aged 12 years and over.

158. As far as article 6 was concerned and regarding the role of the Supreme Court of Justice in declaring a law unconstitutional, members of the Committee pointed out that the requirement that such a decision should be upheld in five consecutive judgements in order to be binding was exceptionally stringent, with the result that a considerable period of time would necessarily elapse before a law which was in fact unconstitutional could be erased from the statute book. Clarification was sought as to whether, in the absence of a claimant, proceedings in cases of racial discrimination would be initiated by the Public Prosecutor if he had knowledge of such acts.

159. In relation to article 7 of the Convention, members of the Committee commended the measures taken by the Government, particularly in primary schools, to inculcate appropriate attitudes towards equality of races.

160. In reply to questions raised and comments made by members of the Committee, the representative of Mexico stated that it was not possible to provide exhaustive data on all areas covered by the Convention in a single report. The present report depicted the principal problems of one segment of the population, which included, but was not limited to, the indigenous population. The Government intended to provide much more information in its next periodic report on the situation with regard to the gross national product, per capita income and income distribution.

161. In connection with questions relating to articles 2 and 5 of the Convention and demographic

trends of the population, he informed the Committee that 80 per cent of the population was of mixed blood. Approximately 5 million indigenous inhabitants constituted 8 per cent of the population; half of the indigenous population spoke several dialects but not Spanish. Approximately 70 per cent of the population lived in urban areas at present. Turning to questions relating to agrarian reform, he said that land reform had spread over a period of 60 years; there were large holdings, small individual holdings and collective holdings. The collective holdings, which had been returned by the State to people who could trace their ancestry back 100 years, could be neither seized nor sold. The main current need was to provide capital for the proper cultivation of the communal lands created by agrarian reform. The National Council of Indigenous Peoples was a non-governmental organization established to defend the interests of indigenous groups in particular with respect to land. Additional information on that body would be provided in the next report. The representative of the reporting State emphasized that any discrimination that might exist in Mexico was not racial. Inequality was not based on race, but should be viewed from its historical perspective. The existence of economic and social inequalities did not necessarily mean discrimination. The federal Government intended to identify the major needs of the people and to ensure their full development, in particular by raising the living standards of the marginal groups. That meant involving the population in all areas of development and raising their cultural awareness without causing them to abandon their cultural past. It should be understood, however, that Mexico had to contend with a severe economic crisis. In addition, the country's population had risen from 19 million in 1940 to 67 million in 1980. Concerning the figures on the economically active population, he said that they referred only to the population over 12 years of age, but that did not mean that all were in the labour force because the figure included a large number of persons who were not gainfully occupied, such as students. Open unemployment was estimated at approximately 9 per cent, but that did not reflect the fact that about 30 per cent of the population was underemployed. The disparity between those two figures could be explained by the existence of a parallel economy. Information regarding the percentage of public expenditure devoted to public works would be provided in the next report. The development possibilities of the country were currently limited by the heavy burden of servicing the external debt. Notwithstanding the pressure exerted by international institutions, the Government had made every effort to meet basic food, education and health needs. The current Government had consulted representatives of the indigenous groups specifically on how to incorporate their needs in the National Development Plan. Special emphasis had been laid on the development of bilingual and bicultural systems to take account of the needs of ethnic groups with a view to integrating them into society.

162. Regarding the emigration of Mexican workers to the United States, he said that such migration was of a temporary nature; there were not enough jobs in Mexico and workers could not be prevented from leaving the country. That migration was not likely to disappear as long as the United States needed the cheap labour that Mexico had to offer.

163. With respect to article 3 of the Convention, he said that Mexico took great pride in its anti-apartheid policy. The practical measures that it had taken were fully in line with the relevant United Nations resolutions. For example Mexico prohibited all sales of oil products to South Africa.

164. In relation to article 4 of the Convention, the representative of Mexico stated that the Mexican Penal Code did not include specific provisions which would outlaw racial discrimination. Article 1 of the Constitution guaranteed equality for all. He reiterated that racial discrimination did not exist

in Mexico; the only inequalities which existed were social and economic, and the Government was attempting to remedy them.

CERD A/44/18 (1989)

60. The sixth periodic report of Mexico (CERD/C/146/Add.2) was considered by the Committee at its 833rd meeting, on 8 August 1989 (CERD/C/SR.833).

61. The representative of the State party, in presenting the report, said that, under Mexican constitutional law, the Convention formed an integral part of the supreme law of the Mexican Federation and its application was consonant with one of the fundamental principles of the Constitution of the Republic of Mexico, namely, equality before the law. He said that racial discrimination was contrary to the culture, the system of law and the institutions of independent Mexico and he described in detail the juridical régime that had been established in Mexico to prevent any practices that might result in any form whatever of distinction, exclusion, restriction or preference for racial or any other reasons. The representative provided the Committee with information additional to that contained in the report submitted in 1986. He referred, in particular, to the recent developments relating to the protection of the indigenous populations in the States of Guerrero and Oaxaca. In conclusion, he said that notwithstanding the grave economic crisis that the country had been experiencing over the last six years, Mexico was continuing to ensure respect for human rights and, in particular, to prevent any practice that might encourage any form of racial discrimination.

62. The members of the Committee thanked the representative of the State party for the additional information he had furnished in introducing the report and paid tribute to the determination with which the Mexican authorities were seeking to promote racial equality on Mexican territory and the candor they had shown in their dialogue with the Committee. However, they found the statement in paragraph 4 of the report that “in Mexico there is no racial discrimination” difficult to accept. Some clarification of that point was requested, particularly given the fact that there were 56 different ethnic groups in Mexico.

63. With reference to article 4 of the Convention, it was noted that in Mexican law racial discrimination was not treated as an offence; that ratification of the Convention by Mexico was not in itself sufficient to make racial discrimination an offence; that discrimination was not an offence because Mexico had not, after ratifying the Convention, taken the additional measures that were required, and that consequently Mexico had not fully satisfied the requirements of article 2, paragraph 1, and of article 6 of the Convention. Information was also requested concerning Mexico’s plans for preventive measures against racial discrimination and any legislative measures recently taken in Mexico to implement the provisions of article 4 of the Convention.

64. With reference to the implementation of article 5 of the Convention, members of the Committee asked to what extent ethnic minorities could participate politically in carrying out municipal reform; what the fate was of 15 members of the indigenous communities who had been imprisoned without trial; and what measures had been taken to protect indigenous languages and, in particular, to enable representatives of ethnic minorities to use their own language before the courts. They also wished to know what special effort had been made to assist these minorities in the area of teaching and what was the percentage of higher posts in the administration or in the Mexican diplomatic service held by persons belonging to one or another of the minorities.

65. With reference to article 7 of the Convention, the question was asked whether Mexico had taken or intended to take appropriate measures to implement article 7 of the Convention and to combat any prejudices that might lead to racial discrimination, particularly in the areas of teaching and education.

66. In replying to the questions asked, the representative of the State party said that he could assure the Committee that the statement that racial discrimination did not exist in Mexico would be deleted; he explained that that sentence should be seen in the context of paragraph 4 of the report as a whole, from a reading of which it would be understood that racial discrimination did not exist from the legal standpoint. He assured the Committee that, in its seventh periodic report, the Government would answer all the questions asked during the Committee's consideration of the sixth periodic report. It would ensure that all the information sought was provided and it would take into account the comments made, particularly those relating to article 4 of the Convention.

CERD A/46/18 (1991)

347. The seventh and eighth periodic reports of Mexico, submitted in one consolidated document (CERD/C/194/Add.1), were considered by the Committee at its 930th and 931st meetings, held on 15 and 16 August 1991 (see CERD/C/SR.930 and 931).

348. The report was introduced by the representative of the State party, who stressed that the President of Mexico had given priority attention to the conditions and problems of the indigenous populations, which constituted 9 per cent of the total population of the country. The representative explained that in addition to the National Solidarity Programme, under which indigenous peoples and communities were priority targets, a national commission for indigenous peoples had been established in 1989 to study possible reforms to the Constitution and to eliminate injustices suffered by those peoples. As a further step, the President of the Republic had submitted, on 7 December 1990, a draft Decree that supplemented article 4 of the Constitution by recognizing the rights of the indigenous peoples. The National Institute for Indigenous Affairs (INITIAL) has also now prepared and circulated the National Programme for the Development of the Indigenous Peoples for 1991-1994. The current policy of the Government of Mexico was based on respect for indigenous people and communities by guaranteeing equal access to the law and protecting and developing their cultures, social organizations and resources.

349. Members of the Committee welcomed the report of Mexico, which responded to the issues raised during the consideration of previous reports, provided a satisfactory assessment of the measures taken in the country to implement the Convention and reflected the willingness of the Mexican authorities to engage in a dialogue with the Committee. However, they observed that the report did not fully comply, in its format, to the Committee's guidelines for reporting and did not furnish the required outline of the general social, economic, political and institutional framework within which implementation was taking place, nor did it contain replies to some of the questions raised during the consideration of the previous reports. Members of the Committee pointed out that more adequate information on the demographic situation of Mexico was necessary, particularly with regard to the proportion of indigenous people in the population, their ethnic breakdown, their birth rates and their migratory movements, particularly of Amerindians. Some information was also necessary with regard to economic trends, the inflation rate, social tensions, the migration of rural populations and the process of renewal and democratization currently taking place in Mexico.

350. With reference to article 2 of the Convention, members of the Committee acknowledged the importance of legislative reforms taken by the Mexican authorities to improve the situation of the indigenous populations. In this connection, they wished to know whether any criteria had been established to assess the effects of those measures; whether the new regulations for obtaining confessions applied only to accused persons who were members of indigenous communities or socially disadvantaged; whether concrete results had been obtained by the Justice Programme for Indigenous Peoples; what the role and composition were of the National Commission of Justice for Indigenous Peoples; and how that body coordinated its activities with those of the National Human Rights Commission. In addition, reference was made to information provided by the report as well as Amnesty International with regard to the continuing conflicts, acts of violence, illegal arrests, expulsions and other human rights violations of which peasants and indigenous persons had been

victims, in particular, in the States of Oaxaca and Chiapas. In that regard, members wished to know what measures the Mexican Government had taken to solve conflicts between landowners and indigenous peoples; whether the recommendations of the National Human Rights Commission were legally binding; and whether they were followed by the legal and administrative authorities concerned in cases in which the statutory time-limit for sentencing had been exceeded.

351. With regard to article 4 of the Convention, members of the Committee noted that Mexican authorities had not yet adopted specific legislation prohibiting racial discrimination, claiming that existing constitutional and penal provisions were sufficient to guarantee human rights without discrimination and that special legislation was not necessary. In that connection, stressing that such legislation was an obligation under the Convention, members expressed the hope that Mexico would change its position. They also asked whether legal proceedings could be instituted and sentences pronounced by the courts on the sole basis of the violation of provisions of the Convention, without reference to the provisions of the Mexican Penal Code.

352. With reference to article 5 of the Convention, information was requested on the number of persons belonging to indigenous or peasant communities who had been elected to parliament or who had acceded to public functions; on the number of marriages between indigenous and non-indigenous persons; on measures taken by the Government to facilitate access of indigenous people to land; and on measures taken to help poor people living in urban areas. It was also asked whether the National Solidarity Programme was improving the economic and social situation of the Mexican population and what its impact had been on the implementation of paragraphs (d) and (e) of article 5 of the Convention.

353. In connection with article 6 of the Convention, members of the Committee requested statistics on the number of amparo proceedings instituted in Mexico by indigenous persons and peasants, as well as more information about the judicial procedure for receiving complaints of racial discrimination made by Mexican citizens. They also wished to know whether associations or interest groups representing certain categories of the population could institute amparo proceedings. In addition, the hope was expressed that the Mexican Government would agree to make the declaration provided for in article 14 of the Convention.

354. With regard to article 7 of the Convention, it was asked what the illiteracy levels were in the indigenous population; whether measures had been taken to make available television channels with programmes in indigenous languages; what the Government's position was in respect of the request for recognition of indigenous languages as national languages; and whether educational programmes to combat prejudice against indigenous people were available to the members of the police force.

355. In his reply, the representative of Mexico assured the Committee that his Government's next periodic report would be prepared in accordance with the Committee's general guidelines for presentation of the reports of States parties and would contain information on the economic, social, political, cultural and demographic situation of the country. He stated that the indigenous population of Mexico was increasing by 2.9 per cent per annum as against 2.3 per cent for the rest of the population.

356. With regard to the questions raised in connection with article 2 of the Convention, he said that

any defendant belonging to an ethnic group was provided with the assistance of translators and lawyers, through the National Institute for Indigenous Affairs, and interpreters, in virtue of the new legislative provisions of 1 February 1991. Furthermore, an agreement concluded in July 1991 between the Office of the Attorney-General of the Republic and the National Institute for Indigenous Affairs to aid indigenous citizens undergoing a preliminary investigation or prosecution brought nearer the objectives of the Justice Programme for Indigenous Peoples. Indigenous prisoners were in most cases accused of drug trafficking and represented about 7 per cent of the total prison population. As a result of penal reforms, the number of indigenous prisoners was steadily decreasing. The National Commission on Justice for Indigenous Peoples was taking part in the Justice Programme with other bodies, such as the National Human Rights Commission, which were responsible for the coordination of activities.

357. With regard to the disputes between different communities over the agrarian question in the States of Oaxaca and Chiapas, the representative stated that his Government was concerned about the situation and had instructed the National Human Rights Commission and the National Institute for Indigenous Affairs to go into the Matter. The Commission had visited the State of Oaxaca and had, *inter alia*, made recommendations for the punishment of the police officers accused of torture. The recommendations of the National Human Rights Commission, whose instructions were to protect the interests of all sectors of the Mexican population, had no binding force but were generally followed. Seven of those recommendations were aimed at speeding up judicial proceedings.

358. With reference to article 4 of the Convention, the representative referred to his Government's position, as set out in the report, with regard to the absence from the national legislation of specific provisions declaring all acts of racism illegal. No complaints of racial discrimination had yet been laid before either the courts or the National Human Rights Commission. International treaties such as the Convention, which had been ratified by the Senate of Mexico, had the force of law throughout the national territory and could be relied upon before the courts, particularly in criminal cases. Furthermore a person found guilty of racial discrimination would incur the penalty prescribed in article 364.2 of the Federal Criminal Code for violation of the rights and guarantees recognized in the Constitution.

359. With reference to article 5 of the Convention, the representative stated that in Mexico no distinction was made between indigenous and other citizens employed in the public sector and that he had no statistics on interethnic marriages. However, he provided statistics on the flight of the indigenous people from the countryside, noting that in 1980 10.6 per cent of them had been enumerated in regions other than their region of origin. He also provided information on the programme of land distribution to the indigenous inhabitants and the procedures for its application. The main aim of the programme was to regularize the indigenous inhabitants' occupation of land they were already working.

360. With reference to article 6 of the Convention, the representative stated that there were no statistics in Mexico on the number of applications for amparo made by peasants; there was nothing to prevent a particular group from using that remedy, provided, however, that each of its members drew up an individual application. Mexico proposed to make the declaration provided for in article 14 of the Convention.

361. With regard to article 7 of the Convention, the representative stated that the Mexican Government proposed to strengthen the health and education programmes in the regions in which indigenous populations were concentrated rather than to extend the television network in those regions. In accordance with the Federal Code of Criminal Procedure, police officers, magistrates and judges were informed of the rights of the indigenous inhabitants.

Concluding observations

362. The Committee welcomed the fact that Mexico had submitted its report in good time and that its representatives had replied very pertinently to the questions put to him. The Committee also expressed satisfaction that Mexico proposed to make the declaration provided for in article 14 of the Convention.

363. The Committee observed that there were in Mexico economic and social disparities between the different categories of the population that led to serious discrimination that ought to be remedied, even if it was not of a directly racist character. The Mexican Government had set about that task, for it had undertaken several reforms in favour of the indigenous inhabitants, the peasants and the least privileged social categories. In addition, the Committee expressed the hope that the Mexican Government would take the guidelines issued by the Committee more closely into account in preparing its next report. It regretted, however, that Mexico had not modified its position with regard to the interpretation of article 4 of the Convention.

CERD A/50/18 (1995)

353. The Committee considered the ninth and tenth periodic reports of Mexico, consolidated in one document (CERD/C/260/Add.1), at its 1104th and 1105th meetings, held on 2 and 3 August 1995 (see CERD/C/SR.1104 and 1105). Together with the ninth and tenth periodic reports, the Committee also examined the report containing additional information (CERD/C/286), requested by the Committee's decision No. 2 (46) dated 9 March 1995 in accordance with article 9, paragraph 1, of the Convention.

354. The reports were introduced by the representative of the State party, who reaffirmed that the phenomenon of racial discrimination did not exist in Mexico, although the most vulnerable groups in society, such as women, disabled persons, migrant workers and indigenous people, did suffer some forms of discrimination caused by socio-economic factors. Extreme poverty among the latter group was both a cause and a consequence of their economic, social and cultural marginalization and exposed them to discriminatory treatment in both rural and urban areas. It was difficult to quantify the indigenous population. Based on estimates made for strictly statistical purposes and the language criterion according to which indigenous persons are those speaking an indigenous language, there were 7 to 10 million indigenous people in Mexico. He acknowledged that the language criterion alone was inadequate and that the criterion of self-identification, for example, should be considered a fundamental criterion, in conformity with ILO Convention No. 169.

355. He went on to state that it was only since 1991 that Mexico, despite its age-old history as a State, had recognized itself legally as a multi-ethnic and multicultural nation. Until then, and since its accession to independence nearly two centuries previously, the indigenous populations had been regarded at best as peoples to be civilized and to be assimilated culturally. The meager results of that policy of integrating the indigenous people implemented over several decades had brought it home to the Mexicans that it was a mistake to seek at all costs to build a homogeneous country and deny the deep-seated roots of the Mexican nation. Now that the cultural diversity of the Mexican population was recognized by the Constitution, whose article 4 had been amended to that effect, it was necessary to adjust the whole body of Mexican legislation in order to eradicate all discriminatory practices, particularly in the fields of access to natural resources, the administration of justice, the administrative organization of communities and education.

356. Introducing the additional report requested by the Committee at its forty-sixth session (decision No. 2 (46)) and dealing mainly with the conflict which had broken out in the State of Chiapas in 1994, he explained that the conflict was the painful expression of the despair caused by extreme poverty. He said that, right from the beginning of the conflict, the Federal Government had acknowledged the legitimacy of some of the reasons that had led members of the indigenous communities to rebel; those reasons stemmed from economic and social marginalization and had nothing to do with racism or racial discrimination. The Zapatista National Liberation Army (EZLN) itself had not reported any problems of racial discrimination within the meaning of the Convention. He then described the measures and programmes adopted by the Government for the State of Chiapas, amounting to some \$129 million.

357. The members of the Committee thanked the State party for its detailed, frank reports and for

submitting additional written information on the situation in the State of Chiapas.

358. Members of the Committee expressed their difference of opinion with the Government on the kind of discrimination suffered by many indigenous people in Mexico, pointing out that it did in fact fall within the scope of articles 2 and 5 of the Convention. The discriminatory nature of policies or practices that perpetuated the marginalization and impoverishment of certain ethnic groups was indeed a form of racial discrimination within the meaning of the Convention.

359. Committee members acknowledged that, by recognizing the specific rights of the indigenous communities, the amendment to article 4 of the Mexican Constitution marked an important step in the transition from a mestizo society to a multi-cultural nation. Without statutes and measures to implement that provision, however, the constitutional reform would be of little practical effect. Members of the Committee also noted that, in many instances, the oppression of the indigenous communities was due less to the absence of legal rules than to the fact that economic interest groups and local politicians pursued their abusive practices to the detriment of indigenous groups with impunity.

360. Members of the Committee noted with interest the steps taken by the Government to improve the economic and social conditions of the indigenous communities, particularly the programmes designed to overcome extreme poverty, such as the National Solidarity Programme and the National Programme for the Development of the Indigenous Peoples. The innovative character of certain approaches was commended. A most interesting new feature, for example, was the programme for the reform of the justice system which takes into account Indian customs in court proceedings. It was felt that this would also improve mutual cultural recognition and consultation among all sectors of society. That programme was to be classified among the measures of positive discrimination provided for in article 1 of the Convention.

361. Committee members drew attention, however, to the lack of information in the report by the State party on the real impact of those programmes. They expressed their concern about allegations from reliable sources about their ineffectiveness and the corrupt practices of certain local officials or powerful landowners. In that connection, members of the Committee stressed the importance of selecting social indicators that would make it possible to decide which sectors merited a priority input of resources and to determine whether the programmes had the expected impact.

362. Referring to the various bodies set up at the federal level to promote and protect the rights of indigenous peoples, members of the Committee acknowledged that the measures taken by them were undeniably important, but wondered whether the fact that there were so many of them did not entail a risk of bureaucratization and duplication. It was essential to ensure smooth coordination between the various bodies. Committee members also wished to know whether members of the indigenous communities took part in the management of those institutions in positions of responsibility.

363. Members of the Committee raised a question that was of fundamental importance for the indigenous populations, that of land, which was crucial to their subsistence, but also to their identity. There was evidence that the administrative measures taken by the Mexican Government were insufficient to guarantee fair and equitable treatment of members of indigenous communities in the process of land distribution. For decades, landowners had been illegally dispossessing the

indigenous peoples of their lands. The Indians had been gradually driven from the fertile lands along the Pacific coast towards the central highlands and finally to the rainforest in the east, which was ill suited to agriculture. Members of the Committee noted that the Mexican Government had long been accused by human rights organizations of doing nothing to put an end to the land-related violence in rural areas, regarding it as inevitable. Committee members also observed that the indigenous communities in Mexico viewed the recent amendment to article 27 of the Constitution and the promulgation of the new agrarian law in 1992 as a further threat to their already fragile economic activities and to their identity. Moreover, the economic situation of the indigenous communities seemed to have deteriorated since Mexico's signing of the North American Free Trade Agreement (NAFTA). Members of the Committee requested more information on the practical effects of the 1992 constitutional reform and on the Government's response to EZLN demands with regard to land.

364. Turning to the question of the conflict in the State of Chiapas, members of the Committee, welcoming the Government's efforts to find a political rather than a military solution to the conflict, wished to know what measures had been taken to put an end to the activities of the paramilitary groups still present there, whether the detainees who had not yet been released had benefitted from fair and equitable legal procedures and whether the civilians and the military personnel responsible for the disappearances, arbitrary executions and torture had been arrested and brought to justice.

365. On the subject of article 4 of the Convention, members of the Committee noted that there was a continuing misunderstanding between the Committee and the Mexican Government, which maintained that no specific legislation was needed to implement that article because the question of the indigenous people was never seen in terms of racial discrimination. That position did not meet the requirements of the Committee, which considered that specific measures must be adopted, even when there was no evidence of racist phenomena in a country, if adopted, even when there was no evidence of racist phenomena in a country, if only to prevent racial or ethnic discrimination and for educational purposes.

366. With regard to article 5 of the Convention, members of the Committee noted that, as the Mexican Government itself acknowledged with great candor, the indigenous populations were still in fact subject to discrimination in many areas, such as education and training in general, the right to their own language and culture, health, access to a nutritious and balanced diet, access to land ownership, access to infrastructure like the road network and other means of communication and access to justice. Committee members again pointed to the inadequacy of the steps taken and the lack of clear information on their impact. They requested the State party to provide more details on the implementation of article 5 of the Convention in the next periodic report.

367. On the subject of article 6 of the Convention, it was noted that, although it appeared that the Convention could be invoked directly before the courts in a case of racial discrimination, nothing had been said about the kind of sentences that might be handed down by the judge in such a case.

368. The information provided on article 7 of the Convention was noted with great interest by the Committee, which considered that the prospects afforded by the steps already taken were most promising. It was felt that since Mexico's cultural heritage was unique it should be cultivated, developed and made widely known. Encouraging the Government to continue with the

dissemination of the ancestral culture of the indigenous population, the committee recommended that the State party should associate the indigenous communities of other countries which such events, as had already been done with Bolivia, in order to foster a sense of cultural solidarity.

369. Replying to Committee members' questions and comments, the representative of the State party explained that the amendment to article 27 of the Constitution had been justified by the fact that there was no longer enough land available for distribution and that the amendment had not affected the existing social guarantees in agrarian matters, including the ban of large estates.

370. The representative affirmed the Government's will to leave no violation committed during the events in the State of Chiapas unpunished and offered to inform the United Nations Centre for Human Rights of the proceedings of inquiries conducted and sentences handed down in that connection. He also specified that all the rebels detained had been released as of July 1994 and invited the members of the Committee to read the report of the International Committee of the Red Cross, which had been present in Chiapas during the 18 months following the outbreak of the conflict.

371. The representative also informed the Committee that one of the points on which agreement had been reached with the EZLN, the revision of the Penal Code, was in the process of being implemented.

372. Lastly, the representative assured the members of the Committee that the next periodic report of Mexico would contain more information on the implementation of article 5 of the Convention.

Concluding observations

373. At its 1124th meeting, held on 16 August 1995, the Committee adopted the following concluding observations:

(a) Introduction

374. The submission by the State party of a detailed and frank periodic report, prepared in accordance with the Committee's revised guidelines for the preparation of reports, and of additional written information on the situation prevailing in the State of Chiapas, requested by the Committee's decision 2 (46) on 29 March 1995 during its 46th session is welcomed. Appreciation is also expressed for the supplementary information provided orally by the delegation of the State party.

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

(b) Positive aspects

376. The legislative and other measures adopted by the government in favour of the indigenous population, in accordance with article 2 of the Convention, are welcomed. It is noted with satisfaction in particular that the amendment to article 4 of the Constitution in January 1992 represents a fundamental shift in the State party's policy towards indigenous peoples, since it states

that the Mexican nation has a multicultural composition originally based on its indigenous peoples and recognizes, for the first time since Mexico's independence, special constitutional rights for the indigenous people living on its territory.

377. As regards the Chiapas conflict, it is noted with satisfaction that in January 1994, the government decided to take steps to seek a political rather than a military solution, unilaterally declared a cease-fire, decreed a general amnesty and established the National Commission for Comprehensive Development and Social Justice for Indigenous Peoples.

378. The effort made by the State party to set up a bilingual-bicultural education system in favour of the indigenous groups are welcomed.

379. The amendment of articles 18 to 22 of the Constitution intended to expand the constitutional rights of accused persons in criminal proceedings of indigenous origin, as well as the ongoing revision of the Penal and Criminal Procedure Codes, are also noted with satisfaction.

(c) Principal subjects of concern

380. The situation of extreme poverty and marginalization of the majority of the indigenous population in Mexico is a matter of concern. Such a situation has complex causes, some of them stemming from the impact of the encounter of civilizations, as well as the consequences of the recent internationalization of the economy for social policies in Mexico. It has been and still is the responsibility of the Government to improve the economic and social situation of the indigenous population of Mexico.

381. Concern is expressed at the lack of information in the State party's reports on the actual implementation of constitutional and legal measures, and on the impact of the various policies and programmes adopted by Mexico in applying the provisions of the Convention.

382. Particular concern is expressed that the State party does not seem to perceive that pervasive discrimination being suffered by the 56 indigenous groups living in Mexico falls under the definition given to racial discrimination in article 1 of the Convention. The description of their plight merely as an unequal participation in social and economic development is inadequate.

383. Concern is also expressed that too little attention is given by the State party to the effects on the economic situation of the indigenous communities, of adherence to the North American Free Trade Agreement and of the related 1992 constitutional and legislative reform of the land ownership system.

384. While the achievements of the National Indigenous Institute are commended, note is taken of the insufficient coordination between the various institutes and commissions which are charged with protecting the rights of the indigenous communities in Mexico, as well as their bureaucratic functioning.

385. Concern is expressed that the State party still has not implemented the provisions in article 4 of the Convention.

386. Concern continues regarding the serious discrimination indigenous peoples have to face in respect of the enjoyment of their civil, political, economic, social and cultural rights. Particular concern is expressed at the inequitable treatment of indigenous people in the process of land distribution, including restitution, and at the violent and illegal resolution of many land disputes, at the amendment to article 27 of the Constitution, and at the lack of support given to the bilingual-bicultural education system.

(d) Suggestions and recommendations

387. It is not clear how the Convention is incorporated into the Federal and State legal systems nor whether the provisions of the Convention can be directly invoked before the courts.

388. The Committee recommends that the State party pursue its efforts to analyze the root causes of the socio-economic marginalization faced by the indigenous population of Mexico and continue its attempts to harmonize indigenous customs with the positive legal order.

389. The Committee draws the attention of the State party to the necessity of adopting indicators to evaluate the policies and programmes aimed at the protection and promotion of the indigenous peoples' rights.

390. The Committee recommends that the State party review the functioning of and the coordination between the various institutions in charge of the protection of the indigenous people's rights.

391. The Committee reaffirms that the provisions of article 4, paragraphs (a) and (b), of the Convention are of a mandatory character as stated in general recommendation XV (32) of the Committee and recommends that the State party implement each of the obligations.

392. The Committee wishes the Government of Mexico to provide, in its next report, detailed information on the implementation of article 5 of the Convention.

393. The Committee strongly recommends that the State party find a fair and equitable solution for the distribution, including restitution, of lands. As far as land disputes are concerned, all necessary steps should be taken to ensure that the rule of law is applied without improper interference in particular by powerful landowners.

394. The Committee strongly recommends that the State party make an increased effort in promoting affirmative measures in the field of education and training.

395. The Committee recommends that the Mexican Government ensure that violations of indigenous peoples' human rights be investigated, and that the victims receive compensation.

396. Welcome is expressed for the proposal, made orally by the delegation, of providing the United Nations Centre for Human Rights with regular and detailed information in that respect.

397. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted by the fourteenth meeting of States parties.

398. The Committee recommends that the State party's eleventh periodic report, due on 22 March 1996, be an updating report.

CERD A/52/18 (1997)

296. The Committee considered the eleventh periodic report of Mexico (CERD/C/296/Add.1) at its 1206th and 1207th meetings (CERD/C/SR.1206 and 1207) on 17 and 18 March 1997. At its 1231st, 1234th and 1235th meetings on 14, 15 and 18 August 1997, respectively, it adopted the following concluding observations:

A. Introduction

297. The Committee welcomes the continuation of the dialogue with the Government of Mexico. It expresses its satisfaction to the State party for the diligence with which the Government submitted its report, which follows the new guidelines established by the Committee. The Committee also expresses its satisfaction for the oral replies provided by the delegation during the consideration of its report.

298. The Committee notes that the State party has not made the declaration provided for in article 14 of the Convention; some members of the Committee requested the Mexican Government to consider the possibility of doing so.

B. Factors and difficulties impeding the implementation of the Convention

299. The Committee recognizes that Mexico is a country in which a large number (56) of ethnic and indigenous groups with extremely varied cultural and linguistic traditions live side by side. Mexico is also characterized by extreme poverty that affects large and mainly indigenous segments of the population, particularly in the province of Chiapas, where a conflict between a national liberation movement and the local and federal authorities has been continuing since 1994. Despite numerous institutional, political, economic and social initiatives, the Mexican authorities have not fully succeeded in eliminating endemic poverty, which has aggravated the social inequalities that affect indigenous populations in particular, nor in restoring social peace in the State of Chiapas.

C. Positive aspects

300. The Committee notes with satisfaction the numerous initiatives taken by the National Human Rights Commission during the period under consideration, and in particular the work done on behalf of imprisoned indigenous inhabitants, as well as the radio and television programmes intended to increase awareness of, disseminate information about and provide education in human rights.

301. The efforts made by the State party since 1994 to restore peace in the state of Chiapas are noteworthy. The establishment, in 1995, of the Concord and Peace Commission and the creation in December 1996 of the Commission for Monitoring and Verification of the Peace Agreements were particularly welcome. The investigation by the National Human Rights Commission of complaints submitted by the civilian population concerning human rights violations and the conclusion of the agreement of 16 February 1996 on indigenous rights and culture constitute significant progress in the pacification process.

302. The Committee also takes note of the many programmes and measures recently introduced by the Mexican authorities to combat extreme poverty and to promote the economic, social and cultural development of the indigenous populations.

D. Principal subjects of concern

303. The Committee regrets the existence of differences with the State party over the interpretations of the Convention. These differences were already noted during the consideration of previous reports, particularly with regard to the persistence of racial or ethnic discrimination against certain social groups and the failure fully to implement the provisions of article 4 of the Convention. The Committee also regrets the inaccuracy of the data on the composition of the population of the State party.

304. Concern was expressed over the persistence of discriminatory practices - some involving the authorities - directed against members of the indigenous groups.

305. At the present time, national legislation is not in conformity with the provisions of article 4 of the Convention; this is a source of serious concern, since the State party has not yet taken all the necessary steps to effectively prevent and combat the different forms of racial and ethnic discrimination.

306. With regard to article 5 of the Convention, in certain situations, an individual's right to enjoy equal treatment in the courts is not effectively guaranteed for members of indigenous groups. Specifically, they are not guaranteed the right to express themselves in their own languages during legal proceedings.

307. Concern was expressed over the right to security of person, particularly for indigenous inhabitants and illegal immigrants. This right to security of person has in certain cases been violated by representatives of the forces of law and order, paramilitary groups and landowners. All too often, those responsible for these crimes have gone unpunished.

308. The Committee is concerned about the protection of the political rights of members of indigenous groups and would appreciate additional information concerning their participation in the national parliament and in political organs.

309. With respect to the enjoyment of economic, social and cultural rights, the Committee notes with concern that the members of indigenous groups live in extreme poverty. The fact that the report of the State party contains no social and economic indicators of the marginalization and non-integration of certain population groups is regrettable in this connection. Lastly, another source of concern is the land delimitation and distribution process, which does not seem to have fully respected the land rights of the indigenous populations.

310. As for the implementation of article 6 of the Convention, the Committee notes with concern that the report of the State party contains no information on the number of complaints, judgments and compensation awards arising from all kinds of racist acts.

311. With regard to article 7, and despite the obvious efforts made recently by the Government of Mexico, the Committee notes with concern the continuing inadequacy of the measures adopted to provide appropriate human rights training for State law enforcement officials who are in regular contact with “vulnerable” populations, and particularly members of the forces of law and order and prison personnel.

312. The absence of local and federal legislation guaranteeing indigenous populations the possibility of a bilingual and bicultural education remains a source of concern.

313. The fact that the report of the State party contains no accurate statistics on the indigenous population makes it difficult to analyze the extent to which this large segment of the population enjoys the rights recognized by the Convention.

314. Lastly, the situation in the State of Chiapas remains unstable and of considerable concern, since political negotiations have been suspended, despite the efforts announced by the Government authorities as well as by the Zapatist National Liberation Army. This tense situation is aggravating the precariousness of the indigenous populations living in that region.

E. Suggestions and recommendations

315. The State party is requested to furnish, in its next report, detailed statistics on the various indigenous groups living in Mexico.

316. The Committee hopes that the State party will continue its efforts to improve the effectiveness of measures and programmes designed to ensure that members of all population groups, especially the 56 indigenous groups, fully enjoy their political, economic, social and cultural rights. The Committee also recommends that the State party should devote due attention to the legislative changes required as well as to the development of programmes to foster awareness of human rights, particularly among representatives of the State.

317. The Committee requests the Government to Mexico to provide, in its next periodic report, precise information and “indicators” on the social and economic difficulties encountered by indigenous populations. The Committee also draws the State party’s attention to the need to devise “indicators” to evaluate policies and programmes for protecting and promoting the rights of vulnerable populations.

318. The Committee recommends that the State party should do everything possible to speed up current legislative reforms and, more specifically, to bring national legislation fully into line with the provisions of article 4 of the Convention.

319. The State party should also take the necessary steps to allow citizens from indigenous populations to be elected in political elections and to have access to the civil service.

320. The Committee recommends that the State party should take all appropriate measures to ensure equal and impartial treatment before the law for all persons, and particularly those from indigenous groups. In particular, it invites the Mexican authorities to offer indigenous inhabitants the

possibility of expressing themselves in their mother tongue in all judicial proceedings.

321. The Committee recommends that the Government of Mexico should exercise greater vigilance in the protection of the fundamental rights of indigenous inhabitants and other vulnerable groups of society, who are regularly the victims of intimidation, violence and serious human rights violations. It hopes that the competent authorities will systematically prosecute those responsible for such crimes, regardless of whether they are members of private militias or State officials, and that effective preventive measures will be taken, including the training of members of the police force and the army. The State party should also ensure that the victims of such acts are compensated.

322. The Committee recommends that the State party should find just and equitable solutions to land delimitation, distribution and restitution problems. Everything possible should be done to protect indigenous inhabitants from all forms of discrimination in such matters.

323. In order to be able to evaluate the implementation of article 6 of the Convention, the Committee recommends that the State party should present, in its next report, information on the number of complaints, judgments and compensation awards arising from racist acts, regardless of their nature.

324. The Committee recommends that the State party should make every effort to provide multicultural education for everyone.

325. The Committee recommends that the State party should give nationwide publicity to its eleventh periodic report and to the Committee's concluding observations thereon.

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

327. The Committee recommends that the State party's next periodic report should be a more detailed one and should address all the questions raised in these concluding observations.