

URUGUAY

CERD 27th, No. 18 (A/8718) (1972)

54. Noting that neither the initial and second periodic reports submitted by Uruguay, which were examined conjointly ... conformed to the guidelines laid down by the Committee (CERD/C/R.12) 6/ or contained sufficient information to enable it to determine whether or not the States Parties concerned had discharged their obligations under the Convention, the Committee decided at its 95th and 97th meetings to request Uruguay ... to compare the reports ... had submitted with the guidelines laid down by the Committee in its communication under reference and, in the light of the discussion of those reports by the Committee, to furnish it with all pertinent information...

6/ [Official Records of the General Assembly], Twenty-fifth session, Supplement No. 27 (A/8027), annex III-A.

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

246. The initial report of Uruguay, submitted on 22 October 1971, and the second periodic report, dated 9 February 1972, were considered together at the fifth session of the Committee. They were considered unsatisfactory and additional information was requested. A supplementary report, submitted on 16 October 1972, was considered at the seventh session (143rd meeting).

247. Members noted that the report under consideration was organized in conformity with the guidelines laid down by the Committee. Several members welcomed the information that, on 11 September 1972, the Government of Uruguay deposited the Declaration provided for in article 14 of the Convention, recognizing the competence of the Committee under that article. Special note was taken of the statement that it had been “a traditional principle of Uruguay’s foreign policy that real respect for human rights within each State is basic to the maintenance of international peace and consequently the violation of those rights in any part of the world is a threat to peace”, and of the provisions of articles 37 and 78 of the Constitution - the first of which declared that “the entry of any person into the Republic, his residence therein, and his departure with his property, are free, if he obeys the laws, except in cases of prejudice to third parties”, and the second of which granted the right to vote, “without the necessity of previously obtaining legal citizenship”, to “foreign men and women of good conduct, having a family in the Republic, who possess some capital or property within the country or are engaged in some profession, craft, or industry and have habitually resided at least 15 years in the Republic”.

248. With reference to the provisions of article 4 of the Convention, the report under consideration stated that “there [were] no specific provisions in Uruguayan legislation on this subject because so far they have been unnecessary in practice”, and added: “However, the Uruguayan Government would be willing to consider, as appropriate, the adoption of regulations in this matter and would duly bear in mind the general recommendations of the Committee on the question.” In this connection, some members recalled general recommendation I and emphasized that, in article 4 of the Convention, a mandatory obligation was laid down calling for specific legislation except where existing legislation satisfied all the requirements of that article. The implementation of that obligation appeared to be necessary in view of the absence of relevant legislation and particularly in the light of the principle enunciated in article 10, paragraph 2, of the Constitution of Uruguay, which declared that “no inhabitant of the Republic shall be obliged to do what the law does not require, or prevented from doing what it does not prohibit”. This provision of the Constitution also made the revision of Uruguay’s penal and even its procedural legislation necessary in order to implement article 5 of the Convention and ensure equality in the enjoyment of some of the rights enumerated in that article (such as the right mentioned in paragraph (f) with respect to which no specific legislation had been adopted.)

249. Regarding the Declaration made by Uruguay in accordance with the optional provisions of article 14, it was asked whether an appropriate body had been established or indicated in accordance with paragraph 2 of that article. One member asked whether the provisions prohibiting any civil servant from engaging in recruiting or propaganda activities with respect to political or religious questions included racial discrimination. Some members inquired about the status of the relations of Uruguay with the racist régimes in southern Africa and, in particular, about reports that a South

African sports team, selected on a racial basis, had been permitted to visit Uruguay after having been prohibited from playing in Argentina.

250. The representative of Uruguay informed the Committee that the body envisaged in article 14, paragraph 2, of the Convention had not yet been established. He observed that article 10, paragraph 2, of the Constitution of Uruguay should be interpreted together with article 332 of the Constitution, which had been included precisely in order to prevent the lack of regulations from impeding the full exercise of individual rights. However, the possibility of adapting the Uruguayan legislation to the new requirements imposed by the Convention - which appeared to him to be a "reasonable" endeavour - was provided for by parliamentary machinery already in being: the Commission for the Constitution, Legislation and Codes was competent to bring positive law into line with the international instruments to which the reporting State was a party. He informed the Committee that, while Uruguay maintained full diplomatic relations with Portugal, it maintained incomplete relations with South Africa: there was a South African embassy in Uruguay but no Uruguayan embassy in South Africa. The case of the South African Davis Cup team was a difficult one. Several years ago, the representative of Uruguay to the Olympic Committee had proposed that harsh measures should be adopted to counteract racial discrimination in sport; however, tennis was not one of the officially organized sports, and the championship matches were arranged by a private group. The Government of Uruguay was currently preparing a statement explaining the matter to the Special Committee on Apartheid and was considering legal measures that would prohibit events of that kind and ensure that they would not occur in the future.

251. The Committee decided to consider the report satisfactory and expressed the hope that the Government of Uruguay would continue to co-operate with the Committee, as it had done in the past.

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

176. Members of the Committee observed that, although it had been preceded by two regular reports as well as by a supplementary report, the third periodic report of Uruguay contained new information. It also took account of comments made, and questions raised, by members of the Committee at previous sessions.

177. Members of the Committee noted that article 332 of the Constitution, the text of which was furnished, allayed some of the fears which had been expressed during the discussion of previous reports from Uruguay, regarding the absence of specific legislation giving effect to the provisions of article 5, paragraph (f), of the Convention, particularly in view of the principle enunciated in article 10, paragraph 2, of the Constitution, which declared that “no inhabitant of the Republic shall be obliged to do what the law does not require, or prevented from doing what it does not prohibit”. They took note of the measures adopted in implementation of article 7 of the Convention. They took note also of the assertion that workers’ rights - including the right to education, housing, health care and social security - were protected by articles of the Constitution (and not by secondary laws or regulations) which made no distinction between nationals and aliens but referred to “inhabitants of the Republic”.

178. Special note was taken of the statement that “the Council of State is considering an amended version of the present Constitution which will be submitted to a plebiscite when it has been completed. Among the measures under consideration was the incorporation into the legal system of rules deriving from international instruments ratified by Uruguay which are deemed to be relevant or necessary”. The hope was expressed that the provisions of the Convention which had not been implemented by specific legislation would be reflected in the contemplated reforms and that the Committee would be duly informed in future reports of all relevant changes in the Constitution and the legal system of the reporting State.

179. The report under consideration contained the following statement: “The records of the courts and other competent agencies in Uruguay contain no report of any case of racial discrimination, and it has therefore not been deemed necessary to draw up rules in pursuance of article 4 (a), (b) and (c).” In commenting on this statement, some members inquired whether the decision not to adopt measures implementing article 4 of the Convention constituted a decision already made within the context of the constitutional and legislative reform mentioned in the preceding paragraph. All members of the Committee who participated in the discussion expressed the hope that legal provisions giving effect to the provisions of article 4 of the Convention would be enacted.

180. Other questions raised during the discussion of the report related to articles 6 and 14 of the Convention: what remedies were available in Uruguay to a victim of an act of racial discrimination, in accordance with article 6 of the Convention? And had the Government of Uruguay, since making the declaration provided for in article 14, paragraph 1, of the Convention, established or indicated a body within its national legal order competent to discharge the responsibilities described in paragraph 2 of that article?

181. The representative of Uruguay assured the Committee that the statement cited in paragraph 179

above related only to the situation existing up to the present time and did not prejudge the new provisions which might be adopted in the course of the proposed constitutional reform, and that the concern expressed by members of the Committee on the subject would be reported to his Government. In reply to the question relating to remedies in accordance with article 6 of the Convention, he stated that, pending the inclusion of specific provisions on the subject in the Penal Code of Uruguay, article 332 of the Constitution was specifically intended to ensure that the fundamental rules and obligations were given effect; in practice, that meant that if a case of racial discrimination actually occurred it would undoubtedly fall within the purview of the Supreme Court. With regard to the body mentioned in article 14, paragraph 2, of the Convention, he informed the Committee that no such body had been established or indicated because the provisions of that paragraph were optional. In an introductory statement he made at the opening of the Committee's consideration of his Government's report, he assured the Committee that he would pass on all comments that might be made by members of the Committee so that his Government would be able to do its utmost to fulfil its obligations.

CERD A/32/18 (1977)

120. The fourth periodic report of Uruguay was considered together with the information contained in the introductory statement made by the representative of the Government of the reporting State before the Committee.

121. The Committee welcomed the following statement in the report under consideration: "In view of the comments made by members of the Committee during the consideration of the third report submitted by Uruguay - comments in which reference was made to the absence in our legal system of any specific provision to give effect to article 4 of the Convention - we wish to inform the Committee that the Government of Uruguay is intending to incorporate the relevant legal rules in its positive law, and that a reform of the Penal Code with this in view is now in an advanced stage. Also, as we have already stated, this aspect is being studied in the amended version of the Constitution which is being prepared by the Council of State." Members of the Committee expressed the hope that the relevant texts would be provided to the Committee when they were adopted.

122. With regard to the principle of equality before the law, provided for in article 5 of the Convention, a question was raised regarding the import of article 8 of the Constitution of Uruguay, which reads: "All persons are equal before the law, no other differences being recognized among them than that of talent and virtue". It was observed that that provision might not necessarily exclude racial considerations, since it might be considered that one racial or ethnic group was more talented than another. An interest was expressed in receiving information on how the clause about talent and virtue was interpreted by the courts of Uruguay. Members of the Committee noted with satisfaction that, among the measures taken to guarantee equality, the Government of Uruguay had organized a competitive examination, without any requirements based on race or ethnic group, with a view to filling vacancies in the Foreign Service. It was asked, however, whether there had previously been any requirement that candidates must belong to a particular race or ethnic group; whether the competitive examination had been organized in order to comply with the provisions of the Convention; how it had been received by the population; and the recourse available to candidates who considered that they might have been excluded because of their ethnic origin. Members of the Committee asked for further details on the manner in which the various rights listed in article 5 of the Convention - which were said to be recognized and guaranteed by Uruguayan law to all persons without distinction as to race, colour, or national or ethnic origin - were affirmed in the Constitution and legislation of Uruguay.

123. The information in the report under consideration, relative to the implementation of the provisions of article 7 of the Convention, supplemented the information contained in the second and third periodic reports. Nevertheless, it remained lacking in specificity, and more detailed information was requested. It was observed, moreover, that the information on that subject supplied to the Committee was confined to measures in the field of education, and did not deal with measures taken in other fields specified in article 7 of the Convention, particularly that of public information. It was noted that the measures described thus far did not put into effect one of the obligations imposed by article 7 of the Convention, namely, the obligation to propagate the purpose and principles of the Charter of the United Nations, the Universal Declaration of Human Rights, the

International Convention on the Elimination of All Forms of Racial Discrimination, and other relevant instruments.

124. With respect to the declaration made by the Government of Uruguay to recognize the competence of the Committee in accordance with article 14 of the Convention, reference was made to a statement made by the representative of the Government of Uruguay at an earlier session of the Committee, to the effect that the establishment of designation of the body mentioned in paragraph 2 of article 14 of the Convention was “optional”. It was observed that, while it was true that the word “may” was used in that paragraph, it was the “establishment” or “indication” of that body that was optional, and not its existence; otherwise, the procedure prescribed in paragraphs 4 and 5 of article 14 of the Convention could not be put into operation.

125. Some members of the Committee asked for information on the relations between the reporting State and the racist régimes in southern Africa, and on Uruguay’s position with regard to ratification of the International Convention on the Suppression of the Crime of Apartheid.

126. Some members asked whether any changes had been made in the Constitution of Uruguay, whether all its provisions were being implemented and, if not, whether any of the provisions not being applied were concerned with problems of racial discrimination. Questions were raised also about the existence of a state of emergency in Uruguay, and its effect on the implementation of the provisions of the Convention, particularly article 5. Reference was made to a statement by the representative of the Government of Uruguay at the twelfth session of the Committee, to the effect that some of the provisions of the Convention had been included in internal legislation; and a request was made for specific information on that subject, indicating precisely the provisions which had been included in Uruguayan legislation and those which had not.

127. Information was requested by some members of the Committee on the situation of the Indian tribes in the northern part of Uruguay; on the participation of ethnic minorities in governmental and administrative establishments, and in Parliament; on the status of foreigners in the reporting State; and on the immigration policy of the Government of Uruguay.

128. The representative of the Government of Uruguay commented on some of the observations and questions summarized in the preceding paragraphs. She said that the phrase “talent and virtue” in article 8 of the Constitution of Uruguay referred to a person’s characteristics and talents, which would of course be relevant if the person were applying for a particular post. She asserted that her Government maintained no diplomatic relations with Southern Rhodesia and applied all United Nations sanctions against that country. Although, in exercise of its sovereignty, her Government maintained diplomatic relations with South Africa, “that did not imply approval of the internal measures which that country might take, or support for the racist policies which the South African Government might adopt”. There was no special legislation for minority groups in Uruguay, since all persons were equal before the law. The rights of foreigners legally resident in Uruguay were guaranteed under the Constitution, and foreigners were entitled to vote after 15 years’ continuous residence even if they had not taken Uruguayan nationality. Uruguay’s immigration policy provided for no restrictions based on ethnic origin. If the Committee so desired, she could request her Government to provide statistical data on minority groups, including a breakdown of the Uruguayan population by ethnic origin.

CERD A/33/18 (1978)

213. The fifth periodic report of Uruguay was considered together with the introductory statement made by the representative of the reporting State.

214. It was noted with regret that, according to the report under consideration, the intention to reform the Penal Code in such a way as to give effect to the provisions of article 4 of the Convention - of which the Committee had been informed in the previous report (A/32/18, para. 121) - had since been abandoned. It was observed that article 6 (j) of Legislative Decree No. 10279 of 19 November 1942, which the Government of Uruguay had recently decided to "maintain...in its present form", did not give effect to the provisions of subparagraph (a) of article 4 of the Convention but only to some of the requirements of subparagraph (b) of that article. Notwithstanding the information contained in the report under consideration, however, the representative of Uruguay assured the Committee that her Government "intended to include in the amended Code provisions embodying the principles laid down in article 4 (a) and (b) of the Convention".

215. Additional information on the measures taken by the Government of Uruguay to implement article 6 of the Convention was requested.

216. With regard to the implementation of article 7 of the Convention, it was noted with regret that a request made at the sixteenth session for information about the relevant measures taken in the field of information (A/32/18, para. 123) had not been met in the report under consideration. Committee members asked once more about the extent to which the mass media were used for the dissemination of information concerning problems of racial discrimination.

217. The Committee took note of some of the administrative measures mentioned in the report under consideration. Reference was made to the notices published by the Ministry of Foreign Affairs in 1975 and 1977, inviting applications for vacant posts in the Uruguayan Foreign Service. Some Committee members wondered whether those notices indicated that there had been some evidence of unequal treatment on racial grounds and asked whether any penalties were prescribed by law for those guilty of such practices of racial discrimination. The decree of 9 March 1931, designed to stop discriminatory practices in the recruiting of police officers, gave rise to the following questions: How extensive had those practices been? How long had they existed? Who had been affected by them? And had the practices ended as a result of the decree? A member of the Committee felt bound to ask why the Uruguayan Government took such a piecemeal approach to discrimination and why, for instance, there was no general provision prohibiting racial discrimination throughout the civil service. The representative of Uruguay stated that the decree of 1931 had been provided merely by way of example in order to show that, almost 50 years earlier when an isolated discriminatory practice had been brought to the Government's attention, the Government had taken appropriate action. The decree had been complied with ever since. The reference to the notices published by the Ministry of Foreign Affairs had been included in the report to show that the Government was still vigilant in racial discrimination matters, and did not imply that discrimination existed in Uruguay. She stated that she would advise her Government to annex to its next report the public service statutes of Uruguay, so that the Committee could consider the legal basis upon which the administration of the country was run.

218. It was noted that the requests made at an earlier session for information on the situation on the indigenous population (A/32/18, para. 127) had not been met in the report under consideration. The representative of Uruguay explained that that information had not been provided because there did not exist in that country an indigenous population as such; rather, that population had become completely integrated in the general population of Uruguay.

219. Recalling that, in the fourth periodic report of Uruguay, it had been stated that an amended version of the Constitution was being prepared and that the requirements of the Convention were being borne in mind in the preparation of that version, members of the Committee asked what the present status of the amended version of the Constitution was. They also asked whether the reform of the Penal Code had been completed. The representative of Uruguay stated that article 8 of the 1830 Constitution, which had been incorporated into the Constitution of 1967, was still in force and that the reform of the Penal Code had not yet been adopted.

CERD A/36/18 (1981)

288. The sixth periodic report of Uruguay (CERD/C/66/Add.20) was briefly introduced by the representative of the reporting State, who pointed out that the main purpose of his Government's report was to answer the questions asked during consideration by the Committee of previous reports of Uruguay, with special reference to the appointment of civil servants and teachers, and that the reform of the Penal Code had not yet been completed, owing to other problems which the country had had to overcome.

289. Members of the Committee thanked the representative of Uruguay for continuing the dialogue with the Committee. They observed, however, that the report under consideration did not follow the Committee's guidelines and did not answer the questions asked by them in connection with the consideration of the fifth or even the fourth periodic reports of Uruguay. They, therefore, regretted that the Committee was not able to see how far the various provisions of the Convention had been implemented by that country. Furthermore, the Committee could merely note that work was continuing in Uruguay on draft texts about which it had no information: it was known that the Constitution, which dated back to 1830 and did not adequately reflect the provisions of the Convention, was to be modified and replaced by a new Constitution to be adopted by referendum and the Committee wished to know what stage the draft had reached and whether the emergency measures were still in force. Moreover, ever since 1976, the reports of Uruguay had been stating that provisions consonant with article 4 of the Convention were to be introduced into the new Penal Code, but that reform was still under consideration. It would be helpful if, in its next periodic report, the Government of Uruguay informed the Committee of the situation in that respect, stating whether amendments had in fact been made and whether a new Code had been adopted. In this connection, it was suggested that the authorities responsible for drafting that Code should take into account the questions on that matter already asked by the Committee on several occasions.

290. With regard, in particular, to article 2 of the Convention, reference was made to the discussion in the Committee of the fifth periodic report of Uruguay, during which the representative of the State party had stated that it was unnecessary to provide any information on indigenous peoples since all citizens were fully integrated in society, and it was asked whether there were no disadvantaged groups which might need assistance and what action the Government was taking in that regard.

291. In connection with article 5 of the Convention, details were requested with regard to Uruguay's electoral code. Furthermore, reference was made to article 2 of the Legislative Decree of 13 February 1943 concerning the conditions of entry into the civil service and to article 8 of the Uruguayan Constitution providing for equality of all persons before the law, and it was observed that in the example cited in the report in support of those provisions, there was no guarantee that there would be no discrimination in the consideration of applications. Reference was made to Act. No. 9480 of 1935 under which restrictions could be imposed on the freedom of publication and the peaceful exercise of the right to strike. It was observed that the penalties prescribed, including imprisonment, for the expression of an opinion contrary to the established order or for participation in a strike were incompatible with the Convention; that penalties involving forced labour, for which provision was also made, were contrary to the ILO Convention concerning Forced or Compulsory Labour and that it would be helpful for the Committee if the Government could provide further

information and explanation on those provisions. Information was also requested on employment opportunities, conditions of remuneration, the right to form and join trade unions, the present number of trade unions and their possibility of dealing with different aspects of social problems, the possibility of collective bargaining, the exercise of the right to strike and, in general, the labour code recognized by the Government.

292. In addition, members of the Committee stated that it was essential to be kept informed of the measures taken in Uruguay to implement the provisions of articles 6 and 7 of the Convention. The Government of Uruguay should explain, in particular, the principles and provisions governing the organization of its legal system and the steps that it has taken, especially in the field of information, with the view to combatting prejudices and to improving understanding between groups, whatever their racial or ethnic origin and their social or political situation.

293. The representative of Uruguay stated that the questions raised by members of the Committee would be taken into account in the preparation of his Government's next periodic report.

CERD A/37/18 (1982)

305. The seventh periodic report of Uruguay (CERD/C/91/Add.9) was introduced by the representative of the reporting State, who stated that Uruguay had consistently co-operated with the Committee since ratifying the Convention and reaffirmed the desire of his Government for a fruitful dialogue on the struggle against racial discrimination. He pointed out that the report and the situation of Uruguay had to be viewed in the context of its social reality. Referring to the history of the country, he affirmed that no racial discrimination was practised in Uruguay. No laws or policies existed that could be described as discriminatory on national or ethnic grounds: the legal system was proper to a society where no manifestation of racial conflict occurred. He referred in this connection to articles 8, 72 and 332 of the Constitution and to a number of provisions in the Penal Code.

306. Several members voiced disappointment with the report. Criticism was expressed concerning both the quality of the information provided and the lack of implementation of the provisions of the Convention. It was pointed out that, although Uruguay might be free of racial discrimination at present, it should not be assumed that the danger would not arise in future. Recent world history had shown that racial discrimination could break out with unexpected force, and the Convention had been designed not only to combat existing discrimination, but also to prevent the recurrence of such situations. The Committee had therefore always held that even those fortunate countries which did not have racial discrimination should do their utmost to develop rules which would help them avoid anything of the sort happening in the future. When States ratified the Convention but did not implement its preventive provisions, the Committee had always held that they were in breach of the Convention.

307. With regard in particular to article 3 of the Convention, information was requested concerning the relationship of the Government of Uruguay with the racist régime in South Africa.

308. With respect to article 4, it was pointed out that in its successive reports the Government of Uruguay had often indicated that a draft bill had been elaborated to amend the Penal Code in pursuance of article 4 of the Convention, but that such a bill had never been adopted. While the Government contended that it was not its concern but that of the legislature to adopt the bill, it was emphasized that it was the State's responsibility to comply with its international obligations. In this connection, it was pointed out that although the report stated that article 4 (a) and (b) was fully complied with in existing penal laws, legislative Decree No. 10279 did not cover all cases contemplated by that article. The very fact that the Government had thought it necessary to draft a bill amending the Penal Code showed that existing legislation did not meet the requirements of the Convention. The Government was asked to provide the Committee with the text of the bill so that the Committee could ascertain how it would bring the Penal Code into line with article 4. The Committee expressed the hope that the Uruguayan Legislature would be able to adopt the bill in accordance with Uruguay's obligations as a State party.

309. With reference to article 5, members rejected the Government's contention in its report that questions relating to the status of trade unions and the right to strike did not fall within the scope of the issue of racial discrimination. They expressed the view that those matters fall within the purview

of article 5 and that in asking questions about them, the Committee had engaged in the proper exercise of its competence.

310. In connection with article 6 of the Convention, several members observed that the report did not contain information concerning the availability of recourse procedures to victims of racial discrimination in order to obtain reparation for damages or the re-establishment of the previous situation. It was remarked that anti-discriminatory provisions would remain a dead letter if they were not supplemented by adequate recourse procedures. Information was requested in the next report concerning the system for the protection of individuals against racial discrimination.

311. With regard to article 7, it was emphasized that the problem of racism was largely one of education, and information was requested on what the Government was doing through education to instruct the people in tolerance and give them an understanding of the valuable qualities of all ethnic groups.

312. In reply to some of the questions, the representative of Uruguay assured the Committee that there was simply no racial problem in his country. The difficulty was that the legislators called on to draft legislation in respect of racial discrimination could find no relationship between such legislation and the social situation. The fact that the bill designed to amend the Penal Code had not yet been adopted should be viewed in that context. It certainly did not mean that Uruguay was shirking its international obligations under the Convention. As far as racial discrimination was concerned, Uruguay had absolutely nothing to hide.

313. The representative agreed with members of the Committee that measures should be adopted to prevent any adverse change. It was for that reason that the Uruguayan authorities had drafted the bill designed to amend the Penal Code. The Committee could rest assured that any attempt to form an organization to promote racial hatred would be punished. There existed specific provisions to punish attempts, even by small groups, to incite racial discrimination.

314. In respect of petty discrimination on grounds of nationality, for instance, there were remedies available to any individual. Those remedies were of a general nature because such instances of discrimination did not occur in Uruguay. If they did, however, the courts could, under current legislation, entertain a claim for damages. An administrative action based on racial discrimination could be nullified, and public officials responsible for such action would be punished and could even be dismissed.

315. Uruguay maintained diplomatic relations with South Africa at the level of chargé d'affaires. Its trade with South Africa, however, had steadily declined in recent years and currently represented less than 0.5 per cent of Uruguay's foreign trade.

316. In conclusion, the representative stated that Uruguay remained fully committed to its obligations under the Convention and was prepared to continue its co-operation with the Committee.

CERD A/46/18 (1991)

127. The eighth, ninth, tenth and eleventh periodic reports of Uruguay, submitted in a single document (CERD/C/197/Add.3), were considered by the Committee as its 896th and 897th meetings, held on 8 March 1991 (see CERD/C/SR.896 and 897).

128. The reports were introduced by the representative of the State party, who drew attention to the various documents submitted by his Government that contained additional information to that already given in the report. He explained in that connection that in the compilation of statistics on Uruguay's demographic structure, classification by race or minority had traditionally been omitted since such classification could itself constitute a form of discrimination. The term "equality before the law", in article 8 of the Uruguayan Constitution, which had been referred to critically in the observations made by the Committee during the consideration of the previous report, fully coincided in its content with the term used in article 5 of the Convention.

129. The representative further stated that foreign communities resident in Uruguay enjoyed the same protection as nationals and had equal access to free public education, that all religions were respected and that foreign communities retained their national traditions without any restriction. Uruguay had complied with the recommendations made by international organizations and had substantially restricted its relations with South Africa. Uruguay was encouraging the process of change in South Africa with a view to achieving the total eradication of apartheid and the establishment of a State based on democratic and non-discriminatory principles. All of the requirements of articles 5 and 6 of the Convention were met in Uruguay and the remedies of domestic law were available to all inhabitants of the Republic. In accordance with article 14 of the Convention, under which Uruguay had been the first State party to make a declaration, individuals could also submit their complaints to the Committee for consideration. The fact that in practice no such complaints had been made to the Committee indicated that no violation of the Convention had been sufficiently important for proceedings before the Committee to be instituted.

130. The Government of Uruguay appreciated the constructive exchange of views its representatives had had with members of the Committee; that process would lead to the formulation of ideas for incorporating international rules in the practice and municipal law of Uruguay. It firmly intended to cooperate with the Committee on the Elimination of Racial Discrimination and with other relevant international organs and to engage in a useful dialogue for the purpose of achieving common objectives.

131. Members of the Committee welcomed the resumption of dialogue between Uruguay and the Committee and expressed appreciation to the representative of the reporting State for the additional information he had provided in his oral introduction. Noting the extreme brevity of the written report, which had not been compiled in accordance with the Committee's guidelines and did not contain any information concerning the demographic and precise ethnic composition of Uruguay's population, without which the Committee was unable to monitor implementation of the Convention, members expressed the hope that the Uruguayan Government would supply fuller information on that point in its next report. They thought it important to proceed with social and cultural research since this might bring to light situations contravening the Convention.

132. With reference to the 1986 Law on Expiration, members of the Committee wished to know whether the judiciary had regained its autonomy following the fall of the military regime; whether teachers who had lost their jobs for political or ideological reasons had been reinstated; how many Uruguayans out of the 300,000 who left the country during the military regime had returned; and what the Government was doing to support the efforts of non-governmental organizations to ensure the pursuit of investigations into disappearances and executions under the military regime, notably in the cases of disappeared or unidentified children.

133. Members of the Committee reiterated their conviction that the provision contained in article 8 of the Constitution of Uruguay was not fully equivalent to prohibition of racial discrimination in the sense of article 2 of the Convention and expressed the hope that the Parliament would pass a law on the subject that the courts would be required to apply. They wished to know in that connection whether article 8 of the Constitution could be effectively invoked before the courts and requested more detailed information on the matter, as well as on the judicial system more generally. Noting that the incorporation of article 149 bis and ter into the Penal Code was presumably designed to implement article 2, paragraph 1 (b), and article 4, paragraph (a), of the Convention, members inquired about the extent to which that new provision had been invoked before the courts and wished to know, in particular, whether a prosecution under that provision had been brought in the case of the profaning of the Jewish cemetery at La Paz.

134. With reference to article 3 of the Convention, members of the Committee asked whether Uruguay still had diplomatic and trade relations with South Africa and requested that further data relating to the implementation of that article be included in the next report.

135. Concerning article 4 of the Convention, members of the Committee asked the Government of Uruguay to provide information in its next report on the banning of organizations based on racist ideas, in accordance with the provisions of paragraphs (a) and (b) of that article.

136. In connection with articles 5 and 6 of the Convention, members of the Committee noted that information provided in the report was inadequate and that, in particular, information on the Constitution and other legislation was incomplete. Since the Constitution did not set out precisely the measures required to give effect to the principles enshrined therein and legislative action was clearly needed, it was particularly important that the shortcomings of the report in the foregoing regarding be remedied in the next report. Members also requested that information about the referendum be included in the next report.

137. Referring to the concerns of many members of the Committee about the absence of any classification of the population according to ethnic origin, the representative of the State party explained that Uruguayans considered themselves Uruguayans and not as members of particular racial, ethnic or religious communities. Migration to Montevideo was a spontaneous phenomenon, caused primarily by economic factors such as the concentration of industry around the capital. The representative of Uruguay assured the Committee that the next report would be prepared in accordance with the Committee's guidelines.

138. With reference to article 2 of the Convention, and addressing the issue of the risk of discrimination on the part of either the legislative or the executive, the representative said that a law

that was discriminatory would contravene the Constitution and would be repealed. Similarly, a discriminatory decree would also violate the Constitution, and the President, in signing it, would be breaking his oath to respect it. The law of amparo (Act no. 16,011 of 1988) provided that anyone who considered that his rights or liberties guaranteed under the Constitution had been infringed had the right to take amparo proceedings. Prohibition of racial discrimination was thus guaranteed as far as legislation was concerned and, since Uruguay was a State subject to the rule of the law, it was also guaranteed in so far as court practice was concerned.

139. With regard to article 3 of the Convention, the representative of the reporting State declared that Uruguay had diplomatic relations with South Africa at the level of chargé d'affaires ad interim and that trade ties with that country were insignificant.

140. Concerning article 4 of the Convention, the representative of the State party pointed out that organizations that promoted ideas or theories based on the superiority of a particular race or group of persons had long been banned by law in Uruguay.

141. In connection with article 5 of the Convention, the representative said that the literacy rate in Uruguay was one of the highest in Latin America - between 97 and 99 per cent of the adult population. All laws were published on the same day they were enacted, in the Official Gazette, to which all citizens had access. Civil rights monitoring groups, usually consisting of lawyers and other experts, also followed legislation such as Act No. 16,048 very closely and there was therefore no risk of the public not being aware of that Act.

142. With reference to the questions relating to the Law on Expiration and to the investigation of disappearances, the representative of Uruguay noted that, although these areas were not perhaps strictly within the terms of reference of the struggle against racial discrimination, the concerns of members of the Committee would be communicated to the Government. All of the questions left unanswered would be addressed in Uruguay's next report and the additional information requested by the Committee would be provided to it.

Concluding observations

143. Concluding their consideration of the report on Uruguay, members of the Committee acknowledged that their concerns about the report's inadequacy related primarily to the fact that the very significant changes that had taken place in Uruguay recently had not been adequately reflected in it. However, many questions had been answered orally. Members of the Committee noted that a number of extremely positive facts had emerged, both from the written report and from the oral presentation, including, in particular, the country's return to democracy and to the rule of law, which provided sure guarantees against any increase in racial tension or racial discrimination; the fact that Uruguay had resumed its dialogue with the Committee after eight years of silence; and the revision of the Penal Code through amendments that were in line with article 4, paragraphs (a) and (b) of the Convention and which represented very positive improvements. The Committee hoped that the Government of Uruguay would intensify its dialogue with the Committee in the future.

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415. The Committee considered the twelfth to fifteenth periodic reports of Uruguay (CERD/C/338/Add.7) at its 1350th and 1351st meetings (see CERD/C/SR.1350 and 1351), on 12 and 13 August 1999. At its 1361st meeting (see CERD/C/SR.1361), on 20 August 1999, it adopted the following concluding observations.

A. Introduction

416. The Committee welcomes the twelfth, thirteenth, fourteenth and fifteenth periodic reports submitted by the State party in one document as well as for the additional information provided orally by the delegation. The Committee expresses its satisfaction for the resumption of dialogue with the State party, interrupted since 1991. The Committee is also pleased that the report follows the guidelines, in particular that it addresses the Committee's concluding observations relating to the previous report of the State party.

B. Factors and difficulties impeding the implementation of the Convention

417. While the Committee notes with appreciation the State party's long-term achievements in the field of human development, it is of the opinion that the de facto social and economic marginalization of the Afro-Uruguayan and indigenous communities has generated discrimination against them. These factors are significant obstacles to the full implementation of the Convention.

C. Positive aspects

418. The Committee welcomes the constitutional status granted to the protection of human rights and the recognition of the principle of equality of persons in the State party's Constitution designed to preclude any form of discrimination, including racial discrimination.

419. The Committee welcomes the State party's inclusion of information on the demographic composition of the State party, in line with the Committee's previous recommendation. This information has proven to be a very useful tool for evaluating the implementation of the Convention in the State party.

420. The Committee welcomes the establishment of a special Commission, consisting of representatives of the State party's Central Bank and the Bank of the Eastern Republic of Uruguay, to investigate the existence of Nazi funds within the State party's financial system as well as the cooperation of this Commission with the National Jewish Committee.

421. The Committee welcomes the participation of national non-governmental organizations in the preparation of the report.

422. The Committee notes with appreciation the inclusion of information on educational programmes to enhance Uruguayan society's understanding of the Afro-Uruguayan culture.

D. Principal subjects of concern

423. The Committee remains concerned about the insufficient information on the situation of ethnic groups living in the State party's territory. Concern is also expressed about the lack of information on special measures, such as affirmative action programmes, taken for the protection of the rights of disadvantaged ethnic groups such as Afro-Uruguayans and indigenous groups.

424. The Committee remains concerned about the lack of information on the effective enjoyment of the rights provided for in, especially, article 5 (c) and (e), and in particular by members of the Afro-Uruguayan and indigenous communities. In addition, concern is particularly expressed about the situation of women belonging to the Afro-Uruguayan community, who are victims of double discrimination on grounds of both their gender and race.

425. While taking note of the information on the existing legal mechanisms (*habeas corpus* and *amparo*), nevertheless, in view of the situation that only few cases of racial discrimination have reached the courts or administrative bodies, concern is expressed about the effective access to protection and remedies against acts of racial discrimination against, in particular, the Afro-Uruguayan and indigenous communities.

426. The absence of sufficient information on the teaching of human rights, in particular on the combating of racial discrimination, in the school curricula, as well as the lack of information on awareness-raising programmes to combat racial discrimination is a matter of concern.

E. Suggestions and recommendations

427. The Committee recommends that the State party include in its next report information on the political, economic and social situations of ethnic groups living in the State party's territory. The Committee requests the State party to establish specific protection measures, such as affirmative action programmes, for members of the Afro-Uruguayan and indigenous communities, to guarantee their enjoyment of all the rights enumerated in the Convention.

428. The Committee recommends that the State party take all appropriate legislative measures to ensure that article 4 of the Convention is fully reflected in domestic law. In particular, the Committee emphasizes the importance of adequately prohibiting and penalizing acts of racial discrimination, whether they are committed by individuals, organizations, public authorities or public institutions. In this connection, in order to better evaluate the implementation of article 4 (b) of the Convention, the Committee requests the State party to include in its next periodic report the text of the relevant articles of the Penal Code which prohibit and penalize "illicit associations".

429. The Committee also recommends that the State party take immediate and appropriate measures to ensure the enjoyment of all the rights enumerated in article 5 of the Convention in particular by members of the Afro-Uruguayan and indigenous communities and provide further information on this subject. With respect to employment, education and housing, the Committee recommends that the State party take steps to reduce present inequalities and adequately compensate affected groups and persons for earlier evictions from their houses.

430. The Committee recommends that the State party establish special programmes aimed at facilitating the social enhancement of women belonging to the Afro-Uruguayan community, who suffer double discrimination on grounds of both their gender and race.

431. The Committee recommends that the State party make additional efforts to facilitate equal access to the courts and administrative bodies for persons belonging to the Afro-Uruguayan and indigenous communities, in order to ensure equality of all persons.

432. The Committee recommends that the next periodic report of the State party include information on measures taken in the field of teaching, education, culture and information in order to combat racial discrimination, in compliance with article 7 of the Convention. In this connection, the Committee further 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 its general recommendation XIII.

433. The Committee recommends that the State party consider the ratification to 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.

434. The Committee suggests to the State party that this periodic report and these concluding observations be widely distributed.

435. The Committee recommends that the State party's next periodic report, due on 4 January 2000, be an updating report and that it address the points raised during the consideration of the report.