

## VENEZUELA

### CERD 26<sup>th</sup> No. 18 (A/8418)

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

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

**CERD 28<sup>TH</sup> No. 18 (A/9018)**

99. The initial report of Venezuela, submitted on 21 April 1970, was considered at the third session of the Committee. It was deemed unsatisfactory and additional information was requested. No such information was received by the Committee. The second periodic report, dated 4 January 1972, was considered at the seventh session (128<sup>th</sup> meeting).

100. Some members expressed the view that the second periodic report of Venezuela was more complete than the initial report submitted by that State party. However, several members were of the opinion that it was still not complete; that it did not conform to the guidelines laid down by the Committee; and that it did not take account of the views expressed by Committee members during the consideration of the initial report. No information on such measures as may have been adopted to give effect to the provisions of the Convention, including those which laid down mandatory obligations for positive action by the States parties, was contained in the report. It appeared to some members that the report implied the belief that the absence of racial discrimination was sufficient to nullify the mandatory requirement of certain provisions of the Convention for prescribed positive action by all States parties, and the cognate belief that the existence of certain anti-discrimination provisions in the Constitution made it unnecessary to adopt additional legislative, administrative or other measures to give effect to those provisions of the Constitution and to the articles of the Convention. It was also observed that, although the report stated that no legislative or administrative measures were needed, it gave no information on existing legislation - save for the text of one article of the Civil Service Careers Act of 1970.

101. The Civil Service Careers Act gave rise to two questions: Were there other anti-discriminatory measures relating to other areas of public life? And was there similar legislation prohibiting discrimination in the private sector? More generally, it was asked whether any measures had been adopted to implement articles 4, 5, 6, and 7 of the Convention. The subject of another inquiry was Venezuela's relations with the racist régimes in southern Africa, in accordance with General Recommendation III.

102. In her statement, the representative of Venezuela assured the Committee that she would convey to her Government the views expressed by Committee members regarding the need for further legislative and other measures in order to give effect to the provisions of the Convention, and that the various points raised during the discussion would be taken into account in the preparation of Venezuela's third periodic report. She informed the Committee that Venezuela had no relations of any kind with the racist régimes in South Africa.

103. The Committee decided that Venezuela should be requested to provide in the third periodic report the information lacking in its second report.

**CERD 30<sup>TH</sup> No. 18 (A/10018)**

151. It was observed that the third periodic report of Venezuela contained extensive information, supplementing the information previously furnished by the reporting State; that the actual texts of the relevant provisions of the Constitution and the penal code to which the report referred were supplied; and that the information envisaged by the Committee in its general recommendation III, on relations with racist régimes, was provided. Members of the Committee took note also of the statement that, since Venezuela became independent, no judicial decisions on acts within the scope of the Convention had been handed down. However, it was observed that the information contained in the report was not organized in accordance with the guidelines laid down by the Committee at its first session.

152. Members of the Committee took note of the statement that accurate statistics on the demographic composition of the country could not be supplied, in response to the Committee's general recommendation IV, inasmuch as the relevant documents in Venezuela were not required to contain an indication of a person's colour. However, some members observed that, since article 1, paragraph 1, of the Convention as well as general recommendation IV were concerned not only with race or colour but also with descent and national or ethnic origin, the reporting State should not have much difficulty in providing some relevant information - not necessarily of a statistical nature - on the composition of the population, including information on immigrants.

153. Members of the Committee expressed the hope that future reports would include information on the implementation of article 7 of the Convention as well as on the status of migrant workers in Venezuela. Some clarification of the procedures relating to the implementation of article 5, paragraph (f), of the Convention would also be desirable, particularly with respect to two questions: the means available to the victim to make his complaint to the authorities; and the article of the penal code (other than articles 286 or 295, which were not applicable) which could be invoked in the criminal proceedings that should follow the administrative action which could be taken by the authorities and which, it was presumed, was temporary in nature.

154. Several members of the Committee maintained that existing legislation did not sufficiently meet all the requirements of article 4, paragraphs (a) and (b), of the Convention; they expressed the hope that, in the consideration which was currently being given to the reform of the penal code, the comments made during the discussion concerning article 286 of that code, and the unanimous view of the Committee about the mandatory nature of the obligations under article 4 of the Convention, would be taken into account.

155. The representative of Venezuela informed the Committee that he would transmit all the comments made during the discussion to his Government and that, in his opinion, the comments regarding article 286 of the penal code would be of particular interest in view of the reform of the penal code currently under consideration.

## **CERD A/31/18 + Corr. 1**

125. Inasmuch as the fourth periodic report of Venezuela added nothing new to the information contained in the preceding report and provided no replies to the inquiries made during the consideration of that report, several members of the Committee stressed that all the comments made and questions put about the third periodic report of Venezuela remained valid.

126. The representative of the Government of Venezuela commented on some of the questions raised previously in the Committee. He explained that his Government found it difficult to provide information on racial discrimination, “which did not and could not exist in Venezuela”. The majority of Venezuelans “did not belong to a particular race, but were part white, black or Indian”; and there were no official statistics on the ethnic composition of the population. At the current stage, immigrants came chiefly from Colombia; there were also some immigrants from Europe; mainly Spaniards and Portuguese, who were immediately integrated into the Venezuelan population. As far as article 7 of the Convention was concerned, the Government of Venezuela propagated the principles of the United Nations Charter, but “there was a risk that a specific mention of racial discrimination would create a problem that had not existed before”. In the case of article 5, paragraph (f), of the Convention, there again “no problem could arise” in Venezuela, for “if by any chance a case of racial discrimination did occur, the police would intervene immediately”. Under the Venezuelan legal and penal system, all citizens were equal before the law and had equal access to public places, “but everyone would be greatly astonished if the new Penal Code included a special article declaring racial discrimination a punishable offence”; legislation must correspond to the social realities of the country. He would pass on to his Government the comments of members of the Committee on the revision of the Venezuelan penal code, but he “could not guarantee that they would be taken into account in preparing that revision”. Since his Government wished to co-operate with the Committee, the information that he had just furnished orally, appropriately supplemented, could be transmitted to the Committee in the form of an additional report if it so desired. However, if the Committee left it to the Venezuelan Government to decide whether the information requested should be submitted in the form of an additional report or should be included in the next periodic report, the Venezuelan Government would opt for the second solution.

127. At its 284<sup>th</sup> meeting, held on 9 April 1976, the Committee decided to express its appreciation of the observations made by the representative of the Government of Venezuela and its hope that that Government would supply the information requested as soon as it was able to do so, preferably before the fourteenth session, while leaving it to that Government to decide the date on which it would submit it.

128. By the end of the fourteenth session, the additional information requested from the Government of Venezuela had not been received by the Committee.

## **CERD A/32/18**

295. The supplementary report of Venezuela, prepared in response to the decision taken by the Committee at its thirteenth session [A/31/18, paras. 125-127], consisted of replies to questions raised by members of the Committee during the consideration of Venezuela's third and fourth periodic reports.

296. Some members of the Committee expressed the opinion that the supplementary report left many questions unanswered and failed to address certain specific questions. It was observed also that the report before the Committee did not answer any of the questions in terms of the specific context of the Convention.

297. It was noted that, whereas it was stated in the report that "since the concept of race is rejected in Venezuela, it is difficult to speak in terms of a racial mixture. It would be preferable to speak in terms of the different cultures which merged over the years", article 61 of the Constitution of Venezuela states that "discrimination on grounds of race ... shall not be permitted".

298. Some members requested clarification of the statement in the report that "there is no special protection for foreigners, who enjoy the same protection as citizens, since the Venezuelan Constitution provided that there are no differences between citizens and foreigners", in the light of the provisions of article 45 of the Constitution, which states that "foreigners shall have the same duties and rights as Venezuelans, with those limitations and exceptions established by this Constitution and the laws". Information on the precise nature of those "limitations and exceptions" was requested.

299. Members of the Committee considered the information given in the report on existing provisions of Venezuelan laws which give effect to the provisions of article 4, paragraph (b), of the Convention. It was noted that articles 286, 292 and 293 of the Venezuelan Penal Code, as quoted in the report, did not meet the requirement that the organizations described in the Convention should be declared illegal and prohibited. Some members noted that the report states that "the Committee expressed the desire that the type of association referred to in article 293 of the Penal Code of Venezuela should be declared illegal", and observed that what was at issue was not a desire on the part of the Committee but an obligation under the Convention. It was noted also that the report states that "the observation by the Committee on the Elimination of Racial Discrimination will be taken into account when the reform of the Venezuela Penal Code is carried out" and, in that connection, it was asked whether the reform of the Venezuela Penal Code was in fact being carried out.

300. Some members asked for clarification of a statement in the report, that "the authorities may close down an establishment because it has practised discrimination, in accordance with article 61 of the Constitution". While recognizing that article 61 of the Venezuelan Constitution provides that "discrimination on grounds of race ... shall not be permitted", they could not find in that general principle sufficient grounds for the authorities to impose any particular penalty or to close down any establishment practising racial discrimination.

301. The representative of Venezuela told the Committee that he could not amplify or clarify the

answers given in the report since they had been prepared by competent experts in Venezuela; and he regretted that some members of the Committee were dissatisfied with them. He assured the Committee of his Government's full support and of his intention to convey the comments made by members of the Committee to his Government for appropriate action.

**CERD A/35/18**

203. The sixth periodic report of Venezuela (CERD/C/66/Add.2) was considered by the Committee in the presence of the representative of the reporting State.

204. Members of the Committee noted with interest the historical information given in the report which traced the ethnic and sociological origins of the Venezuelan people, analysed the evolution of the principle of equality in the country since 1811 and explained the difficulties that Venezuela, like other Latin American countries, had to face with regard to social differences, mostly based on economic disparities. The Committee, however, regretted that the report did not describe in sufficient detail measures taken for the implementation of the provisions contained in articles 2 to 7 of the Convention, and hoped that further information about the implementation of those provisions would be included in Venezuela's next periodic report.

205. With reference to legislative provisions relating to the indigenous peoples, members of the Committee observed that it was not clear from the report whether or not such peoples enjoyed the same civil rights as the rest of the population of Venezuela. They noted, in particular, that under Decree No. 250 of 27 July 1951, a permit issued by the Ministry of Justice was required for journeys to the indigenous regions and they felt that such requirement appeared to be a measure of segregation of the indigenous peoples. Besides, the report did not specify the measures taken, if any, in accordance with article 2 of the Convention, to integrate indigenous groups into modern society, protect their interests and encourage their economic and cultural development. In this connection, one member wished to know what was the ethnic composition of the indigenous population groups and if and how such groups were organized. Another member expressed the opinion that it would be useful for the Committee to receive information on the role of private bodies concerned with the problems of indigenous groups, their major activities and the regulation governing such activities.

206. In connection with article 3 of the Convention, the Committee wished to receive information on Venezuela's attitude towards South Africa and specific measures taken against apartheid.

207. The Committee noted with regret that the report did not give any precise information on legislative measures for preventing or punishing racial discrimination in conformity with the requirements of article 4 of the Convention, in spite of the repeated requests on the subject made by the Committee in connection with its consideration of Venezuela's previous periodic reports, and again invited Venezuela to fulfill its obligations under that article, recalling that legislation to combat specifically racial discrimination should be enacted by all States parties regardless of the existence or non-existence of racial problems in their territory. Referring to article 70 of the Venezuelan Constitution dealing with the right of association, one member asked, in particular, whether an association with racist objectives would be liable to penalties prescribed by law and whether racial demonstrations could be prohibited. With reference to article 5 of the Convention, some members of the Committee noted with satisfaction the provisions of the Venezuelan Constitution of 1961 and the information provided in the report concerning the implementation of some of the provisions of that article. However, they wished to receive specific information about electoral legislation and the position of the blacks and mulattos as compared with that of persons of Spanish origin and Creoles, in official appointments and in participation in the decision-making process. In addition, one member requested information on the operation of articles 1 and 35 of the

Civil Service Careers Act and on the penalties applicable for non-observance of articles 7, 109 and 114 of the Labour Act. With reference to the right of education, he noted that there was no mention in the report of any programme to combat illiteracy.

208. Members of the Committee were of the view that the constitutional and penal provisions cited in the report did not guarantee the implementation of article 6 of the Convention and information was requested on what compensation was awarded to victims of racial discrimination.

209. Replying to questions by members of the Committee, the representative of Venezuela stated that Decree No. 250 of 27 July 1951 imposed no restriction on the indigenous groups and that its sole object was to regulate visits to their communities in order to respect their wish to preserve their traditions and to protect them against harmful contacts. He also explained that the bodies working among the indigenous groups were religious or educational non-profit-making bodies. Referring to questions raised in connection with article 5 of the Convention, the representative stated that inasmuch as the majority of the population was of mixed race, it was difficult to say exactly how many blacks or mulattos held official appointments. He finally assured the Committee that his Government would endeavour to provide it with the details asked for.



## **CERD A/36/18**

367. The supplementary report of Venezuela (CERD/C/66/Add.31) containing replies to questions raised by members of the Committee in connection with the consideration of the sixth periodic report of Venezuela (CERD/C/66/Add.2) was considered by the Committee in the presence of the representative of the reporting State.

368. Some members of the Committee congratulated the Venezuela Government on its systematic compliance with the Convention and its fruitful dialogue with the Committee. Other members, however, pointed out that the report did not answer all questions raised and comments made by the Committee during the previous consideration of the Venezuela report, although the Government had agreed that the obligations entered into under the Convention had not been fulfilled.

369. In connection with article 2 of the Convention, the Committee wished again to receive information on Venezuela's policies towards the indigenous population, in particular on the context in which programmes for the indigenous population were carried out at the village or national level by the Ministries of Education, Agriculture and Stockbreeding. As to the fact that the report could not provide statistics on the composition of the population due to the lack of reference to race on the identity cards, some members were sure that the percentage of the population living on reservations could nevertheless be deduced. So far as the current report stated that permits were no longer required by the Ministry of Justice for journeys to regions inhabited by indigenous groups, it was inquired whether this new policy was simply a practical way of solving the problem, or whether the decree No. 250 of 27 July 1951 had been rescinded.

370. As far as article 4 of the Convention was concerned, it was felt that the report had not provided information concerning the implementation of this article. The statement that "anyone infringing the provisions of the Convention" would be punished did not relieve the Government from its obligation, under the Convention, to enact legislation. Members of the Committee stated that the Committee had the right to know what difficulties obstructed the implementation of article 4 and, in particular, asked what sanctions would be applied by the Government to members of any organizations with racist objectives which might be established illegally.

371. The Committee noted with regret that the report did not give any exact information on legislative and practical measures for the implementation of articles 5, 6 and 7 of the Convention, in spite of the repeated requests on the subjects made by the Committee in connection with its consideration of Venezuela's previous reports and again invited the Government to fulfil its obligations under those articles.

372. The Committee urged the Venezuelan authorities to prepare its next periodic report in conformity with the guidelines drawn up by the Committee (CERD/C/70).

373. The representative of Venezuela stated that she would transmit the questions and comments of the Committee members to the authorities in her country so that an official response could be supplied.

## **CERD A/38/18**

207. The seventh periodic report of Venezuela (CERD/C/91/Add.27) was introduced by the representative of the reporting State who pointed out that from its beginnings as a nation Venezuela had always made a practice of fulfilling obligations under international agreements. It had no history of racial discrimination and acceding to the Convention had simply been an act of solidarity, since its provisions had always been applied in Venezuela. However, Venezuela never excluded the possibility of enacting further legislation in compliance with the Convention and the measures it had taken since submitting its last periodic report were explained in the seventh report before the Committee. The representative further stated that his Government's practice had been to follow recommendations of the Committee and to maintain a sustained dialogue with it.

208. Making general comments on the report, a member stated that, in considering the sixth periodic report, the Committee had urged Venezuela to prepare its seventh periodic report in accordance with the guidelines contained in document CERD/C/70, which were intended to facilitate the work of the Committee and to assist the reporting State in selecting the most relevant information. The Government of Venezuela had decided on another method, and thus its seventh periodic report contained much information which, while interesting, was not of direct relevance to the implementation of the Convention and fell outside the scope of the Committee's competence. Some members wished to get more information as to whether the Convention was accorded priority over other legislation; to what extent the Convention could be derogated from by other laws; and how the provisions of the Convention had been applied by the courts. Additional information was requested on the structure, functions and jurisdiction of the Supreme Court of Justice as well as on the procedure for the judicial review and repeal of laws and administrative decisions. Information was also requested concerning the demographic composition of Venezuelan society and the status of indigenous groups in the entire population of the country.

209. With reference to article 1 of the Convention, a member wondered why a distinction was made in the Venezuelan Code of Civil Procedures between citizens and inhabitants and asked for clarification on that point.

210. With regard to article 2 of the Convention, the discussion concentrated on the indigenous groups in Venezuela, their ethnic background and economic and social development. In particular, it was noted that indigenous populations in Latin America often constituted the most likely target of racial discrimination, and questions were asked whether special arrangements of programmes existed to help the indigenous groups to become integrated into society; whether the indigenous groups were governed by national or regional laws; whether there existed special legislation in their regard and whether the rural development and other projects specially designed to assist them fell under the national budget or under a special programme budget. Referring to the serious housing problem which existed in Venezuela, a question was asked as to whether there existed a housing construction programme for low-income groups. It was recalled that, in the sixth periodic report of Venezuela, reference had been made to Decree No. 250 of 27 July 1951, according to which persons wishing to enter areas inhabited by indigenous groups had to obtain special permission. Various members of the Committee had voiced concern about the implications of that Decree. A question was, therefore, asked as to whether that Decree was still in force and what was the Government's policy towards the indigenous population as a whole. Attention was drawn to the educational

programmes and opportunities for social groups and the indigenous population in Venezuela, and more information was requested as to how Decree No. 283 of 20 September 1979, on the establishment of a bilingual educational system in areas inhabited by indigenous peoples, was being applied and what benefits had resulted; whether the aim was to bring about the assimilation of indigenous groups or to promote the use of Spanish, while preserving their languages. Noting that the Government made efforts to provide equal access to education for all and that there existed compulsory and equal primary education for children, more information was requested as to how teachers for indigenous groups were selected or whether they received special training.

211. With regard to article 3 of the Convention, Venezuela's devotion to the international efforts to eliminate racial discrimination was noted, but it was observed that the report did not mention whether Venezuela maintained economic or other types of relations with South Africa, if it applied the United Nations sanctions against South Africa, if it maintained a consulate in South Africa and how it intended to continue the international struggle against apartheid.

212. In connection with article 4 of the Convention, some members recalled that it had been pointed out, during discussions of previous reports, that Venezuelan legislation was not entirely in compliance with article 4 of the Convention. It was asked, therefore, whether the Government had taken steps to revise the Venezuelan Criminal Code with a view to meeting the requirements of article 4 of the Convention. Noting that the publication and circulation of printed matter which incited to hatred, aggressiveness and indiscipline or impaired the sound values, good morals and customs of the Venezuelan people and in particular aroused terror in children were prohibited, some members asked for confirmation that such an activity would be prohibited and punished in Venezuela and requested more information concerning specific sanctions and penalties which the courts were able to impose against authors and publishers involved in violations of this legislation.

213. With respect to article 5 of the Convention, it was observed that the report rightly stressed the fact that, under Venezuelan legislation, aliens could acquire the right to vote. As far as it was known, Venezuela was the only country to have such a provision in its legislation. This information was considered to be extremely valuable, since it helped the Committee members to develop a proper understanding of a country and its institutions. The Government of Venezuela was commended for its open-door immigration policy and for its accession to the Andean instrument on migrant workers, the Andean instrument on social security and the Simón Rodríguez Convention. Remarking that the report stated that workers throughout the country were covered in respect of "long-term social security benefits", the explanation of that term was requested as well as the clarification of any distinction which existed between long-term and short-term benefits. The Committee members expressed the view that, in its eighth periodic report, the Government of Venezuela should provide the Committee with a comprehensive account of the rights and entitlements covered under article 5 of the Convention, so that members could gain a clear understanding of how that part of the Convention was being applied.

214. With regard to the provision of article 6, it was asked if the recourse procedures available to persons residing in Venezuela had been simplified so that they could be easily understood by members of the indigenous groups and if complaints of racial discrimination could be dealt with expeditiously; to what extent non-citizens and migrant workers could avail themselves of existing recourse procedures; and whether the findings of the courts were subject to appeal in both criminal

and civil cases. It also appeared from the description of procedure contained in the report that an individual could not bring a suit to court if the public prosecutor did not wish to institute proceedings. Additional information was requested on the kinds of courts to which a victim of racial discrimination might apply for compensation of damages and on the manner in which the remedies of amparo and habeas corpus would be applied in case of racial discrimination. It was also asked whether members of indigenous groups were guaranteed effective protection and remedies against any acts of racial discrimination in accordance with article 6 of the Convention.

215. With respect to article 7 of the Convention, it was pointed out that all States parties had an obligation to adopt measures with a view to combatting prejudices which led to racial discrimination, and this fully applied to Venezuela, despite the absence of the phenomenon of racial discrimination in that country. Therefore, questions were asked as to what immediate and specific measures had been taken adopted in accordance with article 7, in particular, what measures had been taken to educate children about the various indigenous groups; what specific policies were being followed by the Venezuelan authorities to publicize the provisions of such human rights instruments as the Convention and the Universal Declaration of Human Rights.

216. Replying to the questions raised by the members of the Committee, the representative of Venezuela said that he had the impression that certain Western European standards were being applied to Venezuela in cases where they were perhaps not appropriate. Since Venezuelans did not think in terms of special ethnic groups and minorities, it was impossible to comply with some of the requests made by members of the Committee. Venezuela did not stress legislation to protect minorities because the question of racial intolerance simply did not arise. He welcomed the extremely positive remarks concerning Venezuelan legislation made by members of the Committee but wished, at the same time, to point out that progressive legislation would be meaningless without the social consciousness that prevailed in Venezuela. Violations of the Convention were covered by article 156 of the Venezuelan Criminal Code. However, it was more important to prevent human rights violations from occurring, and the situation in Venezuela was such that it was virtually impossible for individuals to promote or incite racial discrimination. The people of Venezuela had always had extremely strong convictions with respect to apartheid, and their actions in that connection had not been imposed on them as a result of their international obligations. It had therefore been disconcerting for a representative of Venezuela to be closely questioned at the United Nations about any ties that Venezuela might have with South Africa. Venezuela actually had few indigenous inhabitants, owing to intermingling, since colonialism had not given rise to racism. Moreover, it would be extremely difficult to determine who belonged to what race, and it might not even be desirable to prepare such population statistics. Venezuelan legislation contained provisions aimed at protecting the health of the indigenous people and at preventing them from being exploited, which however did not mean that a paternalistic approach was taken towards them. As in the case of all developing countries, Venezuela had problems relating to social justice and the distribution of wealth, but the Government of Venezuela would honour its international commitments. His Government's following report would cover the questions raised by the members of the Committee and consideration would be given to adoption of important measures in that connection.

## CERD A/40/18

557. The eighth periodic report of Venezuela (CERD/C/118/Add.24) was considered by the Committee at its 738<sup>th</sup> to 740<sup>th</sup> meetings, on 13 and 14 August 1985 (CERD/C/SR.738 to SR.740).

558. The report was introduced by the representative of Venezuela who referred to the long tradition of tolerance and understanding among racial groups which existed in his country and to measures that his Government had taken to contribute to the international struggle against apartheid. He stated that his Government maintained no diplomatic, consular, cultural, military or sporting relations with South Africa, nor would it establish them as long as the apartheid régime existed in that country.

559. The Committee commended the Government of Venezuela on its excellent report prepared in accordance with the Committee's general guidelines (CERD/C/70/Rev.1) and on its efforts to comply with its obligations under the provisions of the Convention. Members of the Committee noted that the Convention had been incorporated into Venezuelan law through the Act of 28 July 1967 and they wished to receive the text of that Act.

560. Members of the Committee referred to the statement in the report to the effect that the Government of Venezuela could not provide information concerning the demographic composition of the country since the population of Venezuela was not classified according to ethnic, racial or religious origin. They observed that, as the report showed, there were in Venezuela, as in many other countries, basic differences between socio-economic groups which often coincided with ethnic groups; detailed information on the demographic composition of the population was therefore necessary to enable the Committee to assess the success of the measures introduced by the Venezuelan Government to protect economically marginal sectors of society, disadvantaged social groups and, in particular, indigenous communities.

561. In that connection, members of the Committee referred to article 2, paragraph 2, of the Convention, and requested detailed information on the status of indigenous people in Venezuela, their situation and their numbers in relation to the total population of the country. They asked, in particular, what special and concrete measures had been taken to ensure the adequate development and protection of indigenous communities living in the forest zones; how many indigenous people lived in the forest zones; what their tribal groupings were; whether the special régime for the protection of indigenous communities, referred to in article 77 of the Venezuelan Constitution, had come into effect yet and whether it applied only to those in the border areas or to the indigenous population as a whole; whether the Agrarian Reform Act and Decree No. 283 governing the system of intercultural education had been promulgated in fulfilment of the provisions of article 77 of the Constitution; and what policy the Venezuelan Government had adopted to achieve gradual incorporation of the indigenous peoples into the life of the nation. Furthermore, members of the Committee wished to know to what extent the aims of the Office of Indigenous Affairs had been achieved so far; which indigenous groups participated in intercultural bilingual education and the names of the 19 groups which did not yet participate in that experiment; which indigenous people had reached primary, secondary and advanced school levels; how many beneficiaries were to be included in the educational system under the census of 350 indigenous communities, what basic criteria had been adopted in making the census, how educational material in each language had been prepared, and whether Spanish was the initial language of instruction. Some figures on the average

literacy rate of various indigenous groups were also requested. It was also asked how public and private bodies responsible for indigenous affairs were being co-ordinated; what the working relationship was between government decision-making and development agencies and the various missions seeking to promote indigenous rights; what funds were at the disposal of the government agencies working for the social and economic development of the indigenous population; whether indigenous people participated in public affairs; whether they were moving from a subsistence level to one of economic production; whether they had formed co-operatives; whether they were producing handicrafts; whether they possessed ownership titles to land placed at their disposal by the Government and, if so, how many titles were granted and what effects industrialization projects and the exploration of natural resources had had in the areas traditionally occupied by the indigenous population; as well as to what extent social and economic differentiation was related to Venezuela's external debt.

562. With regard to article 3 of the Convention, further information was requested on the practical application of the policy of Venezuela towards South Africa, in particular, with respect to trade with that country.

563. Regarding article 4 of the Convention, members of the Committee wished to be informed about the text of the new Criminal Code currently under consideration in Venezuela, which would give effect to the provisions in that article. It was observed, in that connection, that the judicial body competent to make decisions with regard to violations of the Convention should be specifically designated under national legislation.

564. With reference to article 5 of the Convention, information was requested on the provision establishing that persons accused of offences against res publica might be tried in absentia, with the guarantees and in the manner prescribed by law and with legal aid made available to persons seeking protection by the State. Clarification was also requested on article 65 of the Constitution which, inter alia, provided that religious faith should be subject to the overall inspection of the National Executive in conformity with the law. In addition, further information was requested on the situation of immigrants in Venezuela, whether there were any restrictions in terms of property, ownership or social security coverage for them. It was asked what legal status was enjoyed by indigenous people who had entered Venezuela from neighbouring countries in recent years, whether they were being assimilated into Venezuelan society or whether they were expected to return to their countries of origin. Moreover it was asked whether it was sufficient for candidates for public office from the indigenous populations to read and write in their own language or whether they were required to have such qualifications in Spanish, whether limitations of freedom of movement applied to reservations of the indigenous population and, if so, whether they were intended to protect those groups from specific dangers such as alcohol-trafficking; how the unemployment insurance scheme and labour colonies were structured and whether the various detention and internment institutions were used only for persons found guilty of offences under the Penal Code or whether individuals could be sent to labour colonies by an administrative order. Further information was also requested on certain aspects of Venezuela's development plans such as housing, education, the eradication of illiteracy and social security coverage for the whole of the population, including the indigenous population.

565. In connection with article 6 of the Convention, it was asked what recourse was available under

existing Venezuelan legislation to redress damages caused by offences covered by article 4 of the Convention, whether legal aid was available and whether the body established in Venezuela to ensure the exact observance of the Constitution had intervened on any occasion with regard to actions that were contrary to the provisions of the Convention, whether any cases of racial discrimination had in fact occurred on Venezuelan territory, or whether the situation was that no such cases had been taken to court. In the light of Venezuela's compliance with the Convention and other international human rights instruments, members of the Committee suggested that, within the sovereign rights of that State party, its Government might give consideration to making the optional declaration provided for by article 14 of the Convention.

566. The Committee requested information on the measures taken by Venezuela to implement article 7 of the Convention.

567. Replying to questions raised and observations made by members of the Committee, the representative of Venezuela stated that no census had ever been carried out in his country on the basis of race since some 80 per cent of the population was descended from mixed marriages and there were less than 40,000 indigenous inhabitants. However, a census had been taken of the indigenous population in the forest zones on the right bank of the river Orinoco. Some 30,000 people were living there and there was a separate indigenous ethnic group numbering only about 5,000 on the Guahira peninsula. The latter group was somewhat more socially developed, and the majority of them were bilingual, whereas the former group spoke only indigenous languages.

568. Referring to article 2, paragraph 2, of the Convention, the representative explained that indigenous inhabitants lived largely on a subsistence economy, practising fishing, rudimentary agriculture and handicrafts. They did in fact have title to the ownership of their land, since the Agrarian Reform Act of 1960 had established the principle that the land should belong to those who cultivated it. In the forest zones, which were very remote and where there was little economic activity, there were very few cases of any indigenous inhabitants who did not enjoy the right of land ownership. The representative also stated that virtually all the population of Venezuela spoke Spanish and only a handful spoke only their indigenous language. The Agrarian Reform Act and the intercultural bilingual education system had both been established in accordance with article 77 of the Constitution. It had been decided to initiate that system on an experimental basis with only a certain number of ethnic groups, with a view to extending it eventually to cover all groups. The gradual incorporation of indigenous communities in the life of the nation did not imply assimilation, but rather was intended to ensure that the indigenous population enjoyed the rights provided for them under Venezuelan law. That process of incorporation involved the Ministries of Education, Health and Justice, and was applied through various institutions concerned with regional development. He said that social and economic differentiation was to a large extent related to the external debt problem, which was inherent in the North-South dialogue.

569. Concerning the tapping of natural resources in indigenous areas, the representative stated that two main areas were affected, both of them on the shores of the river Orinoco but neither situated in places where indigenous groups were living. The same was true for hydro-electric production at the Guri dam. There was no other major industrial site which could be detrimental to Indians.

570. With reference to article 3 of the Convention, the representative explained that there was an

embargo on the export of Venezuelan oil to South Africa implemented through a system of export licences which were granted only for deliveries to certain ports.

571. In connection with article 5 of the Convention, the representative stated that legal aid was available to the indigenous inhabitants of Venezuela, that the prerequisite of being able to read and write in order to participate in elections referred to the Spanish language, since 99 per cent of the population spoke Spanish, that every citizen had the right to freedom of movement in all areas of Venezuela and that the main intent of the second sentence of article 65 of the Constitution was to convey that, while freedom to practice religion was assured, Venezuela was fundamentally a secular State. He added that Venezuela's immigration policy was very liberal in that there were no special regulations governing the entry to Venezuela of Indians or members of other ethnic groups, and that an immigrant, once admitted, was entitled to enjoy the same rights as native born citizens.

572. Regarding article 6 of the Convention, the representative referred to information provided in the report and stated that the Department of Public Prosecution had a considerable number of legal experts at its disposal who ex officio protected the everyday rights of the ordinary man. Advisers were elected and the Department of Public Prosecution had an autonomous budget.

573. With reference to article 7 of the Convention, the representative stated that there was a three-year primary-school programme in Venezuela which provided teaching in civics and morals and was aimed at promoting tolerance.

574. He added that he would transmit to his Government the Committee's suggestion that Venezuela should consider making the optional declaration provided under article 14 of the Convention.



## CERD A/44/18

83. The Committee considered the ninth periodic report of Venezuela (CERD/C/149/Add.18) at its 834<sup>th</sup> and 835<sup>th</sup> meetings, held on 9 August 1989 (CERD/C/SR.834 and 835).

84. The report was introduced by the representative of the State party, who said that Venezuela's regular compliance with reporting obligations had reflected a serious view of its responsibilities and its clear commitment to equality and fundamental freedoms for all individuals. Racial discrimination, he emphasized, did not exist in Venezuela and was totally alien to Venezuelans, who were egalitarian by nature and abhorred all forms of discrimination. Venezuelans were proud of their mixed racial origins and did not practice any form of racial discrimination, hence articles 2, paragraph 1 (a), (b), (c) and (d), 5 and 7 of the Convention were not applicable to Venezuela.

85. The representative gave a description of Venezuela's legal system and relevant legislation safeguarding respect for constitutional rights and providing the guarantees for their realization. He also provided further information on Venezuela's policy towards its indigenous populations, pointing out that members of the indigenous communities were full Venezuelan citizens with all ensuing rights and the policy had been designed to integrate them fully into national life.

86. He considered that the Committee's annual report to the General Assembly (A/40/18) reflected in paragraphs 561, 564 and 566 issues that were totally unrelated to the Convention's fundamental objective or contained requests for more information than was required under article 9 of the Convention. In that connection the representative stated that the Government of Venezuela did not believe that a sovereign State could be subjected to questioning about the implementation of its domestic legislation in respect of rights and obligations relating to its citizens or to aliens.

87. Members of the Committee commended the formal presentation of the report and the introduction by the representative of the reporting State, who had clarified a number of issues and provided a very broad basis for discussion and reflection not only on the information contained in the report but indeed on the role and aims of the Committee itself. In relation with the latter issue members were of the opinion that it was clear that a fundamental difference of opinion existed between the Committee and the Government of Venezuela. Accordingly, they gave further clarifications of the Committee's methods of work, the nature of State party obligations under the Convention and the reporting obligations of States parties in general, and those of Venezuela in particular.

88. Members commented at length upon two assertions in the report according to which there was no racial discrimination in Venezuela, and that Venezuela had ratified the Convention out of solidarity with other States (para. 8 of the report).

89. Concerning the application of articles 2 and 5 of the Convention, members congratulated Venezuela on its policy towards indigenous populations and formulated a number of questions on that subject. They wished to know, *inter alia*, what had become of the 19 groups that had not participated in the bilingual programme; whether the Venezuelan Government was aware that other Latin American countries had recently abolished a language examination in Spanish as a requirement for registration as an elector in order to comply with article 5 (c) of the Convention;

how many indigenous people had participated in the decisions referred to in paragraphs 24 and 25 of the report; and how many indigenous people were involved in the National Agrarian Institute. They expressed the hope that Venezuela's next report would provide more information about the right of indigenous people to vote and to stand for election, and about the number of indigenous Venezuelans who became office-holders.

90. With reference to article 3 of the Convention, members congratulated Venezuela on its position regarding apartheid in South Africa.

91. With regard to article 4 of the Convention, it was noted that there was no progress or change in Venezuela's position. Venezuelan law still did not recognize acts of racial discrimination as offences punishable by law and consequently the conclusion could be drawn that Venezuela had not complied with article 4 of the Convention. It was pointed out that, even if, as stated by the Government, no racial discrimination existed in Venezuela, that did not absolve Venezuela from complying with the compulsory provisions of article 4 of the Convention, under which a State's domestic law must include provisions to punish racial discrimination in the event of its occurrence. In this connection, members of the Committee, without detracting from the importance of the need to comply with article 4 of the Convention, pointed out that Venezuela was not the only country that had problems with this article, and that the Committee had made these comments to many other States parties. It was also mandatory for Venezuela to submit a report showing that it was complying with articles 2 to 7 of the Convention. In addition, it was asked which judicial organs were competent to deal with cases of racial discrimination.

92. As far as article 14 of the Convention was concerned, members wished to know whether Venezuela had been preparing to make a declaration under that article, recognizing the competence of the Committee to receive and consider communications from individuals or groups of individuals claiming to be victims of a violation of their rights, and whether the Venezuelan authorities had received a petition submitted to them by a particular indigenous group, and if any action had been taken in connection with it.

93. The representative of the reporting State, in his reply to questions raised and observations made by the Committee's members, stated that the indication that Venezuela had acceded to the Convention out of international solidarity should be understood in a broader context, namely, that this statement had been made in order to reaffirm the existing legal position on racial discrimination. In that regard, he drew attention to the last paragraph of the report, which stated that the undertaking entered into by Venezuela under the Convention must be construed as confirming its repudiation of racial discrimination and apartheid and as an expression of support for peoples struggling against those social evils. One of the reasons, he pointed out, why Venezuela had acceded to the Convention was its desire to express its solidarity with those peoples.

94. The representative emphasized that the Venezuelan Government was well aware that it had to provide the Committee with information and would continue to do so. However, if the Government felt that some questions raised during meetings of the Committee went beyond the requirements of article 9 of the Convention, they would remain unanswered.

95. In reply to the questions concerning indigenous communities, he said that all Venezuelans,

whether indigenous or not, enjoyed the same rights and privileges. If the Venezuelan State had taken certain measures to protect some population groups, that was motivated by its belief that it had to give them special protection.

96. With regard to the application of article 4 of the Convention, he said that no time-limit had been fixed for the obligation provided for in article 4 (a). In that connection, he pointed out that the Venezuelan executive branch of government had indicated to the legislative branch that the Penal Code, which was being revised, ought to include provisions that would satisfy the requirements of article 4 (a) of the Convention.

97. The representative said that he had taken note of the Committee's statement to the effect that Venezuela had not honoured its obligations under article 4 of the Convention, since that was a serious allegation, which he would bring to the notice of his Government.

98. In reply to the questions concerning article 5 of the Convention, the representative of the State party stressed that the rights mentioned in that article were, among others, protected in Venezuela not only by the Constitution but also by all the legal mechanisms, such as amparo, which had been introduced to ensure that the rights of citizens were respected. Those rights were exercised without any racial or other form of discrimination. In that context, referring to the situation of indigenous populations, he indicated that, in paragraph 13 of the report, it was more a question of the "gradual integration" of the indigenous communities; the Venezuelan Government was endeavouring to reconcile the need to integrate those communities in national life with the need to protect their traditional way of life.

99. As for article 14 of the Convention, the representative stated that, in Venezuela, citizens had all the legal machinery necessary to make use of their rights and constitutional guarantees against abuse of authority or any other infraction. The right of amparo also existed, and Venezuela did not therefore consider it necessary to make such a declaration. With reference to the petition that had been mentioned, he said that the letter in question did not concern a matter of racial discrimination; it dealt with a violation committed by a land-owner that was not necessarily motivated by racial prejudice.

## **CERD A/51/18**

460. The Committee considered the tenth, eleventh, twelfth and thirteenth periodic reports of Venezuela (CERD/C/263/Add.8/Rev.1) at its 1169<sup>th</sup>, 1170<sup>th</sup> and 1172<sup>nd</sup> meetings (see CERD/C/SR.1169, 1170 and 1172) held on 13, 14 and 15 August 1996 and, at its 1181<sup>st</sup> meeting, held on 21 August 1996, adopted the following concluding observations.

### **A. Introduction**

461. The Committee commends the State Party on its willingness and readiness to maintain a dialogue with the Committee through submission of its report and expresses its appreciation to the State Party's delegation for the wealth of additional information that it provided to the Committee orally. It also notes with satisfaction the submission of the core document of Venezuela (HRI/CORE/1/Add.3). The Committee regrets, however, that the submission of the tenth, eleventh, twelfth and thirteenth periodic reports was not timely and that the report under consideration combines the tenth to thirteenth reports and covers almost a 10-year period.

462. It is noted that the State Party has not made the declaration provided for in article 14 of the Convention; some members of the Committee requested that the possibility of making such a declaration be considered.

### **B. Factors and difficulties impeding the application of the Convention**

463. It is noted that Venezuela is undergoing an economic recession after a period of strong economic development in the 1980s, and that this may have a negative impact on the effective implementation of the Convention, especially with regard to the indigenous population and immigrants from neighbouring countries of the Andean region for which Venezuela, with its much more prosperous economy, has represented a pole of attraction during the past three decades.

### **C. Positive aspects**

464. The notable efforts made by the State Party to establish a comprehensive legal framework that provides for pluralism and tolerance in community life, based on the principles embodied in the Constitution, and provisions contained in the Convention in particular, are noted with satisfaction.

465. At the institutional level, the establishment of various organs, especially an agency for national indigenous policy, which has the title of the Office of Indigenous Affairs of the Ministry of Education, is welcomed.

466. The plan for intercultural bilingual education, contained in Presidential Decree No. 283, which aims to promote active participation by the indigenous communities in the various fields of activities within Venezuelan society and to encourage full and comprehensive knowledge of the culture of existing ethnic groups among the rest of Venezuelan society, is noted with interest.

467. Satisfaction is expressed concerning the intention of the State Party to ratify International Labour Organization Convention No. 169 on the rights of indigenous peoples, which is now being

considered by the national Parliament.

D. Principal subjects of concern

468. The non-compliance by the State Party with its obligations under article 4 of the Convention is a matter of serious concern, as is the fact that the State Party has not provided sufficient information on the implementation of the provisions contained in that article, which call for the adoption of specific legislation.

469. Doubts were expressed whether victims of racial discrimination have effective remedies at their disposal for seeking just and adequate reparation from the competent tribunals. It was noted, in particular, that Venezuela's legal system does not include any provisions for compensation of victims of racial discrimination, most of whom belong to various indigenous groups.

470. It was regretted that the report contains insufficient information on the practice with respect to the implementation of provisions of article 5 of the Convention dealing with economic, social and cultural rights, especially with respect to the enjoyment of those rights by the indigenous peoples.

471. Concern was expressed about the insufficient measures to ensure bilingual education of indigenous peoples and to prevent the destruction of their cultural heritage.

472. Concern is expressed that in practice there are separate prison facilities for persons of the indigenous population.

E. Suggestions and recommendations

473. The Committee strongly recommends that the necessary measures be taken to bring domestic legislation into full compliance with the provisions of article 4 of the Convention.

474. It further recommends that particular attention be given to the effective implementation of article 5 (e) and that relevant information be provided in the next periodic report on the measures taken in this regard, particularly as far as the indigenous population and migrant workers are concerned.

475. Further efforts should be made to strengthen the system of bilingual education in order to cover the whole of the indigenous population, 40 per cent of which remains illiterate, and to prevent the destruction of the indigenous cultural heritage.

476. The Committee recommends that appropriate measures be taken to provide health-care services for indigenous communities, particularly those located in remote regions of the country.

477. The Committee recommends that the State Party provide additional information on the reasons for maintaining the system of separate prison facilities for members of the indigenous population and welcomes the fact that the State Party has indicated that increased public expenditure on prisons, to alleviate overcrowding and resulting problems, has been given priority.

478. The Committee also recommends that the State Party, in its fourteenth periodic report, provide more detailed information on the system of human rights organs functioning in the country, on their respective mandates and on how those organs interact and coordinate their activities. Information on the extent to which the Government cooperates with non-governmental organizations in achieving the goals set out in the Convention would be most welcome.

479. The Committee would appreciate receiving information from the State Party on the implementation of the Agrarian Reform Law and how it has promoted distribution of land among indigenous populations.

480. Information on racially motivated violence against indigenous people following conflicts over land and extrajudicial execution of members of indigenous populations would be highly welcome.

481. The Committee also recommends that the State Party include in its next periodic report information on any complaints of racial or ethnic discrimination, in all its forms, and on judicial action subsequently taken.

482. The Committee suggests that the State Party ensure the wide dissemination of the text of the Convention, as well as of the report, the summary records and the present concluding observations in Spanish and in indigenous languages.

483. The Committee recommends that the State Party ratify at its earliest convenience the amendments to article 8, paragraph 6, of the Convention, adopted by the 14<sup>th</sup> meeting of States Parties.

484. The Committee draws the State Party's attention to the reporting periodicity as determined by the Committee. It strongly recommends that the Government of Venezuela comply fully with its obligations under article 9 of the Convention and that the fourteenth report, which was due on 5 January 1996, be an updating report.