



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

Distr.
GENERAL

CERD/C/65/CO/1
10 December 2004

Original: ENGLISH

COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION

Sixty-fifth session
2 - 20 August 2004

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

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

ARGENTINA

1. The Committee considered the sixteenth to eighteenth periodic reports of Argentina, which were due on 4 January 2000, 2002 and 2004, respectively, submitted as one document (CERD/C/476/Add.2), at its 1656th and 1657th meetings (CERD/C/SR.1656 and 1657), held on 10 and 11 August 2004. At its 1668th meeting (CERD/C/SR.1668), held on 18 August 2004, it adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the report submitted in a timely fashion by the State party and the additional oral and written information provided by the delegation.

3. The Committee acknowledges the difficult economic situation recently experienced by the State party.

4. While the Committee welcomes the efforts made by the State party to comply with the Committee's guidelines for the preparation of reports, it notes that the report has not addressed some of the concerns and recommendations raised in the Committee's previous concluding observations.

B. Positive aspects

5. The Committee welcomes the entry into force of Immigration Law No. 25871 in January 2004, which replaces the former Immigration Law No. 22439, and provides, *inter alia*, for the following:

- (a) The right to migrate as an essential and inalienable right;
- (b) Migrants' access to basic rights such as education and health irrespective of their migration status;
- (c) That migrants may only be expelled pursuant to a judicial order; and
- (d) The criminalization of trafficking in human beings.

6. The Committee welcomes the ongoing efforts made by the State party to elaborate a national plan against discrimination, xenophobia and other forms of intolerance, with the support of UNDP and OHCHR, as a follow-up to the Durban Declaration and Programme of Action, and in particular welcomes the highly participatory process in which the plan is being developed.

7. The Committee also welcomes the State party's recent signature of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the assurances given by the State party's representative that ratification is envisaged.

C. Concerns and recommendations

8. The Committee is concerned about the absence of statistical data on the demographic composition of the population in the State party's report. The Committee recalls that such information is necessary for an assessment of the implementation of the Convention as well as for the monitoring of policies in favour of minorities and indigenous peoples.

The Committee requests the State party to publish the results of the 2001 census, which, inter alia, took into account information on indigenous peoples, and complete the complementary 2003 survey on indigenous peoples as soon as possible. Furthermore, in the light of paragraph 8 of the reporting guidelines and general recommendations IV and XXIV, the Committee recommends that the State party include in its next periodic report information on the demographic composition of the population, including information on indigenous peoples and minorities, such as Afro-Argentines and Roma.

9. The Committee regrets the lack of adequate information in the State party's report on complaints regarding acts of racial discrimination and the corresponding legal action taken by, and on behalf of, victims, including alleged complaints of violent racist attacks and acts of police brutality committed on racial grounds.

The Committee requests the State party to include in its next periodic report disaggregated statistical information on investigations and prosecutions launched and penalties imposed in cases of offences which relate to racial discrimination and where the relevant provisions of the existing domestic legislation have been applied, including violent racist attacks and alleged offences committed by law enforcement personnel. In this regard, the Committee recalls its general recommendation XIII on the training of law enforcement officials in the protection of human rights and encourages the

State party to improve the training of law enforcement officials so that the standards of the Convention are fully implemented.

10. While encouraged by the fact that the National Institute against Discrimination (INADI) was recognized as an autonomous body in 2002, the Committee notes with concern that its funding has been severely reduced.

The Committee recommends that the State party take adequate measures to strengthen the functioning of INADI, to reinforce its effectiveness in monitoring all tendencies that may give rise to racist and xenophobic behaviour and to combat all forms of racial discrimination and investigate complaints in this regard.

11. While the Committee welcomes the new Immigration Law No. 25871, it takes note that enacting measures still need to be adopted.

The Committee calls upon the State party to enact measures to implement the law without delay, taking full account of the principle of non-discrimination. The Committee furthermore recommends that the State party conduct a public information and awareness-raising campaign and provide training courses for all governmental authorities at the national, provincial and municipal levels on the changes contained in the new law.

12. While the Committee welcomes the State party's efforts to elaborate a national plan against discrimination, xenophobia and other forms of intolerance, it takes note of the possible difficulties that may arise during the implementation of such a plan.

The Committee recommends that the State party foster support for the plan at the national and provincial levels, devote adequate financial resources for its fulfilment, and ensure that the plan is integrated with other mechanisms for the implementation of human rights in Argentina and translated into effective policies.

13. While taking note with satisfaction of the assurances given by the State party regarding its plan to intensify the human rights training of border and immigration officials, the Committee is concerned about reported cases of refoulement of refugees and allegedly unfair refugee status determination procedures. In this connection, the Committee observes that, while the State party generally endeavours to follow the standards of the Convention relating to the Status of Refugees, but within a more limited legislative framework, there is no comprehensive law dealing with the protection of refugees. Furthermore, the Committee takes note that no information has been provided on the existence of policies and programmes to facilitate the socio-economic integration of refugees and asylum-seekers in the State party.

The Committee calls upon the State party to increase its efforts to fully respect article 5 (b) of the Convention and the principle of non-refoulement and improve refugee protection conditions and safeguards, including

interpretation facilities, particularly at airports and other border points. It also urges the State party to ensure that new legislation is adopted that addresses eligibility for refugee status and the rights of refugees and specifies the refugee status determination procedures and rights of review. The Committee recommends that the State party provide further information in this regard in its next periodic report.

14. The Committee is disturbed by reports of trafficking of migrants, particularly migrant women exploited as sexual workers.

The Committee urges the State party to develop comprehensive policies and allocate adequate resources to prevent, investigate and punish these crimes, as well as to provide assistance and support to victims, and recommends that the State party provide further information on the vulnerable situation of migrants and indigenous women in its next periodic report.

15. The Committee is concerned about incidents of incitement to racial hatred and racist propaganda in the media, including on the Internet.

The Committee recalls that article 4 of the Convention is applicable to the phenomenon of racism in the media, including on the Internet, and that the fundamental principle of respect for human dignity requires all States to combat dissemination of racial hatred and incitement to racial hatred. It recommends that the State party take appropriate measures to combat racist propaganda in the media and that it provide in its next periodic report information on the development of the situation and measures taken in this field.

16. The Committee is concerned about the State party's failure to enact the necessary legislation to implement the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169). The Committee further notes reported difficulties in recognizing the legal personality of indigenous peoples, the inadequate protection in practice of indigenous peoples' ownership and possession of ancestral lands and the consequential impairment of indigenous peoples' ability to practise their religious beliefs.

In the light of its general recommendation XXIII, the Committee urges the State party to: fully implement ILO Convention No. 169; adopt, in consultation with indigenous peoples, a general land tenure policy and effective legal procedures to recognize indigenous peoples' titles to land and to demarcate territorial boundaries; adopt measures to safeguard indigenous rights over ancestral lands, especially sacred sites, and compensate indigenous peoples for land deprivation; ensure access to justice, as well as recognize effectively the legal personality of indigenous peoples and their communities in their traditional way of life, and respect the special importance for the culture and spiritual values of indigenous peoples of their relationship with the land.

17. The Committee remains concerned about the insufficient information provided by the State party on the representation of indigenous peoples and minorities in the civil service at the federal, provincial and municipal levels, the police, the judicial system, Congress and other public institutions.

The Committee requests the State party to include in its next periodic report detailed information on the representation of indigenous peoples and minority groups in the public administration.

18. The Committee takes note that the Coordinating Council of Argentine Indigenous Peoples envisaged by Act No. 23,302 to represent indigenous peoples in the National Institute of Indigenous Affairs has still not been established.

The Committee recalls its general recommendation XXIII on the rights of indigenous peoples, which calls upon States parties to ensure that no decisions directly relating to the rights and interests of indigenous peoples are taken without their informed consent, and urges the State party to ensure that the Council is established as soon as possible and that sufficient funds are allocated for the effective functioning of the Council and the Institute.

19. The Committee regrets that despite the State party's efforts, the right to a bilingual and intercultural education for indigenous peoples recognized by the Constitution is not fully respected in practice. It takes note with concern of allegations regarding the lack of adequate training provided to indigenous teachers and discrimination faced by them, as well as the insufficient measures to preserve indigenous languages and to include the history and culture of indigenous peoples in school curricula.

The Committee recommends that the State party adopt all necessary measures to ensure, in consultation with the indigenous communities, a bilingual and intercultural education for indigenous peoples with full respect for their cultural identity, languages, history and culture, bearing also in mind the wider importance of intercultural education for the general population. It further recommends that adequate training be provided to indigenous teachers and effective measures be adopted to combat all forms of discrimination against them. The Committee also requests the State party to provide information on the number and percentage of indigenous children taught in primary and secondary schools, including bilingual schools.

20. The Committee reiterates its concern about the State party's failure to provide information on the extent to which indigenous peoples enjoy economic, social and cultural rights, particularly in the light of the recent economic and social crisis. It also reiterates its concern at the lack of a social security system that takes into account the specific needs of indigenous peoples.

The Committee reiterates its request to the State party to include detailed information on these issues in its next periodic report, including measures

taken to ensure the effective enjoyment of economic, cultural and social rights.

21. The Committee remains concerned at the slow pace of the proceedings relating to the 1992 and 1994 attacks in Buenos Aires on the Israeli Embassy and the Argentine-Jewish Mutual Association.

The Committee recommends that, in accordance with article 6 of the Convention, these proceedings be completed by the State party as a matter of urgency so as to comply with its obligation to ensure the right to just and adequate reparation and compensation for damage suffered as a result of human rights violations.

22. The Committee notes the reiterated assurances given by the State party that it is in the process of completing the preparatory steps towards making the optional declaration provided for in article 14 of the Convention, and urges the State party to complete these steps as soon as possible with a view to making this declaration.

23. The Committee recommends that the State party consult with organizations of civil society working in the area of combating racial discrimination during the preparation of the next periodic report.

24. The Committee recommends that the reports of the State party be made public as soon as they are submitted to the Committee, and that the concluding observations of the Committee on these reports be widely publicized.

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

26. The Committee recommends that the State party submit its nineteenth and twentieth periodic report on 4 January 2008 and that the report address all points raised in the present concluding observations.
