



International Convention on the Elimination of All Forms of Racial Discrimination

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Summary record of the 1633th meeting

Held at the Palais Wilson, Geneva, on Monday, 8 March 2004, at 10 a.m.

Chairperson: Mr. Yutzis

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The meeting was called to order at 10.20 a.m.

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (agenda item 6) (continued)

Fourteenth to seventeenth periodic reports of Brazil (CERD/C/431/Add.8) (continued)

1. *At the invitation of the Chairperson, the members of the Brazilian delegation resumed their places at the Committee table.*

2. **Ms. Ribeiro** (Brazil) said that the Brazilian Institute of Geography and Statistics, the body responsible for population censuses, had made a number of changes in recent years to both the methodology and the terminology used in its census enquiries. The data was now collected through self-identification of the persons questioned, and the method of classifying coloured people had been modified by grouping black, brown and mixed race persons in a single category, that of “blacks”. The four categories currently recognized were thus blacks, whites, Asians and indigenous persons. In the 1991 census 45.2 percent of the population declared itself to be black or of mixed race, while the proportion had risen to 46.1 percent in 2001. The increase undoubtedly reflected a greater awareness among the population of belonging to a racial group.

3. The Brazilian Government was conscious of the very close links that existed between race and poverty. Extreme poverty was much more frequent in Brazil among the black population, black women being subject to much greater social exclusion than black males.

4. Racism in Brazil was a structural phenomenon directly inherited from slavery. Convinced that the exercise of social democracy was the surest means of eliminating racial prejudice, the Brazilian authorities had decided to set up in 2003 the Special Secretariat for the promotion of racial equality. It was responsible for formulating appropriate policies to combat racism and for ensuring, in accordance with the principle of transversality, that racial questions were duly incorporated in all government policies, particularly in the key areas of education, health, agricultural development and social welfare. In addition, a number of conferences on racism were due to take place in 2004 in the States of the Brazilian Federation, in preparation for the National Conference for the Promotion of Racial Equality scheduled to take place in 2005. The aim of the event was to strengthen national awareness of the evils of racism.

5. With regard to the measures taken to punish racist acts committed by law enforcement officials, a forthcoming national social security fund would be responsible for ensuring that the security measures taken by the States and municipalities were in accordance with the relevant federal policies. Enquiries into racist offences by law enforcement officials were independent and posts of ombudsman had been established within the police force to combat racism. Major human rights training programmes were also organized for members of the police force and the army.

6. To combat hunger and poverty, the President of the Republic had launched the “Zero Hunger” programme, which included emergency measures and structural actions in the short, medium and long term in the country’s poorest municipalities. The programme reflected the recognition that access to adequate food was an inalienable right and that the State had a duty to ensure that the conditions existed to enable the Brazilian population to exercise that right in practice. The programme concerned 9.3 million poor families, i.e. 44 million people earning less than one dollar a day. The “Zero Hunger” programme relied on effective coordination of all the sectoral bodies at the federal, state and municipal level and was essentially aimed at the indigenous population and the quilombos, i.e. communities of the descendants of runaway slaves. It was designed in particular to record all members of

the quilombos in the civil registry to ensure that their rights were exercised. Brazil had a very large number of inhabitants not recorded in the civil registry: each year some 650,000 newborn children were not declared to the civil authorities.

7. Concerning the illiterate population, the representative of Brazil said that her country had some 20 million illiterates, most of whom were young and adult blacks or indigenous people. To address the problem, the Government had launched an intensive literacy campaign in 2003, which would involve 4 million people in 2005 and 5 million in 2006.

8. In the case of the quilombo communities, the Brazilian State had been committed since 1988 to recognizing their land ownership rights and land rights. A decree had been adopted in 2003 guaranteeing protection of the groups concerned. There were estimated to be over 700 quilombo communities established in Brazilian territory, of which 29 already had inalienable land tenure. A special quilombo development programme had been adopted, including house building, electrical energy networks and sanitary facilities

9. Ms. Ribeiro said that the regulation of education at all levels was a federal responsibility. A specific education programme had been devised for the members of indigenous communities, with the emphasis on intercultural and bilingual training. There had been major investment in the training of indigenous teachers and the production of teaching materials in the language of the communities concerned. In 2003 a law had been adopted which made the teaching of African history compulsory at all educational levels.

10. **Mr. Martins** (Brazil) pointed out that article 5 of the Brazilian Constitution of 1988 provided that the rights and safeguards it proclaimed did not exclude those deriving from international instruments to which Brazil was a party. Brazil had adopted a “monistic” approach to law, whereby duly ratified international instruments took precedence over domestic law.

11. Under criminal law, the current legal system expressly punished offences committed on the basis of the victim’s race or colour. Under civil law, groups claiming to have suffered moral damage could seek redress and institute proceedings by filing a collective complaint. Institutionalized discrimination had been absent from Brazilian society since the founding of the Republic, but it had proved necessary to take measures against non-institutionalized racism. The legislator had therefore made provision for aggravating circumstances in cases of injurious behaviour where a person’s dignity had been offended or where reference had been made to the individual’s race, colour, origin, ethnic origin or religion.

12. However, improvements could still be made to the provisions relating to the offence of injurious behaviour since it was currently only punishable if it had been the subject of a complaint by the victim within six months of the date on which it had been committed. Many such offences therefore remained unpunished in the absence of a complaint, which weakened the legislative stipulation that such offences were not subject to limitations. An improvement could also be made to the Criminal Code inasmuch as racism did not currently figure among the aggravating circumstances that could be invoked in the case of homicide or grievous harm. The racial equality statute currently being drafted would remedy those shortcomings.

13. Since 1997, there was also a law providing for 2 to 5 years’ imprisonment plus a fine for the production, marketing, distribution or dissemination, including on the Internet, of emblems, ornaments, symbols or distinctive signs that use the swastika for the purposes of advocating Nazism.

14. Finally, while it was true that paragraph 2 (b) of article 12 of the Constitution made extraordinary naturalization conditional upon 15 years’ residence in the country, the period

was reduced in some circumstances to 4 years for ordinary naturalization and one year in the case of marriage to a Brazilian citizen or if the applicant was the father or mother of a Brazilian child.

15. **Mr. Valadares** (Brazil) said that the “positive or fair discrimination” mentioned by the delegation referred in fact to time-bound measures designed to correct the historical distortions that had prevented the realization of justice and equality between all sectors of the Brazilian population and that the measures in question, essentially supportive of women, indigenous people and those of African origin, corresponded to the special measures defined in paragraph 4 of article 1 of the Convention.

16. Concerning the indigenous population, he pointed out that many of the provisions in the 1988 Constitution testified to the determination of its authors to recognize the social organization, customs, languages, beliefs and traditions of the indigenous communities in Brazil. He added that statistics revealed that, around 1500, with the arrival of the Portuguese, the indigenous population stood at 4 or 5 million. According to estimates by the Indian Protection Service, it represented no more than 100,000 or 120,000 in 1955. Fortunately, since then, the demographic trend had been reversed within the indigenous population, which was currently put at between 400,000 and 700,000.

17. The policy aimed at safeguarding the rights of indigenous peoples was currently focused on five main areas, namely territory, demography, right to education, right to health and ethno-development. The most important was undoubtedly that of territory. In that respect, the policy implemented by Brazil was unique since it was planned that one million square kilometres located in Amazonia and throughout Brazil, out of a total territory of 8.5 million square kilometres, would be permanently considered indigenous lands by 2007. The process was a complex one since it affected over 400,000 persons belonging to 220 different peoples and speaking some 100 different languages. Moreover, the process came up against the interests of certain sectors of the Brazilian economy, including agriculture, mining and forestry, which exercised considerable influence on political circles. However, the policy of the current Brazilian Government designed to protect the rights of indigenous peoples enjoyed the support of the immense majority of the country's population.

18. He recognized that, although more than a century had passed since the abolition of slavery in Brazil in 1888, some rural workers employed in the large agricultural enterprises, or “fazendas”, were subject to modern forms of slavery. According to the Pastoral Land Commission, 25,000 persons were currently in that situation. It is for that reason that the Government of Lula da Silva had launched a National Plan for the eradication of slavery, a target that it intended to meet before the end of its term of office in 2006. It was accordingly engaged in improving the administrative structure of the Office of the Federal Prosecutor-General and the Ministry of Labour, combating impunity and promoting awareness among the public authorities and civil society of the seriousness of the issue.

19. From the legislative standpoint, article 149 of the Criminal Code provided for between two and eight years' imprisonment for anyone subjecting another person to conditions amounting to slavery, and the Congress was currently examining a bill under which the employment of workers in conditions of slavery would be an “imprescriptible offence”. Following the murder in January 2004 of three labour inspectors in rural areas, a new bill was under examination providing for the expropriation of land on which agricultural workers were subject to conditions amounting to slavery. In 2003, the Government had secured the liberation of some 5400 bonded workers - more than over the whole of the period from 1994 to 2002 - testifying to the high priority that it gave to the question.

20. Campaigns were underway to register births and deaths and measures had been taken to ensure that the poor had free access to the services of the civil registry, which helped Gypsies in particular.

21. Under article 208 of the Constitution, the State was under an obligation to establish free compulsory basic education for the population as a whole, from which the Gypsy population must benefit. In that connection, one of the claims made by the Gypsy community in Brazil in preparation for the World Conference against Racism held in Durban in 2001 was the right of their children to attend a succession of schools during the same academic year, a claim that the Government had tried to meet by prescribing measures at the national and local level.

22. **Mr. Aboul-Nasr** welcomed the frankness with which the State party had set out the problems confronting it, in particular the fact that it had openly recognized the existence in the country of contemporary forms of racism, which represented a precedent in the history of the Committee. He would appreciate more information on the consequences that the eradication of that evil might have, in the view of the competent authorities, on the economic and social situation of the populations concerned, including the child population. He would also appreciate more information on the geographical situation and quality of the lands allocated to the indigenous population, in particular whether they were situated outside the Amazonian region and if they were therefore easily exploitable.

23. **Mr. Boyd** raised the question of the direct incorporation of the provisions of the Convention in domestic law and wished in particular to know how the State party managed to reconcile the provisions of article 4 of the Convention with the principle of freedom of expression, association and thought, pillars of the culture of human rights and democratic societies. He wondered whether the State party's provisions reflecting the requirements of article 4 were compatible with attainment of the objectives of creating a more just society for all - one that punished and condemned any act of racism, racial discrimination and xenophobia without infringing the freedom of expression. He thought he could discern from the information provided in the report (paras. 68 to 80) on the implementation of article 4 that the State party tended in general to deal more severely with persons employing language inciting to racist behaviour than with those expressing and disseminating racist remarks, and he asked the delegation to confirm or repudiate that perception.

24. **Mr. de Gouttes** appreciated the frankness with which the Brazilian delegation had recognized the problems and shortcomings of his country. With regard to the demographic data provided by race and ethnic group, he noted that the State party had adopted the criterion of self-definition, that is to say it allowed the persons questioned to define themselves on the basis of belonging to a race or ethnic group. He noted in paragraph 222 of the periodic report that a private polling institute called "Vox Populi" had been invited to organize the data it presented by racial category and asked the delegation whether there was not a risk in allowing private entities to carry out demographic studies based on racial criteria.

25. **Mr. Avtonomov** was surprised at the major discrepancies between the information provided by the National Indian Foundation (FUNAI) and that assembled by the Brazilian Institute of Geography and Statistics and called on the State party to provide more accurate statistics in its next report. He also asked whether there was a specific plan to reconcile Brazil's needs in terms of development and the use of natural resources with the interests of the Indian tribes.

26. **Mr. Amir** welcomed the wide range of laws adopted in support of indigenous peoples but wished to know if they had been followed up with implementing decrees and whether they had been matched by financial resources.

27. **Mr. Calitzay** noted that, having been decimated for centuries, the indigenous tribes were expanding rapidly thanks to measures taken by the Brazilian authorities to support them. However, some things continued to concern the Committee, including the activities of large firms on the tribes' ancestral lands and, in particular, the use of GMO (genetically modified organism) seeds. He would like Brazil to provide detailed information in that regard in its next report.

28. **Mr. Valadares** (Brazil) said that, as the delegation did not have sufficient time to reply to the last questions of members of the Committee, Brazil would do so in its next report. It wished however to respond to a few points. The reason why Brazil had adopted the criterion of self-definition was because Brazilians defined themselves with pride as an extremely mixed-race population, characterized by over 100 skin colours. The Brazilian Government had authorized the "Vox Populi" Institute to present statistical studies by racial category on an experimental basis and solely under its control so to avoid any distortion in the exploitation of the data. With regard to the lands of the ancestral tribes, the most extensive were situated in Amazonia and in the south of the country. Contrary to some claims, the lands in question were very valuable, which explained the conflicts between the indigenous peoples and the rest of the population. In any case, the land demarcation process was conducted with maximum transparency and great concern for equity.

29. **Ms. Ribeiro** (Brazil) thanked members of the Committee for their spirit of cooperation and for the great interest shown in her country. She stressed that Brazil was living through a critical moment in its history since great prospects were opening up in the direction of social progress and democratization. For the first time, the black and Indian communities had the opportunity to make their voices heard and to participate directly in public affairs.

30. **Mr. Thornberry** (Rapporteur for Brazil) welcomed the detailed and frank way in which the Brazilian delegation had replied to the questions posed by members of the Committee. Brazil's readiness to engage in self-criticism had made for a better understanding of the nature and scope of the problems encountered by the State party. Mr. Thornberry urged the Brazilian authorities to continue to place the individual at the centre of their economic and social development efforts.

31. *The Brazilian delegation withdrew.*

The meeting rose at 1.15 p.m.