

INTERNATIONAL
CONVENTION
ON THE ELIMINATION
OF ALL FORMS OF
RACIAL DISCRIMINATION



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COMMITTEE ON THE ELIMINATION OF
RACIAL DISCRIMINATION
Second Session

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

Note by the Secretary-General

Addendum

The Secretary-General has received the following report from the Permanent Mission of Argentina to the United Nations in reply to the communication (CERD/C/R.12) of the Committee on the Elimination of Racial Discrimination under article 9 of the Convention sent by the Secretary-General on 27 February 1970. The initial report of the Government of Argentina dated 30 December 1969 is contained in CERD/C/R.3/Add.1.

ARGENTINA

27 April 1970

Since its birth as a free, sovereign Nation, no problem has ever arisen in the Argentine Republic regarding the exercise of any of the human rights proclaimed by the United Nations [Declaration] on 10 December 1948, including that relating to all forms of racial discrimination.

On 2 February 1813 the Constituent Assembly proclaimed the "freedom of wombs"; this freedom derives from an explicit concept of social equality, namely, that nature "has created no slaves, only men". It was laid down at that time that "children who are born anywhere in the territory of the United Provinces of Río de la Plata" and "all children born in any other territory on or after 31 January 1813" would be free, "under the rules and provisions which the

Constituent General Assembly shall enact to that effect". Slavery for children born of slave parents was thereby abolished.

As regards the Indians, tributes had already been abolished in 1811, but the 1813 Assembly extended the measure by abolishing

"mita,^{1/} encomiendas,^{2/} yanacozgo^{3/} and all forms of personal service for Indians, not excepting even the service they render to churches and their priests or ministers, it being the will of this Sovereign Body that the said Indians shall be held and deemed to be absolutely free men throughout the United Provinces, and equal in rights to all other citizens who reside therein".

A large number of the country's inhabitants thereby achieved emancipation, as mita and yanacozgo had meant in practice that Indians were enslaved.

The aims of the revolutionary movement of 25 May 1810 were not only to liberate the Argentine Republic from the rule of Fernando VII and to replace State officials by men born in the country: it sought to bring dignity to human existence and to regenerate it by introducing equality in social life.

This seed of freedom and equality before the law has ever since borne fruit in the entire legal system of the Argentina Republic; it represents our best historical tradition, which is Christian and profoundly humanist.

The Constitution of the Argentine Republic, as adopted on 1 May 1853 and revised in 1860, 1866, 1898 and 1957, guarantees the benefits of freedom "to all men everywhere who wish to live on Argentine soil". Article 15 of the Constitution provides that:

"In the Argentine nation there are no slaves; the few that exist today are free with effect from the promulgation of this Constitution; and a special law shall regulate whatever indemnifications this declaration may give rise to. Any contract for the purchase or sale of persons is a crime for which those committing it and the notary or officer authorizing it shall be responsible. And slaves, whatever the manner in which they shall be introduced, shall be free by the mere fact of setting foot on the territory of the Republic."

1/ Translator's note: A forced-labour draft.

2/ Translator's note: Estates granted to colonists or adventurers for purposes of tribute and evangelization.

3/ Translator's note: Serfdom of Indians on estates.

Article 14 further provides that:

"All inhabitants of the Nation shall enjoy the following rights, in accordance with the laws which regulate the exercise thereof: the right to work and to pursue any lawful occupation; to travel and to trade; to petition the authorities; to enter, reside in, travel through and leave Argentine territory; to publish their ideas in the Press without prior censorship; to utilize and dispose of their property; to form associations for useful purposes; to profess their religion freely; to teach and to learn."

The constitutional amendments of 1957 added to article 14 an important section on social rights which has no parallel in the constitutional law of the time.

The text of article 16 is so important that it must be quoted:

"The Argentine nation does not recognize prerogatives of blood or birth: there are no personal privileges, or titles of nobility. All its inhabitants are equal before the law and eligible for employment on the sole condition that they are fitted for it. Equality is the basis of taxation and of public responsibility."

The human rights set out and proclaimed in the United Nations Declaration of Human Rights of 1948 form part of the Fundamental Law of the Nation, articles 14-20 of which extend them to all men from any part of the world who live in the Argentine Republic, without any distinction of race, colour or beliefs.

Our declaration of rights and guarantees, whose sources included institutions elsewhere, political science and the influence of the French Revolution, is perhaps the most comprehensive in existence; its clear and precise provisions are in keeping with our national customs and character and represent one of the world's most comprehensive and generous codes on the subject of legal enjoyment of rights without personal discrimination.

Finally, we should like to show that few constitutions contain so excellent a definition of personal freedom as the Argentine Constitution of 1853. Article 19 deserves permanent record:

"The private actions of men which in no way offend public policy or injure another person shall be judged by God alone and shall be exempt from the authority of magistrates. No inhabitant of the Nation shall be obliged to do that which the law does not require, or deprived of that which it does not prohibit."

In the Argentine Republic, therefore, natives and aliens alike enjoy full rights, including political rights, which, in the case of aliens who acquire citizenship, entitles them to elect and to be elected to any office except the Presidency and Vice-Presidency of the Nation.

/...

The compendium of the rulings of our national and provincial courts constitute a corpus of law which consistently upholds the human rights set out in the National Constitution and in the legislation enacted in pursuance of its provisions.

We may draw attention to two legislative developments:

1. The Argentine Republic has complied fully with article 9 of the Declaration on the Elimination of All Forms of Racial Discrimination of 20 November 1963 through a partial amendment of the Criminal Code, which involved the addition to the Code of a new article 213 bis, as provided by Act No. 16648, approved on 30 October 1964; the new article makes the following persons liable to imprisonment for from one month to three years:

"2. Any person who participates in organizations or conducts propaganda based on ideas or theories of the superiority of one race or one group of persons of a particular religion, ethnic origin or colour which are designed to justify or promote religious or racial discrimination in any form.

"3. Any person who incites others to violence by incitation alone, or commits acts of violence, either individually or as a member of an organization, against any race or group of persons of another religion, ethnic origin or colour."

The amendments made to the Criminal Code by Act No. 17567 repealed this article, but the concept of death brought about by "racial hatred" has been specifically incorporated as one of the factors aggravating homicide into article 80, which reads:

"Without prejudice to the application of article 52, persons who kill: ... for reasons of self-gratification, envy, or racial or religious hatred shall be liable to rigorous life imprisonment or life imprisonment."

The manner in which this offence is defined is in line with the best judicial practice and its inclusion as aggravated homicide in the chapter "Offences against life" follows the precedent set by the German draft Code of 1958 and the Convention on Genocide.

None of this affects the penalties which may be imposed under article 209 on persons who "openly incite [others] to commit offences, or to practice collective violence against particular groups of people or institutions"; as the statement of reasons which accompanies the draft Act in question indicates, incitement to collective violence against groups of people (on such grounds as race, religion, occupation or nationality) is placed on the same footing as incitement to violence against institutions.

2. The ratification by Legislative Decree 6286/956 of the Convention on the Prevention and Punishment of the Crime of Genocide, which was approved on 9 December 1948 by the United Nations General Assembly at its third session.

To sum up, racial discrimination in all its forms, in the sphere of political, civil, economic, social and cultural rights, and in the right of access to any place or service intended for use by the general public, is non-existent in the Argentine Republic, and the adoption of legislative, judicial or administrative measures is therefore unnecessary, a fact which we take legitimate pride in affirming in the community of the United Nations.
