



International Convention on the Elimination of All Forms of Racial Discrimination

Distr.: General
28 November 2016

Original: English

Committee on the Elimination of Racial Discrimination Ninety-first session

Summary record of the 2491st meeting

Held at the Palais Wilson, Geneva, on Wednesday, 23 November 2016, at 10 a.m.

Chair: Ms. Crickley

Contents

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

Twenty-first to twenty-third periodic reports of Argentina (continued)

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent *within one week of the date of the present document* to the English Translation Section, room E.6040, Palais des Nations, Geneva (trad_sec_eng@unog.ch).

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.16-20880 (E) 251116 281116



* 1 6 2 0 8 8 0 *

Please recycle A recycling symbol consisting of three chasing arrows forming a triangle.



The meeting was called to order at 10.05 a.m.

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

Twenty-first to twenty-third periodic reports of Argentina (continued)
(CERD/C/ARG/21-23; CERD/C/ARG/Q/21-23)

1. *At the invitation of the Chair, the delegation of Argentina took places at the Committee table.*
2. **Mr. Avruj** (Argentina) said that the Argentine authorities would take vigorous steps to remedy delays in the submission of reports and would circulate the Committee's recommendations among all branches of the Government to ensure effective follow-up.
3. The impact on the daily lives of people of African descent and indigenous communities of programmes to promote cultural pluralism, human rights training courses and legislation was assessed on both a daily and a long-term basis. Action to achieve those aims was taken jointly by the advisory and federal councils on policies concerning indigenous peoples and the National Institute of Indigenous Affairs (INAI). The Ministry of the Environment and Sustainable Development and other governmental authorities addressed issues pertaining to business enterprises and human rights, seeking to prevent and alleviate the impact of fracking and deforestation. In addition, the Belgrano Plan provided for housing, infrastructure, water supply and sanitation projects in remote and neglected communities.
4. The presence and contributions of people of African descent had admittedly been ignored for many years. However, an entirely new agenda had been launched, as demonstrated by the festivities in July 2016 in Tucumán Province to mark the bicentenary of Argentine independence, organized with the assistance of the community of African descent, whose participation in the independence movement had been recognized. The Federal Council for Human Rights had set up a Federal Committee for the community of African descent in support of the International Decade for People of African Descent.
5. Argentina was committed to an open-door policy on behalf of immigrants, who could rely on diverse forms of State assistance and support. The Government rejected and repudiated all xenophobic and racist speech. The National Institute to Combat Discrimination, Xenophobia and Racism (INADI) and the Act on Criminalization of Discriminatory Actions, which was currently being amended, would permanently outlaw such conduct. The budgets of the INAI and INADI for 2017 had been increased by 7 per cent. Migrants were guaranteed unrestricted access to public education, justice and decision-making, not on the basis of ethnicity but rather on the basis of individual merit and capacity.
6. Unfortunately statistical data were currently scarce because the previous Government had systematically neglected to compile such data. The National Statistics and Census Institute had been requested to remedy the situation and data would hopefully soon be available on all relevant issues.
7. There were no official data concerning the Jewish community but, according to the community itself, the Jewish population totalled about 250,000. Investigative action was still being taken to clarify the circumstances of the two terrorist attacks on the Jewish community and the Israeli Embassy in 1992 and 1994 and the death of the prosecutor Alberto Nisman in 2015.
8. The case of Milagro Sala bore no relationship whatsoever to racial discrimination. Responsibility for settling the issue lay with the justice system of Jujuy Province, which enjoyed provincial autonomy. The Argentine authorities had taken note of the views of the

Working Group on Arbitrary Detention, which had been invited the previous day to visit the country.

9. The decision to change the name of the 12 October holiday to Respect for Cultural Diversity Day was an important change of paradigm. The previous name had raised many issues in Argentine society because it was falsely perceived as indicating the date of discovery of the continent.

10. The Advisory and Participatory Council of Indigenous Peoples had been established in response to requests submitted for many years. Almost 1,000 communities had been directly or indirectly involved and had elected their representatives independently. The complaints subsequently filed were being addressed and the Council would shortly commence its activities.

11. A Bicameral Commission had been set up in the Congress of the Nation to elect the Ombudsman. The proposed candidates, including the candidate proposed by the executive branch, were currently being assessed.

12. **Ms. Quinteros** (Argentina) said that her country's migration policy was open and inclusive in line with the National Constitution, Act No. 25.871 on migration and the country's international obligations. The inalienable right to migration was based on the principles of equality and universality. The legal provisions clearly specified the applicable criteria so that foreigners wishing to immigrate could regularize their situation. There were no annual quotas.

13. Eighty-five per cent of immigrants came from Mercosur and associated countries. They were merely required to present proof of their citizenship and a certificate attesting that they had no criminal record. After two years' residence, they could acquire Argentine citizenship. Immigrants from other countries required specific regularization plans. A special programme for immigrants from Senegal and the Dominican Republic had been launched in 2013, a programme for Koreans in 2014, and a programme for Haitian victims of natural disasters was currently being developed. There was also a special humanitarian visa programme for Syrian citizens fleeing from the conflict.

14. Legal assistance was provided to persons facing expulsion orders through the Ministry of Defence. The National Migration Directorate guaranteed access to an expert for all foreigners speaking a language other than Spanish. Administrative and legal appeals could be filed whenever a foreigner was denied entry to the country, ordered to leave or issued with an expulsion decree. The authorities were also developing a system that would render expulsions of persons who had committed crimes in a foreign country more expeditious.

15. Self-employed workers from Mercosur countries did not need to present an employment contract. They were simply required to present an identity card and a certificate confirming that they had no criminal record. Immigrants from other countries could acquire self-employed status after a number of years of permanent residence in Argentina. Marriage certificates of migrants were rejected only if they were found to be fraudulent and to have been issued solely in order to enable the holder to benefit under the Act on migration.

16. Tourists had been turned away at the border when migration officials had concluded that they were not genuine tourists. However, the officials were required to notify their supervisor in such cases so that an application could be submitted to the National Migration Directorate. The person concerned was then offered the opportunity to appeal. The Directorate, in collaboration with the International Organization for Migration, provided training courses for all migration officials and police officers employed at the country's

borders. The Ministry of Security also provided training courses in human rights and anti-discriminatory policy for the country's security forces.

17. Article 70 of Act No. 25.871 provided for the creation of an accommodation centre for migrants in an irregular situation. The centre had not yet been established but such migrants were not detained with persons charged with other types of offences. They were currently accommodated in facilities run by the gendarmerie or by naval or airport law enforcement officers. The Committee on the Protection of the Rights of All Migrant Workers and Members of their Families had requested that detained foreigners should be accommodated in an appropriate non-penitentiary environment that met with a number of conditions. The National Migration Directorate was currently seeking to comply with that request in order to ensure that migrants' rights and freedoms were safeguarded, and that they were housed in Buenos Aires, so that they had access to legal assistance, interpretation services and consulates. They also needed to be placed in gender-separated accommodation, receive adequate medical assistance and appropriate nutrition, and be permitted to file complaints. In 2015, 94 per cent of the prison population were Argentine citizens and 6 per cent were foreigners. The latter totalled about 4,300, of whom 49 per cent had been sentenced and 51 per cent were being tried.

18. In order to qualify for a disability allowance, foreigners had to be naturalized and to have lived in Argentina for five years. Mothers with seven or more children qualified for allowances one year after their naturalization. Non-contributory social benefits could be provided to naturalized foreigners after five years' residence.

19. **Mr. Szuchet** (Argentina) said that the national human rights action plan was designed to ensure compliance with the country's international obligations under the Vienna Declaration and Programme of Action and the 2030 Agenda for Sustainable Development. The plan focused on five core themes: democratic security, non-violence and access to justice; universal access to rights; memory, truth, justice and reparations; inclusion and the fight against discrimination and inequality; and social actors' commitment to human rights. The plan provided for dialogue with national and provincial governmental bodies, as well as with various domestic and international social actors, who had been invited to a round of consultations with a view to endorsing relevant documents. The bodies that participated in the consultations included the Permanent Assembly for Human Rights, the Centre for Legal and Social Studies, the Peace and Justice Service and the Latin American Team for Justice and Gender. They had helped to identify key social priorities, the requisite public and social resources, as well as mid-term public policies and goals. Such procedures led to improved coordination between the Government and civil society organizations and enhanced support for local human rights authorities.

20. Article 31 of the Constitution established a normative legal hierarchy and specified the bounds of provincial autonomy. Obligations under international treaties were recognized as a top priority.

21. A total of 7,927,388 hectares, or almost 50 per cent of claimed land, had been registered as belonging to indigenous peoples. During the period ending in 2006, 1,813,365 hectares had been transferred to indigenous communities and a further 1,363,767 hectares were in the process of being transferred. The bill concerning the property of indigenous peoples had been amended in collaboration with representatives of the indigenous communities. It provided for an increase in indigenous land and consultations with the Congress of the Nation on the return of land and the prevention of forced evictions.

22. The Government was working with the Ministry of Health through the National Directorate for Maternity, Childhood and Adolescence on a nutrition programme to be coordinated with the National Indigenous Health Programme. The Sub-secretariat for Food

Policy in the Ministry of Social Development focused on nutritional education and community work.

23. Special centres for access to justice were run by the Ministry of Justice and Human Rights. They offered advice on social and legal problems, implemented awareness-raising programmes and facilitated access to justice. There were 76 centres located throughout the country, particularly in areas that were highly vulnerable in social terms, and it was planned to create 10 more centres. The Ministry was drafting guidelines for consultants working in the centres.

24. The National Institute of Indigenous Affairs (INAI) was taking steps to facilitate access by indigenous communities to the funds required to hire lawyers, notaries and anthropologists to assist them in addressing eviction issues. When the Institute was informed of any violation of the inalienable rights of indigenous peoples, it immediately contacted judges, prosecutors and police commissioners. It could also recommend, if necessary, the application of emergency measures pursuant to Act No. 26.160 on Emergency Measures relating to Possession and Ownership of Land for Indigenous Communities. Steps were currently being taken to extend the Act until 2020.

25. Free, prior and informed consent was a collective right of indigenous peoples. The Supreme Court had ruled that its application was mandatory, pursuant to article 6 of the International Labour Organization (ILO) Convention 169 on Indigenous and Tribal Peoples, in cases involving the transfer of indigenous communities; protection of individuals, property, employment, culture and the environment; preservation of the cultural and historical heritage of indigenous peoples; threats to their lives or physical integrity; large-scale investment or development plans; and stockpiling or elimination of hazardous materials in their territory. He provided details of cases in which the right to free, prior and informed consent had been invoked. Examples included the laying of fibre optic cables in Jujuy Province and the building of a pipeline in indigenous territory in Salta Province.

26. Various steps had been taken by the INAI to halt evictions of indigenous communities from their ancestral lands. By way of example, the Institute had intervened to suspend the eviction of the Quilmes community in Tucumán, a suspension that was still in effect. Efforts were now under way to initiate mediation processes and bring about a peaceful solution to that matter. Regarding the case of the killing of the indigenous leader Javier Chocobar, the Institute had provided funding to facilitate access to legal assistance, with a view to expediting the process and setting a date for an oral hearing as soon as was possible. As to the case involving the Lhaka Honhat Association of Indigenous Communities, a working group of high-level regional and national officials had been convened and, in coordination with the National Secretariat for Human Rights, a strategy was being developed with a view to resolving the conflict without having to resort to the intervention of the Inter-American Court of Human Rights. In that regard, various measures and recommendations had already been adopted, such as the recognition and transfer of land to the communities concerned, and a progress report had been issued in 2015 by the authorities in Salta province. Moreover, the Ministry for Indigenous Affairs and Community Development had been created in Salta province as a means of improving its handling of territorial claims by indigenous communities. Works associated with measuring and demarcating indigenous lands in the province were also being initiated, and an operating procedure was being formulated with a view to removing fences enclosing indigenous lands.

27. Regarding the Sustainable Development Goals, the Government had set a target of ending poverty by 2030, an objective it aimed to achieve by doubling agricultural productivity and increasing earnings for small-scale producers, many of whom were women and indigenous peoples. Measures to achieve that goal included ensuring secure access to land, providing access to funding for value-added opportunities and increasing

entry into non-agricultural employment. The National Secretariat for Human Rights was charged with achieving various objectives relating to the Sustainable Development Goals, in particular Goal 1 to end poverty in all forms everywhere and Goal 16 to promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels.

28. **Mr. Bujan** (Argentina), giving an overview of the primary historical and cultural reasons underlying racial discrimination against persons of African descent and the sharp decline in the numbers of Afro-descendent persons in Argentina, said that research had shown that persons of African descent, indigenous persons and migrants were among the groups most at risk of multiple and intersecting forms of discrimination, which prevented them from fully exercising their basic human rights. Structural beliefs that were a legacy of white, European colonialism and notions of “otherness” lay at the core of entrenched social and cultural attitudes, so that there was a need to adopt cross-cutting public policies to tackle intersecting forms of discrimination. In that connection, measures were being taken to recognize the contribution made by Afro-descendent communities to the culture and history of Argentina, and to promote positive images of Afro-descendent role models in society, in order to make this population group more visible and to protect their rights.

29. Efforts to raise awareness of the contribution of African persons to the cultural heritage and national memory of Argentina included the creation of a glossary of everyday terms that were of Afro-Argentine origin. A thematic brochure, entitled “Argentina is also Afro” (Argentina también es Afro) and produced and disseminated by the National Institute to Combat Discrimination, Xenophobia and Racism (INADI), charted the history and culture of the Afro-descendent population, its influence on Argentine culture and the effects on that community of racism and other forms of discrimination. Training sessions on issues relating to discrimination, racism and xenophobia against persons of African descent had also been conducted, and educational materials were distributed to schools and were available to the general public on the Institute’s website. Activities and school curricula were also being developed to commemorate the National Day of Afro-Argentine Peoples and Afro culture, which was held each year on 8 November. Moreover, school textbooks that contained negative images or perpetuated stereotypes of persons of African descent had been removed and revised. Further measures aimed at promoting Afro-descendent communities included grants to facilitate research on, inter alia, the historical and present-day influence of African culture in Argentina and the intersectional discrimination faced by Afro-descendent women.

30. Campaigns to disseminate positive images of persons of African descent and change cultural attitudes towards them had so far reached an estimated 16 million persons through the medium of radio, television and the internet. Observatories in Argentina were also responsible for tackling negative stereotyping of Afro-Argentine persons in the media.

31. At the federal level, racial discrimination and hate crimes had been defined as offences in Act No. 23.592 of 1988 and had also been defined as an aggravating factor in other offences. INADI was automatically and actively involved in helping victims of such offences to seek justice in criminal cases, acting either as *amicus curiae* or as complainant. In one such case, involving the death of Senegalese leader Massar Ba, the Institute had brought criminal proceedings after attempts by the Senegalese community to lodge a complaint on the basis of collective interest had been rejected by the courts. Victims of discrimination in any area of life could also file administrative complaints and request support from the Institute during the proceedings. In 2016, 2,998 administrative complaints of discrimination had been filed, of which 30 related to indigenous persons, 11 to persons of African descent and 148 to migrants. For civil, labour and administrative proceedings, free legal assistance was available to complainants where necessary who did not have the financial means to pay for a lawyer. Administrative complaints could be lodged online,

through a 24-hour telephone hotline or in person at the provincial government offices, which were staffed with legal advisors. In addition to judicial measures, the “Just You” (Justo Vos) programme had been launched to provide mediation and negotiation as an alternative measure for resolving conflicts. The Constitution also provided for the remedies of amparo and habeas corpus for cases in which there was a collective interest.

32. Lastly, it was important to point out that the work of the various observatories in Argentina was not related to research or discrimination as such; rather, they were responsible for monitoring individual thematic areas, such as radio and television or social networks, and for issuing technical reports that sometimes served as the basis for judicial decisions.

33. **Mr. Szuchet** (Argentina) said that there were several legal precedents demonstrating that the customary law of the indigenous peoples could be applied in the administration of justice, in line with article 9 (2) of the International Labour Organization Indigenous and Tribal Peoples Convention, 1989 (No. 169). Lastly, regarding a question on the impact of fracking, constitutional reforms in 1994 had incorporated third-generation rights in respect of the right to a healthy, balanced environment suited to human development and to productive activities that satisfy existing needs without jeopardizing those of future generations. In that regard, the federal Government had promulgated rules regulating the minimum prerequisites for protection, which the provincial governments had the authority to supplement in order to ensure a suitable environment. Subsequently, Act No. 25.675 had been enacted to establish the minimum prerequisites for the achievement of sustainable and appropriate management of the environment, the preservation and protection of biodiversity and the implementation of sustainable development. Moreover, the Act contained an evaluation procedure, through which the possible environmental impact of an activity or project was assessed to ensure that no damage would be caused.

The meeting was suspended at 11.25 a.m. and resumed at 11.35 a.m.

34. **Mr. Murillo Martínez** (Country Rapporteur) welcomed the fact that Argentina attached great value to diversity and hoped that that value would come to be reflected in its Constitution. He also welcomed the fact that 12 October had come to be commemorated as the Day of Respect for Cultural Diversity. He commended the State party for its recognition of the role played by persons of African descent in the wars of independence and of the resulting dramatic decrease in that community’s population. He welcomed the inclusion in the State party’s report of information on the implementation of the Sustainable Development Goals.

35. He hoped that representatives of communities of African descent would be involved in the ongoing case of Massar Ba and that the judiciary would guarantee access to timely and effective justice in that respect. While welcoming the fact that indigenous peoples’ land claims had been upheld in 50 per cent of territorial dispute cases, he wished to know the status of the proceedings in the other 50 per cent of those cases. He asked to what extent indigenous peoples and persons of African descent participated in government at the decision-making level, and in particular to what extent they were represented in institutions such as the National Institute to Combat Discrimination, Xenophobia and Racism (INADI) and the National Institute of Indigenous Affairs (INAI).

36. He wished to know whether, in Argentine case law, the International Labour Organization (ILO) Indigenous and Tribal Peoples Convention, 1989 (No. 169) and other international treaties not listed in the State party’s common core document had acquired constitutional status.

37. The Committee had heard concerns expressed about recent changes to the State party’s migration policies. In that regard, he wished to know the legal basis and intended purpose of the migrant holding centre that was to be established and the circumstances

under which migrants would be held there. The work undertaken by the Working Group on Arbitrary Detention in relation to the case of Milagro Sala indicated that her case could have been handled without resorting to custodial measures. The independence of the judiciary notwithstanding, he urged the State party to give special attention to that case. According to information before the Committee, certain administrative measures recently taken had limited the role of INADI. The delegation should provide clarification on that point.

38. **Mr. Avruj** (Argentina) said that his Government had replied publicly to the Inter-American Commission on Human Rights regarding the Milagro Sala case and that Argentina had issued a standing invitation to the Working Group on Arbitrary Detention to visit the country. Ms. Sala had been detained not on account of her role as the leader of an indigenous group but because of the charges against her, which included corruption and violence. His Government had taken into consideration the opinion of the Working Group on Arbitrary Detention and was dealing with the matter as a responsible member of the international human rights system, while at the same time respecting the independence of the judiciary.

39. INADI was a central pillar of democracy in Argentina. The institution was unprecedented in that it had been established not by the Government but by three civil society organizations. The administrative measures being taken to regularize its operations did not in any way compromise the decision-making powers of INADI. Migration policy in Argentina had not changed. The country had been built through migration and was made up of more than 50 different ethnic communities. It offered a shining example to other Latin American countries of successful intercultural dialogue.

40. **Ms. Quinteros** (Argentina) said that the legal basis for the establishment of the migrant detention centre could be found in article 70 of Act No. 25.871 (The Migration Act), which stated that the Ministry of the Interior or the National Migration Directorate could ask the competent judicial authority to order the detention of a foreigner against whom an expulsion order had been issued or, in exceptional cases, even when such an order had not been signed. The centre would be operated in accordance with the relevant international standards and would guarantee access to services not currently available to migrants detained in police stations and other facilities.

41. **Mr. Szuchet** (Argentina) said that the period of validity of Act No. 26.160 would be extended until 23 November 2021. As at November 2016, a total of 1,815,000 hectares of land claimed by indigenous communities had been adjudicated. A rapid procedure was in place to deal with the indigenous claims that were still pending. Efforts were being made not only to avoid forced evictions but also to work together with the indigenous communities to demarcate the land in question.

42. **Mr. Bujan** (Argentina) said that it was important to ensure that the collective interests of the affected community were taken into account in the Massar Ba case. All of the 600 registered civil society organizations were entitled to participate on an equal footing in judicial proceedings. Article 31 of the Constitution, which established the hierarchy of laws in Argentina, granted constitutional status to international treaties. In the case law of the Supreme Court, many legal instruments that were not granted constitutional status under the Constitution had nevertheless begun to carry the same moral force.

43. Act No. 24.515 guaranteed the decentralized status of INADI, and thus the national legal framework provided for its functional and financial independence. The fact that INADI reported to the Secretariat for Human Rights did not mean that it was not functionally independent. Since 2015, the new Government had been working on drafting a number of procedural manuals. Once that work was completed, the status of INADI would be formally regularized. The staff members of INADI who were responsible for matters

concerning persons of African descent and matters concerning indigenous peoples were themselves members of those groups.

44. **Mr. Avruj** (Argentina) said that the Argentine Federation of Communities was involved in the implementation of all policies concerning migration and the development of ethnic communities in Argentine society.

45. **Mr. Szuchet** (Argentina) said that the Supreme Court had already declared that the (ILO) Indigenous and Tribal Peoples Convention, 1989 (No. 169) held constitutional status.

46. **Mr. Calí Tzay** said that, at the previous meeting, he had mistakenly referred to the Committee on Enforced Disappearances when speaking about the case of Milagro Sala, when in fact he had meant to refer to the Working Group on Arbitrary Detention. He requested further information about the location and date of the land adjudications that had taken place thus far. In addition to the adjudication procedure, it was important to establish a specific mechanism for issuing land titles. He asked whether the State party intended to move forward with the land title bill that had been submitted in 2012. He welcomed the fact that Act No. 26.160 would be extended, and he urged the State party to include provisions in that Act on the issuance of land titles and the participation of indigenous communities.

47. The Committee had received a number of reports about indigenous activists and human rights defenders, advocating for indigenous rights, who had been subjected to criminal sanctions. According to information before the Committee, an Argentine court had recently handed down sanctions against a lawyer defending an indigenous community because she had made a public statement expressing her dissatisfaction with the delays in the judicial process. He wished to know what steps the Government planned to take in the face of judicial violence of that sort.

48. He asked whether technical files could be considered as evidence in legal cases involving land disputes. The Committee had received reports that many indigenous leaders who had been invited to attend the meeting on the establishment of the Indigenous Peoples' Advisory Council had been told upon arrival in major cities that no funding was available to purchase their onward ticket to Buenos Aires. The reports indicated that, of the 130 indigenous leaders who had registered to attend the event, only 25 to 30 had in fact been able to attend. The delegation should comment on that situation. Lastly, he wished to know how the Government interpreted the concept of interculturalism and how indigenous peoples benefited from it.

49. **Mr. Szuchet** (Argentina) said that the statistical data requested on land adjudication would be provided in writing within the established deadline. A new bill on land title, which was based on the previous bill submitted in 2012, was being drawn up in consultation with indigenous communities. Regarding the case in which a defence lawyer representing an indigenous community had been sanctioned by the courts, his delegation would bring the case to the attention of the National Institute of Indigenous Affairs (INAI). While it was the court's prerogative to apply sanctions, if the persons involved believed that the sanction had violated a constitutional guarantee, they could file a complaint against the judge who had issued the sanction.

50. It was true that bus tickets had not been issued in time for many indigenous leaders who had been invited to attend the meeting of the Indigenous Peoples' Advisory Council. As a result, they had been unable to attend. That fact had been duly taken into account, and efforts were being made in collaboration with the Ombudsman's Office to ensure that those leaders were nevertheless able to participate in the Council. Technical files were admitted as evidence in court cases involving land disputes.

51. **Mr. Bujan** (Argentina) said that the Ombudsman's Office was a new institution established by the Act on Audiovisual Communication Services. Following the

establishment of a new federal communications agency, the agreement between the Ombudsman's Office and INADI was being redrafted. The Ombudsman's Office worked in collaboration with INADI to provide training and deal with complaints.

52. **Mr. Kemal** said that he wished to highlight some of the issues raised by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance following his visit to Argentina that year. Indigenous peoples were losing their land to soya bean cultivation, which was part of efforts to increase agricultural production by 2030, but which prevented them from practising traditional agriculture. The eviction of indigenous peoples from their land and their resulting involvement in the justice system had also been raised, alongside questions about the location and funding of the National Institute of Indigenous Affairs (INAI), and that institute's coordination with indigenous peoples. It had also been noted that indigenous peoples and persons of African descent were not represented in decision-making machinery. In that regard, he asked whether the Government had considered the introduction of special measures, in accordance with article 4 of the Convention, to ensure that those groups could participate in decisions affecting their future.

53. **Mr. Avtonomov** asked whether any affirmative measures to eliminate discrimination had been adopted, as provided for in the Argentinian Constitution. Those measures were very similar to the special measures addressed in article 4 of the Convention. The delegation should describe the initiatives taken or planned to address structural discrimination against indigenous peoples and people of African descent.

54. The delegation should indicate whether the State party was considering ratification of article 8 of the Convention, since, if a sufficient number of States parties ratified the article, the functioning of the Committee could be regularized at no extra cost to States parties. As things stood, the Committee wrote a letter every biennium to the Fifth Committee requesting funding on an exceptional basis.

55. **Mr. Avruj** (Argentina) said that, during his visit, the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance had been received by the Secretariat for Human Rights, the National Institute to Combat Discrimination, Xenophobia and Racism (INADI) and INAI. The Secretariat for Human Rights had begun its activities and had emphasized the importance it placed on working closely with indigenous peoples. A federal council on policies affecting indigenous peoples had been established to bring together, for the first time, officials from all provinces to work on those issues. That federal council, along with the Indigenous Peoples' Advisory Council and INAI, were the three pillars for improving cooperation with indigenous peoples. Much work remained to be done, including on land issues, and action would be required by a number of government departments. With respect to budgeting, the Secretariat for Human Rights was working to ensure it would be able to implement its planned programmes.

56. **Mr. Szuchet** (Argentina) said that, despite the large size of his country, offices were being set up in each province to represent INAI and INADI and ensure that communities' concerns could be addressed more quickly. All communities needed to be represented on the Indigenous Peoples' Advisory Council to ensure that indigenous peoples could assist in decision-making and therefore influence public policy that affected their communities. Many measures had been taken to tackle discrimination, such as an anti-discrimination bill, which would be approved in the next few days and would cover all groups that currently suffered discrimination.

57. **Mr. Marugán** asked for clarification of the figures relating to the INADI budget. The delegation should provide those figures to the committee and state whether they were publically available. He asked whether there were plans to make more statistics available to

the public. More information should be provided on the indicators and time frame for the national human rights action plan and about the Discrimination Map, and an explanation of how those measures would be evaluated. The delegation should also explain how the policies set out affected different populations, for instance with respect to employment and housing, and how they were assessed. He asked how progress was being made on access to higher studies for people of African descent.

58. None of the information received indicated that detention was used only as a last resort, in accordance with international norms. With respect to administrative violations, he asked what access civil society enjoyed to detained persons and the conditions and maximum terms of detention. The delegation should comment on information indicating that, in some cases, foreign detainees had not been able to access a lawyer, and in one case the detainee had not even been aware of the reason for detention.

59. He asked for copies of the reports on persons of African descent and other minority groups prepared by the Observatory on Discrimination in Radio and Television and for information on the stereotypes referred to in those reports and their conclusions. He repeated his question about the types of discrimination reported to the police, with a view to considering appropriate policies to combat prevailing prejudices.

60. More information was needed on access to justice and the reasons why there were so few complaints and judicial decisions related to racial discrimination, and on the spheres in which discrimination was known to take place. He wished to know whether civil society was being consulted on matters relating to detention.

61. **Mr. Yeung Sik Yuen** said that the delegation had not yet answered his questions relating to paragraphs 70, 99, 100 and 148 of the periodic reports.

62. **Ms. Shepherd** said that, while she applauded the move to change the name of the 12 October holiday, she wished to receive more information on the narrative surrounding that day, such as whether the impact on indigenous peoples of Spanish colonization was being addressed. The reaction of indigenous peoples to the name change would eventually indicate whether it had been successful.

63. **Mr. Bujan** (Argentina) said that the key spheres in which discrimination was reported to occur were employment and education. The Discrimination Map was updated every three years, or more often if needed. Statistics from that Map were analysed in connection with public policy by independent analysts in the provinces, and their conclusions were then consolidated at the University of Buenos Aires, where there was a special independent academic unit to deal with the matter.

64. With respect to paragraph 70 of the periodic report, Act No. 23.592 identified crimes that were aggravating circumstances for other crimes, including aggravation due to racial discrimination. The provision of free legal aid was dependent on circumstances: support was provided in cases of financial need or if it was a criminal case. A pilot project provided legal aid for cases where there was a common interest.

65. **Mr. Murillo Martínez** said that he welcomed the open and constructive dialogue with the State party and the information provided, which would inform the Committee's concluding observations. The Committee looked forward to seeing additional efforts to deal with structural discrimination, particularly to help indigenous peoples, and the issue of access to communal territories, including work to eradicate evictions. Note had been taken of the case of Ms. Milagro Sala, which the State party was invited to reconsider. With respect to people of African descent, he expressed concern about the need for special measures, in accordance with the Convention, which typically involved measures such as reparations related to past incidents, laws on quotas and action on the status of women.

66. Reports indicated that there were two classes of migrants in Argentina and the situation of women from the Dominican Republic was a matter of particular concern. The following periodic report should provide information also on the Jewish community, in particular with respect to the progress made on past cases of violence against that community. With respect to the detention centre for foreign nationals in an irregular situation, the delegation should explain fully the thinking behind the move.

67. **Mr. Avruj** (Argentina) thanked Committee members for their comments and questions, which would help his country to take its work forward. Argentina was an open country that valued migration and sought to place multiculturalism, combating discrimination and supporting the most vulnerable groups at the heart of its agenda. Human rights and integration would remain a priority for his Government.

68. **The Chair** thanked the delegation for their participation in the interactive dialogue. Follow-up information should cover discrimination and protection in the field of employment and a clarification of law and practice on incitement to hatred. The issue of whether a local or provincial administration could refuse to implement a national or federal law, raised during the discussion, should also be considered.

The meeting rose at 1 p.m.