



International Convention on the Elimination of All Forms of Racial Discrimination

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Summary record of the 2058th meeting

Held at the Palais Wilson, Geneva, on Friday, 18 February 2011, at 10 a.m.

Chairperson: Mr. Kemal

Later: Mr. Prosper (Vice-Chairperson)

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The meeting was called to order at 10.10 a.m.

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

Sixteenth to twentieth reports of Uruguay (continued) (CERD/C/URY/16-20; CERD/C/URY/Q/16-20; HRI/CORE/1/Add.9/Rev.1)

1. *At the invitation of the Chairperson, the delegation of Uruguay took places at the Committee table.*
2. **The Chairperson** invited the experts who had been unable to put questions to the Uruguayan delegation at the previous meeting owing to a lack of time to do so.
3. **Mr. Saidou** requested additional information about the powers and responsibilities of the National Human Rights Institution and wished to know why it had not yet started work, although it had been established under an Act adopted in 2008. The Uruguayan delegation might say whether the Institution would really operate as an ombudsman.
4. **Mr. Amir** commented that the Committee members were unable to ascertain exactly how far the rights to housing, health and education were exercised because the periodic report under consideration contained no statistical tables. He would like the Uruguayan delegation to ensure that the next report contained data on those subjects. He wished to know what steps would be taken to inform minorities and indigenous peoples living in the State party's territory of the concluding observations regarding Uruguay which the Committee would adopt at the end of the session. How did the Government intend to ensure that measures and laws aimed at combating racism and racial discrimination were effective?
5. **Mr. Peter** welcomed the fact that, although the World Bank and International Monetary Fund (IMF) had asked Uruguay to make significant cuts in public expenditure, the country was still able to provide free university education. Uruguay's gross domestic product (GDP) was one of the highest in Latin America, and the country ranked fifty-second on the world's quality of life index. In addition, in 2009 Uruguay had provided every schoolchild with a laptop computer, even though it was regarded as a developing country.
6. According to paragraph 7 of the periodic report under consideration, the country's population was 96.9 per cent white, 9.1 per cent of African descent and 3.8 per cent indigenous. He was sure that, with further effort, the country would achieve racial equality.
7. **Mr. González Arenas** (Uruguay), replying to Mr. Amir's comment, said that on the previous day his delegation had handed the secretariat a document containing statistics showing recent developments in respect of various target groups, and he assured the Committee that his country would endeavour to incorporate them in its future periodic reports. All programmes and plans for combating racial discrimination were regularly assessed. Most of them having been introduced only in 2005, they had not yet been quantitatively evaluated.
8. **Mr. Miranda** (Uruguay) explained that provision had been made for the founding of the National Human Rights Institution under Act No. 18,446 of 24 December 2008, published in the Official Journal in January 2009. It had not been officially set up because national elections had been held in October and November 2009 and the new Government had not taken office until 1 March 2010. As the national budget had been adopted in February 2011, the Institution, endowed with the resources it needed in order to guarantee its independence, should come into being in the near future.

9. The five-member National Human Rights Institution would be an independent body which would act as an ombudsman. It could recommend the setting up of institutional mechanisms for handling complaints of human rights violations, make the requisite arrangements for visiting places of detention, propose public policy on human rights and suggest practical ways of strengthening democracy. It would also be able to advise Parliament, propose legislation to promote new human rights legal standards and cooperate with international organizations. His delegation would forward the text of the act setting up the National Human Rights Institution to the Committee for its information.

10. The Uruguayan Government was widely consulting civil society and international organizations active in the fight against racism, prior to drawing up an initial action plan to combat racism and racial discrimination. The Honorary Commission against Racism, Xenophobia and All Other Forms of Discrimination had also been set up and instructed to draft the outline of the plan.

11. **Ms. Esquivel** (Uruguay) said that the 2006 expanded national household survey organized by the National Statistical Institute showed that 87.4 per cent of Uruguayans considered themselves to be white, 9.1 per cent identified themselves as being of African descent, and 3.5 per cent as indigenous. The increase in the proportion of persons of African origin in the total population between 1996 and 2006 was mainly due to sensitization activities conducted by civil society organizations in an attempt to improve the image of indigenous and African roots and to make inhabitants aware of their racial and ethnic origins. The 2011 general population census would pay greater heed to ethnicity/race, making it possible to gather more precise information on the situation of persons of African and indigenous descent. In 2009 and 2010 the National Statistical Institute had consulted Afro-Uruguayan and indigenous organizations in order to obtain their views on the wording of questions on ethnicity and race. The Government was on the point of mounting a huge campaign to alert everyone to the importance of acknowledging and affirming their origins. In January 2011 the competent authorities had conducted a census of the prison population, which included ethnic and racial criteria, but they had not yet published the findings. Lastly, an inter-agency working group had been requested to prompt the relevant ministerial authorities to mainstream ethnicity/race into their programmes and policies.

12. The Department for Women of African Descent of the National Institute for Women had held several workshops to encourage women to assert their Afro-Uruguayan identity and combat the many and various forms of discrimination they might encounter owing to their sex, colour or poverty. The Department had also adopted measures to assist unskilled Afro-Uruguayan women (70 per cent of workers of African descent), especially domestic workers. Under Act No. 18,065, domestic workers were entitled to draw unemployment benefit for 90 days after they had lost their job. The Act also regulated working hours and rest days. Generally speaking, the Department for Women of African Descent had implemented projects to train unskilled female workers and to enhance their independence by encouraging them to use microcredit for setting up productive activities.

13. Uruguay had not yet adopted quotas to boost the participation of women, especially those of African descent, in Parliament and other bodies, but it had implemented affirmative action policies and equal opportunities policies designed to improve the representation of Afro-Uruguayans at all decision-making levels. The Institute for Women, realizing that it was essential to improve women's access to all levels of education and to skilled jobs, had devised a programme to encourage both public and private sector enterprises to take on qualified young women and to award those companies a quality certificate for human resource management based on gender and racial equality. Lastly, she observed that many men and women of African descent held positions of responsibility, including that of deputy minister.

14. **Ms. Saura** (Uruguay) said that her country had spared no effort to improve the quality of the race- and ethnicity-related questions in census forms. In 1996 the question had been “To what race do you think you belong?”, whereas in 2006 the question “Do you think you are of white, black or indigenous origin?” allowed respondents to tick several boxes if they were of mixed descent. In order to promote the rights of indigenous people, Act No. 18,589 of 18 September 2009 had declared 11 April the Day of Resistance of the Charrúa Nation and of Indigenous Identity and, stipulating that the genocide of the Charrúan people must be included in the national education curriculum. The Honorary Commission against Racism, Xenophobia and All Other Forms of Discrimination comprised several members, one of them indigenous.

15. **Ms. Dupuy** (Uruguay) said that Act No. 18,250 of 2007 on migrants’ rights and Act No. 18,076 of 2007 on asylum-seekers’ and refugees’ rights were fully consistent with the pertinent international standards. The Uruguayan Constitution expressly provided for the right to a nationality, and Uruguayan law on the acquisition of nationality judiciously combined *jus soli* and *jus sanguinis*. Uruguay also recognized dual nationality. No administrative or criminal penalties were imposed on illegal immigrants, who were entitled to apply for refugee status. They all enjoyed fundamental human rights. Pending a decision on their application, asylum-seekers were given a “temporary migrants” identity document valid for one year. Successful asylum-seekers received an identity document valid for three years but renewable. Persons whose application for refugee status or asylum had been refused were repatriated on a voluntary basis.

16. **Mr. Miranda** (Uruguay) said that article 8 of the Uruguayan Constitution embodied the principle of equality for all, although it did not expressly mention the principle of non-discrimination. Uruguay had embarked upon a reform of the Constitution in order to bring it fully into line with the international human rights instruments to which it was party. At all events, the rights established by international instruments ranked as constitutional rights, and international human rights instruments, which took precedence over the Constitution, could be directly invoked before domestic courts. As stated in paragraph 55 et seq. of the report under consideration, the Criminal Code, in particular its articles 149 bis and 149 ter, provided for the punishment of perpetrators of offences covered by the Convention. The Criminal Code listed legally prohibited grounds of discrimination. They included skin colour, race, religion, national or ethnic origin, sex, political opinions, social status and age. It contained no provisions on the suppression of racist and discriminatory acts by organizations. Nevertheless administrative proceedings could be instituted to seek the dissolution of xenophobic and racist organizations.

17. **Mr. González Arenas** (Uruguay) said that he wished to dispel a misunderstanding; when at the previous meeting he had described Uruguay as the most egalitarian country in Latin America and the Caribbean, he had been thinking of the country’s classification according to the Gini coefficient as published in 2010 in the first Regional Human Development Report of the United Nations Development Programme (UNDP), which showed that Uruguay was the Latin American country where inequality was least marked.

18. Uruguay had carried out the Ceibal Plan and had thus become the first developing country to equip all pupils in State schools with a laptop computer linked to the Internet. As it wished to offer other developing countries the benefit of that experience, with the support of the United Nations Educational, Scientific and Cultural Organization (UNESCO) it had launched two pilot projects, one in Paraguay, the other in Rwanda. It intended to pursue that kind of cooperation by initiating similar projects in other countries.

19. **Mr. Murillo Martínez** asked the Uruguayan delegation to describe the practical effects of administrative measures to assist victims of discrimination and to say how efficient affirmative action in favour of persons of African descent had been. Noting that the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or

punishment had considered in his report on his mission to Uruguay (A/HRC/13/39/Add.2) that the situation of juveniles in detention was alarming, he would like to know what percentage of the prison population were young people of African descent and whether the State party had adopted a policy to foster the integration of children of African descent. He would also like to know if any statistics existed showing the number of heads of companies who were of African descent and if they had set up their own chambers of commerce, as had been done in other countries.

20. He also enquired whether the State party had drawn up a timetable of preparations for the formulation of the future national plan of action against racial discrimination. He would like clarification of the breakdown of the multi-annual budget for programmes to promote minorities and, in particular, to learn what appropriations would be allocated to activities to assist persons of African descent. Lastly, he invited the delegation to provide information about the events which the Uruguayan Government was planning to hold to celebrate the International Year for People of African Descent and what resources had been set aside for that purpose.

21. **Mr. González Arenas** (Uruguay) said that policies to assist minorities had been introduced too recently for their effects to have been felt. As national statistics were now broken down according to race or ethnicity, subsequent measures would be targeted more accurately.

22. **Ms. Esquivel** (Uruguay) said that the national plan of action against racism and racial discrimination would be drafted in two phases: first, regional consultations with representatives of civil society would be held until July 2011. Some 15 experts and research workers would be invited to participate in a meeting at Salto on 12 March 2011. During the second stage, a text would be drawn up and submitted to civil society organizations for their approval. The final text should be adopted by March 2012.

23. **Mr. Diaconu** said that, according to information at his disposal, Uruguay had planned an array of measures for achievement of the Millennium Development Goals, especially those related to the eradication of extreme poverty. He wished to know whether those measures had taken account of the needs and concerns of indigenous minorities and persons of African descent.

24. He saw from paragraph 34 of the report under consideration that Act No. 17,817 of 2004 had declared that it was in the national interest to combat racism, xenophobia and all other forms of discrimination and had established a commission to propose policies for combating racial discrimination. He pointed out that those provisions did not give full effect to the Convention, because they did not prohibit racial discrimination as such, or the setting up of racist organizations. He would like the delegation to comment on those lacunae.

25. **Mr. González Arenas** (Uruguay) said that his country was committed to achieving the Millennium Development Goals. The two previous Governments and the current Government had made the fight against poverty one of their priorities, because 30 per cent of the population had lived in poverty and 5 per cent in extreme poverty after the serious crisis experienced by the country in 2001 and 2002. However, considerable efforts by the public authorities had reduced those figures to less than 20 per cent and 1.5 per cent respectively. The current Government was pursuing the battle against that scourge by concentrating its efforts on the eradication of extreme poverty.

26. **Mr. Miranda** (Uruguay) emphasized that international human rights instruments could be directly enforced by the courts, which meant that the Convention's provisions which prohibited racial discrimination and the establishment of organizations fomenting racial hatred could be directly invoked before domestic courts. That having been said,

Uruguayan legislation would certainly benefit from being supplemented in those areas and any recommendation in that connection would be welcome.

27. *Mr. Prosper (Vice-Chairperson) took the Chair.*

28. **Mr. Thornberry**, noting that paragraph 26 of the periodic report stated that there were no racial ghettos in Montevideo, asked for more information about the application of article 3 of the Convention, especially with regard to the possible existence of forms of racial segregation in education and employment. Since paragraph 120 of the report implied that the notion of national identity had evolved considerably in the State party and that the racial and ethnic diversity of Uruguayan society was now officially recognized, he wished to know what had acted as the catalyst for that change. Lastly, he would like details of the module on ethnicity and race mentioned in paragraph 136 of the report, which was to be included in the basic education curriculum and the public security training programme.

29. **Mr. González Arenas** (Uruguay) said that for a long time Uruguay had considered itself to be a nation composed exclusively of the descendants of immigrants from Europe. Recognition of the presence and the contribution made by indigenous minorities and persons of African descent was something fairly recent. The current Government had drawn the consequences from that awareness, and public policies on health and education now took account of the ethnic and racial diversity of Uruguayan society.

30. **Ms. Álvarez** (Uruguay) said that, in the wake of the reform of police training, human rights modules covering the topic of racial discrimination had been included in the curriculum of the courses for senior officers which would begin in March 2011. Stock could be taken of that experiment at the end of 2011.

31. **Mr. Calí Tzay** asked with whom the burden of proof lay in cases concerning racial discrimination.

32. **Mr. Miranda** (Uruguay) confirmed that, in criminal cases, the duty of investigating the case and gathering evidence rested with the public prosecutor and court. The burden of proof could not be reversed. It was, however, useful to alert the judiciary to the human rights and racial discrimination norms applied in criminal matters. In other fields of law, in civil cases for example, the burden of proof lay in principle with the complainant, but Uruguayan case law also provided for the “principle of implied reverse burden of proof” whereby the burden of proof could be shifted to defendants if they had the means to rebut the charges against them. Courts systematically applied that principle.

33. **Mr. González Arenas** (Uruguay) said that, in order to promote access to justice for persons belonging to ethnic and racial minorities, the Uruguayan judiciary had adopted the Brasilia Regulations Regarding Access to Justice for Vulnerable People. Those Regulations included recommendations on ways of improving judicial proceedings in order to make them more flexible, less expensive and therefore more accessible to vulnerable people. For example, one recommendation was that proceedings could be adapted to allow the taking of evidence before a trial, if necessary, in order to simplify proceedings. The Uruguayan judiciary had given those regulations binding force. Training and awareness-raising activities had been organized for judges.

34. **The Chairperson** asked what administrative remedies were available for combating discrimination in the workplace, especially in the civil service, such as when an employer displayed offensive behaviour or used offensive words to an employee, when promotion was refused or when working conditions were discriminatory.

35. **Ms. Saura** (Uruguay) replied that any victim of discrimination in the workplace could file a complaint with the General Labour Inspectorate, which could institute legal proceedings and impose penalties in any case of which it was apprised. Complaints could

also be lodged with the Honorary Commission against Racism, Xenophobia and All Other Forms of Discrimination. Complaint-filing procedures were free of charge.

36. **Mr. de Gouttes** said that in some countries the practice of “testing” was used in order to obtain evidence in cases concerning discrimination, for example in order to check whether public buildings really could be accessed by everyone; that was an instance of shifting the burden of proof. Some countries allowed the reversal of the burden of proof in cases concerning discrimination, especially those dealing with access to employment or housing. The onus was then on the employer or landlord to prove that there had been no discrimination. International treaties whose provisions were self-executing could be applied directly by domestic courts and administrative authorities. But in the case of criminal law provisions, the Government had to adopt national legislation defining the offence and the penalties in detail.

37. He wondered if Uruguayan legislation covered the full scope of article 4 of the Convention. He was worried about the situation of street children who, according to some reports, were at risk of sexual exploitation, trafficking and forced labour and who were very often likely to drop out of school. He would like to know whether the number of those children was known and what measures were taken to protect them.

38. **Mr. Miranda** (Uruguay) said that he did not think that the practice of “testing” was used in Uruguay, but that idea could be studied, for example as part of the training for members of the judiciary. As for the self-executing nature of international treaties, even if an offence was directly applicable at the national level, legislation establishing penalties had to be adopted, for it was pointless to define an offence without specifying the punishment. The Committee’s recommendations on the revision of Uruguayan legislation were therefore welcome. Although there were few street children, the Government took the problem very seriously, especially when the children were extremely poor or belonged to racial minorities. He had more detailed information on the subject which could be given to the Committee.

39. **Mr. González Arenas** (Uruguay) added that the Uruguayan delegation would soon be able to supply the Committee with updated information on the situation of such children.

40. **The Chairperson** asked whether the composition of the Uruguayan population was altering and enquired as to immigration and emigration trends. He wished to know if Uruguay had greatly changed in that respect in recent years and what new challenges that might entail.

41. **Mr. González Arenas** (Uruguay) said that migratory flows had switched direction in Uruguay. After the slump in 2001, thousands of young Uruguayans had left the country to look for work in other parts of the world; but as from 2003, as economic activity picked up, unemployment had dropped to a very low level and many Uruguayans had returned home. In the future the country would probably still need skilled and unskilled migrant labour from other countries in the region and that would certainly have an impact on the make-up of the population.

42. **Mr. Lahiri** (Country Rapporteur) drew attention to the fact that the struggle for freedom in the Americas had been spearheaded by the Creoles, in other words by white persons born and settled in Latin America. As had so often been the case in history, it had not been the conquistadores who had massacred the local population, but the first generations of Creole colonists. That probably explained why the local population harboured a deep distrust of Creoles and why structural racism had steadily taken root in the region.

43. Uruguay’s periodic report showed that progress had been made in many areas. One of the main differences compared with the previous report was that Uruguay now

recognized the existence of people of African descent in the country and of problems related to discrimination against them. However, the measures planned and budgetary appropriations did not appear to be enough to solve the difficulties faced by indigenous communities and those of African descent, even though programmes to eradicate extreme poverty were helping to reduce disparities among communities. Furthermore, the slow pace of implementation of Uruguay's intentions was regrettable, one example being the holding of a census, and targeted measures to improve the situation of persons of African descent were still needed.

44. **Mr. González Arenas** (Uruguay) said that the Committee's recommendations and comments were of the utmost importance for Uruguay, for they would help it to expand on the measures taken in the areas concerned. Uruguay's determined stance against racial discrimination on the international scene and within the country, both in word and deed, was beyond doubt. The Rapporteur had, however, pinpointed some shortcomings in action to date and the Government would need the Committee's assistance with further action to remedy them. In conclusion, he stressed that most of the measures designed to meet the requirements of the country's communities of African descent and indigenous communities had been taken in the seven years following the economic crisis. The Government's priority was therefore to reduce overall poverty while focusing on the needs of marginalized, vulnerable communities.

The meeting rose at 1.10 p.m.