



International Convention on the Elimination of All Forms of Racial Discrimination

Distr.: General
18 August 2011
English
Original: French

Committee on the Elimination of Racial Discrimination Seventy-eighth session

Summary record of the 2056th meeting

Held at the Palais Wilson, Geneva, on Thursday, 17 February 2011, at 10 a.m.

Chairperson: Mr. Kemal

Contents

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

Fourteenth to eighteenth periodic reports of Cuba (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 this document* to the Editing Unit, room E.4108, Palais des Nations, Geneva.

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.

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 *(continued)*

Fourteenth to eighteenth periodic reports of Cuba (continued) (CERD/C/CUB/14-18; CERD/C/CUB/Q/14-18; CERD/C/CUB/CO/14-18)

1. *At the invitation of the Chairperson, the delegation of Cuba took places at the Committee table.*
2. **Mr. Thornberry** requested details of the nature and impact in Cuba of the discrimination based on colour mentioned earlier by the delegation and Country Rapporteur. He recalled, in that connection, that the fundamental premise underlying the Convention was not one of race, but of racial discrimination based on five criteria, and that ethnic or minority groups should be referred to in accordance with their own self-designation. He wondered, however, whether the report was correct in stating that no ethnic minorities existed in Cuba. He wondered, moreover, how the provisions relating to prohibition of discrimination, incitement to racial hatred and dissemination of hate speech were incorporated in the Penal Code. In particular, he wondered what mens rea was required in the articles of the Code, and whether the latter were stringent. He regretted the absence of non-governmental organizations (NGOs) and asked the delegation whether it would not prefer to benefit from NGOs' oral contributions, rather than merely considering written reports.
3. **Mr. Amir** said that over the course of its history, Cuba had had to work hard to acquire the resources necessary to fund a development policy in keeping with its ideals of freedom and independence, while at the same time maintaining social cohesion in times of adversity. That was how Cuba had managed to remain a free country that had liberated its population from a form of economic and social slavery. Today, Cuba was working to build better relations with the rest of the world, including the United States of America, which had, in turn, shown a desire to improve its relations with the island.
4. **Mr. Moreno** (Cuba) thanked the members of the Committee for the solidarity and understanding that they had shown towards Cuba. Citing the recent events in the Arab world, including Egypt, he said that Cuba had served as a model in its promotion of democracy over the past 50 years. The Cuban Government had always held public referendums on major political issues, and the Cuban participatory system was built up from the electorate, rather than established power groups. The crisis that traditional political parties in many countries of the world were facing arose from those parties' very strong connection to major power establishments, which was hardly democratic. He stressed that there was no universal blueprint for democracy, but several models; democracy was the product of the will of each people, hence the multiplicity of political, economic and social systems.
5. He could confirm that many children and adults affected by the Chernobyl disaster had received — or were receiving — treatment in Cuba, but he was unfamiliar with the two cases cited by one Committee member: isolated cases, to be sure. He had also not been informed about the study on racial discrimination mentioned in the BBC broadcast referred to by the Country Rapporteur.
6. He could confirm that Cuba was not party to the 1951 Convention relating to the Status of Refugees or the 1967 Protocol thereto; however, the country fulfilled obligations under both instruments and the authorities maintained an open, ongoing dialogue with the representative of the Office of the United Nations High Commissioner for Refugees in Havana. Very few refugees came to Cuba; those that did seek refugee status were usually victims of human trafficking. In the 1970s and 1980s, by contrast, Cuba had taken in

thousands of refugees fleeing military dictatorships in Latin America, including whites, blacks and indigenous people; therefore, they did not face any discrimination.

7. The death penalty was indeed provided for by law, but it was only applied in exceptional cases and was strictly regulated by legislation. For example, under the Constitution, the death penalty could be commuted to life imprisonment for some offences, as had several times been the case. For many years, Cuba had needed to apply stringent laws in order to safeguard national security and punish acts of terrorism, but due process in that connection had been respected. Today, the death penalty continued to be at variance with Cuba's values; the Government would welcome its abolition when circumstances permitted.

8. Concerning fundamental freedoms, more than 2,000 NGOs were officially registered in Cuba. Despite the economic and financial embargo imposed on the island, there were also more than 700 serial publications, more than 100 radio stations and some 50 national and regional television channels. Over 1.5 million Cubans enjoyed regular Internet access, and Cuba had eradicated illiteracy: a vital first step towards ensuring genuine exercise of the freedom of expression and information. In addition, 10 per cent of the population held a university degree.

9. Public referendums were held for all major decisions affecting the Cuban people's future. For example, Cuba's new economic and social development policy was subject to public debate at all levels; he had himself participated in it along with hundreds of thousands of other Cuban citizens.

10. He rejected the exclusively politically motivated allegations made by certain countries and NGOs to the effect that the freedom of expression was subject to restrictions in Cuba. No one could be punished merely for freely expressing political beliefs or ideas. Some individuals had been prosecuted for engaging in mercenary activities or accepting funds from foreign Powers for the purposes of disrupting law and order. Regrettably, all indigenous communities had been exterminated in the sixteenth century by Spanish settlers. Spanish was the official language, but many newspapers and radio and television broadcasts were available in other languages. There was free public access to tourist and recreational areas, including beaches.

11. **Ms. Herrera Caseiro** (Cuba) said that her country had not deemed it necessary to make the declaration provided for under article 14 of the Convention to recognize the competence of supranational bodies or mechanisms. Existing national mechanisms had thus far served to prevent any violations of provisions enshrined in the Convention and other international human rights instruments.

12. Advancement of the status of women was among the priorities of the Cuban Government, which had adopted sectoral programmes and specific measures under a national plan of action to implement the recommendations of the Fourth World Conference on Women. In Cuba, no woman had to prostitute herself in order to earn a living. Between the 1959 Revolution and the late 1990s, prostitution had virtually disappeared from the country, but the problem had resurfaced as a result of developing international tourism to address the consequences of the embargo imposed by the United States of America. However, the number of prostitutes was very low compared to most other countries. The Ministry of Tourism had established a "security and protection" directorate mandated to counter any threats of sexual exploitation or corruption. Sexual abuse of children was prohibited by law and severely punished under the Penal Code. In 1999, the Penal Code had been amended to include the offence of procurement and trafficking in persons and to provide for stricter penalties for any persons organizing or facilitating the entry into or exit from Cuban territory of individuals for the purposes of sexual exploitation or prostitution. Anyone using a person under 16 years of age for prostitution or pornographic purposes

faced liability for the offence of corrupting a minor. The framework for the protection of children and adolescents had been strengthened, in particular to address problems arising from the development of international tourism and transnational organized crime.

13. The Cuban Constitution and legislation protecting the freedom of movement and right to establish a residence within Cuban territory of all Cuban citizens, as well as their right to leave the country, were fully compatible with the relevant provisions of the International Covenant on Civil and Political Rights. All Cubans living abroad who were in possession of a valid passport could enter the country as often as they wished. Similarly, Cubans in possession of a valid visa could travel abroad without restriction, except — in order to guarantee national security — in circumstances provided for by law. Since the late 1960s, the United States of America had pursued a migration policy that bolstered illegal immigration and human trafficking from Cuba to the United States. The Bush Administration had even funded programmes to encourage Cuban health and education specialists working abroad to emigrate to the United States. Migratory flows to other countries posed no problem, and were fully consistent with bilateral and international standards applicable to migration. The Cuban Government had undertaken to update and enhance its laws on nationality and migration, with the 1948 Nationality Act having become obsolete. Cuba had few foreign permanent residents on its territory. Those persons enjoyed the same rights and freedoms as Cuban nationals, apart from the right to vote, be elected and hold public office.

14. With regard to border controls, any person attempting to enter the country illegally in violation of the provisions of migration legislation was automatically returned (*refoulé*). Article 13 of the Cuban Constitution duly recognized the right of asylum; Cuba was also party to the 1928 Havana Convention on Asylum and the 1933 Montevideo Convention on Political Asylum. In recent years, Cuba had seen makeshift vessels wash up on its shores containing Haitians trying to reach the United States. Such migrants were given humanitarian assistance, free food and housing by the State, despite the very limited resources available. They were voluntarily returned to their country of origin. Cuba had signed a memorandum of understanding with the Haitian Government and the International Organization for Migration to facilitate the repatriation process.

15. **Mr. Alonso** (Cuba) said that the policy to combat racial discrimination applied by the Cuban authorities dated back more than 50 years to the 1959 Revolution and it was now difficult to differentiate persons of Afro-Cuban or European origin. Many very high-level posts were also held by Afro-Cubans. The Cuban Catholic Church had begun to play an important role again at the national level, in particular through Cardinal Jaime Ortega, Archbishop of Havana, who had acted as mediator for the release of persons imprisoned for opposing the Cuban Revolution, as well as in other contexts, such as collaboration with the United States Catholic Church to foster a change in Washington's hostile policy towards Cuba. The new influence of the Cuban Catholic Church had been very much of a surprise to foreign media, but met the joint aspirations of the Catholic Church and Cuban State. The Cuban political authorities did not doubt that such cooperation would be strengthened.

16. **Ms. Bonachea Rodríguez** (Cuba) said that in her country, NGOs could intercede within the inter-agency system for receiving and considering complaints from individuals alleging violations of their fundamental rights. Existing mechanisms and policies for the protection and promotion of human rights were subject to continuous scrutiny and monitoring. Cuba well realized that an absence of complaints of racial discrimination did not automatically mean that racial discrimination did not exist. However, the fact that 70,000 Cubans had recourse each year to the Office of the Attorney General (*Fiscalía General de la República*) showed that the population was duly informed of its rights. Cubans had no distrust of the justice system; according to data available, no fewer than 27 per cent of Cubans had had their rights upheld after instituting legal proceedings. Nor was

there any fear of reprisals, since Cubans knew that the Penal Code envisaged strict penalties, including 1 to 3 years' imprisonment, for offences such as witness intimidation. If the Attorney General decided not to follow up a complaint, that was because the facts did not constitute an offence or there was insufficient evidence to prosecute.

17. As to the composition of the prison population, 65 per cent of detainees were aged 31 to 59 years, 96.8 per cent were male and 3.2 per cent female. Of those, 63.2 per cent were white, 29 per cent of mixed race and 27.8 per cent black. As to judicial personnel, 72 per cent were Afro-Cuban and 70 per cent female. Afro-Cubans accounted for 50.4 per cent of the police force.

18. She added that the members of the Cuban police were given human rights training, inter alia covering the professional code of ethics of the police force, the Criminal Procedure Act and fundamental human rights principles, including those relating to racial discrimination. A detailed directive had been circulated to all of the island's police stations, drawing police officers' attention to the need to respect the physical integrity and dignity of all, whether they be suspects or victims.

19. **Mr. Quintanilla Roman** (Cuba) explained that protection against all acts of racial discrimination was enshrined in a constitutional provision and that several articles of the Penal Code were specifically concerned with combating racial discrimination. Thus, article 295 of the Code provided that anyone violating the right to equality was punishable by 6 months' to 2 years' deprivation of liberty and/or a fine. The provision applied to any person guilty of: discrimination towards another person; encouragement of or incitement to discrimination, either with deliberately offensive statements concerning gender, race, colour or national origin, or with attempts to impede enjoyment of constitutionally enshrined rights to equality. The same penalties were applicable to any person disseminating ideas based on racial superiority or hatred or committing or inciting acts of violence against any group of persons of a particular colour or ethnic origin. Other legislation, such as the Family Code, the Children and Young People's Code, the Labour Code, the Copyright Act and the new Social Security Act (December 2008) prohibited and prevented racial discrimination.

20. All provisions of article 4 of the Convention had been taken into consideration in Cuban legislation, which condemned and penalized all propaganda and all organizations based on ideas or theories of superiority of one race or group of persons of one colour or ethnic origin, or which attempted to justify or promote racial hatred and discrimination in any form. Additionally, the 1985 Associations Act prohibited the establishment of racist or segregationist associations.

21. **Mr. Feraudy Espino** (Cuba) expressed surprise that his country should be asked about the existence of specialized bodies to combat discrimination. The eradication of all forms of inequality on which former regimes had prospered had been one of the principles underlying the Cuban Revolution. No complaint of racial discrimination had been received, since Cubans all saw themselves as being of mixed race.

22. **The Chairperson** said that he had visited Cuba twice, in 1979 and 1981. He recalled that his own country, Pakistan, had been struck in January 2011 by a very strong earthquake and that Cuba, despite the extremely limited resources at its disposal, had sent hundreds of rescue personnel, including many physicians, to provide assistance to Pakistani victims. That display of international solidarity deserved special mention.

23. **Mr. Moreno** (Cuba) said that his country was indeed far from being wealthy. The Cuban approach to cooperation differed from that of much more affluent countries which offered services superfluous to their own needs. Cuba, however, shared whatever it had.

24. **Mr. Thornberry** stressed that the Committee often discussed the meaning of “homogeneity”, since in the past the term had often been used to conceal situations of inequality. Racial discrimination existed in one form or another in all countries, and the Committee thus always endeavoured to determine the actual situation in States parties, including Cuba. In that connection, he reminded the delegation that an ethnic group was defined not only by the race and ethnicity of its members, but also by their religion and culture.

25. **Mr. Moreno** (Cuba) agreed that numerous factors, whether anthropological, linguistic, social or religious, came into play when defining a racial or ethnic group. He noted, however, that although Cuba had significant numbers of mixed-race and black people, a Cuban would identify himself as Cuban first and foremost, before defining himself as white, black or of mixed race. The white, black and mixed-race populations were scattered across the whole of the national territory. Segregation in Cuba would be impossible not only for historical reasons linked to revolutionary political history and philosophy, but also because actual arrangements for the exercise of power did not allow it.

26. **Mr. Lahiri** welcomed the fruitful dialogue held with the Cuban delegation as well as the latter’s detailed responses to experts’ numerous questions about de facto implementation of the Convention in the State party’s territory. He noted Cuba’s outstanding results in the fields of public health and education, achieved in spite of the unjust embargo it had faced for several decades. Cuba enjoyed an outstanding international reputation and it was to be hoped that the country’s cooperation with all United Nations mechanisms would be continued.

27. **Mr. Lindgren Alves** noted with interest the oral replies of the Cuban delegation to the many questions put to it at the previous meeting. Some of the comments made by members of the delegation echoed concerns of his own that he had been raising before the Committee for nine years, namely that all States parties could not be required to apply the provisions of the Convention in the same manner and in a uniform way. The Cuban delegation was justifiably surprised that the Committee should be asking about mechanisms introduced to assess the progress achieved by certain population groups of African origin when the country had made equality of its citizens a cornerstone of all its policies for the past 50 years.

28. **Mr. Moreno** (Cuba) said justice required that situations that were different in and of themselves should be approached in a different way. All countries were not equal or in the same situation when it came to matters of ethnicity. All international human rights treaty bodies should, indeed, be guided by that principle when considering the situation in States parties to international human rights instruments.

29. **Mr. Ewomsan** stressed that many African professionals had been trained in universities of the former socialist bloc, including Cuba. However, some of those countries, in particular the Russian Federation, were currently witnessing a worrying increase in racism against persons of African origin. Had such a phenomenon been observed in Cuba?

30. **Mr. Moreno** (Cuba) said that more than 2,500 African students were currently attending university in Cuba and that no case of racial discrimination against members of that group had been reported to date.

31. **Mr. de Gouttes** said that he would appreciate fuller clarification of the absence of complaints of racial discrimination in the State party. It was to be hoped that in the next periodic report, the Committee would be given data on complaints and prosecutions in respect of cases of racial discrimination.

32. **Mr. Moreno** (Cuba) said that the Office of the Attorney General had received several thousand complaints concerning a whole plethora of issues, but that none of those

complaints involved acts of racial discrimination. Cubans were, however, well aware of their rights and knew to whom they could turn for justice, if need be. Thus, the absence of complaints was evidence, rather, that racial discrimination did not constitute a serious problem in Cuba.

33. **The Chairperson** asked whether people were ever refused access to a public place because of their skin colour or dress.

34. **Mr. Moreno** (Cuba) said that in his experience, the rare persons refused access to public places in Cuba tended to be those European tourists — white for the most part — whose dress was deemed too informal.

35. **Mr. Calí Tzay**, noting that, according to the delegation, Cubans did not consider themselves black, white or of mixed race, but Cuban first and foremost, said that in his country, Guatemala, an indigenous person would have trouble identifying himself as Guatemalan without mentioning the community to which he belonged, since that would be tantamount to denying his identity, roots and age-old culture. The delegation should thus explain what it meant to “be Cuban”.

36. **Mr. Moreno** (Cuba) said that since the indigenous inhabitants who had previously resided on the island had been annihilated, Cuba could not, like Guatemala and countries in the Andean region, boast of having age-old roots and an age-old culture. In contrast to those countries, Cuba’s national identity was based on a centuries-long mix of Europeans and Africans, accounting for its uniqueness. Racial or ethnic origin was thus an issue that neither interested nor concerned the average Cuban. Lastly, combating racial discrimination was a long-term process which above all required addressing prejudices and changing mindsets through education and awareness-raising.

37. **Mr. Lindgren Alves** asked whether the 70,000 complaints submitted to the Office of the Attorney General on grounds unrelated to racial discrimination involved any alleged violations by public officials.

38. **Ms. Bonachea Rodríguez** (Cuba) explained that the figure of 70,000 corresponded to the number of people who had contacted the Office of the Attorney General, not the number of complaints. Only 12,000 people had submitted complaints; the others had merely sought legal assistance. The 12,000 people included individuals of African descent, but none had complained of racial discrimination.

39. **Mr. Feraudy Espino** (Cuba) said he wished to clarify that the absence of complaints of racial discrimination did not in any way mean that the phenomenon did not exist in Cuban society, just that when a racist incident occurred, it was very difficult for the victim to complain owing in particular to the mixed composition of the population.

40. **Mr. Murillo Martínez** (Country Rapporteur) welcomed the constructive dialogue held with the Cuban delegation. To summarize the debate, the Committee had recognized the role played by Cuba in the anti-apartheid movement and noted that Cuba’s development, as well as its progress in combating racial discrimination, had been impeded by the embargo. The Committee had also observed that in most countries with a history of slavery, people of African descent were subject to systemic discrimination. With regard to the absence of complaints of racial discrimination, he hoped that the State party would study the issue in order to establish why no victims of racism submitted complaints and whether there were any obstacles preventing them from taking legal action. He also hoped that the State party would inform the Committee of its planned activities to mark the International Year of Persons of African Descent. Lastly, given that 85 per cent of Cubans receiving remittances from abroad were white, the State party might wish to reflect on the repercussions of such funds on the country’s economy and Cuban society, in light of the Convention.

41. **The Chairperson**, thanking the Cuban delegation, said that the Committee had thus completed the first part of its consideration of the fourteenth to eighteenth periodic reports of Cuba.

The meeting rose at 1.05 p.m.