

PROVISIONAL
For participants only

CERD/C/SR.868
11 October 1990

ENGLISH
Original: FRENCH

COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Thirty-eighth session

PROVISIONAL SUMMARY RECORD OF THE 868th MEETING

Held at the Palais des Nations, Geneva
on Thursday, 9 August 1990, at 10 a.m.

Chairman: Mr. SHAHI

CONTENTS

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

- Ninth and tenth periodic reports of Ecuador
- Third and fourth periodic reports of China

Organization of work

Corrections to this record 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 Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

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 (agenda item 7) (continued)

Ninth and tenth periodic reports of Ecuador (CERD/C/172/Add.4)

At the invitation of the Chairman, Mr. Santos Alvite and Mr. Apunte Franco (Ecuador) took places at the Committee table.

Mr. SANTOS ALVITE (Ecuador) said that his country, a genuine melting pot of races and cultures, guaranteed all its citizens free exercise of the civil, political, economic, social and cultural rights set forth in the international instruments in force. In order to ensure full enjoyment of those rights, it was taking all possible steps to overcome underdevelopment and improve the living conditions of the population, with due regard for the environment, despite an acute shortage of resources. In doing so, it was constantly at pains to combat all forms of racial discrimination.

The Government had decided to take priority action on three fronts. First, it was striving to improve the lot of children, in particular by waging a battle against hunger and malnutrition and against illiteracy, an area in which great headway had been made. Second, it was committed to improving the status of women. In that connection, the Civil Code had been amended in 1989 in order to place women on an absolutely equal footing with men, for instance, with regard to the position and role of women in marriage. That reform was the culmination of many years of effort. Third, the Government was seeking to encourage the participation and integration of the indigenous population, who accounted for 18.5 per cent of the total population. It had taken steps to mobilize and inform the population, with emphasis on literacy. There were 1,750 bilingual education centres in Ecuador, catering for some 34,000 pupils.

The high degree of mobility and the mixed racial origin of the population were undoubtedly conducive to integration and a discouragement to all forms of discrimination. Last but not least, Ecuador, a fervent champion of democracy, could pride itself on having maintained social peace. That was its greatest asset in achieving development in all areas.

The CHAIRMAN invited Mr. Yutzis, Rapporteur appointed for the preliminary examination of the reports, to take the floor.

Mr. YUTZIS said that Ecuador spared no effort in ensuring respect for human rights and fundamental freedoms within its borders. In particular, the Government was successfully endeavouring to promote education, the status of women and the participation of the indigenous population in the life of the nation.

Instructive though it was, Ecuador's report did not state whether the Constitution or other legislation contained provisions that were in conformity with article 2, paragraph 1 (d), of the Convention, which was directed against groups or organizations of a racist character. Nothing was said, either, about measures taken in accordance with articles 3 and 4 of the Convention.

He had some misgivings about paragraph 5 of the report, where it said that "no kind of racial discrimination whatsoever exists or has existed in this country". That categorical statement was supported by three arguments, namely that no one had ever brought a complaint before the courts for racial discrimination (para. 6), that there was "no concept whatsoever of class superiority based on chromosomes" (para. 7), and that the whole of the population was of mixed racial origin.

The first argument was possibly the most valid of the three. But it remained to be seen what remedies were available, whether all individuals without exception knew that they could go to court if need be, and whether there were any psychological or other reasons dissuading them from filing complaints.

The second argument was hardly acceptable. Just because there was no "genetic racism" in Ecuador did not mean that there was no racial discrimination. The fact was that racial discrimination could take far more insidious and subtle forms. The third argument - a racially intermingled population - seemed difficult to reconcile with the fact that Ecuador singled out, though according to what criteria was not known, several indigenous ethnic groups which accounted for a substantial proportion of its inhabitants.

In any event, "social marginalization" did exist in Latin America and could not be ignored. Wealth was not evenly distributed among all segments of the population and the colour of a person's skin and racial origin played a decisive part in that situation. That was the sombre legacy of colonialism.

He quoted a number of specific examples showing that there were indeed tensions in Ecuadorian society.

Back in 1923, an oil company had been set up on land inhabited by indigenous peoples; at the same time, there had been conflicts between those peoples and settlers attracted there by the rubber trade. In 1956, Huaorani Indians had killed five American missionaries who were said to have been connected with an organization called Instituto lingüístico de verano. In 1979, the Huaoranis had been afflicted by a poliomyelitis epidemic and had been given no assistance, apparently for fear that outsiders would be

unwelcome. The oil companies, which continued to use the same method even today, established themselves on lands inhabited by the indigenous peoples by the devious method of encouraging settlers to the area and then using those settlements as a bridgehead to expand their own field of operations.

In a document submitted on 1 August 1990 by the representative of the Confederation of Indigenous Nationalities of Ecuador to a United Nations body, it was requested that the indigenous peoples of Ecuador and their right to land should be recognized, that the State should be declared plurinational by an amendment to the Constitution, that a law on indigenous nationalities should be adopted and that politico-religious organizations like the Instituto lingüístico de verano, which was suspected of encouraging the establishment of multinational corporations in the country and of defending interests alien to those of Ecuador, should be expelled.

He did not consider himself competent to judge whether or not those allegations were true, but would stress how difficult they made it to accept the assertion in paragraph 5 of the report that there was no discrimination in Ecuador.

On another point, he would like the demographic data concerning Ecuador to be updated. He also wished to know how many property deeds had been issued to members of the indigenous population and whether the indigenous population was actually succeeding in going over from a subsistence economy to a production economy without losing their identity. Information was also needed on the methods employed by the oil companies and the way in which they used settlers to establish themselves in certain areas, and on protection of the environment, with which the indigenous peoples lived in close harmony.

In conclusion, he thanked the representative of Ecuador for the introduction of the report, and commended the Ecuadorian Government for its spirit of dialogue.

Mr. VIDAS also expressed appreciation for the spirit of co-operation always shown by the Ecuadorian Government. He too was interested in the questions asked by Mr. Yutzis and believed that the Ecuadorian Government should be urged to continue its policy of encouragement to indigenous ethnic groups and their various forms of cultural expression.

Mr. RHENAN SEGURA said that he wished first to draw attention to the inconvenience the Secretariat had caused by notifying him at the last minute that he would not be entrusted with the task of commenting on Ecuador's report, whereas the Centre for Human Rights had officially appointed him to do so. He urged the Secretariat to make sure that such a mistake did not occur again.

It was difficult to accept the assertion that there was no racial discrimination, especially when it was made by a country like Ecuador, where there was a very substantial indigenous population, where discrimination had been a matter of course during the colonial era and where subtle forms of distinction between persons or groups were drawn, consciously or unconsciously, in connection with social stratification. The Committee should therefore have accurate information on the composition of the Ecuadorian population, on minority groups, and on Government measures to protect their heritage.

On the subject of education, it could be seen that paragraph 9 of the report dealt mainly with higher education. Further information would be welcome. What was the literacy rate among the indigenous groups? Was literacy work among those groups conducted in Spanish or in their own language? What proportion of indigenous inhabitants entered higher education? What was the budget of the National Directorate of Indigenous Affairs, how were its main officials selected and were the indigenous inhabitants represented?

As to agrarian reform, what percentage of the national territory was in the hands of the indigenous population, and what had been the results of the reform launched in 1973? Would it also be possible to have details on the problems encountered by the Government in eastern Ecuador in regard to lands belonging to indigenous peoples?

In its report of the previous year, the competent ILO expert committee had noted that Ecuador had not been complying with its obligations under ILO Convention No. 87 in regard to freedom of association. In that connection, he asked whether it was possible for indigenous groups to establish their own organizations, whether they had equal access to jobs, and whether - and in what proportion - they were represented in Parliament and in the other higher national authorities.

Again, had the Ecuadorian Government taken "immediate and effective measures", in accordance with article 7 of the Convention, in the fields of teaching, education, culture and information, to combat prejudice leading to racial discrimination and intolerance. In particular, were indigenous groups informed of the provisions of international instruments for the protection of human rights and, if so, in what way?

Lastly, he pointed out that Ecuador, which had in 1989 celebrated the tenth anniversary of its return to democracy was one of the few countries in the world to have made the declaration provided for in paragraph 1 of article 14 of the Convention.

Mr. SONG thanked the Ecuadorian Government for its fruitful dialogue with the Committee, but regretted that the guidelines for the presentation of the report had not really been followed.

On the subject of equality between men and women, he asked when the Act referred to in paragraph 20 of the report would be put into effect and whether other measures were planned to deal with the problems arising from traditional prejudices.

He commended the Government for setting aside 30 per cent of the nation's budget for education, and would like to have more details about the progress in education, including the literacy rates, among the indigenous population.

Had the administrative and legislative measures mentioned in paragraph 28 of the report yielded results in regard to participation by the indigenous population in elections and also in reducing illiteracy?

In conclusion, he would stress the important role played of the law in preventing acts of discrimination.

Mr. WOLFRUM said that he would like information on the distribution of national income among ethnic groups, the measures taken to combat unemployment and narrow the income gap, the health services available to the various ethnic groups, the efforts by the Government to preserve the specific cultural identity of minority groups, the languages that could be used before the courts or in the administration, the nature of the provisions in the Criminal Code referred to in paragraph 6 of the report, the extent of participation by indigenous peoples in elections, their representation in Parliament and in the senior civil service, and the functioning, objectives and activities of the bodies mentioned in paragraph 26 of the report.

Mr. de GOUTTES said it was gratifying to see that Ecuador had made the declaration provided for in article 14, paragraph 1, of the Convention and that the ninth and tenth reports, consolidated in a single document, amply described the country's socio-economic situation.

Paragraph 3 (CERD/C/172/Add.4), stated that any person living in Ecuador could directly invoke the Convention. Did that mean that the Convention was directly applicable under domestic law? Did the fact that the Convention had never been invoked before the courts mean that there was no discrimination, or merely that people did not know enough about it? Had the situation changed since the drafting of the tenth report?

Mr. ABUL-NASR said he considered it important to know what proportion of non-whites were represented in Parliament and in the Government, since they constituted a huge segment of the population.

Mr. SHERIFIS pointed out first of all that Ecuador, whose co-operation with the Committee had always been exemplary, had ratified all the international conventions on human rights, and was one of the few countries to have made the declaration under article 14 of the Convention. It was regrettable however, that the document under consideration had not been drawn up in accordance with the Committee's guidelines.

In Ecuador's eighth periodic report, it had been stated that Indians accounted for 18.5 per cent of the population, whereas the figure had been given as 50 per cent in previous reports. What exactly was the situation? What was the reason for that discrepancy?

The Ecuadorian Government was to be commended for the efforts it had made to improve the lot of the indigenous peoples and the status of women. There was no doubt that the agrarian reform should be continued, since it was consistent with the intention behind article 5 of the Convention. It was interesting to note that the budget of the Ministry of Education accounted for 30 per cent of the national budget (CERD/C/172/Add.4, para. 9), and he asked whether it was true that half of the Indians did not speak Spanish. Lastly, since previous reports had indicated that certain Indian tribes like the Colorados were dying out, it would be interesting to have updated information on the subject.

Mr. GARVALOV said first of all that he had noted the statement in paragraph 3 of document CERD/C/172/Add.4 that every inhabitant of the country, "whether an Ecuadorian or a foreigner", enjoyed the rights enunciated in the international instruments to which Ecuador was a party. That was a highly positive factor, which deserved to be emphasized, and it was to be hoped that the Ecuadorian Government was in a position to ensure the application of that principle in all cases. He also welcomed the Ecuadorian Government's excellent collaboration with the Committee.

Paragraph 5 said that there was no kind of racial discrimination whatsoever in Ecuador. The experts on the Committee knew only too well that that was not true of any country and, even though Ecuador might be "a racial melting pot" (para. 7), specific and convincing evidence must be adduced to support that assertion.

It was deplorable that in drawing up their periodic reports, States parties - and in that regard Ecuador was no exception - failed to make a clear distinction between the Convention on the Elimination of All Forms of Racial Discrimination and the International Covenants, especially the International

Covenant on Economic, Social and Cultural Rights. Like many other States parties, Ecuador tended to dwell upon the constitutional and legislative provisions conducive to combating discrimination, without giving much information on the application of those provisions, whereas the Committee was primarily interested in practical measures.

Mr. SANTOS ALVITE (Ecuador) thanked the Committee for the great interest it had shown in his country. By way of general comment in response to the questions raised by Mr. Yutzis, he said that the Ecuadorian Government's main objective was to ensure integrated development, in other words not only economic but also social development. That objective was all the more difficult to attain because, as was well known, Ecuador was heavily in debt (\$11 billion, for a population of 10 million). He would point out in that regard that Ecuador had been one of the first countries in Latin America to plan its development by establishing a National Economic and Social Planning Council, as long ago as 1954.

The Indian element had had a considerable influence on Ecuadorian culture, as could be seen from the powerful works of a writer like Jorge Icaza or the painter Oswaldo Guatasamín, which were known the world over. Moreover, the agrarian reform launched in 1964 and internal migration had contributed in no small way to the intermingling of the population. Population density was still relatively low in Ecuador, and the integration of small, isolated population groups was therefore a slow - and, as had been pointed out - not always a smooth process. However, the Ecuadorian Government, mindful that colonialism was at the root of the country's underdevelopment, was careful not to repeat the errors of the past, one of which was paternalism. That was why it had made the strengthening of local autonomy one of its priorities and why it was endeavouring, through the activities of the National Directorate of Indigenous Affairs, to help the indigenous peoples to develop within their own environment. With the census scheduled for 1990, data on the various ethnic groups would very probably be brought up to date, even though the growing number of persons of mixed race made the task difficult. In any event, he wished to confirm, in reply to Mr. Sherifis' question, that the Indian population accounted for 18.5 per cent of the population as a whole, and not 50 per cent.

The purpose of the Ecuadorian Government's literacy work was simply to assist the indigenous peoples in their development. In that connection, he cited the work of Mgr. Proaño, who had mobilized thousands of people in the

struggle against illiteracy. Only some 10 per cent of the population was still illiterate. He also pointed out that educational campaigns were more appropriate than sterilization campaigns as a way of bringing down the population growth rate, since they were far more mindful of the rights of the individual. They were also designed to improve the social status of women, and hence to combat discrimination. The measures announced in paragraph 19 of the report had indeed been taken, with the adoption by the Ecuadorian Congress, on 18 August 1989, of 81 legislative instruments guaranteeing absolute equality between spouses.

Again the President of Ecuador himself had recently concluded one of his speeches in the Quechua language - something which could be said to herald a new era of communication. A great deal of literature on human rights, including material produced by the National Human Rights Association, was translated into Quechua, thus acquainting the Quechuas with their rights and obligations and enabling them to take a more active part in the life of the country. The Government had endeavoured to establish a very wide-ranging dialogue with the population in order to reach agreement on fundamental issues like land ownership, the "minifundios" (smallholdings of insufficient size) and water-use regulations, especially for irrigation. In Ecuador, political decisions must be the result of consensus among all the nationalities represented in the country. The challenge that lay ahead was indeed national integration.

Reverting to the question of participation by the indigenous population in public life, he said that all citizens, of whatever origin, had access to the most senior positions in the State. Several politicians of indigenous origin had already made their mark on his country's public life. Women, too, were increasingly rising to positions of responsibility. In conclusion, he appreciated the interest shown by the members of the Committee in the situation in Ecuador. He hoped to be able to provide them with additional information in forthcoming reports and reiterated his wish to see the emergence of an international code of development ethics.

Mr. YUTZIS thanked Mr. Santos Alvite for the additional information he had provided. However, he wished to stress that the persistence of certain tensions in Ecuador did not enable him, as a member of the Committee, to accept that article 19, paragraph 5, of the present Constitution, as quoted in paragraph 4 of the report (CERD/C/172/Add.4), was in conformity with the

Convention. If the wording had not been amended before Ecuador's next report was submitted, the Committee would be compelled once again to draw the government representative's attention to that point.

The CHAIRMAN said he, too, hoped that Ecuador's next reports would take account of the questions raised by the Committee and that they would contain precise demographic data.

Mr. Santos Alvite and Mr. Apunte Franco withdrew.

Third and fourth periodic reports of China (CERD/C/153/Add.2 and CERD/C/179/Add.1)

At the invitation of the Chairman, Mr. Fan Guoxiang and Mr. Wu Shiming (China) took places at the Committee table.

Mr. FAN GUOXIANG (China) explained that each of the reports was composed of six parts. The first, on the implementation of article 2 of the Convention, provided concrete information demonstrating that the Chinese Government had always upheld the principle of the equality of all nationalities. Among other things, the Government had adopted a series of specific measures, including financial and technological measures, to encourage the economic and cultural development of national minorities. In 1988 and 1989, economic growth in the regions concerned had been the same as in the rest of the country. The second part of the report dealt with the implementation of article 3 of the Convention. Not only did the Chinese Government promote equality among peoples of different nationalities within its borders, but in international affairs as well, it advocated equality and co-operation among peoples, and it had always opposed policies of racial discrimination and apartheid. It had strictly abided by United Nations resolutions on sanctions against South Africa and maintained no official relations with that country. The third part of the report dealt with the implementation of article 4 of the Convention. The Chinese Government prohibited any act that might lead to racial discrimination. Any incident or event that might constitute an insult to a national minority was punishable by law. At the same time, the Chinese Government was working towards eliminating vestiges of the past which might be humiliating to national minorities and contribute to racial discrimination. The fourth part of the report covered the implementation of article 5 of the Convention. The principle of equality among all the nationalities of the People's Republic of China, which was embodied in the Constitution, had been put into practice in the political and social life of the country. That principle had always served as a guideline

for formulating legislation, administrative decrees and regulations. The fifth part of the report dealt with the implementation of article 6 of the Convention. China guaranteed to citizens of all nationalities enjoyment of the rights and freedoms provided for by law. To that effect, the Government had sought in recent years to perfect the country's legal system by promulgating, for instance, the law known as the General Civil Law of the People's Republic of China and the Administrative Procedural Law. The sixth part of the report concerned the implementation of article 7 of the Convention. The Chinese Government organized educational activities to disseminate the principles of equality, solidarity and mutual assistance among the various nationalities. The provisions of the Convention were therefore clearly reflected in the functioning of the legislative, judicial and administrative machinery of the country and, generally speaking, the Chinese Government had achieved positive results in eliminating racial discrimination.

He also wished to provide the Committee with some additional information on the implementation of the Convention. The Chinese Government had always implemented a consistent policy towards national minorities. As Premier Li Peng had recently stated, governments must ensure equality and unity among all nationalities and respect their freedom of religious belief, their traditions and customs, while actively developing the economy and culture of all the national autonomous regions so as to promote the common prosperity of all nationalities. In the same address, he had dwelt on the need to safeguard the unification of the motherland and unity among all nationalities, and had invited opposition to any attempt to divide the nation. While continuing its policy of reform and opening up to the outside world, the Chinese Government had adopted economic measures for the benefit of the various regions. For example, it had encouraged some border regions to conduct trade with neighbouring countries. Some regions with a substantial minority population had been able to continue to develop despite prevailing difficulties. In 1989, the gross agricultural and industrial product of the autonomous regions had increased by 7.6 per cent. The State had also made significant efforts to help those national minorities that were still too poor to ensure their own subsistence to emerge from poverty. In spite of its financial difficulties, the Government had set aside RMB 55 million to establish a fund for projects of subsistence for national minorities. Since 1989, the central Government had approved the establishment of nine national autonomous counties, thereby bringing the total number of national autonomous

areas up to 159. In 1990, it had continued its efforts to promote education, culture, science and health for national minorities and had recently earmarked a further RMB 20 million for education. A large number of books and other materials had been published in their languages, and two art troupes of minority nationalities had toured various parts of the world to make their art and culture more widely known. In city planning as well, the national traditions and local characteristics of the autonomous regions were preserved. The State also protected the customs and habits of national minorities.

The Chinese Government had also taken measures to safeguard unity in a wider context by encouraging mutual help and mutual respect among citizens in the multinational regions and unity among the various nationalities in those regions.

In the international community, the Chinese Government was continuing its policy of opposing racial discrimination and segregation. China would continue to fulfil the obligations set forth in the Convention and work unremittingly for the dignity of mankind, the elimination of all forms of racial discrimination and the advent of a human society free of all oppression and discrimination among nations.

The CHAIRMAN suggested that consideration of the report of China should be continued at the Committee's next meeting.

It was so decided.

Mr. Fan Guoxiang and Mr. Wu Shiming (China) withdrew.

ORGANIZATION OF WORK

THE CHAIRMAN said that the Permanent Mission of Iraq had just asked the Committee to defer consideration of its report to a later date.

After a brief exchange of views, he announced that a new date would be proposed to the Permanent Mission of Iraq.

Mr. WOLFRUM proposed that any free periods in the Committee's timetable should be set aside for the discussion of general recommendations.

The meeting rose at 1 p.m.