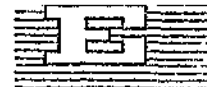


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COMMISSION ON HUMAN RIGHTS
Thirty-ninth session

IMPLEMENTATION OF THE INTERNATIONAL CONVENTION ON THE SUPPRESSION
AND PUNISHMENT OF THE CRIME OF APARTHEID

Reports submitted by States parties under
article VII of the Convention

Addendum

ECUADOR

[30 April 1982]

It is a great pleasure for Ecuador, a country which has signed and ratified the International Convention on the Suppression and Punishment of the Crime of Apartheid, to submit to the Special Committee against Apartheid its report under article VII of the Convention concerning its application.

Ecuador's position with respect to the repugnant and shameful system of apartheid is known to all, and that position, which is in harmony with the spirit of the Ecuadorian nation, is reflected both in the domestic sphere and in Ecuador's voluntary accession to those international instruments which, like the International Convention on the Suppression and Punishment of the Crime of Apartheid, govern this matter.

In fact, no policies or practices of discrimination or racial segregation exist on Ecuadorian territory. On the contrary, the Constitution of Ecuador, which was approved by the people of Ecuador in full exercise of their sovereign right through a referendum held on 15 January 1978 and which has been in force since 10 August 1979, condemns such inhuman practices and policies and at the same time recognizes the right of peoples to free themselves from such oppressive systems.

Further, article 19 of the Constitution, referring to the rights of the individual, declares that every person is guaranteed equality before the law and accordingly prohibits any discrimination on grounds of race, colour, sex, language, religion, descent, political or other opinions, social origin, economic status or birth.

That provision of the Constitution guarantees freedom of work, freedom of contract and the right of association, guarantees which are fully regulated in the current Labour Code.

Article 19 likewise, in its section 16, guaranteeing the freedom and security of every individual, prohibits slavery and servitude in all their forms, for it is the primary duty of the State to ensure respect for the human rights and fundamental freedoms of man and to promote the economic, social and cultural progress of the country's inhabitants, the latter being possible only on the basis of the former.

Lastly, article 44 of the Constitution provides that the State shall guarantee to all persons under its jurisdiction, both men and women, the free and effective exercise and enjoyment of the civil, political, economic, social and cultural rights proclaimed in the declarations, covenants, agreements and other international instruments in force.

In the event of a violation of the above-mentioned principles, something which, Ecuador is pleased to inform the Special Committee against Apartheid, has never happened during its entire life as a republic - which is in itself the most convincing proof of the fact that there has not been and is not in Ecuador any practice of racial discrimination - any citizen affected can, without distinction, have recourse to the courts and tribunals of the Republic or to the Committee on the Elimination of Racial Discrimination, whose competence was recognized by Ecuador through a special declaration made on 27 March 1977.

It may be mentioned that in its article 19, section 16, the Constitution recognizes the right of habeas corpus. Anyone who believes that he has been illegally deprived of his liberty may resort to this remedy, exercising it himself or through another person, without the need for a written order, before the local mayor or president of the council or their deputies. The municipal authority must immediately order the appellant to be brought before it and the order for deprivation of liberty to be shown. It must, within a maximum period of 48 hours, order the release of the detained persons if he was not presented, if there were errors of procedure or if the order for detention was not produced or was not in conformity with the legal requirements.

In order to give effect to the above-mentioned constitutional provisions as well as those contained in the International Convention on the Elimination of All Forms of Racial Discrimination and the International Convention on the Suppression and Punishment of the Crime of Apartheid, a number of reforms of the Penal Code were promulgated on 4 July 1979, expressly prohibiting any incitement to or the commission of acts favouring racial discrimination and laying down appropriate penalties for persons violating those provisions. In view of the importance of these reforms the complete text of them is set forth hereafter:

"The Supreme Council of Government, Whereas ... Decrees: the following reforms to the Penal Code:

Article 1. Title II of Part II of the Criminal Code shall read: 'Concerning offences against the constitutional guarantees and racial equity'.

Article 2. After Chapter VIII of Title II of the Penal Code, a new chapter shall be added, entitled: 'Concerning offences relating to racial discrimination', containing the following articles:

Art. ... The following shall be punishable by a term of imprisonment of six months to three years: (1) Anyone who, by whatever means, disseminates ideas based on superiority or racial hatred; (2) Anyone who in any manner

incites to racial discrimination; (3) Anyone who perpetrates acts of violence or incites others to commit them against any race, person or group of persons of whatever colour or ethnic origin; and (4) Anyone who finances, helps or contributes to any kind of racist activity.

If the offences enumerated in this article were ordered or executed by officials or public employees, the term of imprisonment shall be from one to five years.

Art. ... If any person is injured as the result of the acts of violence referred to in (3) above, those responsible shall be punishable by a term of imprisonment of two to five years. If such acts of violence result in the death of a person, those responsible shall be punishable by a term of imprisonment of 12 to 16 years.

Art. ... All organizations and activities concerned with propaganda and the dissemination of information which promote or incite to racial discrimination are hereby declared illegal and are consequently prohibited in the Republic. Accordingly, anyone participating in such organizations or activities shall be punishable by a term of imprisonment of two months to two years.

Art. ... It is prohibited for the authorities and all national, regional and local public institutions to promote or incite to racial discrimination. In the event of the violation of this prohibition, the above-mentioned authorities or the legal representatives or directors of the said institutions shall be held responsible and shall be subject to imprisonment for six months to three years and to the loss of their political rights for the same period.

Art. ... With respect to any officials or public employees committing any of the offences of racial discrimination specified in this Decree, the special provisions contained in the Political Constitution for dealing with cases of the violation of the guarantees proclaimed in it shall be applicable.

Article 3. When the new Penal Code is drafted, the provisions of this Decree, containing the necessary reforms, shall be incorporated in the text.

Article 4. This Decree shall be in force with effect from its publication in the Official Register, and the Ministers of State for Government and Justice and for Foreign Affairs shall be responsible for its execution.

Given at the National Palace in Quito on 29 January 1979."

At the international level and from the very moment of the establishment of the United Nations, Ecuador has followed and is still following a constant and invariable anti-racist policy and has always worked actively in favour of universal respect for the human rights and fundamental freedoms of every person.

In conformity with this traditional policy, Ecuador has not confined itself simply to condemning the odious practices of apartheid, but has supported the many resolutions of the General Assembly and the United Nations system and has always complied with their provisions. In addition, in recognition of Ecuador's record in this field, distinguished Ecuadorians have held office at the international level in this connection, bearing witness in that sphere to the Republic's unchanging domestic stance in favour of human rights and dignity. As an example, it is a pleasure to inform you that the present Foreign Minister, Ambassador Luis Valencia Rodríguez, has been a member of the Committee on the Elimination of Racial Discrimination ever since it was established, and has acted as its Chairman.

As has already been stated, in the aforementioned article 44 of its Constitution, Ecuador guarantees every person within its jurisdiction the full exercise and enjoyment of the civil, political, economic, social and cultural rights proclaimed in the international instruments, agreements and declarations relating to human rights that are in force, namely, the following:

The Convention relating to the Status of Stateless Persons, which was adopted and signed by Ecuador at New York on 28 September 1954 and was ratified by Executive Decree No. 641 of 19 June 1970;

The Universal Declaration of Human Rights, which was adopted and signed by Ecuador in the city of Paris on 10 December 1946;

The International Convention on the Elimination of all Forms of Racial Discrimination, adopted at New York on 7 March 1966. Ecuador acceded to that Convention by Executive Decree No. 1073 of 15 September 1966. Through the Special Declaration of 21 March 1977, Ecuador recognized the competence of the Committee on the Elimination of Racial Discrimination to examine any complaint of violation of the provisions of that International Convention;

The International Covenant on Economic, Social and Cultural Rights, adopted at New York on 19 December 1966. Ecuador signed the Covenant on 29 September 1967 and ratified it by Executive Decree No. 37 of 9 January 1969,

The International Covenant on Civil and Political Rights, adopted at New York on 19 December 1966. Ecuador signed it on 4 April 1968 and ratified it through Executive Decree No. 37 of 9 January 1969;

The Optional Protocol to the International Covenant on Civil and Political Rights, adopted at New York on 19 December 1966. Ecuador signed it on 4 April 1968 and ratified it through Executive Decree No. 37 of 9 January 1969;

The Slavery Convention, adopted at Geneva on 25 September 1926. Ecuador acceded to it through Executive Decree No. 30 of 15 February 1928;

The Protocol Amending the Slavery Convention of 1926, adopted at New York on 7 December 1953. Ecuador signed it on 7 September 1954 and ratified it through Executive Decree on 22 December 1954;

The Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, adopted at Geneva on 7 September 1956. Ecuador acceded to it through Executive Decree No. 275 of 9 February 1960;

The Convention on the Prevention and Punishment of the Crime of Genocide, adopted at New York on 9 December 1948. Ecuador signed it on 11 December 1948 and ratified it through Executive Decree No. 2180 of 18 November 1949;

The Convention relating to the Status of Refugees, adopted at Geneva on 28 July 1951. Ecuador acceded to it through Executive Decree No. 251-A of 3 February 1955;

The Protocol relating to the Status of Refugees, adopted in the city of New York on 31 January 1967. Ecuador acceded to it through Executive Decree No. 31 of 9 January 1969.

In conclusion, the Government of Ecuador would be pleased to amplify the contents of this report, if the distinguished members of the Special Committee against Apartheid so desire.