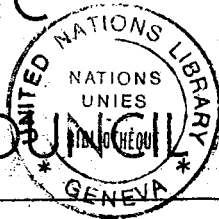


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COMMISSION ON HUMAN RIGHTS
Thirty-fourth session

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

Cuba^{1/}

[3 January 1978]

1. Introduction

In Cuba, prior to 1 January 1959, despite the fact that the 1940 Constitution of the Republic and other laws promulgated for its practical implementation contained various provisions opposed to discrimination, the real life situation was different. The authorities and the economically powerful discriminated in respect of skin colour or membership of the dispossessed class, or on account of being a woman, and this was reflected in professions, jobs, recreational activities and, in general, in the extent of participation in the economic and social life of the country. For example, the number of blacks in the professions was insignificant. Blacks were denied access to certain forms of employment such as work in banks, universities and clothing and food stores. Societies and clubs for whites were also out of bounds to blacks who were obliged, with the scant resources available to a minority of them, to found their own. Certain sports, such as basket-ball, handball, swimming, tennis, ping-pong, chess, etc., were exclusively for whites. However, the full extent of the basic situation is shown by the fact that not all whites could participate either. There was discrimination against the poorest, even in education and culture. This was a class situation, in which the blacks and the poor whites received the same treatment, although it was more evident in the case of the blacks, because the colour of their skin was used precisely to conceal that degrading situation.

1/ Copies of the Gaceta Oficial containing the texts (in Spanish) of the "Constitution of the Republic of Cuba", "Law No.5 on Criminal Procedure" and "Law No.7 on Civil, Administrative and Labour Procedure", which were annexed to the report, are available for consultation in the files of the secretariat.

With the success, on 1 January 1959, of the Revolution, which was acclaimed by whites and blacks alike, the situation began immediately to change. Without any discrimination and in full equality of rights, blacks and whites set about the task of elevating the dignity of man. It is that same people which, without distinctions, has adopted and is ensuring observance of the provisions of the Constitution and the laws which proclaim the full equality of all.

A concrete example of this is the disappearance of all the social barriers which used to divide people in Cuba according to class and colour; blacks and whites can now be seen side by side, without differentiation or hierarchies, occupying posts ranging down from the highest offices in the country and including all the professions and other types of function or employment. They take part in all sports without exception and without special societies for one or another class; the societies are for all.

It is Cuba's desire that all peoples should enjoy this situation and this explains the position it has consistently maintained in its international relations. This was the reason for the "First Havana Declaration" which, on 2 September 1960, proclaimed the end of the privileges and abuses arising from discrimination by class or by skin colour in Cuba. Hence too, the "Second Havana Declaration" expressing the desire that the same should be true for the peoples of Latin America. Hence our solidarity with all oppressed and exploited peoples, with all oppressed and exploited men wherever they may be. This is not only a principle - a written precept - but has become a living sentiment of the whole Cuban people. Thus, united in this sentiment, in this attitude, they are at one with all those struggling against discrimination and social injustice.

The Government of the Republic of Cuba has not found it necessary to issue specific legislation against racial discrimination but only laws of a general nature which recognize and guarantee to every citizen the rights of equality and mutual respect.

The principles of the Convention relating to the egalitarian nature of basic human rights correspond in every way to those laid down by the Cuban legislation currently in force.

The New Cuban Constitution proclaimed on 24 February 1976 guarantees to all citizens the rights set out in the Convention and is an expression of the socialist concept of the Cuban people which excludes discrimination in all its forms and manifestations. The Constitution sets forth the manner in which the Government of Cuba is establishing the equality of all citizens, eliminating all manifestations of racial discrimination and furthering in every possible way the provisions of the law concerning free education, social security, medical care, physical education and sport and recreation within the reach of all, irrespective of race or social status.

The Government is also bringing in labour laws which guarantee paid holidays and equal pay for equal work and is promoting education, culture and the sciences in all their forms. Education in our country promotes an understanding of and respect for other nations and cultures together with a refusal to tolerate any act of racial discrimination or any colonialist, fascist or racist attitudes.

Cuban citizens play their part in the various organs making up the apparatus of the State, i.e. the bodies administering and directing the State. As an example of this, we may mention the participation of both men and women, regardless of their race or colour, in the organs of People's Power, the greatest organs of power in the various institutions of the country, such as municipalities, provinces and the nation itself, which are freely elected on the basis of assessments from which any kind of racial discrimination is excluded.

At the international level, the position of Cuba is well known through the country's active participation in the international campaign in support of the struggle of oppressed peoples and of national liberation movements.

Furthermore, Cuba submits biennially to the Committee on the Elimination of Racial Discrimination a report on the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination, to which it is a Party.

As a consequence of its position of opposition to racial discrimination, Cuba is a party to a number of international instruments: ILO Convention No.111 concerning Discrimination in Respect of Employment and Occupation of 1958, the Convention against Discrimination in Education, approved by UNESCO in 1950 and ILO Conventions Nos.105, 106, 107, 110, 122 and 140 which, from the date of their publication in the Gaceta Oficial of the Republic, have the force of law.

In February 1977, Cuba deposited in New York the instrument of accession to the International Convention on the Suppression and Punishment of the Crime of Apartheid adopted by the General Assembly in 1973, which came into force on 18 June 1976.

II. Background

1. Legislative provisions

The Constitution of the Republic of Cuba, proclaimed on 24 February 1976 after consultation of the people, sets forth the egalitarian rights of all citizens and rejects racial discrimination in all its manifestations and aftermaths, as can be seen from the following articles:

Article 12(a) "Condemns imperialism, the promoter and support of all fascist, colonialist, neo-colonialist and racist manifestations, as the main force of aggression and war and the worst enemy of the peoples".

Article 13 "The Republic of Cuba grants asylum to those who are persecuted because of the struggle for the democratic rights of the majority; for national liberation; against imperialism, fascism, colonialism and neo-colonialism; for the abolition of racial discrimination; for the rights of workers, peasants and students and the redress of their grievances; for their progressive political, scientific, artistic and literary activities; for socialism and peace".

Moreover, its articles 40, 41 and 42 establish the principle of the equality of all citizens without discrimination in the enjoyment of their rights and the exercise and performance of their obligations and in the full development of their responsibilities. In chapter V of the Constitution on the subject of equality, it is specified in article 41 that "discrimination on the grounds of race, sex or national origin is forbidden and punishable by law".

Articles 45, 46 and 47 set out the right of all workers to rest, to a working day of eight hours, to a weekly rest day and to annual paid holidays, irrespective of race, social condition or other circumstances. Similarly, through the social security system, the State guarantees adequate protection to every worker unable to work on account of age, disablement or illness. In the event of the worker's death, it extends similar protection to his family.

The State also protects, through social assistance, elderly people without resources or support and any person incapable of working who lacks relatives able to assist him.

Furthermore, article 49 makes it quite clear that everyone is entitled to health protection, through free medical care. In this connexion, plans for general health education and other preventive medical measures are being developed. The whole population co-operates in these plans and activities through the social and mass organizations.

Article 50 states that "all persons have the right to education. This right is guaranteed by a free and comprehensive system of schools, partial boarding schools, boarding schools and scholarships of all kinds and at every educational level and by the fact that scholastic material is free of charge, so that every child and young person, whatever the financial situation of his family, has the opportunity to follow courses of study commensurate with his aptitudes and with social requirements and the needs of economic and social development".

Adult men and women have this right ensured, on the same conditions of non-payment and with specific facilities governed by the law concerning adult education, technical and vocational training, on-the-job instruction in State undertakings and organizations and courses of higher education for workers.

Article 52 provides, as follows: "The right of citizens to freedom of speech and of information is recognized for the purposes of the socialist society."

The material conditions for the exercise of this right are ensured by the fact that the press, radio, television, cinema and other mass media are the property of the State or society and can, in no circumstances, be private property. This ensures that they are used exclusively in the service of the working people and in the interest of society.

Article 51: "Everyone has the right to physical education, sports and recreation".

Enjoyment of this right is guaranteed by the inclusion of the teaching and practice of physical education and sports in the curricula of the national education system and by the extent of the instruction and facilities available to the people, which make it possible for the masses to engage in sports and recreation.

Article 53 "The rights of assembly, demonstration and association are exercised by workers, both manual and intellectual, peasants, women, students and other sectors of the working people, to which end they shall be provided with the necessary resources. The social and mass organizations shall have at their disposal all facilities for the development of such activities, in which their members shall enjoy the fullest freedom of speech and opinion, based on the unrestricted right to initiative and criticism."

Article 57 states that "Freedom and inviolability of the person are assured to all who live in the national territory.

No-one may be arrested except in the cases, in the manner and with the guarantees prescribed by the law. The personal integrity of an arrested or imprisoned person shall be inviolable."

Article 58: "No-one may be put on trial or sentenced save by a competent tribunal, under laws which existed prior to the offence and with the formalities and guaranties established by such laws.

Every accused person is entitled to defence. No violence or pressure of any kind may be exercised on persons to force them to testify. Any testimony obtained in violation of this provision shall be null and void and the persons responsible shall incur the penalties established by law."

In order to implement the relevant provision of the Constitution, Electoral Law No.1305 was promulgated on 7 June 1976 to regulate the organization of and process for the election of the members of the organs of People's Power, and the procedure for their recall where necessary, in such a manner and in such conditions as will ensure the fullest participation of those who are to represent them and the fullest expression of the will of the electors who are to elect them, and also to regulate the holding of referendums. In accordance with the provisions of the Constitution, the Electoral Law guarantees equality of rights for all citizens, without distinction of sex or race, to be elected and to recall their representatives.

On 20 September 1976, Immigration Law No.1312 was promulgated, the existing legislation on the subject having proved inadequate to govern that activity in view of the economic and social changes that had occurred in Cuba and the development of the country's international relations. On the same date, Aliens' Law No.1313 was also promulgated to bring up to date the hitherto existing legislation on the subject, the nature of immigration into Cuba having changed considerably. Both the Immigration Law and the Aliens' Law, in their references to foreign nationals and stateless persons (who are granted equal treatment for the purposes of these two laws) divide them into the following categories:
(a) visitors, (b) diplomats, (c) guests, (d) temporary residents and
(e) permanent residents.

On 27 November 1976, Law No.1320 on Associations was promulgated in order to guarantee constitutionally the exercise by all citizens of the right of association and to regulate any associations established under this Law for the purpose of scientific, technical, cultural, artistic and sports activities, friendship and solidarity activities and other activities of social interest. The Law also lays down the penalties that may be imposed on the registered associations and their officers in the event of unlawful action by them. These penalties consist of fines of between 100 and 10,000 pesos imposed upon the officers of the association, while the suspension or complete dissolution of the association may also be decreed.

The current Code of Social Protection lays down, in articles 227 and 232, the penalties that are to be imposed on associations which are established or operate for unlawful and anti-constitutional purposes. Under the present Cuban legislation, which reflects the political, social and economic foundations of the Socialist State of labourers, peasants other manual workers and intellectual workers, it is not permissible to establish any organization for the purpose of propagating or inciting to racial hatred. This is clearly expressed in article 52 of the Constitution, quoted above, which must be read in conjunction with article 61. The latter article specifies that none of the freedoms recognized as pertaining to citizens may be exercised against the provisions of the Constitution and the Law.

The Code of Social Protection specifies the penalties for a variety of offences on a non-discriminatory basis. The following articles may serve as examples:

- Article 434 lays down the penalties which may be imposed on anyone who deprives another person of his liberty - without distinction of race.
- Article 533(a) states that anyone who uses violence or intimidation on persons in order to occupy real property or to seize goods that rightfully belong to another shall incur, over and above the penalty applicable to the violence in question, a fine of 100 to 500 quotas.
- Article 170(a) states that anyone who detains another person without just cause shall be punished by deprivation of freedom for 5 to 10 years. The same penalty shall apply to anyone who provides premises for the perpetration of the offence.

The Family Code, Law No.1289 of 14 February 1975, states: "Marriage is the voluntarily concluded union of a man and a woman, who have the legal capacity therefor, for the purpose of making a life together". In other words, no discriminatory element may enter into the requirements and capacities for marriage.

2. Administrative measures

The texts cited above include measures designed to prevent manifestations of racial discrimination or discrimination of any other kind which might occur. To date, these provisions have not been violated and it has therefore not proved necessary to introduce administrative measures in this respect.

3. Other measures

As regards other measures taken by Cuba, the Government of Cuba has, in accordance with the position of principle it has adopted in the struggle against racism and racial discrimination, engaged in intensive activity at both the national and international levels. The following are examples of such activities:

(a) At the national level

In Cuba, the mass media are the property of the people and, consequently, act in the interests of social change as organs of the Party, the State and the mass and social organizations in the tasks of educating, informing, guiding, organizing and mobilizing the people by appealing to reason and conscience.

As in all other aspects of the economic, political and social life of our country, there is no symptom whatsoever of racial discrimination in the mass media.

The radio, television, written press and cinema likewise take account of the factor of racial integration which is a matter of principle for the Revolution in which, since its beginning in the last century, whites, blacks and racially mixed persons have fought together for independence; they have been together at every stage of the struggle against neocolonial domination and subsequently in the defence of national sovereignty.

Our radio stations regularly include in their broadcasts the information which reaches their editors concerning the situation in southern Africa and the discriminatory system of apartheid. This subject is dealt with in their daily broadcasts as well as in the weekly summaries on Sundays. Furthermore, numerous special programmes have been broadcast concerning discrimination and apartheid including those entitled: "The Sharpeville Massacre", "Africa, the True Face", "The Struggle of the People of Zimbabwe", etc.

In Cuba, everybody is educated from the most tender age in the principle of the equality of human beings as established in article 41 of the Constitution.

Education begins in the almost 700 infant schools which now exist in Cuba, where Cuban children are taught in a new way that is free of any kind of racial prejudice. These schools are attended daily by the children of all manual and intellectual workers, who are given care, clothes, meals and medical attention irrespective of sex, race or colour. This is where their education in the principles of equality, fraternity and solidarity begins.

Education continues in the primary, secondary, pre-university, polytechnic and higher schools. At all levels of the educational system, the children and young people are imbued with a spirit of equality of rights, respect for the freedom and full dignity of man, combative solidarity with the peoples and condemnation of fascism, colonialism, neocolonialism, racism and apartheid.

Activities in 1976 and 1977

(a) At the national level

From 24 to 28 May 1976, there was held in Havana the "International Seminar on the Eradication of Apartheid and in Support of the Struggle for Liberation in South Africa", a meeting sponsored by the United Nations Special Committee against Apartheid and the Organization of African Unity, with the participation of representatives of Governments, governmental international organizations, trade union confederations, non-governmental organizations, national anti-apartheid movements, the leaders of national liberation movements, distinguished personalities, representatives of the specialized agencies of the United Nations, observers from the Cuban Government and members of the diplomatic corps accredited in Havana. The Seminar approved a Final Declaration and a Programme of Action on the subject (United Nations document A/31/104 covers the subject of the Seminar).

In recent years, events to mark "International Day for the Elimination of Racial Discrimination" have been held on 21 March at the headquarters of the Cuban United Nations Association, lectures on the subject being delivered by outstanding national personalities.

Preparatory work is currently being carried out in Cuba for the World Conference to Combat Racism and Racial Discrimination which is to be held at Geneva in August 1978.

(b) At the international level

Cuba played an active part in creating the "Latin American and Caribbean Committee Against Apartheid", established in Mexico City in November 1976.

During the Fifth Conference of Heads of State or Government of Non-Aligned Countries and at the thirty-first session of the General Assembly of the United Nations, both held in 1976, the delegations of Cuba, in accordance with the instructions given by the Party and the Government, supported all the resolutions which were approved on the subject of the struggle against racism, racial discrimination, Zionism and apartheid.

The Cuban delegation to the thirty-first session of the General Assembly was very active in both the plenary meetings and in the various committees, denouncing in numerous statements racism, racial discrimination, Zionism and apartheid. Cuba was a sponsor of resolutions 31/6, 31/146, 31/147, 31/148, 31/149, 31/150, 31/151, 31/152 and 31/154 on the subject of the situation in Namibia and Zimbabwe, which were adopted by the General Assembly. It was also a sponsor of resolutions 31/134 and 31/126 which were adopted on the recommendation of the Third Committee, and also voted in favour of resolutions 31/77, 31/78 and 31/33, all of which are concerned with questions of racism, racial discrimination and apartheid. In this way, Cuba has played an active part, in various United Nations bodies and in other international forums and conferences, in the initiatives whereby the international community has condemned apartheid and other discriminatory practices.

Cuba has given fraternal support to peoples struggling against racism and racial discrimination as well as to the Governments of the African countries recently freed from the colonial yoke, such as Angola, Guinea-Bissau, Mozambique and others which are engaged in building a new society, free from exploitation and racism.

Cuba has given strong and constant support to the success of the activities of the Decade for Action to Combat Racism and Racial Discrimination and of activities condemning the régimes which practise the inhuman actions of racial discrimination, the crime of apartheid, and other discriminatory forms such as Zionism, the oppression of minorities and the exploitation of foreign immigrants.

Cuba has given, and is still giving, disinterested assistance to the people of Angola, at the latter's request, in the face of the cunning aggression of the racist Government of South Africa. In January 1977, Cuba was elected by the Economic and Social Council, together with 22 other countries, to the Preparatory Sub-Committee for the World Conference to Combat Racism and Racial Discrimination, which is to be held in August 1978, as one of the major features of the United Nations Decade for Action to Combat Racism and Racial Discrimination.

At the thirty-third session of the Commission on Human Rights, held at Geneva in February and March 1977, Cuba was elected a member of the Working Group provided for in article IX of the Convention. It will continue to apply in the Working Group its consistent policy of combating racism, racial discrimination and apartheid.

At the same session of the Commission on Human Rights, Cuba was a sponsor of draft resolutions E/CN.4/L.1346/Rev.1, on the adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to the colonial and racist régimes in southern Africa; E/CN.4/L.1345/Rev.1, on the report of the Ad Hoc Working Group of Experts to seek out violations of human rights, and in particular the policies of apartheid and racial discrimination which continue unabated in South Africa, Namibia and Zimbabwe; and E/CN.4/L.1362/Rev.1, on the implementation of the International Convention on the Suppression and Punishment of the Crime of Apartheid.

Cuba made a material contribution to the International Conference in Support of the Peoples of Zimbabwe and Namibia, held at Maputo, the capital of Mozambique, from 16 to 21 May 1977. This Conference was attended by a Cuban delegation which took an active part.

Cuba participated in the World Conference Against Apartheid, Racism and Colonialism in southern Africa, held in Portugal last June, and also in the World Conference for Action Against Apartheid which was held at Lagos in the month of August.

The Committee for the Elimination of Racial Discrimination considered, on 8 August 1977, at its sixteenth session, the third report by Cuba on the implementation by its Government of the International Convention on the Elimination of All Forms of Racial Discrimination. At the request of the Committee, this report was given general distribution in the United Nations.

At the thirty-second session of the General Assembly, held in New York from 20 September to 18 December 1977, the Cuban delegation played an active role in the consideration of the agenda items referring to racial discrimination.

As in previous years, Cuba spoke in favour of giving priority in the agenda to be considered by the Third Committee, among other items of interest, to those on the "Elimination of all forms of racial discrimination" and "The World Conference to Combat Racism and Racial Discrimination", items 74 and 75 respectively.

Cuba sponsored the draft resolution, submitted in the Third Committee, on the Status of the International Convention on the Suppression and Punishment of the Crime of Apartheid, which was adopted on 11 October 1977. It reaffirmed in that text its conviction that apartheid constitutes a total negation of the purposes and principles of the Charter of the United Nations and is a crime against humanity and that its continued intensification and expansion seriously disturb and threaten international peace and security, and made a reference to the declarations adopted by the Maputo and Lagos Conferences and to the Programme of Action adopted at Lisbon in June 1977.

That text also expressed satisfaction at the increase in the number of States which had ratified the Convention and requested those States which had not yet done so to accede to the Convention as soon as possible. It also noted the proclamation of 1978 as "International Anti-Apartheid Year".

Cuba also supported and voted in favour of a draft resolution on the Status of the International Convention on the Elimination of All Forms of Racial Discrimination.

Under this agenda item, the representative of Cuba in the Third Committee made a statement in the general debate in which he referred to the current situation and the heightened struggle in southern Africa and drew attention to the discrimination from which the Puerto-Rican people was suffering, the discrimination in the Panama Canal zone and the discrimination against ethnic minorities in the United States. He also stressed the support given by Cuba to the activities of the Decade for Action to Combat Racism and Racial Discrimination.

III. Legislation subsequent to 26 March 1977, the date on which the Convention came into force in respect of Cuba

On 15 August 1977, the new Law No.5 on Criminal Procedure was enacted. This law takes account of the structural and social changes that have taken place in the country and amends the previous criminal procedure in respect of the treatment of alleged offences (which may include offences of a discriminatory nature) in a manner adapted to the process of institutionalization which is taking place in our country on the basis of the socialist constitution, and which guarantees greater fairness in criminal procedures.

This new Law also introduces changes designed to guarantee more effective preliminary investigation where a trial is to take place, more suitable application of cautionary measures and thus a more careful sifting of cases so that only those cases in which a sufficient amount of proof has been accumulated will come to trial.

On 20 August 1977, Law No.7 on Civil, Administrative and Labour Procedure, came into force. This introduces changes in some aspects of procedure designed to accelerate trials without prejudice to the guarantees indispensable to their function of serving justice and the better development of our socialist society. It introduces changes in the functions of the Tribunals, in the light of the modifications in the political and administrative division of the territory of Cuba, and uses the new titles introduced by Law No.1323 on the Organization of the Central Administration of the State, of 30 November 1976.

The provisions of both laws ensure to all persons effective protection and remedies against all acts amounting to offences against or insults to the person, including those stemming from racial discrimination, which are fully recognized in the legal context of the Cuban State.

Equality before the law, without privileges or restrictions, is guaranteed by the provisions of the Constitution, the Law on the Organization of the Judicial System, the Law on Civil Procedure and the Law on Criminal Procedure.

We attach the issues of the Gaceta Oficial of 15 and 20 August which contain the above-mentioned Laws, i.e. Laws No. 5 and 7 respectively.

City of Havana, 25 October 1977
"YEAR OF INSTITUTIONALIZATION"

Annexes: three:

- 1 - Constitution of the Republic of Cuba
- 2 - Law No.5 on Criminal Procedure
- 3 - Law No.7 on Civil, Administrative and Labour Procedure.