



UNITED NATIONS
ECONOMIC
AND
SOCIAL COUNCIL



Distr.
GENERAL

E/CN.4/1984/36/Add.9
10 February 1984

Original: SPANISH

COMMISSION ON HUMAN RIGHTS
Fortieth session

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

Reports submitted by States parties under
article VII of the Convention

Addendum

CUBA 1/

[2 February 1984]

In view of the information contained in the three earlier reports submitted by Cuba to the Group of Three, this report deals only with measures taken over the past two years in implementation of the International Convention on the Suppression and Punishment of the Crime of Apartheid, (to which Cuba has been a party since February 1977). In preparing the report, use was made of the general guidelines regarding the form and contents of reports to be submitted by States parties under article VII of the Convention (document E/CN.4/1236).

Introduction

Since the triumph of the revolution, in 1959, Cuba has fought against and eradicated the vestiges of racism and racial discrimination which existed at the time of the so-called "Republic". During that time, the Cuban Revolution has waged a resolute and active struggle in the international area against imperialism, colonialism and neo-colonialism, which are the fundamental causes of violations of human rights and the rights of peoples, including racism, racial discrimination and apartheid.

1/ The initial, second and third reports submitted by the Government of Cuba (E/CN.4/1277/Add.8, E/CN.4/1355/Add.7 and E/CN.4/1983/24/Add.1) were considered by the Group of Three at its 1978, 1981 and 1983 sessions respectively.

On 24 November 1976, the new Cuban Constitution was proclaimed, after first being considered and approved by the people. As stated in previous reports submitted by Cuba, the Constitution recognizes and guarantees to every citizen the rights of equality and mutual respect, prohibits discrimination in all its forms and manifestations, and promotes, by every possible means the legal provisions concerning free education, social security, medical care, physical education, sport and recreation, regardless of colour of skin, sex or national origin.

Moreover, Cuba's present Constitution condemns and repudiates all forms of racism and racial discrimination existing in various countries.

Cuba has acceded to all international conventions intended to combat discrimination in all its forms, including discrimination on grounds of race, sex and nationality, and supports instruments aimed at guaranteeing equal rights for all.

The international instruments to which Cuba is a party include the International Convention on the Elimination of All Forms of Racial Discrimination; the International Convention on the Suppression and Punishment of the Crime of Apartheid; the Convention on the Elimination of All Forms of Discrimination Against Women; the Convention against Discrimination in Education, adopted by UNESCO in 1950; and ILO Convention III, of 1958, concerning Discrimination in respect of Employment and Occupation. Cuba is also a party to ILO Conventions Nos. 105, 107, 110, 122 and 140, which, from the date of their publication in the Gaceta Oficial of the Republic, have the force of law.

The organs of the People's Power are made up of men and women, without distinction as to race or colour, who are freely elected by the people on the basis of assessments devoid of racial or any other type of discrimination.

As noted in previous reports, Cuban activities in the struggle against racism, apartheid and any manifestation of discrimination, at both the national and international levels, are many and varied.

1. Information on legislative, judicial, administrative or other measures that have been adopted and that give effect to the following provisions of the Convention:

(a) That apartheid is a crime against humanity and that inhuman acts resulting from the policies and practices of apartheid and similar policies and practices of racial segregation and discrimination, as defined in article II of the Convention, are crimes violating the principles of international law, in particular the purposes and principles of the Charter of the United Nations, and constituting a serious threat to international peace and security.

The new Cuban criminal legislation contained in the 1979 Code prescribes severe penalties for any criminal act constituting an expression of racial discrimination or apartheid and, in that connection, includes in its Special section, Book II, criminal acts repudiated by the international legal conscience and condemned in international conventions to which Cuba is a party, such as mercenary activities, genocide and apartheid. The above-mentioned criteria constitute one of the basic elements of the preambular part of this legislation.

(b) That organizations, institutions and individuals committing the crime of apartheid are to be considered criminal.

Article 18, paragraph 4 of the Criminal Code contains a provision whereby persons guilty of conduct constituting violations of international law and crimes against humanity are liable to prosecution. The provision stipulates:

"In cases of crimes against humanity, or acts against human dignity or the well-being of the community, or in cases provided for in international treaties, all persons having criminal responsibility therefor shall be considered principals, irrespective of the form of their participation."

2. Information on legislative, judicial, administrative or other measures that have been adopted to give effect to the following provisions of the Convention:

(a) The undertaking, as required under article IV (b) of the Convention, to adopt legislative, judicial and administrative measures to prosecute, bring to trial, and punish in accordance with their jurisdiction, persons responsible for, or accused of, the acts defined in article II of the Convention, whether or not such persons reside in the territory of the State in which the acts are committed, or are nationals of that State or of some other State, or are Stateless persons:

(b) Article II of the Convention, that international criminal responsibility shall be applied, irrespective of the motive involved, to individuals, members of organizations and institutions and representatives of the State, whether residing in the territory of the State in which the acts are perpetrated or in some other State, whenever they (i) commit, participate, directly incite or conspire in the commission of the acts mentioned in article II of the Convention; (ii) directly abet or encourage the commission of the crime of apartheid or participate in, directly incite or conspire in the commission thereof; (iii) directly abet, encourage or co-operate in the commission in the crime of apartheid.

With regard to the degree of participation of those involved in offences which might be considered as falling within the category of apartheid, article 18, paragraph 4, of the Cuban Criminal Code, reproduced above must be applied, with due account being taken of provisions contained in other articles of the Code, which, although they have already been referred to, are worth reiterating, in view of their special relevance to the provisions of the Convention.

"... 1. Cuban criminal law is applicable to Cuban citizens and stateless persons resident in Cuba who commit a crime abroad, if they are on Cuban soil or are extradited to Cuba ..."

"... 2. Cuban criminal law is applicable to Cuban citizens who commit a crime abroad and are handed over to Cuba for trial by the courts, in accordance with treaties signed by the Republic ..."

"... 3. Cuban criminal law is applicable to aliens and stateless persons not resident in Cuba who commit crimes abroad, if they are on Cuban soil and are not extradited, whether they reside in the territory of the State in which the acts are perpetrated or in any other State, provided that such acts are punishable also in the place where they were committed. This last proviso is not mandatory if the act constitutes a crime against the fundamental political or economic interests of the Republic or against human dignity, human dignity or the well-being of the community, or is punishable under international treaties ...".

(c) The undersigned, on behalf of article XI of the Convention, to grant extradition in accordance with their legislation and with the treaties in force, in cases enumerated in article II of the Convention.

Under Cuban law, extradition is carried out in accordance with international treaties or, failing them, in accordance with Cuban law.

Article 7, paragraph 3, of the Criminal Code stipulates:

"Aliens shall not be extradited, where they are charged with having taken part in the struggle against imperialism, colonialism, neo-colonialism, fascism or racism, or with having championed democratic principles or the rights of the workers people."

3. Information on the legislative, judicial, administrative or other measures that have been adopted and that give effect:

(a) To the undersigned, as required under article IV (c) of the Convention, to adopt any legislative or other measures necessary to suppress as well as to prevent any encouragement of the crime of apartheid and similar segregationist and discriminatory policies or their manifestations and to punish persons guilty of that crime.

As stated in previous reports, Cuban criminal law provides for the punishment of both participants in and organizers of unlawful meetings or demonstrations. In addition, any type of organization, association or demonstration having as its basis racial discrimination is regarded as unlawful and punishable in accordance with the provisions of the Criminal Code.

(b) To acquaint the public as widely as possible with the evils of apartheid and the text of the Convention using all the information and other media at their disposal.

The familiarization of the Cuban public with the negative significance of any expression of racial discrimination begins in childhood. Expressions of racial discrimination are censured in school textbooks and in the instruction provided through the national education system.

The Cuban Revolution has also waged an intensive and sustained campaign for racial integration, using all the mass media at its disposal. The press, radio and television have co-operated to this end and have condemned both racial discrimination and apartheid. In addition, literary works adopt an educational approach to these issues.

Student fellowships in Cuba are granted at the intermediate, higher and vocational levels, to young people from African, Asian and Latin-American countries, in accordance with the principle of social co-existence free of any discrimination.

During the period under consideration, Cuba was visited by many leaders and persons active in the struggle against racism, racial discrimination, apartheid, colonialism, neo-colonialism and imperialism.

The United Nations Association of Cuba (AUNU), which is affiliated to the World Federation of United Nations Associations (WFUNA), organized numerous public information activities during the period in question, including the commemoration of the International Day for the Elimination of Racial Discrimination (21 March) and other related activities.

Various demonstrations of solidarity with the struggle of the Palestinian and South African peoples (and other peoples who are the victims of racial discrimination) were organized in various locations in Cuba in 1982 and 1983.

4. Information on the legislative, judicial, administrative or other measures that have been adopted and that give effect to the undertaking, as required under article VI of the Convention, to accept and carry out in accordance with the Charter of the United Nations the decisions taken by the Security Council aimed at the prevention, suppression and punishment of the crime of apartheid, and to co-operate in the implementation of decisions adopted by other competent organs of the United Nations with a view to achieving the purposes of the Convention.

A characteristic of the Cuban revolution has been the implementation and publicizing of the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights and the United Nations Declaration on the Elimination of All Forms of Racial Discrimination.

Cuba has been a party to the International Convention on the Elimination of all Forms of Racial Discrimination since 1972 and to the International Convention on the Suppression and Punishment of the Crime of Apartheid since 1977.

Cuba stands for compliance with the resolutions and other recommendations condemning racism and apartheid, adopted in other forums, which support and amplify the resolutions and recommendations of the main bodies of the United Nations.

Cuba, as a member of the Preparatory Sub-committee for the World Conference to Combat Racism and Racial Discrimination and an active participant in its meetings supported the holding of that Conference.

Cuba was an active participant in the Second World Conference to Combat Racism and Racial Discrimination, held in Geneva in August 1985, and served as a Vice-Chairman of that Conference.

During the period in question, Cuba also presented the report on the implementation of the ILO Declaration concerning the Policy of Apartheid of the Republic of South Africa.

In a number of international forums, including the United Nations, Cuban representatives continued to condemn racial discrimination, racism and apartheid, phenomena occurring in many areas of the world, particularly in South Africa, in the occupied Arab territories, in the Panama Canal Zone and in respect of the minorities in the United States.

Cuba maintains no relations of any kind with the South African regime or with Israel.

During the period in question, Cuba attended various meetings of the Movement of Non-Aligned Countries, at which it helped to formulate and support numerous condemnations of racism, racial discrimination and apartheid.

5. States parties should endeavour where possible to identify in their periodic reports individuals, organizations, institutions and representatives of States which are alleged to be responsible for the crime enumerated in article II of the Convention, as well as those against whom legal proceedings have been undertaken by the State party to the Convention.

As stated in previous reports, it has not been necessary in Cuba to undertake legal proceedings as a result of the commission of acts of apartheid or racial discrimination, since the effect of education and the principles of the construction of the socialist society, which are contrary to such manifestations, have caused them to disappear, so that events having the characteristics of such offences do not occur in Cuba.

Cuba supports and advocates the identification of individuals, organizations, institutions and representatives of States alleged to be responsible for the crimes enumerated in article II of the Convention, and is of the view that such identifications should be carried out as rapidly and effectively as possible.

6. The reports should contain, as appropriate, decisions of the courts or the competent tribunal of the State party relating to cases falling within the scope of article II of the Convention, as provided for under article V of the Convention, as well as information relating to cases of extradition in accordance with article XI of the Convention.

For the reasons given above, the Cuban courts have not had to deal with cases falling within the scope of article II of the Convention or with any cases of extradition referred to in the Convention.

7. The report should be accompanied by copies of the principle legislative and other texts referred to in the report.

Cuba supplied with its previous reports the texts of the Constitution of the Republic and the Criminal Code, which are kept in the files of the Secretariat and are available to members of the Group and/or the Commission on Human Rights for consultation.