



# International Convention on the Elimination of All Forms of Racial Discrimination

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## Committee on the Elimination of Racial Discrimination

### Concluding observations on the combined twenty-first to twenty-third periodic reports of Uruguay\*

1. The Committee on the Elimination of Racial Discrimination considered the combined twenty-first to twenty-third reports of Uruguay, submitted in a single document, (CERD/C/URY/21-23) at its 2494th and 2495th meetings (CERD/C/SR.2494 and 2495), held on 24 and 25 November 2016. At its 2508th meeting, held on 5 December 2016, it adopted the following concluding observations.

#### A. Introduction

2. The Committee welcomes the presentation of the combined twenty-first to twenty-third reports of the State party and the recent submission of the common core document, and it expresses appreciation for the frank and constructive dialogue that it had with the State party's delegation and for the information provided during and after the dialogue.

3. The Committee also welcomes the presentation of an alternative report by the National Human Rights Institution and Ombudsman's Office, as well as the active participation and contributions of civil society representatives, which were very valuable inputs for the review of the State party's report.

#### B. Positive aspects

4. The Committee welcomes the State party's ratification of or accession to the following international instruments:

(a) Optional Protocol to the Convention on the Rights of the Child on a communications procedure, on 23 February 2015;

(b) Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, on 5 February 2013;

(c) Optional Protocol to the Convention on the Rights of Persons with Disabilities, on 28 October 2011;

(d) International Convention on the Suppression and Punishment of the Crime of Apartheid, on 19 April 2011;

(e) The International Labour Organization (ILO) Domestic Workers Convention, 2011 (No. 189), on 14 June 2012.

5. The Committee welcomes the signing, on 6 July 2013, of the Inter-American Convention against All Forms of Discrimination and Intolerance and the Inter-American

\* Adopted by the Committee at its ninety-first session (21 November-9 December 2016).



Convention against Racism, Racial Discrimination and Related Forms of Intolerance. It urges the State party to ratify both instruments.

6. The Committee welcomes the legislative and institutional measures adopted by the State party during the period under review, in particular:

(a) Act No. 19122 of 21 August 2013, on affirmative action measures in the public and private spheres for persons of African descent, and the enabling legislation issued in Decree 144/014 of 22 May 2014;

(b) The formal establishment of the National Human Rights Institution and Ombudsman's Office, on 22 June 2012;

(c) The presentation of the teaching guide on education and people of African descent, in August 2016;

(d) The steps recently taken towards launching a new system to track the implementation of recommendations concerning the promotion and protection of human rights.

7. The Committee welcomes the carrying out, in 2011, of a national housing and population census that, for the first time, included an ethno-racial variable, which was based on self-identification; as a result, more complete information would be available on the State party's demographic composition.

## C. Concerns and recommendations

### Statistical information

8. While the Committee welcomes the efforts made to include an ethno-racial variable in the data gathered, it is concerned that this is not done routinely and that some government offices do not use the variable when gathering their data, thereby impeding the generation of reliable data and indicators that could provide a clear and objective picture of the needs of all segments of the population. The Committee regrets that the State party did not provide sufficient data and indicators concerning persons of indigenous origin and other minority groups (arts. 1 and 2).

9. **Bearing in mind its general recommendation No. 4 (1973) concerning reporting by States parties, which refers to the demographic composition of the population, and its earlier recommendation (CERD/C/URY/CO/16-20, para. 8), the Committee urges the State party to continue to promote the systematic collection of data and urges the government offices concerned to include an ethno-racial variable in their compilations of data. The Committee requests the State party to include reliable, up-to-date and complete statistical data in its next report on the demographic composition of its population, as well as human rights and socioeconomic indicators broken down by race, colour, descent and national or ethnic origin and then by gender, age, region and location (urban vs. rural), including for its most remote areas.**

### Legislative measures

10. The Committee reiterates its concern at the absence of any legal provision that explicitly prohibits racial discrimination. In addition, the Committee notes with concern that, contrary to the provisions of article 4 (a) and (b) of the Convention, the dissemination of ideas based on racial superiority or hatred and propaganda or participation in organizations that promote racial discrimination are not defined as punishable acts under the Uruguayan Criminal Code (arts. 1, 2 and 4).

11. **The Committee reiterates its earlier recommendation (CERD/C/URY/CO/16-20, para. 9) and urges the State party to include in its legislation a clear and explicit prohibition against racial discrimination that meets all the requirements established in article 1 (1) of the Convention and that covers acts of direct and indirect discrimination in all spheres of the law and of public life. In addition, in the light of its general recommendation No. 7 (1985) relating to the implementation of article 4,**

which refers to legislation to eradicate racial discrimination, and general recommendation No. 15 (1993) on article 4 of the Convention, the Committee recommends that the State party amend its Criminal Code to bring the provisions relating to racial discrimination into line with article 4 of the Convention, inasmuch as the latter is not applied directly and bearing in mind its general recommendation No. 35 (2013) on combating racist hate speech. The Committee further recommends that the State party ensure that motives based on race or on skin colour, descent or national or ethnic origin are considered as an aggravating circumstance when imposing punishment for a crime.

#### **Policy on combating racial discrimination**

12. The Committee regrets that the State party has not implemented its earlier recommendation (CERD/C/URY/CO/16-20, para. 11) that the State party adopt the National Plan against Racism and Discrimination. In addition, it is concerned that the State party does not have a comprehensive policy on combating racial discrimination (art. 2).

13. **The Committee urges the State party to formulate a comprehensive national policy on combating racial discrimination that includes the adoption of a national plan against racism and discrimination, ensuring that the stages of formulation and implementation both include effective participation by persons of African descent, persons of indigenous origin and persons belonging to other minority groups who continue to be victims of discrimination and social exclusion. The Committee further recommends that the State party ensure the allocation of the necessary human, technical and financial resources for effective implementation of the policy throughout the territory of the State party.**

#### **Institutional measures**

14. While taking note of the information provided by the delegation on the establishment of a working group on ethnic and racial policies whose membership comprises existing bodies for racial equality, the Committee is concerned by the incompleteness of the information concerning the working group's functions and the possible overlapping of functions with the Honorary Commission against Racism, Xenophobia and All Other Forms of Discrimination (art. 2).

15. **The Committee recommends that the State party continue its efforts to ensure effective coordination among its various mechanisms for combating racial discrimination and to strengthen its institutional framework to provide protection against racism and racial discrimination. In this regard, the Committee recommends that the State party clearly define the functions of the working group on ethno-racial policies so as to prevent any overlapping of functions with the Honorary Commission against Racism, Xenophobia and All Other Forms of Discrimination. The Committee urges the State party to ensure that adequate financial, technical and human resources are allocated for those mechanisms to operate effectively.**

#### **Structural discrimination**

16. The Committee is concerned by the fact that structural discrimination against persons of African descent continues to exist in the State party, as reflected in the disproportionate levels of poverty and social exclusion among this part of the population (art. 2).

17. **Bearing in mind its general recommendation No. 32 (2009) on the meaning and scope of special measures in the Convention and its general recommendation No. 34 (2011) on racial discrimination against people of African descent, the Committee recommends that the State party should:**

(a) **Step up efforts to ensure compliance with Act No. 19122 on affirmative action measures in the public and private spheres for persons of African descent, including through the formulation of a detailed implementation plan with specific time frames and targets;**

(b) **Ensure that the Honorary Commission against Racism, Xenophobia and All Other Forms of Discrimination operates as an effective and independent mechanism for monitoring compliance with Act No. 19122, and allocate adequate resources for its operation;**

(c) **Design, promote and implement — in line with article 2 of the aforementioned Act — effective affirmative action measures in the private sphere with a view to combating racial discrimination against persons of African descent and reducing the poverty, social exclusion and marginalization that disproportionately afflicts persons of African descent;**

(d) **Continue its efforts to enhance living conditions for persons of African descent, ensuring that they are protected against discrimination by government bodies and civil servants or by any person, group or organization.**

#### **Political rights**

18. The Committee notes with concern the lack of effective measures to promote political participation by Uruguayans of African descent, which is reflected in underrepresentation of Afro-Uruguayans at all levels of government. It is concerned as well that, according to information received, only 0.8 per cent of decision-making positions in the public and the private sectors are occupied by persons of African descent (art. 5 (c)).

19. **The Committee recommends that the State party adopt effective measures to ensure full participation in public affairs by persons of African descent, both in decision-making positions and in representative institutions. It also urges the State party to continue its efforts to ensure equal opportunities for participation by Afro-Uruguayans at all levels of national and local government, and to promote their participation in decision-making positions in the private sector. The Committee further recommends that the State party promote awareness-raising among persons of African descent with regard to the importance of their active participation in public life and politics.**

#### **Discrimination in the education sector**

20. While taking note of the special measures in place to expand Afro-Uruguayans' access to education, the Committee is concerned at the continuing disparity in educational attainment between Afro-Uruguayans and the rest of the population. The Committee is also concerned by the gap in graduation rates from secondary education and the limited access of young Afro-Uruguayans to tertiary education (arts. 2 and 5 (d) (v)).

21. **The Committee recommends that the State party redouble its efforts to ensure Afro-Uruguayans' enjoyment of the right to education without any type of discrimination. In particular, it recommends that the State party adopt special measures for persons of African descent, especially adolescents, to remedy disparities in educational attainment, bring down school dropout rates and facilitate access to tertiary education. The Committee urges the State party to take the necessary steps to ensure effective compliance with Act No. 19122 in the educational sphere.**

#### **Indigenous peoples**

22. Although the Committee welcomes the State party's efforts to create greater awareness of the contribution of indigenous peoples, it remains concerned by the lack of information that would allow indigenous peoples to be acknowledged and by the persistence of stereotypes and prejudice against them. The Committee is concerned that persons of indigenous origin continue to be subject to acts of racial discrimination (arts. 2, 5 and 7).

23. **In the light of its general recommendation No. 23 (1997) on the rights of indigenous peoples, the Committee recommends that the State party:**

(a) **Adopt a plan to acknowledge and give greater visibility to persons who self-identify as indigenous and to their diversity, including by carrying out an**

**exhaustive study to determine more accurately which indigenous peoples have existed in the State party and are still represented there;**

**(b) Take effective measures to combat stereotypes of persons of indigenous origin by acknowledging their cultural identity;**

**(c) Step up efforts to ensure that persons of indigenous origin may enjoy, without any type of discrimination, all the rights recognized in article 5 of the Convention.**

**24. The Committee also encourages the State party to reconsider ratifying the International Labour Organization (ILO) Indigenous and Tribal Peoples Convention, 1989 (No. 169).**

#### **Multiple discrimination against women of African descent**

25. The Committee remains concerned by the multiple forms of discrimination to which Afro-Uruguayan women are subjected, in particular in the areas of education, employment and health. The Committee finds it regrettable that, according to reports made available to it, many female domestic workers are subject to ethnically motivated discrimination (art. 5).

**26. The Committee recommends that the State party:**

**(a) Take into account the Committee's general recommendation No. 25 (2000) on the gender-related dimensions of racial discrimination, and mainstream a gender perspective in all policies and strategies to combat racial discrimination as a way of addressing the multiple forms of discrimination against Afro-Uruguayan women;**

**(b) Take appropriate steps to improve access to education, employment, health and justice for Afro-Uruguayan women subject to discrimination;**

**(c) Step up efforts to ensure effective protection of all domestic workers, ensuring that all legislation governing domestic work is strictly enforced and strengthening inspection mechanisms.**

#### **Other forms of multiple discrimination**

27. Despite the steps taken by the State party to combat discrimination based on sexual orientation and gender identity, the Committee is concerned that lesbian, gay, bisexual, transsexual and intersex Afro-Uruguayans continue to be subject to multiple forms of discrimination (art. 5).

**28. The Committee recommends that the State party take the necessary measures to combat the multiple forms of discrimination faced by lesbian, gay, bisexual, transsexual and intersex individuals, including by mainstreaming an ethno-racial dimension in its measures to combat discrimination based on sexual orientation and gender identity.**

#### **Refugees and asylum seekers**

29. The Committee, while welcoming the State party's refugee resettlement programme, is concerned by reports of occasional discrimination against asylum seekers and refugees. It is also concerned by the lack of adequate programmes to facilitate the social integration of asylum seekers and refugees (art. 5 (d)).

**30. The Committee urges the State party to take the necessary action to effectively support the social integration of refugees and asylum seekers, ensuring that they have access to education, employment, health services and housing without any type of discrimination. The Committee also recommends that the State party expand and enhance the human rights training offered to civil servants with regard to the rights of refugees and asylum seekers.**

### **Migrants**

31. The Committee is concerned by the reports received of discrimination against migrants in the State party. In particular, it is concerned by the discrimination against Peruvian and Bolivian migrants in the employment sector in that they are sometimes subjected to unsafe working conditions (art. 5).

**32. The Committee recommends that the State party bear in mind its general recommendation No. 30 (2004) on discrimination against non-citizens, and adopt the necessary measures to combat all forms of racial discrimination and stereotypes faced by the migrant population in the State party. In addition, it recommends that the State party take the necessary steps to ensure suitable working conditions for all migrant workers, including by conducting regular inspections, and to ensure that they have access to justice.**

### **Access to justice**

33. The Committee notes with concern the absence of court cases and sentences handed down for acts relating to racial discrimination; that could be the result, partly, of insufficient specialized, routine training of civil servants and members of the police in application of the provisions of the Convention, as well as victims' unfamiliarity with the legal system. The Committee regrets that the information provided on the number of persons of African descent in prison was not complete and that an ethno-racial variable had not yet been reflected in prison registers (arts. 2 and 6).

**34. The Committee recommends that the State party:**

(a) **Provide training on a routine basis to civil servants, judges, magistrates and law enforcement officers with a view to ensuring the effective application of the Convention and of legislation on racial discrimination and to ensuring that, in carrying out their duties, they respect and defend all human rights while also taking steps to eliminate racially discriminatory acts or practices;**

(b) **Organize awareness-raising campaigns for persons protected under the Convention about the Convention's provisions and the legal framework providing protection against racial discrimination;**

(c) **Ensure that all complaints involving racial discrimination are investigated thoroughly and independently;**

(d) **Have prison registers include an ethno-racial variable in order to produce reliable information on the numbers of prisoners who belong to an ethnic group, and provide that information in its next report.**

### **Racial stereotypes**

35. The Committee reiterates its earlier concern (CERD/C/URY/CO/16-20, para. 19) and regrets that the State party has not taken effective steps to combat racial stereotypes, which are deeply rooted in Uruguayan society and, according to reports received, are sometimes propagated through the mass media (art. 7).

**36. The Committee urges the State party to take effective steps to combat racial stereotypes and all forms of discrimination against persons of African descent, indigenous peoples and migrants. In addition, bearing in mind its general recommendation No. 35, it recommends that the State party strengthen its efforts to prevent messages that perpetuate stigmatization from being propagated through the mass media. The Committee further recommends that the State party conduct regular public awareness and information campaigns on the pernicious effects of racial discrimination with a view to promoting greater understanding and tolerance among the various ethnic groups present in the State party.**

## **D. Other recommendations**

### **Amendment to article 8 of the Convention**

37. The Committee recommends that the State party ratify the amendment to article 8 (6) of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention and endorsed by the General Assembly in its resolution 47/111.

### **Durban Declaration and Programme of Action**

38. In the light of its general recommendation No. 33 (2009) on follow-up to the Durban Review Conference, the Committee recommends that, when incorporating the provisions of the Convention into its domestic legislation, the State party take into consideration the Durban Declaration and Programme of Action, adopted in September 2001 at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, as well as the outcome document of the Durban Review Conference, held in April 2009. The Committee requests the State party to include detailed information in its next periodic report on the action plans and other measures adopted in order to implement the Durban Declaration and Programme of Action in the country.

### **International Decade for People of African Descent**

39. In the light of General Assembly resolution 68/237 on the proclamation of the International Decade for People of African Descent (2015-2024) and General Assembly resolution 69/16 on the programme of activities for the implementation of the Decade, the Committee recommends that the State party develop and implement an appropriate programme of measures and policies. In addition, the Committee requests the State party to include detailed information in its next report on the specific measures taken to that end, bearing in mind its general recommendation No. 34.

### **Dissemination of reports and concluding observations**

40. The Committee recommends that the State party make its reports available to the public as from the time of their submission and that it disseminate the present concluding observations among all levels of society.

### **Consultations with civil society organizations**

41. The Committee recommends that the State party continue consulting and expanding its dialogue with civil society organizations working in the area of human rights protection, in particular those combating racial discrimination, when preparing its next periodic report and in follow-up to the present concluding observations.

### **Follow-up to concluding observations**

42. In accordance with article 9 (1) of the Convention and rule 65 of its amended rules of procedure, the Committee requests the State party to provide information, within one year of the adoption of these concluding observations, on its follow-up to the recommendations contained in paragraphs 19 and 21 above.

### **Paragraphs of particular importance**

43. The Committee wishes to draw the attention of the State party to the particular importance of the recommendations contained in paragraphs 11, 23, 32 and 34 above and requests the State party to provide detailed information in its next periodic report on the specific measures taken to implement them.

**Preparation of the next report**

44. The Committee recommends that the State party submit its combined twenty-fourth to twenty-sixth periodic reports in a single document by 4 January 2020, taking into account the treaty-specific reporting guidelines adopted by the Committee at its seventy-first session (CERD/C/2007/1) and addressing all the points raised in these concluding observations. In accordance with General Assembly resolution 68/268, the Committee urges the State party to observe the 21,200 word limit for periodic reports.

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