



**International Convention
on the Elimination
of all Forms of
Racial Discrimination**

Distr.
GENERAL

CERD/C/CRI/CO/18
17 August 2007

ENGLISH
Original: SPANISH

**COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION**

Seventy-first session
30 July-17 August 2007

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION**

**Concluding observations of the Committee on the
Elimination of Racial Discrimination**

COSTA RICA

1. The Committee considered the seventeenth and eighteenth periodic reports of Costa Rica - due on 4 January 2004 and submitted in a single document (CERD/C/CRI/18), at its 1819th and 1820th meetings (CERD/C/SR.1819 and 1820), held on 30 and 31 July 2007. At its 1841st meeting (CERD/C/SR.1841), held on 15 August 2007, it adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the State party's periodic report, which is in line with its reporting guidelines. The Committee also welcomes the frank, open and constructive dialogue with the State party's delegation and wishes to thank the delegation for its cooperative approach and for the written replies and the detailed additional information provided orally, in response to the Committee's many questions.

B. Positive aspects

3. The Committee notes with satisfaction the decisions taken by the Constitutional Chamber of the Supreme Court in constitutional challenges and *amparo* applications invoking the Convention.

4. The Committee welcomes the establishment of the Office of the Attorney for Indigenous Affairs in the Public Prosecutor's Office and the formation of a corps of indigenous-language translators attached to the courts.

5. The Committee notes with satisfaction the “Equality in the exercise of the right to vote” programme, the publication of the leaflet entitled “Protocol for an electoral process accessible to indigenous communities”, which refers to Convention rights, and the “How to vote” poster, which has been translated into Bribri, Maleku and Cabécar.
6. The Committee welcomes the State party’s ratification, in 2002, of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime.
7. The Committee welcomes the forthcoming establishment in Costa Rica of a national mechanism for follow-up to the recommendations of the treaty bodies.

C. Concerns and recommendations

8. The Committee notes the shortcomings of the ninth population census, taken in 2000, which failed to permit a precise determination of the characteristics of the different ethnic groups in the Costa Rican population, including those resulting from a mixing of cultures. The Committee recalls that information on the composition of the population is necessary to evaluate the implementation of the Convention and monitor the policies affecting minorities and indigenous peoples.

The Committee recommends that the State party continue to improve its census methodology in order to reflect more fully the ethnic complexity of the Costa Rican society, bearing in mind the principle of self-identification, in accordance with its general recommendation No. 4 (1973) and paragraphs 10 and 11 of the guidelines for the CERD-specific document adopted by the Committee at its seventy-first session (CERD/C/2007/1).

9. The Committee notes with concern that, despite the recommendation contained in its concluding observations of 2002, the Autonomous Development of Indigenous Peoples Bill has not been adopted owing to legislative obstacles. The Committee is concerned to learn that the bill may once again be shelved.

The Committee again urges the State party to remove without delay the legislative obstacles preventing the adoption of the Autonomous Development of Indigenous Peoples Bill (art. 2).

10. The Committee notes the reinstatement of the National Commission on Indigenous Affairs (CONAI), with a new executive board comprising seven members who are representatives of the indigenous communities. The Committee is nevertheless concerned at information received to the effect that CONAI failed to represent the interests of the indigenous peoples and that, as the State party recognizes, it has in the past not fulfilled its functions and responsibilities.

The Committee recommends that the State party ensure that the mandate and operation of CONAI are consistent with the Convention and that this body acts to defend and protect the rights of the indigenous peoples (art. 2).

11. The Committee notes with concern that racial discrimination continues to be viewed in Costa Rica as a minor infraction punishable by a fine, despite the fact that the Committee recommended in 2002 that Costa Rica's criminal legislation should be amended to make the penalty commensurate with the gravity of the offence.

The Committee again urges the State party to amend its criminal legislation so as to bring it into line with the Convention. The State party should define each element of the criminal behaviour listed in the relevant paragraphs of article 4 of the Convention as an offence and increase the penalty in proportion to the gravity of the offence.

12. While taking note of the explanation provided by the State party regarding the difficulty of access to the indigenous territories, the Committee is concerned at the fact that only 7.6 per cent of indigenous people in those territories have their basic needs met, and that this problem might result in indigenous people being obliged to leave their ancestral lands in search of better opportunities. The Committee is particularly concerned at the situation in the canton of Talamanca and in the banana plantations; it recalls that discrimination is not always an effect of a deliberate policy and that the State party has an obligation to rectify situations of de facto discrimination.

The Committee urges the State party to take the necessary steps to remove the economic, social and geographical barriers that prevent it from guaranteeing access to basic services in the indigenous territories, so that indigenous people do not find themselves compelled to leave their ancestral lands. The Committee invites the State party to pay particular attention to the canton of Talamanca and the banana plantations (art. 5).

13. The Committee notes with concern the low wages of the indigenous population compared with the rest of the population, and their problems of access to education and health.

The Committee urges the State party to step up its efforts to improve the indigenous peoples' enjoyment of economic and social rights, and in particular to take steps to ensure equal pay for indigenous people and other sectors of the population, and access to education and health. To this end, the Committee invites the State party to take into account its general recommendation No. 23 on indigenous peoples (art. 5 (e) (i), (iii), (iv) and (v)).

14. The Committee is alarmed at the fact that child mortality rates in the cantons with large indigenous populations are still very much higher than the national average.

The State party should make strenuous efforts to combat child mortality in the indigenous communities (art. 5 (iv)).

15. While noting that domestic legislation protects indigenous peoples' right to land tenure, the Committee is concerned that this right is not guaranteed in practice. The Committee shares the State party's concern at the trend towards the concentration of indigenous land in the hands of non-indigenous settlers.

The Committee urges the State party to strengthen its efforts to guarantee the indigenous peoples' right to land tenure. The State party should take the necessary steps to implement Constitutional Chamber decision No. 3468-02 ordering the delimitation of the lands of the Rey Curré, Térraba and Boruca communities and the recovery of indigenous lands lost through improper transfer (art. 5 (d) (v)).

16. While noting the efforts made by the State party on immigration, the Committee is concerned at the precarious situation of migrant workers, the majority of them Nicaraguan, and particularly that of the women, who, having little education, work mainly as domestic workers and are thus vulnerable to abuse and discrimination.

The Committee urges the State party to step up its efforts to improve the situation of migrants in Costa Rica, and particularly that of women migrants. The State party should ensure that Act No. 8487 amending the Migration and Aliens Act fully guarantees migrants' rights. The Committee draws the State party's attention to its general recommendation No. 30 on non-citizens, and invites it to consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (art. 5).

17. The Committee is concerned at the lack of a gender policy specifically for indigenous women that would enable the State party to effectively protect their rights.

The Committee recommends that the State party take the necessary steps to combat double discrimination, on the basis of gender and ethnicity, and invites it to adopt a national gender plan for indigenous women that will allow it to effectively coordinate policies to protect their rights. The indigenous peoples should participate in the elaboration of such a plan. To that end, the Committee draws the State party's attention to its general recommendation No. 25 on gender-related dimensions of racial discrimination (art. 5 (e) (i) and (v)).

18. The Committee is concerned to note that despite the high rate of school enrolment among Afro-Costa Ricans, the unemployment rate for young Afro-Costa Ricans is above the national average.

The Committee invites the State party to carry out a study to determine the causes of this problem, and to take the necessary measures, including legislative measures, to put an end to discrimination in employment and all discriminatory practices in the labour market, and to adopt further measures to reduce unemployment among Afro-Costa Ricans in particular (art. 5 (c) (i)).

19. The Committee notes with concern that the list of Colombian refugees was shared by the Costa Rican authorities with the Colombian authorities.

The Committee suggests that the State party should take the necessary steps to ensure that refugees are protected and that safeguards are in place to shield personal data from the authorities of the country of origin (art. 5 (b)).

20. The Committee notes with concern the disappearance of two indigenous languages, Chorotega and Huetar.

The Committee invites the State party to take the necessary measures to preserve the indigenous peoples' cultural heritage, including their languages (art. 7).

21. The Committee recommends that the State party ratify the amendments to article 8, paragraph 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. In this connection the Committee refers to resolution 57/194 of 18 December 2002, in which the General Assembly strongly urged States parties to accelerate their domestic ratification procedures with regard to the amendment, and to notify the Secretary-General expeditiously in writing of their agreement to the amendment. The General Assembly repeated this exhortation in resolution 58/160 of 22 December 2003.

22. The Committee recommends that the State party take into account the relevant parts of the Durban Declaration and Programme of Action when implementing the Convention in the domestic legal order, in particular in respect of articles 2 to 7 of the Convention, and that it include in its next periodic report information on measures taken to implement the Durban Declaration and Programme of Action at the national level, and in particular on the preparation and implementation of a national action plan.

23. The Committee recommends that the State party's reports be made available to the public at the time of their submission and that the Committee's observations on these reports be similarly publicized, including in indigenous languages.

24. Pursuant to article 9, paragraph 1, of the Convention and rule 65 of the Committee's amended rules of procedure, the Committee requests the State party to provide information on its follow-up to the Committee's recommendations contained in paragraphs 9, 12 and 16 above, within one year of the adoption of the present conclusions.

25. The Committee invites the State party to submit with its next periodic report a common core document in accordance with the harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document, approved by the fifth inter-Committee meeting of the human rights treaty bodies held in June 2006 (HRI/MC/2006/3 and Corr.1); and, in preparing its report, to consult with civil society organizations working to combat racial discrimination.

26. The Committee recommends that the State party submit its nineteenth, twentieth and twenty-first periodic reports in a single document, due on 4 January 2010, and that the report provide an update on the issues raised during consideration of the current reports and address all points raised in the present concluding observations.

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