

PERU

Special Decisions or Action Taken Re: Reporting, Including Urgent Action Procedure

CERD A/9618 (1974)

Annex IV

Texts of communications sent through the Secretary-General to States Parties whose representatives did not participate in the consideration by the Committee of their respective reports, submitted in accordance with article 9, paragraph 1, of the convention, at the ninth and tenth sessions of the Committee

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D. Communication to the Government of Peru d/

At its 214th meeting, held on 21 August 1974, the Committee on the Elimination of Racial Discrimination considered the initial report submitted by the Government of Peru in accordance with article 9, paragraph 1, of the International Convention on the Elimination of All Forms of Racial Discrimination, without the benefit of the participation of a representative of the Government of Peru.

The Committee was unanimously of the opinion that the report did not meet the requirements of the article of the Convention under reference.

Under that article, States Parties undertake, inter alia, to submit initial reports and subsequent biennial reports for consideration by the Committee regardless of whether or not racial discrimination exists on their territories and whether any special legislative, judicial, administrative or other measures have been adopted.

The Committee has also decided to request the Government of Peru to submit its report as soon as possible, but not later than the opening date of the eleventh session of the Committee. It expresses the hope that, in the preparation of that report, the Government of Peru will take into account, besides the provisions of article 9, paragraph 1, of the Convention, the guidelines laid down by the Committee on its first session, the four general recommendations adopted by it since then, and its decision 3 (VII). Documents CERD/C/R.60 and Add.1, containing all the texts under reference, are attached.

The Committee hopes that the Government of Peru will take into account also the Committee's discussion, at its 214th meeting, of the report submitted by the Government of Peru. The summary records of that meeting (CERD/C/SR.214) will be forwarded as soon as it is available in final form.

d/ Adopted at the 215th meeting, on 22 August 1974.

The Committee earnestly hopes that it will be possible for a representative of the Government of Peru to participate in the Committee's forthcoming consideration of the requested report during the eleventh session, which will be held at United Nations Headquarters from 31 March 1975 to 18 April

1975. The exact date on which the Committee will consider that report will be communicated to the Government of Peru immediately after the opening of the session.

CERD, CERD/C/SR.1781 (2006)

COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Sixty-ninth session

SUMMARY RECORD OF THE 1781st MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 16 August 2006, at 10 a.m.

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PREVENTION OF RACIAL DISCRIMINATION, INCLUDING EARLY WARNING
MEASURES AND URGENT ACTION PROCEDURES (agenda item 3) (continued)

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Peru

16. Ms. JANUARY-BARDILL said that the working group on early warning and urgent action procedures had received a communication concerning human rights violations against the Andean communities of Tacna in southern Peru, who reportedly suffered hunger and poverty as a result of the State party's failure to protect their water rights. The complainants had submitted that all domestic remedies had been exhausted and that a complaint had been dismissed by the Court of Criminal Justice in Tacna.

17. The working group had approached the Permanent Representative of the State party in Geneva, who had explained that, when the water supply project in the area had been initiated in 1977, its potential environmental impact had not been taken into account. Recognizing the unfortunate consequences of that shortcoming, the regional Government had conducted a proper environmental impact assessment and had concluded that the communities affected should be compensated. The working group was unaware of the nature of such compensation. The Permanent Representative had further explained that the resident indigenous population held no native title rights to the land in question. The working group had thus far not discussed the situation in the light of the supplementary information provided. She suggested that the State party should be requested to include pertinent information in its next periodic report.

18. Indicating that an individual communication on the matter had been submitted to the Human Rights Committee, the State party had called into question the admissibility of the complaint under the early warning and urgent action procedure, stating that it would disregard any possible measure adopted in that framework.

19. Mr. SCHMIDT (Secretariat) said that the Human Rights Committee had responded consistently to similar arguments advanced by the State party on previous occasions by declaring itself competent to examine individual communications submitted under the Optional Protocol to the International Covenant on Civil and Political Rights, regardless of whether the matter had also been submitted to an International Labour Organization (ILO) procedure, the procedure

governed by Economic and Social Council resolution 1503 (XLVIII) or any other special procedures of the former Commission on Human Rights. The Human Rights Committee had held that, given the diverse nature of those mechanisms, their being seized with the matter did not preclude its examination under the Optional Protocol. Similarly, the initiation of an early warning and urgent action procedure should not be precluded by the mere fact that a member of the indigenous community concerned had submitted an individual complaint to the Human Rights Committee. However, the communication would be inadmissible under article 14 of the Convention.

20. Mr. AVTONOMOV said that the State party's assertion that there was no cause for concern stood in stark contrast with NGO reports, which described the situation of indigenous communities in the area as catastrophic. The question of title over the land in question was irrelevant. Given that the environmental consequences of the water supply project affected the resident indigenous population, the matter clearly fell within the Committee's mandate. Additional information was required to assess the situation properly and decide on the appropriate course of action.

21. Mr. YUTZIS agreed. It should also be borne in mind that the water shortages affected not only indigenous peoples in Peru, but also those living in neighbouring Chile and Bolivia. The matter required urgent attention and no decision on admissibility should be taken before the Committee had received additional information clarifying the situation.

22. Mr. VALENCIA RODRÍGUEZ noted that the water supply problems of the Aymara people of Peru, Bolivia and Chile had existed for over 30 years. He agreed that the Committee needed more information before it could decide whether it should institute an urgent action procedure.

23. Ms. JANUARY-BARDILL reiterated that the Committee should write to the Government of Peru asking for more information in writing, which should include that provided orally by the ambassador of Peru the day before. The Committee would then be in a better position to decide whether the urgent action procedure was justified.

24. Mr. THORNBERRY, Rapporteur, said that the problems of the Aymara people were the result of a long accumulation of events rather than one single event. The Human Rights Committee had substantial jurisprudence on situations arising from such an accumulation of individual events.

25. The CHAIRPERSON said that, if there was no objection, he would take it that the Committee wished to send a letter to the Government of Peru asking for further information, as suggested by Ms. January-Bardill.

26. It was so decided.

27. Mr. SICILIANOS noted that the working group had not had the opportunity to discuss the information presented by the ambassador of Peru the day before. He suggested that, in future, the working group should meet to discuss any case which was about to be submitted to the

Committee as a whole, so that its recommendations were as complete and up-to-date as possible.
That would save time in the subsequent plenary.

28. The CHAIRPERSON supported that proposal.

29. Mr. ABOUL-NASR asked whether the Committee really needed to approve a letter which merely asked for further information.

30. The CHAIRPERSON said that, since the letter was sent in the Committee's name, it must be discussed and approved by all members in plenary session.

31. Mr. LINDGREN ALVES noted that drafts - of concluding observations, for example - were usually circulated in advance. Members could raise any queries or doubts privately with the author of the draft, which would reduce the amount of discussion required in plenary.

32. The CHAIRPERSON suggested that in future the working group might itself draft letters which merely requested further information. The Committee could then consider and approve the draft, without discussing the case itself at that stage.

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CERD, A/62/18 (2007)

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Chapter II

PREVENTION OF RACIAL DISCRIMINATION, INCLUDING EARLY WARNING AND URGENT ACTION PROCEDURES

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23. At its seventieth session, the Committee requested the Chairperson to send a letter to the Government of Peru following receipt of information on the situation of the Aymara people located on the grasslands of the Altiplano. Following the absence of a reply to its letter of 18 August 2006, the Committee requested a detailed response to issues raised in this letter as well as to additional questions, no later than 1 July 2007. The Committee also invited the State party to send a delegation to attend its seventy-first session in order to open a frank and constructive dialogue on these matters.

24. At its seventy-first session, after consideration of replies by the Government of Peru to some of the questions raised by the Committee, it was decided that the Chairperson should send a letter to the State party informing it that following the belated receipt of information, the Committee would consider the issue further at its seventy-second session. The Committee also decided to request receipt of all information yet to be provided by 30 November 2007. The Committee further reminded the State party that its fifteenth to nineteenth periodic reports were overdue, and requested it to submit these reports in a single document by 30 June 2008.

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CERD, A/63/18 (2008)

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Chapter II

PREVENTION OF RACIAL DISCRIMINATION, INCLUDING EARLY WARNING AND URGENT ACTION PROCEDURES

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19. During the reporting period, the Committee again considered a number of situations under its early warning and urgent action procedure, including in particular the following:

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26. At the seventy-second session, the Committee further considered the situation of the Aymara indigenous communities of Ancomarca, Tacna, in Peru and, by a letter dated 7 March 2008, requested the Government of Peru to provide information and clarifications by 30 June 2008. At the seventy-third session, a Government delegation from Peru met with the Committee to provide information on the issues raised by the Committee and to reconfirm the Government's commitment to submit its overdue periodic report by the end of the year.

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Chapter V: Review of the Implementation of the Convention in States Parties the Reports of Which are Seriously Overdue

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C. Action taken by the Committee to ensure submission of reports by States parties

525. At its forty-second session, the Committee, having emphasized that the delays in reporting by States parties hampered it in monitoring implementation of the Convention, decided that it would continue to proceed with the review of the implementation of the provisions of the Convention by States parties whose reports were overdue by five years or more. In accordance with a decision taken at its thirty-ninth session, the Committee agreed that this review would be based upon the last reports submitted by the State party concerned and their consideration by the Committee. At its forty-ninth session, the Committee further decided that States parties whose initial reports were overdue by five years or more would also be scheduled for a review of the implementation of the Convention. The Committee agreed that in the absence of an initial report, the Committee would consider all information submitted by the State party to other organs of the United Nations or, in the absence of such material, reports and information prepared by organs of the United Nations. In practice the Committee also considers relevant information from other sources, including from non-governmental organizations, whether it is an initial or periodic

report that is seriously overdue.

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528. Following its seventy-second session, the Committee decided to schedule for its seventy-third session a review of the implementation of the Convention in the following States parties whose initial or periodic reports were seriously overdue: Belize, Chile, Peru and the Philippines. Chile and the Philippines were withdrawn from the list prior to the seventy-third session following the submission of their overdue reports.

529. At the seventy-third session, the Committee met with a delegation from Peru, which reconfirmed the intention of the Government to submit the overdue report by the end of 2008 and requested that the review be postponed, a request which was granted by the Committee. The Committee also decided to postpone the review of the situation in Belize, in light of correspondence received from the State party drawing attention to the limited resources of the Government and requesting technical assistance in the reporting process from OHCHR.

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CERD A/64/18 (2009)

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Chapter II: Prevention of racial discrimination, including early warning and urgent procedures

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15. During the reporting period, the Committee again considered a number of situations under its early warning and urgent action procedure, including in particular the following.

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24. At the seventy-fourth session, the Committee further considered the situation of the indigenous communities of Ancomarca and Tarata in Peru and, by a letter dated 6 March 2009, requested the Government to take measures to guarantee their rights to the use of water. The Government provided its responses by note verbale dated 1 August 2009.

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CERD, A/65/18 (2010)

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Chapter II

PREVENTION OF RACIAL DISCRIMINATION, INCLUDING EARLY WARNING AND URGENT ACTION PROCEDURES

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15. During the reporting period, the Committee also considered a number of situations under its early warning and urgent action procedure, including in particular the following.

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18. At its seventy-sixth session the Committee had further considered the situation of Achuar indigenous people in **Peru**, as well as the situation of Awajun and Wampis in relation to the mining activities on their traditional lands. In a letter to the State party dated 12 March 2010, the Committee reiterated its request for information concerning the Dorissa Agreement. At its seventy-seventh session, the Committee further considered the situation of the indigenous community in Ancomarca and requested information by 31 January 2011. In the light of reports received alleging oil spillage in the district of Uranina, province of Loreto, and its impact on the life of indigenous peoples living in this area, the Committee requested the State party to provide information on measures taken to address this issue.

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