



International Convention on the Elimination of All Forms of Racial Discrimination

Distr.: General
24 May 2023
English
Original: Spanish

Committee on the Elimination of Racial Discrimination

Concluding observations on the combined twenty-fourth to twenty-sixth periodic reports of Argentina*

1. The Committee considered the combined twenty-fourth to twenty-sixth periodic reports of Argentina,¹ submitted in a single document, at its 2965th and 2966th meetings,² held on 17 and 18 April 2023. At its 2976th meeting, held on 26 April 2023, it adopted the present concluding observations.

A. Introduction

2. The Committee welcomes the submission of the combined twenty-fourth to twenty-sixth periodic reports of the State party and the updated information provided in that regard.³ The Committee expresses its satisfaction with the frank and constructive dialogue held with the State party's high-level delegation and appreciates the information provided during that dialogue.

B. Positive aspects

3. The Committee welcomes the following legislative, policy and institutional measures taken by the State party:

(a) Establishment of the National Programme on People of African Descent and Human Rights in 2022;

(b) Adoption of Decree No. 138/2021 of 5 March 2021, which restores the full force and effect of the Migration Act (No. 25871);

(c) Establishment of the first Interministerial Round Table on Public Policies for the Afro Community in Argentina in 2020;

(d) Adoption of Resolution No. 230/2020 by the National Institute to Combat Discrimination, Xenophobia and Racism of 22 December 2020, which provided for the establishment of the Commission for the Historical Recognition of the Afro-Argentine Community;

(e) Establishment of the Ministry for Women, Gender and Diversity in 2019;

* Adopted by the Committee at its 109th session (11–28 April 2023).

¹ [CERD/C/ARG/24-26](#).

² See [CERD/C/SR.2965](#) and [CERD/C/SR.2966](#).

³ Updated information available at

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCERD%2FAIS%2FARG%2F52162&Lang=en.



(f) Adoption of Resolution No. 1055/2019 of the Ministry of Justice and Human Rights of 10 October 2019, which provided for the establishment of the National Programme for the Implementation of the International Decade for People of African Descent;

(g) Adoption of General Act No. 27512 on the Recognition and Protection of Stateless Persons of 17 July 2019;

(h) Establishment of the Indigenous Peoples' Interministerial Board in 2017.

C. Concerns and recommendations

Data collection

4. The Committee notes the introduction of a question allowing for ethnic and racial self-identification by members of Indigenous Peoples and Afrodescendent communities in the 2022 eleventh national housing, household and population census, the forthcoming dissemination of the final results of that census and the implementation of the “I Recognize Myself” campaign prior to the census. However, it is concerned about the fact that, despite the State party's efforts, ethnic and racial self-identification has not yet been systematically introduced into the data-collection systems of all public institutions at all levels of government, which limits the potential for generating reliable data and indicators on the needs of all ethnic and racial population groups. The Committee regrets the lack of disaggregated statistics and socioeconomic indicators for use in assessing the living conditions of Indigenous, Afrodescendent and Roma persons and persons belonging to other minorities, as well as migrants, refugees, asylum-seekers and stateless persons, and in assessing the progress made with regard to the realization and enjoyment of their rights under the Convention (art. 2).

5. **In accordance with its general recommendation No. 4 (1973) concerning reporting by States parties, which calls for the provision of information on the demographic composition of the population, and the Committee's previous concluding observations,⁴ the Committee recommends that the State party promote the systematic collection of data, including on ethnic and racial origin, by public institutions at all levels of government. It also requests the State party to provide reliable, updated and comprehensive data on the demographic composition of the population in its next report, as well as human rights and socioeconomic indicators disaggregated by ethnicity, gender, age, province and urban/rural area, in particular on Indigenous Peoples, Afrodescendent communities, the Roma population and other minorities, and on migrants, refugees, asylum-seekers and stateless persons.**

Implementation of the Convention

6. The Committee notes that the Convention has constitutional rank under article 75 (22) of the Constitution of the State party. It regrets, however, that the State party has not provided sufficient information on cases in which the Convention has been directly applied by the courts (arts. 1 and 6).

7. **The Committee recommends that the State party take appropriate measures, including the organization of regular training on the Convention for judges, prosecutors, public defenders, law enforcement officers and other public officials, to ensure the systematic application of the Convention in all State institutions and at the various levels of government. It also recommends that the State party strengthen its efforts to raise awareness among the population of the Convention and the available complaint mechanisms and judicial and non-judicial remedies for enforcing the rights enshrined therein, in particular among the groups most at risk of racial discrimination. The Committee also notes that, although the federal structure of the State party may make it more difficult for the State to fully implement its obligations under the Convention throughout its territory, the Federal Government must ensure that the Convention is implemented throughout the country. The Committee encourages the**

⁴ CERD/C/ARG/CO/21-23, para. 11.

State party to strengthen its efforts to ensure that the provincial authorities are informed of the rights set forth in the Convention and take the measures necessary to ensure that those rights are respected.

Legislative measures

8. The Committee notes the information provided by the State party with regard to the existence of bills that would amend National Act No. 23592 on Discriminatory Actions in order to recognize sexual orientation and gender identity as prohibited grounds for discrimination. However, it is concerned about the fact that the State party's legislation does not encompass all of the elements of articles 1 and 4 of the Convention (arts. 1 and 4).

9. **In accordance with its previous concluding observations,⁵ the Committee recommends that, in the context of pending legislative reforms, the State party incorporate into domestic legislation a definition of racial discrimination that includes all of the elements of article 1 (1) of the Convention and covers acts of direct and indirect discrimination in all spheres of law and public life, as well as intersectional forms of discrimination. The Committee also recommends that the State party make acts of racial discrimination and the acts described in article 4 of the Convention separate criminal offences. The Committee refers the State party to its general recommendations No. 14 (1993) on article 1 (1) of the Convention, No. 7 (1985) relating to the implementation of article 4, No. 15 (1993) on article 4 and No. 35 (2013) on combating racist hate speech.**

Office of the Ombudsperson and Office of the Ombudsperson for Audiovisual Communication Services

10. The Committee remains concerned that no ombudsperson has been appointed by the State party since 2009. It is also concerned by reports that the procedure for the selection and appointment of the ombudsperson is still not sufficiently clear, transparent or participatory. The Committee takes note of the important work carried out by the Office of the Ombudsperson but regrets the lack of information on the human and financial resources allocated to it. It welcomes the appointment of the Ombudsperson for Audiovisual Communication Services in June 2020 but regrets the lack of information on the human and financial resources allocated to this institution (art. 2).

11. **In accordance with its previous concluding observations,⁶ the Committee:**

(a) **Urges the State party to step up its efforts to appoint an ombudsperson and recommends that it take the measures necessary to ensure that the procedure for the selection and appointment of the ombudsperson is sufficiently clear, transparent and participatory and that it fully complies with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) and takes due account of the recommendations of the Subcommittee on Accreditation of the Global Alliance of National Human Rights Institutions;**

(b) **Recommends that the State party take the measures necessary to allocate sufficient human and financial resources to the Office of the Ombudsperson and the Office of the Ombudsperson for Audiovisual Communication Services to allow them to carry out their mandates in full.**

Institutional framework

12. The Committee appreciates the work done by the National Institute to Combat Discrimination, Xenophobia and Racism on, for example, the preparation of the National Discrimination Map on a regular basis and the establishment of the Commission for the Historical Recognition of the Afro-Argentine Community in 2020. It also notes the work of the National Institute of Indigenous Affairs, including the Community Strengthening

⁵ Ibid., para. 12, and [CERD/C/ARG/CO/19-20](#), para. 15.

⁶ [CERD/C/ARG/CO/21-23](#), para. 15, and [CERD/C/ARG/CO/19-20](#), para. 16.

Programme and the mediation of conflicts between communities and other social actors. Nevertheless, the Committee remains concerned about:

(a) The fact that the National Institute to Combat Discrimination, Xenophobia and Racism has been headed by acting presidents since 2011, which could limit its independence and capacity for action, and the fact that, despite a significant budget increase since 2021, the Institute has not been granted sufficient human and financial resources to fully carry out either its own mandate, particularly in the provinces and remote areas of the country, or the mandate of the Commission for the Historical Recognition of the Afro-Argentine Community;

(b) The lack of information on the full and systematic participation of Indigenous persons in the National Institute of Indigenous Affairs, including in the position of president, the Council on Indigenous Participation and the Indigenous Peoples' Advisory and Participatory Council; the limited presence of the National Institute of Indigenous Affairs in the provinces and remote areas of the country where Indigenous persons live; and the fact that the Institute has not been allocated sufficient human, technical and financial resources to carry out all aspects of its mandate, in particular the surveying of lands and territories traditionally occupied by Indigenous Peoples (art. 2).

13. **In accordance with its previous concluding observations,⁷ the Committee urges the State party to:**

(a) **Continue to apply measures aimed at strengthening the National Institute to Combat Discrimination, Xenophobia and Racism and officially appoint a president; further increase the human and financial resources allocated to the Institute in order to enable that institution, including the Commission for the Historical Recognition of the Afro-Argentine Community, to carry out its mandate in full; update the National Discrimination Map more frequently; and increase the Institute's presence in all provinces and the remotest areas of the country;**

(b) **Take the measures necessary to ensure the full and effective participation of Indigenous Peoples, Afrodescendent communities, other minorities and migrants in the institutions that represent them or that work to combat racial discrimination, including the National Institute to Combat Discrimination, Xenophobia and Racism and the National Institute of Indigenous Affairs, and provide the National Institute of Indigenous Affairs with sufficient human, technical and financial resources to fulfil all aspects of its mandate, in particular the surveying of lands and territories traditionally occupied by Indigenous Peoples.**

National plans on human rights and non-discrimination

14. The Committee takes note of the first National Human Rights Action Plan 2017–2020 but regrets the lack of information regarding its impact, in particular on racial discrimination. It also notes the efforts deployed to develop a national plan to combat discrimination but regrets that the plan has not yet been adopted (arts. 2 and 5).

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

(a) **Disseminate information on the results of the implementation of the first National Human Rights Action Plan 2017–2020, in particular with regard to its impact on efforts to combat racial discrimination, and develop and adopt a new national human rights action plan;**

(b) **Redouble its efforts to finalize the adoption of the national plan to combat discrimination as soon as possible and ensure that the plan includes measures to combat racial discrimination, racism and xenophobia, as well as structural discrimination and racism;**

(c) **Ensure the active and full participation of the groups most at risk of racial discrimination, in particular Indigenous Peoples, Afrodescendent communities,**

⁷ CERD/C/ARG/CO/21-23, para. 17.

migrants, asylum-seekers and refugees, in the development, monitoring and evaluation of the progress and final outcome of the aforementioned plans;

(d) Establish follow-up mechanisms for the implementation of the aforementioned plans and allocate adequate financial resources for their effective implementation at all levels of government.

National programmes and plans related to persons of African descent

16. The Committee welcomes the establishment of the National Programme for the Implementation of the International Decade for People of African Descent in 2019, the first Interministerial Round Table on Public Policies for the Afro Community in Argentina in 2020 and the National Programme on People of African Descent and Human Rights in 2022. However, it is concerned by information according to which the effective implementation of public policies aimed at guaranteeing non-discrimination and the protection of the human rights of persons of African descent is limited. It also regrets that the national plan for people of African Descent has not yet been approved (arts. 2 and 5).

17. The Committee recommends that the State party take the measures necessary to ensure the effective implementation of public policies aimed at guaranteeing non-discrimination and the protection of the human rights of persons of African descent, including by making adequate human, technical and financial resources available for that purpose, establishing coordination and monitoring mechanisms and ensuring the effective participation of persons of African descent in the design, monitoring and evaluation of such policies and related institutions. It also recommends that the State party redouble its efforts to ensure the prompt adoption of the national plan for people of African descent.

Racist hate crimes and hate speech

18. The Committee notes the measures taken to address hate speech, including the establishment of a group for conducting research into the culture of hatred in 2020, a research and action network against hate speech in 2022 and a media and social network watchdog. However, it is concerned by reports of increasing hate speech and xenophobia directed against historically vulnerable populations, in particular members of Indigenous Peoples and Afrodescendent communities, migrants, asylum-seekers and refugees, including on the Internet and social media platforms and by national and provincial public officials and authorities. It regrets the absence of information on the application of aggravating circumstances in cases where an offence has been motivated by racism or racial hatred, as is provided for in the State party's legislation. Among other cases of racial violence, the Committee is concerned about the case of the murder of 18-year-old Fernando Baez Sosa, in which, according to reports, the racist dimension of the attack was not adequately addressed, despite statements affirming that racist insults were directed at the victim during the commission of the offence. It also regrets the lack of information on complaints and investigations concerning persons responsible for hate crimes and racist violence, the penalties imposed on such persons and the reparations granted to victims or their families. In addition, it regrets the lack of information on the existence of a system for registering and collecting data on such crimes at the federal and provincial levels (art. 4).

19. The Committee recommends that the State party:

(a) Take the measures necessary to prevent, condemn and combat racial hate speech against members of Indigenous Peoples, persons of African descent, migrants, asylum-seekers and refugees, including on the Internet and social media platforms and by public officials and national and provincial authorities;

(b) Step up its efforts to curb the spread of racist hate speech on the Internet and social media platforms in close cooperation with these services and the communities most affected by racist hate speech;

(c) Ensure that cases of racist hate crimes and hate speech are thoroughly investigated, that those responsible are punished, that the aggravating circumstances of

racial hatred provided for in national legislation are duly applied where appropriate and that reparations are provided to the victims or their families;

(d) Continue and step up public awareness campaigns aimed at eradicating prejudice against, and the stigmatization of, historically vulnerable populations and promoting respect for diversity and the elimination of racial discrimination, including racial hate crimes and hate speech;

(e) Take the measures necessary to ensure that racist hate crimes and hate speech are systematically documented at the federal and provincial levels, including by establishing a system for collecting data on these crimes, disaggregated by, among other factors, the ethnicity, nationality and gender of the victims.

Structural discrimination

20. The Committee appreciates the State party's recognition of the existence of structural racism, which mainly affects members of Indigenous Peoples, persons of African descent and migrants. It also takes note of the measures adopted in the economic and social spheres to combat the poverty and inequality that affect these historically vulnerable groups and the adoption of some special or affirmative measures in respect of these communities. However, it remains concerned about continuing structural discrimination and racism against, and the invisibility of, members of Indigenous Peoples, persons of African descent and non-nationals, including migrants, asylum-seekers and refugees, which are reflected in high levels of poverty and social exclusion, particularly in rural and remote areas. It is also concerned about the impact of structural discrimination and racism on the effective enjoyment of the rights established in article 5 of the Convention, mainly the right to participate in government and in the conduct of public affairs, and economic, social and cultural rights, in particular access to employment and the right to food, health and education (arts. 2 and 5).

21. In accordance with its previous concluding observations,⁸ and in the light of its general recommendation No. 32 (2009) on the meaning and scope of special measures in the Convention, the Committee recommends that the State Party adopt the necessary special or affirmative measures, at all levels of government, to eliminate the structural discrimination faced by members of Indigenous Peoples, persons of African descent and non-nationals. The Committee recalls that, in accordance with the aforementioned general recommendation, federal authorities are responsible for designing a framework for the consistent application of special measures in all parts of the State party and that these measures should be designed and implemented on the basis of prior consultation with, and the active participation of, affected communities. Moreover, the Committee recommends that the State party:

(a) Redouble its efforts to reduce the high levels of inequality and poverty affecting members of Indigenous Peoples, persons of African descent and non-nationals;

(b) Adopt effective measures to ensure the full participation of members of Indigenous Peoples and persons of African descent in public affairs and public administration at the federal, provincial and local levels and to promote their participation in decision-making positions in the public and private sectors;

(c) Take additional measures to combat racial discrimination in the workplace, in particular when it is directed against Indigenous persons, persons of African descent and migrants, and to improve access to the formal sector of the economy for people belonging to these groups;

(d) Ensure that the measures adopted to combat hunger have a tangible impact on Indigenous persons, persons of African descent and migrants, including through the reduction of child malnutrition, which particularly affects members of Indigenous Peoples;

(e) Step up its efforts to ensure equal access to high-quality and culturally appropriate health services for members of Indigenous Peoples, persons of African

⁸ Ibid., para. 7.

descent and migrants and to reduce maternal and infant mortality in Indigenous communities;

(f) **Adopt additional measures to combat racial discrimination in the education sector, particularly against Indigenous and Afrodescendent persons and migrants, and to ensure the availability, accessibility and high quality of education at all levels for children in these communities, including through the strengthening of intercultural bilingual education for Indigenous communities.**

Racial profiling

22. The Committee is concerned about the continued use of racial profiling by police officers and other law enforcement officials, which particularly affects members of Indigenous Peoples, persons of African descent, migrants, asylum-seekers and refugees and which leads, in many cases, to police violence and, in some cases, to the death of the victims. It regrets the lack of information on laws at the federal and provincial levels that explicitly prohibit racial profiling. The Committee is also concerned by information according to which the State party has not fully complied with the judgment of 31 August 2020 of the Inter-American Court of Human Rights in the case of *Acosta Martínez et al. v. Argentina*, in which the Court ordered, among other measures, that the State party should organize training on the discriminatory nature of racial profiling in the application of police powers of arrest and on the negative impact that it has on persons of African descent and should implement a mechanism for registering complaints from persons who claim to have been arbitrarily detained on the basis of racial profiling (arts. 2, 4 and 5).

23. **In the light of its general recommendation No. 36 (2020) on preventing and combating racial profiling by law enforcement officials, the Committee recommends that the State party adopt legislation that expressly prohibits racial profiling by law enforcement officials at the federal and provincial levels. The Committee also recommends that the State party take the necessary measures to prevent and eradicate racial profiling, in particular by providing ongoing training for law enforcement officials at all levels of government that takes the aforementioned general recommendation into account, facilitating the reporting and recording of cases of racial profiling, and investigating and punishing those responsible. The Committee also recommends that the State party step up its efforts to fully comply with the judgment of the Inter-American Court of Human Rights in the case of *Acosta Martínez et al. v. Argentina*.**

Excessive use of force by law enforcement officials

24. The Committee notes the measures taken to address cases of police and institutional violence, including the work undertaken by the National Directorate of Policies to Combat Institutional Violence of the Secretariat for Human Rights and training activities on the use of force for law enforcement officials. However, the Committee is concerned by numerous allegations of police violence, including some incidents resulting in the death of the victim, which disproportionately involve members of Indigenous Peoples, persons of African descent and migrants. It is also concerned by reports that victims or their families often encounter barriers to access to justice, including discrimination, and that, as a result, perpetrators often go unpunished. Moreover, the Committee is concerned about the unavailability of harmonized reliable statistics, disaggregated by ethnicity of the victim, at the federal and provincial levels that would make it possible to ascertain the extent of this kind of violence (arts. 2 and 4–6).

25. **The Committee recommends that the State party adopt the necessary measures at the federal and provincial levels to prevent acts of police and institutional violence, including by expediting the adoption of the bill on a comprehensive approach to institutional violence by police officials in the security and prison services and conducting ongoing training programmes for law enforcement officials on the use of force in accordance with international standards, including the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the United Nations Human Rights Guidance on Less-Lethal Weapons in Law Enforcement. It also recommends that the State party ensure that all cases of police and institutional violence**

are investigated, that those responsible are punished and that adequate reparations are provided to victims and their families. Lastly, the Committee recommends the establishment of a registration system, at the federal and provincial levels, to generate harmonized reliable statistics, disaggregated, inter alia, by the ethnic origin, nationality and gender of the victims.

Freedom of peaceful assembly and human rights defenders

26. The Committee is concerned by reports of an increasing number of provincial legislative measures and initiatives that unduly restrict the right to peaceful assembly of minorities, in particular Indigenous Peoples, such as Decree No. 91/23 in Salta Province and a legislative initiative in Jujuy Province to reform the provincial constitution in order to place restrictions on social protest. It is also concerned by various allegations regarding the excessive use of force by law enforcement officials and members of private security companies against members of ethnic minorities, in particular against Indigenous Peoples who are protesting in defence of their rights. The Committee remains concerned by allegations of reprisals, intimidation, threats and the disproportionate use of criminal proceedings against leaders and members of Indigenous Peoples, persons of African descent and migrants defending their rights, as well as against human rights defenders advocating for the rights of these groups. It is also concerned by allegations of speeches, including by high-level provincial officials, stigmatizing the Mapuche People and their leaders as a group associated with terrorism (art. 5).

27. **The Committee recommends that the State party take all measures necessary to ensure the exercise of the right to peaceful assembly without any discrimination on the grounds of race, colour, descent or ascendance or national or ethnic origin, including at the provincial level. It also recommends investigating allegations of the excessive use of force during peaceful protests and reprisals, intimidation, threats and the disproportionate use of criminal proceedings against leaders and members of Indigenous Peoples, persons of African descent and migrants defending their rights and against human rights defenders advocating for the rights of these groups. Moreover, the Committee recommends that appropriate measures be taken to combat the stigmatization of, and prejudice against, leaders and members of the Mapuche people seeking to defend their rights.**

Consultation and free, prior and informed consent

28. The Committee notes the efforts undertaken by the State party in this regard, including the establishment of the Unit for Community Strengthening and Free, Prior and Informed Consultation under the National Institute of Indigenous Affairs in 2021 and the legislative measures taken and mechanisms established at the provincial level in relation to prior consultation. However, it remains concerned about the lack of regulations governing consultation procedures for obtaining the free, prior and informed consent of Indigenous Peoples and the lack of effective mechanisms for carrying out such consultations. The Committee is also concerned by allegations concerning the negative impact of extractive activities and infrastructure, tourism and agro-industrial projects on the territories, resources and traditional ways of life of Indigenous Peoples (arts. 2 and 5).

29. **In accordance with its previous concluding observations,⁹ the Committee urges the State party to adopt a national law regulating consultation procedures for obtaining the free, prior and informed consent of Indigenous Peoples, to establish appropriate mechanisms for carrying out such consultations and to ensure the effective participation of Indigenous Peoples in the development of the aforementioned law and consultation mechanisms. It also recommends ensuring that federal and provincial legislative or administrative measures and all infrastructure and natural resource development projects that may affect Indigenous Peoples are subject to consultation with these communities with a view to obtaining their free, prior and informed consent. It also recommends ensuring that Indigenous Peoples effectively participate in the development of the national action plan on business and human rights, that this plan**

⁹ Ibid., para. 19, and [CERD/C/ARG/CO/19-20](#), para. 26.

reflects the importance of protecting and respecting the rights of Indigenous Peoples in the context of business activities and that effective, accessible mechanisms are in place to remedy any harm that may be caused to these communities by such activities.

Community ownership and evictions of Indigenous Peoples

30. The Committee remains concerned about the lack of adequate regulations safeguarding the communal ownership of lands traditionally occupied by Indigenous Peoples, notwithstanding the provisions of article 75 (17) of the State party's Constitution and the measures ordered by the Inter-American Court of Human Rights in its judgment of 6 February 2020 in the case of *Indigenous Communities of the Lhaka Honhat (Our Land) Association v. Argentina*. While the Committee notes the steps taken to complete the territorial survey or demarcation process provided for in Act No. 26160, it remains concerned about the limited progress made in carrying out the survey and the absence of a mechanism for the titling of lands ancestrally occupied by Indigenous Peoples. It does, however, acknowledge that some provinces have taken steps to this end, according to the State party's delegation. Moreover, while the Committee welcomes the fact that the Inter-American Court of Human Rights has approved the partial agreement reached between the communities of the Lhaka Honhat Association, it is concerned that important measures ordered by the Court, including the adoption of legislative and/or other measures to provide legal certainty for Indigenous communal property rights, have not yet been implemented. It is also concerned by information regarding the approval of a bill by the Chamber of Deputies of Mendoza Province on 29 March 2023 in which it is stated that "the Mapuche should not be considered Argentine native peoples under the terms of article 75 (17) of the national Constitution and international treaties" (art. 5).

31. In accordance with its previous concluding observations,¹⁰ the Committee urges the State party to adopt the necessary legislative and administrative measures to uphold the Indigenous communal property rights and to establish effective mechanisms for the titling of lands ancestrally occupied by Indigenous Peoples at the federal and provincial levels. It also recommends that the State party redouble its efforts to implement Act No. 26160 and to ensure the prompt completion of the survey of Indigenous territories, including by increasing the human, technical and financial resources allocated to the National Institute of Indigenous Affairs and the National Programme on the Territorial Survey of Indigenous Communities. It also recommends stepping up efforts aimed at fully complying with the measures ordered by the Inter-American Court of Human Rights in the *Lhaka Honhat* case. Similarly, it urges the State party to adopt the measures necessary to ensure that the rights enshrined in the Convention are fully upheld for all Indigenous Peoples in the State party, including the Mapuche People, at all levels of government, including at the provincial level.

32. The Committee remains particularly concerned about the fact that, despite the entry into force of Act No. 26160 and its extensions, which established a moratorium on the eviction of Indigenous Peoples, such evictions continue to be carried out. It is also concerned by the various allegations it has received concerning police violence against Indigenous communities in the context of such evictions and during protests against them, including cases of violence involving the Mapuche community Lafken Winkul Mapu in Villa Mascardi, which resulted in the death of Rafael Nahuel on 25 November 2017; the Cheru Tempa Guaraní community in Salta in July 2020; the Tusca Pacha community of the Kolla People in Jujuy in October 2020; and the communities of Pueblo de Tolombón and El Mollar in Tucumán in August 2021 and February 2022, respectively. The Committee is also concerned by reports of violence directed against Indigenous communities by armed gangs, particularly in the provinces of Santiago del Estero and Río Negro (art. 5).

33. In accordance with its previous concluding observations,¹¹ the Committee urges the State party to take all measures necessary to ensure that Act No. 26160 and its extensions, which prohibit evictions, are fully and effectively implemented throughout the national territory. It also recommends that the State party redouble its efforts to

¹⁰ CERD/C/ARG/CO/21-23, para. 21.

¹¹ Ibid., para. 24, and CERD/C/ARG/CO/19-20, paras. 20 and 26.

investigate police violence in the context of such evictions and of protests against them, as well as violence committed by armed gangs, to punish those responsible, to provide adequate reparations to the victims and to prevent acts of violence from being committed by public officials and by non-State actors and to ensure that Indigenous Peoples are protected from such acts.

Situation of Indigenous women, women of African descent and migrant women

34. The Committee welcomes the establishment of the Ministry for Women, Gender and Diversity in December 2019 and the adoption of Act No. 27610 on Access to Voluntary Interruption of Pregnancy and Decree No. 476/21, which allows persons to identify as non-binary on official identity documents. However, despite the State party's efforts, the Committee remains concerned about the fact that Indigenous women, women of African descent and migrant women continue to face multiple forms of discrimination in all areas of social, political, economic and cultural life. It is particularly concerned by various reports of abuse and sexual violence suffered by Indigenous women and girls at the hands of Creole men ("*chineo*"), particularly in the north of the country, including against the women and girls of the Wichí People in Salta. It is also concerned by allegations concerning the detention by security forces of seven Indigenous women and six children from the Mapuche community Lafken Winkul Mapu in Villa Mascaradi, Río Negro Province, on 4 October 2022, all of whom were reportedly held incommunicado for at least 72 hours in the context of a raid and violent eviction and four of whom are reportedly still being detained (arts. 2, 5 and 6).

35. **In accordance with its previous concluding observations,¹² and in the light of its general recommendation No. 25 (2000) on gender-related dimensions of racial discrimination, the Committee recommends that the State party step up its efforts to combat the multiple forms of discrimination faced by Indigenous, Afrodescendent and migrant women by mainstreaming a gender perspective into all policies and strategies for combating racial discrimination at the federal and provincial levels. It also recommends that the State party adopt the measures necessary to prevent the perpetration of sexual abuse and sexual violence against Indigenous, Afrodescendent and migrant women and girls, taking into account the intersectional dimension of this type of violence and the need to develop culturally relevant policies with the participation of the women and communities affected. The State party should also investigate cases of violence against these women and girls, punish those responsible and provide adequate reparations to the victims, including women and girls of the Wichí People in Salta. Moreover, the Committee recommends that the State party adopt measures to prevent the criminalization of Indigenous women who are defending their rights, to ensure that they have effective access to justice and to uphold their fundamental rights and due process guarantees.**

Situation of migrants, asylum-seekers, refugees and stateless persons

36. The Committee welcomes the fact that Decree No. 70/2017 has been repealed by Decree No. 138/2021 of 4 March 2021, which restores the full force and effect of the Migration Act (No. 25871). It also welcomes the adoption of General Act No. 27512 on the Recognition and Protection of Stateless Persons. It notes the measures taken to facilitate the regularization of the situation of migrants, in particular those of Senegalese origin and those from member countries of the Caribbean Community, the Dominican Republic and Cuba. Nonetheless, the Committee is concerned about:

- (a) Continued police violence against migrant workers, especially street vendors ("*manteros*") and, in particular, those of Senegalese and Haitian origin;
- (b) Provisions that establish differentiated access to basic rights and services, particularly at the provincial level;
- (c) Allegations concerning the refusal of migration authorities to register asylum applications at the border;

¹² CERD/C/ARG/CO/21-23, para. 36.

(d) Delays in the processing of applications for refugee status before the National Commission for Refugees;

(e) Information according to which persons belonging to the Nivaclé People in Formosa, in the border areas of the country, have limited access to birth certificates and identity documents and are therefore at risk of statelessness.

37. In accordance with its previous concluding observations¹³ and in the light of its general recommendation No. 30 (2004) on discrimination against non-citizens, the Committee recommends that the State party:

(a) **Adopt effective measures to prevent racial discrimination and police and institutional violence against migrant workers, investigate cases of such discrimination and violence, punish those responsible and provide adequate reparations to the victims;**

(b) **Review norms and practices, including at the provincial level, that establish discriminatory distinctions between nationals and non-nationals in terms of access to basic rights and services, in spite of the provisions of the Migration Act, or that discriminate against migrants from countries that are not members of the Southern Common Market (MERCOSUR);**

(c) **Strengthen training for migration authorities on the rights of asylum-seekers and refugees and investigate allegations that migration authorities have refused to register asylum applications at the border;**

(d) **Provide adequate human, technical and financial resources to the National Commission for Refugees in order, inter alia, to address delays in the processing of applications for refugee status;**

(e) **Adopt the necessary measures, including at the provincial level, to ensure that members of the Nivaclé People have access to birth certificates and identity documents.**

Complaints of racial discrimination and complaints concerning access to justice

38. The Committee notes that, according to the 2019 National Discrimination Map published by the National Institute to Combat Discrimination, Xenophobia and Racism, 72 per cent of the surveyed population reported having experienced discrimination – an increase from 65 per cent in 2013 – and 93 per cent perceive that there is a high or moderately high level of discrimination in Argentina. Of the people surveyed, 64 per cent of those belonging to an Indigenous group, 62 per cent of Bolivian and Paraguayan migrants and 57 per cent of persons of African descent had experienced discrimination. Almost 60 per cent of the persons surveyed did not know that it was possible to file a legal complaint concerning discrimination and only 3 per cent had filed such a complaint in the past. In this regard, the Committee regrets the lack of detailed information on complaints regarding acts of racial discrimination, hate speech, racist violence and related crimes lodged with judicial or other national and provincial institutions and on the outcome of the investigations carried out, the sanctions imposed and the reparations granted to the victims. The Committee notes the proposed amendments to the anti-discrimination legislation that would place the burden of proof on those accused of discrimination but regrets that they have not yet been adopted. The Committee is also concerned by reports of racist attitudes and racial discrimination in the judicial system and reports of a lack of interpreters, bilingual public defenders and specialists in the traditional justice systems of Indigenous Peoples and a lack of training for law enforcement officers, public defenders, lawyers, judges and judicial officials on Indigenous customary law (arts. 5 and 6).

39. The Committee recalls that the absence of complaints does not necessarily mean that racial discrimination does not exist but rather may indicate a lack of awareness of the remedies available, a lack of will on the part of the authorities to prosecute perpetrators, a lack of trust in the justice system or a fear of reprisals on the part of victims. The Committee recommends that the State party:

¹³ Ibid., para. 34.

- (a) **Adopt legislation that places the burden of proof on those accused of racial or other forms of discrimination;**
- (b) **Establish a mechanism for the collection of statistical data on complaints of racial discrimination and racially motivated crimes at the federal and provincial levels;**
- (c) **Strengthen public information campaigns, particularly those targeting historically disadvantaged groups, on the rights enshrined in the Convention and anti-discrimination legislation and on how to file complaints of racial discrimination;**
- (d) **Facilitate the reporting of cases of racial discrimination and ensure that the members of the various police services are trained to recognize and register complaints of racial discrimination and racially motivated crimes;**
- (e) **Prevent, identify and sanction racist attitudes and racial discrimination in the judicial system, increase the number of interpreters and specialists in the traditional justice systems of Indigenous Peoples and promote training programmes for law enforcement officials, public defenders, lawyers, judges and judicial officials on Indigenous customary law, the rights of persons of African descent and migrants, and the fight against racial discrimination.**

Racism in sport

40. The Committee notes that the State party has taken measures to combat racism and racial hate speech and offences in sport, including the establishment of the Observatory on Discrimination in Sport, the organization of awareness-raising campaigns, the monitoring of sporting events and the conclusion of agreements with sporting institutions. However, it is concerned about continued acts of racial discrimination and incidents of racist speech and violence in sports, particularly in football (arts. 4–7).

41. **The Committee recommends that the State party redouble its efforts to fully implement its initiatives to combat racial discrimination, hatred and racial violence in sports, in particular in football, and that it develop mechanisms to measure their impact that will involve and ensure the active participation of the individuals and communities most affected by these acts. It also recommends that measures be taken to ensure that such acts are duly investigated and that those responsible are identified and punished.**

Education and other measures to combat racial prejudice and intolerance and to address the legacy of the past

42. The Committee notes the context provided by the State party's delegation with regard to the politically motivated effort made in the past to wipe out the country's Afrodescendent and Indigenous populations and to erase their history and with regard to the subsequent denial of the existence of these communities and the attempts to render them invisible. It also notes the fact that the State party has taken various measures to reverse this systemic and structural process, which is deeply rooted in Argentine society, through education, cultural activities and oversight. The Committee welcomes the State party's recognition of the historical injustices and the ramifications of that legacy and notes the measures it has taken in this regard, including the establishment of the Commission for the Historical Recognition of the Afro-Argentine Community and the Indigenous Peoples' Interministerial Board, as well as the celebration of the National Day of Afro-Argentines and Afro Culture, which commemorates the anniversary of the death of María Remedios del Valle, and the granting of an award in her name. However, while the Committee notes these measures, it regrets the lack of information on wide-ranging initiatives aimed at providing reparations for these historical events, which continue to fuel racism and racial and structural discrimination in the State party and to undermine the full and equal enjoyment of human rights and fundamental freedoms by all individuals and communities in Argentina. The Committee is also concerned by reports that the school curriculum established under the National Education Act (No. 26206) fails to acknowledge the existence of the Afrodescendent population and Afro culture (arts. 2, 5 and 7).

43. Recalling the importance of education in combating prejudices that lead to racial discrimination and in promoting understanding, tolerance and friendship among all groups in society, in accordance with article 7 of the Convention, and the importance of intensifying the fight against the structural racism lurking within all institutions of society, the Committee recommends that the State party:

(a) Develop and implement, in consultation with Afrodescendent and Indigenous communities, guidelines for combating structural and institutional racism at the federal and provincial levels;

(b) Adopt laws at the federal and provincial levels that provide for mandatory training for all civil servants on racism, racial discrimination and racist speech and violence in the same vein as the Micaela Act (No. 27499) and the Lucio Act, which provide for mandatory training on gender and gender-based violence and on children's rights and violence against children and adolescents, respectively;

(c) Establish mechanisms for dialogue with representatives of Indigenous Peoples and Afrodescendent communities with a view to the establishment of institutions dedicated to the study and development of wide-ranging proposals and initiatives aimed at providing reparations for historical injustices;

(d) Revise the National Education Act and ensure that national and provincial education authorities develop school curricula at the primary and secondary levels that cover the history and contributions of Afro-Argentines to nation-building;

(e) Strengthen measures aimed at implementing the recommendations made by the Working Group of Experts on People of African Descent in 2019,¹⁴ including those related to establishing a national institute for Afro-Argentine, Afrodescendent and African affairs, addressing the issues of inequalities and the invisibility of Afro-Argentine people from the perspective of restorative justice, establishing a museum of Afro-Argentine culture and building monuments and cultural sites that reflect the legacy of Afro-Argentine and Afrodescendent people.

D. Other recommendations

Ratification of other treaties

44. Bearing in mind the indivisibility of all human rights, the Committee encourages the State party to consider ratifying those international human rights treaties that it has not yet ratified, in particular treaties that are of direct relevance to communities that may be subjected to racial discrimination, including the Inter-American Convention against Racism, Racial Discrimination and Related Forms of Intolerance and the Inter-American Convention against All Forms of Discrimination and Intolerance.

Follow-up to the Durban Declaration and Programme of Action

45. In the light of its general recommendation No. 33 (2009) on the follow-up to the Durban Review Conference, the Committee recommends that, when implementing the Convention in its domestic legal order, the State party give effect to the Durban Declaration and Programme of Action, adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, taking into account the outcome document of the Durban Review Conference, held in Geneva in April 2009. The Committee requests that the State party include specific information in its next periodic report on action plans and other measures taken to implement the Durban Declaration and Programme of Action at the national level.

¹⁴ [A/HRC/42/59/Add.2](#).

International Decade for People of African Descent

46. In the light of General Assembly resolution 68/237, in which the Assembly proclaimed 2015–2024 the International Decade for People of African Descent, and General Assembly resolution 69/16 on the programme of activities for the implementation of the Decade, the Committee recommends that the State party prepare and implement a suitable programme of measures and policies in collaboration with organizations and peoples of African descent. The Committee requests that the State party include precise information in its next report on the concrete measures adopted in that framework, taking into account its general recommendation No. 34 (2011) on racial discrimination against people of African descent.

Consultations with civil society

47. The Committee recommends that the State party continue consulting and expanding upon its dialogue with civil society organizations working in the area of human rights protection, in particular those working to combat racial discrimination and including organizations representative of the groups most exposed to racial discrimination, in connection with the preparation of the next periodic report and in follow-up to the present concluding observations.

Dissemination of information

48. The Committee recommends that the State party's reports be made readily available and accessible to the public at the time of their submission and that the concluding observations of the Committee with respect to those reports be similarly made available to all State bodies entrusted with the implementation of the Convention at the federal, provincial and local levels and be posted on the websites of the Ministry of Foreign Affairs, International Trade and Worship; the Secretariat for Human Rights; the National Institute to Combat Discrimination, Xenophobia and Racism; and the National Institute of Indigenous Affairs in the official and other commonly used languages, as appropriate.

Common core document

49. The Committee encourages the State party to update its common core document, which dates from 2014, in accordance with the harmonized guidelines on reporting under the international human rights treaties, in particular those on the common core document, as adopted at the fifth inter-committee meeting of the human rights treaty bodies held in June 2006.¹⁵ In the light of General Assembly resolution 68/268, the Committee urges the State party to observe the limit of 42,400 words for such documents.

Follow-up to the present concluding observations

50. In accordance with article 9 (1) of the Convention and rule 65 of its rules of procedure, the Committee requests the State party to provide, within one year of the adoption of the present concluding observations, information on its implementation of the recommendations contained in paragraphs 11 (a) (Office of the Ombudsperson and Office of the Ombudsperson for Audiovisual Communication Services), 15 (b) (national plans on human rights and non-discrimination) and 33 (community ownership and evictions of Indigenous Peoples) herein.

Paragraphs of particular importance

51. The Committee wishes to draw the attention of the State party to the particular importance of the recommendations contained in paragraphs 23 (racial profiling), 29 (consultation and free, prior and informed consent) and 35 (situation of Indigenous women, women of African descent and migrant women) herein and requests the State

¹⁵ [HRI/GEN/2/Rev.6](#), chap. I.

party to provide detailed information in its next periodic report on the concrete measures taken to implement those recommendations.

Preparation of the next periodic report

52. The Committee recommends that the State party submit its combined twenty-seventh to thirtieth periodic reports, as a single document, by 4 January 2028, taking into account the reporting guidelines adopted by the Committee during its seventy-first session¹⁶ and addressing all the points raised in the present concluding observations. In the light of General Assembly resolution 68/268, the Committee urges the State party to observe the limit of 21,200 words for periodic reports.

¹⁶ [CERD/C/2007/1](#).