



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

PROVISIONAL

For participants only

CERD/C/SR.768
19 March 1986

ORIGINAL: ENGLISH

COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Thirty-third session

PROVISIONAL SUMMARY RECORD OF THE 768th MEETING

Held at Headquarters, New York,
on Friday, 14 March 1986, at 3 p.m.

Chairman: Mr. CREMONA

CONTENTS

Consideration of reports, comments and information submitted by States parties
under article 9 of the Convention (continued)

Corrections to this record should be submitted in one of the working
languages. They should be set forth in a memorandum and also incorporated in a
copy of the record. They should be sent within one week of the date of this
document to the Chief, Official Records Editing Section, Department of Conference
Services, room DC2-0750, 2 United Nations Plaza.

The meeting was called to order at 3.20

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION (continued)

Second periodic report of China (continued) (CERD/C/126/Add.1)

At the invitation of the Chairman, Mr. Huang Jiahua (China) took a place at the Committee table.

Mr. DE PIEROLA Y BALTA said that the report of China was admirable. It provided detailed data on the various nationalities and indicated that no ethnic discrimination existed in that country, in spite of the variety of ethnic groups. China was combating racial discrimination both domestically and externally, and had no relations with South Africa. It was also endeavouring to ensure the enjoyment by its citizens of their social, cultural, political and economic rights.

He would like a future report to provide statistics on housing, income, health and education for each nationality. He inquired what was meant by "primitive religions" in paragraph 10 of the current report. Turning to paragraph 111, he requested the representative of China to give further information concerning the implementation of article 6 of the Convention. That article ensured the right of individuals to seek adequate reparation for racial discrimination. As he saw it, to be adequate, reparation must be rapid. He wished to know what the situation was in China in that regard.

He wondered whether the Chinese Government would be willing to make the optional declaration provided for in article 14. The Committee did not make such requests of States that were encountering difficulties in complying with the Convention, but he felt that it would be justified in doing so in the case of China, which was implementing the Convention in such an exemplary manner.

Mr. KARASIMEONOV said that the report was thought-provoking. The implementation of the Convention by China was of great significance because of that country's important international role. In particular, its unreserved implementation of article 3 was a valuable contribution to the world-wide struggle against apartheid.

(Mr. Karasimeonov)

While he appreciated that in view of China's enormous size and the immense problems it had faced, measures to implement the Convention could not be enforced in one or two years, he wished to know how the legislation and the Criminal Code of China provided for the implementation of article 4. He would appreciate it if the step-by-step implementation of the Convention could be reported to the Committee.

The provisions described in paragraphs 53, 54 and 55 of the report, aimed at combating ethnic chauvinism at the national and local levels were very impressive. It was indicated in annex I to the report that 879,201 Chinese citizens belonged to "unknown nationalities". That was a very large and precise figure, and he wondered how it had been arrived at.

He requested information concerning the repercussions of the Cultural Revolution. There had obviously been an immense improvement in conditions for minorities in China, but he wondered how the overall policies of the Government, for example with regard to agriculture, had affected their everyday life.

He would be interested to learn whether the minority populations were being educated about their past and whether, in addition to their own languages, they were acquiring a good knowledge of the national language, which would enable them to participate fully in the political, economic and social life of the country.

Mr. YUTZIS thanked the reporting State for the data it had provided and its willingness to continue the dialogue with the Committee. In spite of the major problems it had had to contend with, China had made great progress in implementing the Convention. Articles 1, 2 and 3, in particular, had been implemented in a very satisfactory manner. With respect to article 4, paragraphs 49 to 56 of the report (CERD/C/126/Add.1) did not indicate that there were any specific legal provisions on the punishment of persons who discriminated against minority nationalities.

Referring to article 6 of the Convention, he expressed concern over paragraph 111 of the report. That paragraph stated that citizens had the right to make complaints and charges against any State organ or functionary for violation of the law; it went on to indicate that fabrication or distortion of facts for the purpose of libel or frame-up was prohibited. He wondered whether there was any specific legal provision that established what constituted fabrication or distortion of facts, or whether it was left to the interpretation of State officials.

(Mr. Yutzis)

With reference to the implementation of article 5 (d) (vii) of the Convention, paragraphs 81 to 83 reported China's progress in ensuring freedom of religious belief, but he wished to inquire to what extent persons belonging to national minorities who practised any of the religions referred to in paragraph 10 were permitted to participate in the various spheres of public life, including the Communist Party of China.

Mr. STARUSHENKO said that while China faced vast problems, given that the population of its minority nationalities was equivalent to the population of many large States, the Regional National Autonomy Act of 1984 represented a major step towards solving them. Obviously, some time would be required for the Act to be implemented fully; nevertheless, any information regarding that implementation would be of interest to the Committee.

It was noteworthy that the proportion of minorities in government organs was twice their proportion in the total population of China. The significant increase in literature published in minority languages and medical and other services provided to ethnic minorities was also remarkable.

The first Constitution of the People's Republic of China had contained a reference to the principle of self-determination. According to various United Nations documents, self-determination, or self-government, did not necessarily imply the creation of a separate State, but might involve such arrangements as autonomous regions or federations. He wished to know how the Chinese authorities interpreted that principle.

The flexible system of autonomous institutions, which included regions, prefectures and counties, was of great interest; information regarding the criteria used in establishing those institutions would therefore be welcome. Paragraphs 36 and 39 of the report enumerated various measures taken by the State on behalf of national minorities; he wondered whether those measures might not be viewed as giving preferential treatment to minorities, rather than ensuring the equality of all citizens. He asked what results those measures had produced.

Noting that political measures had been taken to combat Han chauvinism, local-national chauvinism and isolationism among Chinese citizens, he asked whether any legal measures had also been taken to counter those phenomena. He concluded by stating that China's experience could be of significance for all States in the elimination of discrimination.

Mr. SHAHI said that the extremely interesting report of China was a model of its kind. He welcomed the extensive information provided concerning the country's demographic composition and observed that the policy of regional national autonomy had enabled China to correct the excesses of the past, which had retarded the economic and social development of national minorities. He commended also the country's enlightened policies regarding freedom of thought and religion. However, he agreed with other Committee members that the texts of legislation relating to the implementation of articles 4 and 6 of the Convention should be included in future reports.

China's national minorities were scattered throughout the country, a fact which made the protection of their rights more difficult than if they lived together in large communities. China's efforts to protect minority rights were thus to be commended. He drew attention in that connection to paragraphs 42 and 71 of the report, regarding the provision of family-planning services and the development of the languages of minorities. Clearly, China's respect for national identity constituted a source of strength and unity within the Republic.

Mr. SHERIFIS commended China for preparing a comprehensive and frank report in compliance with the Committee's guidelines. The fact that the report had been submitted on schedule was an additional indication of China's wish to maintain its dialogue with the Committee.

China had provided detailed information about the make-up of its population, and the fact that it did not dispute its obligations under article 4 was also welcome. The information provided in response to questions asked in connection with article 3 when China's initial report had been considered was also fully satisfactory. With regard to article 2, he shared the views expressed by Mr. Shahi.

The use of the term "chauvinism" in the report was very courageous. He asked whether any provisions existed guaranteeing the participation of any national minorities in the central Government.

Mr. HUANG Jiahua (China) thanked the Committee members for their comments, which his Government interpreted as an expression of support and encouragement to China in its implementation of the Convention. He wished to answer the Committee's questions with due thoroughness and therefore offered to furnish the answers at a subsequent meeting.

Mr. Huang Jiahua (China) withdrew.

Seventh periodic report of Sweden (CERD/C/131/Add.2/Rev.1)

At the invitation of the Chairman, Mr. Nordenfelt (Sweden) took a place at the Committee table.

Mr. NORDENFELT (Sweden) said that the seventh periodic report of Sweden did not fully comply with the Committee's guidelines because it had been prepared under the pressure of a deadline; however, the eighth periodic report would be more comprehensive and accessible. The current report, which had originally covered the period 1982-1984, had been revised to take into account developments that had occurred late in, and subsequent to, the reporting period. The national Commission on Ethnic Prejudice and Discrimination, which had been established partly as a result of his Government's dialogue with the Committee, had published a study on discrimination in Sweden. The study had subsequently received a thorough analysis by a number of national institutions, both governmental and non-governmental.

One of the many difficult questions raised during that analysis was whether or not a conflict existed between Sweden's obligations under article 22 of the International Covenant on Civil and Political Rights and article 11 of the European Convention for the Protection of Human Rights and Fundamental Freedoms on the one hand, and the implementation, through the legislative prohibition of certain kinds of organizations, of article 4 of the Convention on the Elimination of All Forms of Racial Discrimination on the other hand.

In its study, the Commission had made a number of proposals, which were discussed in paragraphs 15-19 of the report before the Committee (CERD/C/131/Add.2/Rev.1). It should be noted that, contrary to what was stated in paragraph 16 of the report, the proposal to expand the meaning of the term "unlawful discrimination within the public sector", was in fact the result of a final review of the Government's proposal by the Council on Legislation.

Perhaps the most interesting proposal dealt with the appointment of an ombudsman to whom questions pertaining to ethnic discrimination could be addressed. As the victims of racial discrimination in Sweden were likely to be immigrants who had difficulty in ascertaining their rights, often for linguistic reasons, the ombudsman offered a practical and accessible instrument of recourse. The establishment of a board on ethnic discrimination to assist the ombudsman had also been proposed. Both the ombudsman and the board would be given the task of proposing anti-discrimination legislation to the Government, and it was to be hoped

(Mr. Nordenfelt, Sweden)

that, in time, legislative changes likely to earn the Committee's approval would be made. It was estimated that the new arrangement would have to operate for approximately three years before it could be successfully evaluated. It should be noted that the government proposal on that subject, mentioned in paragraph 18 of the report, had been submitted to the Swedish Parliament earlier in the week.

Mr. OBERG, in connection with article 4 (b) of the Convention, drew attention to paragraphs 47 and 48 of the report and asked what conclusions the Swedish Commission on Ethnic Prejudice and Discrimination had reached about the prohibition of racist organizations. The implication of paragraph 51 was that article 4 (b) had not yet been implemented.

As for article 5 he drew attention to paragraphs 17 and 18 and noted that no legislation had been proposed in Sweden to prohibit discrimination in the labour market. The fact was that the Government was unaware of the serious cases of ethnic discrimination that did exist because it had never conducted an investigation. The Commission on Ethnic Prejudice and Discrimination had found discrimination in hiring, promotion and training, and had learned that no measures to prevent ethnic discrimination had been negotiated between labour organizations and employers in the 1970s and 1980s. The Commission had concluded that legislation was needed in order to comply with article 5; but the Government had decided against such legislation because of the legal technicalities referred to in paragraph 17. In the absence of any legal means to prevent discrimination in the labour market, all that remained was the essentially powerless ombudsman referred to in paragraphs 18 and 19. As a result, an employer could still refuse to hire blacks and immigrants with impunity. It was hard to reconcile that situation with the fact that Parliament had passed a bill to prohibit discrimination against women in the labour market and that a female ombudsman could and did take employers who practised discrimination to the Labour Court. Again in connection with paragraph 17, he noted that some cases of discrimination arose from agreements between management and labour organizations, and that it was therefore not true that labour organizations always militated against discrimination.

Turning to article 6, he noted that a person who felt himself to be the victim of racial discrimination could turn to the ombudsman for advice on what to do and how to do it, but that as long as ethnic discrimination in the labour market was not prohibited by law, there was not much that he actually could do.

/...

The CHAIRMAN, speaking in his personal capacity, referred to the implementation of article 4 and said that he understood Sweden's concern that the prohibition of racist organizations might infringe the right to freedom of association. In fact, the activities of such organizations constituted an abuse of that right. Racist organizations had to be prohibited in order to conform to article 4 (b) and he was therefore astonished by, and in total disagreement with, the argument in paragraph 51, which interpreted article 4 (b) as not requiring legal action. He noted too that the optional nature of article 2 (d) did not affect the obligatory nature of article 4 (b).

Mr. DE PIEROLA Y BALTA said that he agreed with the Chairman's remarks.

In connection with article 3, he asked whether Sweden still had diplomatic relations with South Africa and if so, at what level, and what other relations - commercial, cultural or military, including nuclear - it still maintained with South Africa.

Turning to article 6, he asked what expeditious and effective judicial remedies were available for the immediate restoration of human rights, including those relating to racial discrimination, when they were violated.

Lastly, he hoped that the next report would provide information on how the educational and housing situation of the country's minorities compared to that of the rest of the population, and whether the minorities shared fully in Sweden's prosperity.

Mr. CICANOVIC asked whether the entitlement referred to in paragraph 6 (a) of the report also covered migrant workers on leave in their country of origin. In connection with paragraph 6 (c), he asked for information concerning the results of efforts to achieve bilingualism, and wondered if teachers in the "home language" were properly qualified.

In connection with paragraph 14, he said that the Committee could not evaluate measures taken to protect minorities or understand the scope of their problems without precise figures; he hoped that they would be provided in future. He noted, for example, that there were instances in which children were taken from unfit parents; in order to determine whether any discrimination was involved, it was important to know what percentage of such children were from minority groups.

It was clear under article 4 of the Convention that the neo-Nazi groups referred to in paragraph 51 of the report should be banned, in order to avert

(Mr. Cicanovic)

potentially tragic consequences. More information on the measures contemplated by the Government to combat ethnic discrimination in employment and to prevent the use of the mass media to attack ethnic groups would be welcome.

Mr. BRAUNSCHWEIG noted that non-Swedes had had the right to participate in elections for almost a decade, and asked whether the Swedish population had readily agreed to such participation, and how many non-Swedes had actually stood for election. With regard to agitation against ethnic groups, it would be of interest to know whether there had been instances other than the relatively few cases cited in the report, and on whose initiative legal action had been taken. Finally, he asked what training was given to public officials, for example the police, in the interest of combating racial discrimination.

Mr. KARASIMEONOV said it seemed from the report that the Convention was not being fully implemented. Continuation of the dialogue with the Swedish Government was important. In particular, the Committee should support the Swedish Commission on Ethnic Prejudice and Discrimination in its endeavours to secure the full implementation of the Convention, in particular with regard to the banning of racist organizations and discrimination in the labour market. The existence of neo-Nazi groups in Sweden demonstrated the need for action.

With respect to relations with South Africa, it was disturbing to note in paragraph 45 of the report that 11 Swedish companies were active in South Africa and Namibia, and that their activities had apparently not resulted in any violation of Swedish law. He urged the Swedish Government to take appropriate action to sever all links, including diplomatic contacts, with the South African Government.

Mr. BANTON said that one of the main aims of social policy was to study trends, in an endeavour to identify future difficulties and define appropriate strategies. Unfortunately, the Swedish report made little effort to indicate such social trends. For example, paragraph 1 of the report noted that there were 276,000 children with immigrant parents. Many of those children would face problems in the future, problems which Sweden's next report should identify. With regard to the Sami population and reindeer breeding, it should be noted that assistance had been given to reindeer breeders because of their occupation and not because they were members of that population. More information on the status of Samis in the wage sector would be useful.

(Mr. Banton)

The language programme referred to in paragraph 57 demonstrated commendable political will, which presumably could also be applied in other areas. For example, paragraph 15 implied that there were limitations on the right to compensation of victims of racial discrimination, although the Convention did not prescribe any such limitations. It was not clear why, when discrimination on the basis of sex in hiring private-sector employees was prohibited, discrimination based on ethnic origin was not similarly prohibited. The key seemed to lie in the power of Swedish trade unions, since labour organizations were generally more racist than employers. Despite the arguments in paragraph 17 of the report, the Swedish Government needed to adopt legislation in that area. It seemed that the Government was trying to regulate discrimination through the Penal Code rather than through labour legislation.

In places the language of the report was rather confusing, as in paragraph 72 (b), which referred to a case involving the right of a Sikh to wear a turban at work. It seemed that the Labour Court had adjudicated the case on procedural grounds. He wished to know whether the complainant had appealed against the decision. Finally, it was disquieting to note that the Swedish Government was not fulfilling its obligations under article 5 of the Convention.

The meeting rose at 6.05 p.m.