

664th meetingWednesday, 14 March 1984,  
at 3.15 p.m.Chairman: Mr. VALENCIA RODRÍGUEZCONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES  
UNDER ARTICLE 9 OF THE CONVENTION (agenda item 7) (continued)Third and fourth periodic reports of Belgium (CERD/C/88/Add.5) (continued)

1. Mr. EVRIGENIS said that the third and fourth reports of Belgium, particularly the information provided on the implementation of articles 4 and 6, were an example to other States parties of how to comply with their reporting obligations under the Convention. By furnishing the details of a number of judicial decisions relating to racial discrimination, Belgium had enabled the Committee to see how the abstract rules of law were applied by the courts and had an impact on society at large.
2. With regard to article 6, which obliged States parties to provide effective remedies for the victims of racial discrimination, the reports fully described the relevant provisions of Belgian law and made it clear that individuals made frequent use of such remedies, including the procedure provided for under the European Convention on Human Rights. That attested to the public's awareness of its rights.
3. Lastly, he asked whether the fact that the Convention was apparently part of Belgian domestic law and prevailed over ordinary law could be taken to mean that there existed a sort of general administrative remedy against acts by public authorities which were at variance with the provisions of the Convention.
4. Mr. PARTSCH said it should be recalled that, in 1830, Belgium had been the first European State to include human rights provisions in its Constitution. With regard to relations between the various ethnic groups, he noted with satisfaction that autonomous powers in certain matters had recently been extended to the country's German-speaking population.
5. Although Belgium had declared that it was not competent to prohibit the existence of the organizations covered by article 4 (b), it had found another way to comply with the Convention, namely by punishing the members of such organizations. If, by so doing, it succeeded in destroying the organization concerned, it was acting fully in conformity with its obligations under article 4 (b). It was, after all, for each State party to decide how best to comply with its obligations under the Convention. The International Court of

/...

(Mr. Partsch)

Justice had made it clear that in such cases, it was the result that mattered, not the way in which it was achieved.

6. Mr. EVRIGENIS said that he fully agreed with Mr. Partsch that when international law stipulated that a State had a certain obligation, it was for the State to choose the means of complying with it. Although, as indicated in paragraph 26 of document CERD/C/88/Add.5, the political and administrative authorities in Belgium could not disband racist associations, the judicial authorities had jurisdiction in the matter. He was personally satisfied that the provisions of Belgian law were adequate to secure the objective of article 4 (b) of the Convention.

7. Miss DEVER (Belgium) said that she would gladly reply at the next meeting to the questions put by members, which reflected their keen interest in the report and in Belgium's new legislation.

8. The CHAIRMAN said he would take it that the Committee wished to suspend its consideration of Belgium's report until the next meeting.

It was so decided.

Miss Dever (Belgium) withdrew.

Fifth periodic report of the United Arab Emirates (CERD/C/105/Add.2)

At the invitation of the Chairman, Mr. Hammad (United Arab Emirates) took a place at the Committee table.

9. Mr. HAMMAD (United Arab Emirates) said that in order to avoid stressing form over substance, the Committee should keep the social and political structure of his country uppermost in mind when considering the report, which did not refer to specific legislation enacted in compliance with the Convention for many reasons. The Constitution proclaimed the Islamic Shari'a as the fundamental source of law. Various verses of the Quran and the sayings and actions of the prophet Muhammad forbade discrimination based on race, colour, descent or national or ethnic origin. The judicial practice of Islam was based on the principles of equality, justice and non-discrimination among peoples and races, and his country's people had a tradition of hospitality, friendliness and tolerance. The Constitution provided that interaction among citizens should be based on equality, social justice, peace, security, equal opportunity, solidarity, mutual love and understanding. The Constitution was the basic law from which all other legislation was derived. Where specific legislation had not been enacted owing to the fact that the country was still very young, the Constitution was directly applicable.

/...

(Mr. Hammad, United Arab Emirates)

10. It should be clear, then, that discrimination was not a problem in his country. There were, however, other pressing problems, caused by the country's rapid development, which demanded attention. The Government's priorities for dealing with those problems was based on their relative impact on society. Since discrimination did not exist at present and would not exist in the future, it was not on the list of priority problems. Lack of time and relatively low priority, in short, were the reasons why his country had not enacted legislation as required by the Convention.

11. As examples of legislation that was based on the principles of equality, justice and non-discrimination, he drew attention to various Federal Acts referred to in paragraph 16 of the report. The measures described in the report indicated that his country was second to none in conforming to the principles of equality, justice and non-discrimination.

12. Mr. CREMONA said that paragraph 39 indicated that the legislature had decided that the general provisions of the existing Penal Code were adequate to deal with any discriminatory acts that might occur in the future. However, the provisions of that Penal Code had not been included in the report and if the Committee was to evaluate them, it would first have to see them. Moreover, absence of discrimination did not absolve a State from taking preventive legislative action. The report referred to article 25 of the Constitution, which proclaimed equality before the law, and to other constitutional provisions guaranteeing human rights and fundamental freedoms. He wished to know whether those provisions were judicially enforceable, and, if so, what kinds of relief citizens could obtain through the courts. Finally, he asked whether the United Arab Emirates had any relations with the racist régime of South Africa.

13. Mrs. SADIQ ALI accepted that racial discrimination did not currently exist in the United Arab Emirates but expressed some doubt regarding its possible emergence in the future. Experience had demonstrated that racial discrimination could rear its ugly head even in the most advanced societies. The architects of the Convention had accordingly incorporated in it certain safeguards, and it was for that reason that States parties were required to follow the procedures laid down in the Convention. The United Arab Emirates must therefore recognize the need to give effect to the Convention by adopting appropriate positive measures.

/...

(Mrs. Sadiq Ali)

14. The report had provided information on measures taken by the reporting country with regard to education, associations and labour relations in compliance with the Convention. She hoped that such information would continue to be provided in the future.

15. With reference to paragraph 39 of the report, she would welcome further information on the demographic composition of the United Arab Emirates. More concrete information was needed on the measures taken under article 7 to eliminate racial discrimination and to promote the purposes and principles of the Charter of the United Nations in all spheres, including education and culture.

16. Mr. YUTZIS requested further information on the demographic make-up of the country, so that the Committee could assess its internal harmony. Laws were not normally enacted to combat an existing fact; their purpose was to prevent the possibility of certain events taking place. Racism was a fact of life in many cultures throughout the world. It would therefore be useful for the Committee to have detailed information on the extent to which the different ethnic groups participated in the production process and in government and the relative access of each to education.

17. Mr. DE PIÉROLA Y BALTA said that he would welcome some clarification regarding the scope of the legislation of the United Arab Emirates relating to article 5 (d), which laid down the right to freedom of religion, expression and association. In paragraph 43 of the report, reference was made to article 32 of the Constitution, which guaranteed freedom of religious observance, provided it was not prejudicial to public order or incompatible with public morality. It might well be asked how it was possible to know whether religion was incompatible with public order or morality. The same paragraph of the report referred to article 30 of the Constitution, which guaranteed freedom of opinion and expression within the limits of the law. He would like to know how the limits of the law were defined. Article 33 of the Constitution contained the same limitation on freedom of assembly and association. It would be interesting to learn what limits were in fact imposed on those freedoms and whether trade unions existed in the United Arab Emirates.

18. Mr. PARTSCH said that the Committee had always taken the position that it could not accept a mere statement to the effect that discrimination on the grounds of ethnic or national origin did not exist in a particular country. The international community required concrete measures.

/...

(Mr. Partsch)

19. The report of the United Arab Emirates was generally disappointing. It claimed that no further action was required to implement article 4. The Convention however stated otherwise. On the subject of article 5, the report merely quoted the Constitution.

20. The report was the fifth submitted by the United Arab Emirates and there had already been a dialogue regarding the way in which such reports should be drafted. It was unfortunate, therefore, that the country had not submitted a report which followed the Committee's guidelines.

21. Paragraph 9 of the report contained references to Israel but could not be considered by the Committee unless it was the intention of the United Arab Emirates to avail itself of the procedure provided for in article 11 of the Convention for complaints by one State party about another. The Committee must insist on adherence to its rules and must avoid being used as a platform for propaganda.

22. Mr. HAMMAD (United Arab Emirates) said that racial discrimination did not exist in his country and there were no indications that it would emerge in the future, since it was incompatible with Islam. The law of his country was based on Islamic jurisprudence, which embodied a complete prohibition on discrimination of any kind; the same could not be said of any other religion.

23. With reference to paragraph 9 of the report, the apartheid ideology and practices of South Africa in respect of its black and Coloured population were similar to those of Israel towards the Arabs. The practices of neither country were consistent with the Convention. Furthermore, the General Assembly had declared zionism to be a form of racial discrimination.

24. His country had no diplomatic, trade or other relations with South Africa.

25. Information on the different nationalities in the United Arab Republic would be provided in the next report.

26. A question had been asked regarding the extent to which article 25 of the Constitution was applied. The answer was that it was applied whenever a judge was confronted by a problem covered by the article.

27. On the issue of the interaction between foreigners and nationals, paragraph 39 of the report made it clear that there was free and unrestricted mingling between the two groups.

28. There was no discrimination between nationalities in the United Arab Emirates in the decision-making process. His country had previously been governed by

/...

(Mr. Hammad, United Arab Emirates)

foreigners and continued to need many foreign advisers who were to be found in a number of ministries. There was no discrimination in the field of education; in accordance with law and custom schools were free to all, without distinction as to nationality. The same was true of social security benefits and medical treatment.

29. On the issue of freedom of religion and public morality, there was freedom of worship, and the members of monotheistic religions could have places of assembly and prayer without any restriction. On the question of public morality, there had been developments in the West which had been recognized to violate public order and morality. The same considerations applied in his country.

30. There was freedom of the press within the limits of the law. Anyone could purchase newspapers and magazines from abroad unless the publications contravened public morality and order. Further information on the issue would be provided in the next report.

31. Mr. PARTSCH said there definitely was a difference between South Africa and Israel in so far as the Committee's work was concerned, since Israel had ratified the Convention and South Africa had not. The Government of the United Arab Emirates could submit a complaint against Israel, but not in its periodic report.

32. Mr. HAMMAD (United Arab Emirates) said that ratification per se could not be considered a measure of the practices, policies and legislation of a State, as they could be in complete violation of the Convention. Both Israel and South Africa had ratified the Charter of the United Nations, which prevailed over the Convention, and both had violated Article 25 of the Charter and many others.

33. The CHAIRMAN, summarizing the discussion of the fifth periodic report of the United Arab Emirates, said that emphasis had been placed on the importance of maintaining a permanent constructive dialogue between the Committee and the reporting State. Consideration had been given to the scope of the provisions outlined in the report in relation to article 11 of the Convention and members had referred, inter alia, to the scope of the Constitution, the provisions of the Penal Code in the context of article 4 of the Convention and the absence of legislation to give effect to that article. Attention had also focused on the importance of religion in the context of racial discrimination, relations with South Africa, the demographic composition of the country, measures to give effect to articles 7 and 5 of the Convention, in particular, with regard to freedom of religion, opinion, oral and written expression, assembly and association, and the possibility of forming

/...

(The Chairman)

trade unions. The representative of the United Arab Emirates had replied to comments and queries by members and had assured the Committee that he would bring them to the attention of his Government, which would furnish more complete replies in its next report.

Mr. Hammad (United Arab Emirates) withdrew.

Sixth periodic report of Mauritius (CERD/C/106/Add.8)

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

34. Mr. SEEREKISSOON (Mauritius), introducing his country's sixth periodic report (CERD/C/106/Add.8), said that he would limit his remarks to questions raised in the consideration of earlier periodic reports. With regard to the demographic composition of Mauritius, he said that the population was classified on a religious rather than an ethnic basis for several historical reasons. He emphasized that the use of that criterion to classify the population did not imply any discrimination whatsoever against any group. The Government's purpose was to determine the amount of the subsidy to be given to each religious denomination and the number of representatives which each group was entitled to have in Parliament. Freedom of conscience was guaranteed by the Constitution, and any attempt to do away with the classification system would be viewed by the Mauritian people as an attack on that freedom.

35. With regard to the implementation of article 2 of the Convention, he drew attention to paragraph 4 of the report and pointed out that sections 3 to 16 of the Constitution dealt with fundamental freedoms, including the right not to be subjected to any form of racial discrimination.

36. Regarding relations between his country and South Africa, he said that while his Government maintained no diplomatic relations with that country, Mauritius was unfortunately still dependent to some extent on trade with it. Efforts were being made to diversify trade and markets for exports, but they had not met with total success.

37. Mr. OBERG said, with regard to paragraph 3 of the report, that it had been a wise decision not to do away entirely with a system for classifying the population into groups. Indeed, a classification system seldom meant that discrimination existed in a society and could serve as a tool for promoting equality between the various groups. In that connection, he wished to know what groups existed in

/...

(Mr. Oberg)

Mauritius according to the classification used, as no information on that subject was provided in the report. With regard to paragraph 16, he was pleased to note that Mauritius was a multi-ethnic, multi-religious and multilingual nation and that no effort was spared by Government to develop a Mauritian consciousness among the population while at the same time preserving the cultural heritage of each ethnic group.

38. Lastly, he was puzzled by appendix II to the report, for it appeared to imply that it was permissible, on the order of a superior, to order or commit an act that was prejudicial to the liberty or civil rights of an individual.

39. Mr. SHERIFIS expressed his satisfaction that the report followed the guidelines established by the Committee. With regard to the composition of the Mauritian population, he wished to know how many different religious communities there were and how many persons belonged to each. The Committee must take note of the efforts being made by the Government to disengage from trade relations with South Africa and should take into account the assurances given by the Mauritian representative in that regard.

40. With regard to paragraph 6, he looked forward to further information in the next report on the action taken with respect to the Race Relations Bill referred to in paragraph 6 of the report. He requested further details on the efforts of the Government to prevail upon private clubs to open their membership to all Mauritians and wished to know whether there were still any such clubs that excluded individuals on racial grounds. On the question of religious marriages, he found paragraph 8 perplexing and requested a fuller explanation of the situation obtaining in that regard.

41. He interpreted paragraph 12, which indicated that there had been no state of emergency in Mauritius since 1978, to mean that freedom of the press and association were firmly established at present, and he would welcome a confirmation of that interpretation.

42. He commended the Government for its efforts to implement article 7 of the Convention, as outlined in paragraph 16 of the report, and requested, further details on that subject.

43. Mr. SHAHI recalled that the third periodic report of Mauritius had provided considerable detail on the breakdown of the Mauritian population by religion and the harmonious relations which prevailed among people of different races and

/...

(Mr. Shahi)

religions. Paragraph 3 of the report under consideration clearly showed the advantages of maintaining the status quo regarding the classification of communities.

44. With regard to the implementation of article 4 of the Convention, he felt that the legislation mentioned in paragraph 6 and quoted in appendices I and II to the report did not appear to be comprehensive enough. He therefore requested additional information concerning the Race Relations Bill and hoped that a conscious effort would be made fully to meet the requirements of article 4 and other articles of the Convention.

45. Lastly, with regard to appendix II, he wished to know whether a superior who in fact did order an arbitrary discriminatory act could be brought to account.

46. Mr. CREMONA commended Mauritius for its efforts to break its economic dependence on South Africa and asked what the current percentage of imports from South Africa was and how it compared with previous years.

47. With regard to the legislation which was still necessary to implement article 4 of the Convention, even in the declared absence of any racial discrimination, he asked what the latest position was with respect to the Race Relations Bill referred to in paragraph 6 of the report.

48. He requested further details on the amendments to the Constitution which had been necessary to make it possible to nationalize any sector of the economy. In particular, he wished to know whether the amendments affected any of the human rights provisions of the Constitution and whether any of the conditions which were normally imposed on the compulsory acquisition of property had been dispensed with.

49. Mr. PARTSCH expressed satisfaction that the sixth periodic report provided very specific and comprehensive replies to nearly all the questions put by members during the discussion of the fourth and fifth reports.

50. In his view, there was a contradiction between the introduction of a Race Relations Bill into Parliament and the Government's decision to refrain from asking people to state what ethnic group they belonged to. How could a race relations act be effective if information on the racial composition of the population was no longer kept?

51. Mrs. SADIQ ALI said that, from her own personal experience of the country, Mauritius had a vigorous multiracial society in which the various ethnic groups had preserved their individual languages and identities. On the subject of the

/...

(Mrs. Sadiq Ali)

Government's decision to classify the population by religion rather than ethnic origin, she said she understood that in developing countries tensions between groups could be exacerbated in times of economic difficulty. The largest part of the economy of Mauritius was owned and managed by a very small minority, and she would therefore welcome more details on the Government's policies aimed at bringing about a more equitable distribution of the island's resources. Statistics on the employment situation and per capita income in rural and urban areas, and information on measures to bridge the economic gaps between groups, would be most welcome.

52. She asked whether there had been any court cases relating to the abuse of authority, especially where allegations of discrimination by a public official were involved, and, if so, how they had been dealt with.

53. She commended the Government for its valiant efforts in a difficult geopolitical situation to lessen its economic dependence on the racist régime of South Africa. She would welcome further information on those efforts in the next report.

54. She would also like to know how the laws of Mauritius dealt with groups or organizations which practised racial discrimination as distinct from their individual members. She congratulated the Government for its success in prevailing upon private sporting clubs to open their membership to all Mauritians. She asked what other points of contact there were, apart from sporting events, between the élite minority community and the rest of the population, and requested information on measures taken by the Government to lessen racial prejudice.

55. The proposed establishment of a national employment agency, referred to in paragraph 10 of the report, was an important development in relation to the implementation of article 5 (e) (i) of the Convention, and she would welcome additional information in the next report on progress made in that regard.

56. More details should also be provided in the next report on the Government's efforts in the field of education, particularly those aimed at providing equal access for all to education and promoting literacy among the various groups.

57. She asked whether any of the cases in which legal aid had been provided to indigent litigants involved racial discrimination, and, if so, how they had been settled.

58. Noting that changes had been made in recent years in the provisions governing marriages between Mauritians and foreigners, she asked for information on the current situation.

/...

(Mrs. Sadiq Ali)

59. With regard to article 7 of the Convention, she asked whether there were any special programmes to make citizens aware of their basic rights under the Constitution and the Convention, and whether any training was provided to sensitize officials to the need for racial tolerance.

60. Mr. DE PIÉROLA Y BALTA commended the Government's efforts to promote integration under the motto "one people, one nation". However, the various groups seemed to have a tendency to keep to themselves, and he asked for information on the extent of the separation among the different communities. Comparative figures for the school enrolment ratio, the literacy rate, the per capita income and the housing situation of the different groups would be particularly helpful. He asked whether all groups were affected by unemployment more or less equally and whether the people had the right to form trade unions in both private undertakings and State companies.

61. Mr. SONG requested clarification with regard to the basis on which the population was classified. In particular, he wished to know how the interests of minorities were protected, how elections were conducted and whether there were any differences in the economic conditions of the various groups.

62. He would welcome more details on the measures taken by the Government to preserve the multi-ethnic, multi-religious and multilingual character of the country.

63. Mr. YUTZIS said that religion often served as a unifying factor bringing together in one faith the members of different ethnic groups. Noting that the population in Mauritius was now classified on the basis of religion, he wondered to what extent ethnic groups and religious communities were coterminous. He would welcome information, in general, on relations between the different ethnic groups and religious communities.

64. It was indicated in paragraph 3 of the report that, at the last general elections, one community ("the General Population") had been found to be under-represented and that, consequently, four members of that community had been appointed to readjust the electoral balance. He asked who made up the "General Population" and how large it was. He also sought details on the procedure which made it possible for the electoral balance to be readjusted after elections had been held.

/...

65. Mr. SEEREKISSOON (Mauritius) said that, in view of the range and number of questions which had been asked, he would appreciate being given an opportunity to prepare comprehensive and detailed answers, which he would provide at a later meeting.

66. The CHAIRMAN said that, if there was no objection, he would take it that the Committee wished to suspend its consideration of the report of Mauritius until the next meeting.

It was so decided.

Mr. Seereekissoon (Mauritius) withdrew.

Sixth periodic report of Denmark (CERD/C/106/Add.9)

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

67. Mr. HOPPE (Denmark) said that his Government had tried to organize its report on the basis of the revised general guidelines and to concentrate on developments which had occurred since the submission of its fifth report in 1981. As would be noted, it had endeavoured to answer all the questions put by members during the Committee's consideration of the fifth report. Since considerable interest had been expressed at that time in questions relating to Greenland, his Government had annexed to the report the text of an article by Professor Foighel, who had served as chairman of the Commission on Home Rule for Greenland. Since the article had been written, negotiations had been held concerning Greenland's withdrawal from the European Economic Community (EEC), and only the day before, a treaty had been signed with EEC providing for the termination of Greenland's association with the latter on 1 January 1985.

68. As far as the country's demographic composition was concerned, individuals were not registered according to ethnic origin. However, Government statistics were kept on the ethnic origin of immigrants, and such data was provided in the report. Since the preparation of the fifth report, immigrants resident in Denmark had been granted the right to vote in local elections provided that they had been residing in the locality for the three years immediately preceding the election.

Mr. Hoppe (Denmark) withdrew.

The meeting rose at 5.55 p.m.

/...