

SUMMARY RECORD OF THE 367th MEETING

held on Wednesday, 22 March 1978, at 3.25 p.m.

Chairman: Mr. LAMPTEY

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 6) (continued)

(h) FOURTH PERIODIC REPORTS OF STATES PARTIES DUE IN 1976 (concluded)

India (CERD/C/R.90/Add.32) (concluded)

1. Mr. NASINOVSKY said that the report submitted by India (CERD/C/R.90/Add.32) gave a very clear idea of the measures being taken in that country to implement the International Convention on the Elimination of All Forms of Racial Discrimination. It seemed to him that great efforts were being made in India to implement the Convention, special attention being given to the scheduled castes and scheduled tribes, which were relatively backward in comparison with other sectors of the population. The special measures adopted by the Indian Government and legislative bodies to enable those underprivileged to enjoy their economic, social and cultural rights on an equal footing with the rest of the population were very noteworthy and laudable.

2. While those measures affected a large part of the population of India (119 million persons), he believed that the next report should also include measures affecting the entire population (approximately 600 million). States parties to the Convention must comply with the Committee's general recommendation V, which requested them to submit adequate information on measures adopted under article 7 of the Convention. India should include such information in its next report.

3. One point not reflected in India's report was the considerable role played by that country in connexion with other measures adopted by the United Nations for the elimination of all forms of racial discrimination, particularly in southern Africa. He requested that priority should be given to those activities in the next report.

4. Mr. SHAHI requested a clarification from the representative of India concerning the 15 major languages referred to in the Indian Constitution.

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5. With reference to the implementation of article 4 of the Convention, he pointed out that legislation in India, as in Pakistan and Sri Lanka, was based on the English common law and thus contained anti-discriminatory provisions, although they might not fully cover all the points mentioned in that article of the Convention. What was needed, therefore, was a thorough review of the legislation in the light of that article, in order to rectify any omission through the enactment of appropriate supplementary legislation.

6. Most of the rights enumerated in article 5 of the Convention were recognized in the Indian Constitution and other legal instruments. There again, what was needed was a review of Indian legislation, in order to identify and remedy any deficiencies. As far as the economic and social rights enumerated in article 5 were concerned, the list covered so much ground that very few countries, particularly developing countries, could guarantee their citizens full enjoyment of all those rights, because of their economic circumstances. Developing countries could not be expected to comply fully with all the obligations laid down in article 5 of the Convention, but that did not mean that they could not undertake a review of their legislation to see how far they were failing to fulfil those obligations.

7. In the case of family law, on the other hand, even where legislation existed the religious standards of the various communities were more generally applied in those countries, and such standards did not always fully meet the requirements of the Universal Declaration of Human Rights. Undoubtedly, most Governments were striving to modernize their legal structures; however, especially in countries with democratic systems, the limits to government action were largely set by the feelings and prejudices of the voters. Thus, the problem was much more complex and difficult than it appeared at first sight.

8. Mr. DAYAL said that the fourth periodic report of India, which should be read in conjunction with the three previous reports, contained a large amount of information relevant to the purposes of the Committee but did not do adequate justice to the tremendous efforts being made in India to improve the situation of the backward sectors of the population, especially the scheduled castes and scheduled tribes. Although information relating to article 7 of the Convention covered nearly four pages and dealt with measures for the welfare of backward classes, further information on measures that he was aware were in operation could perhaps have been added.

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9. When the third periodic report had been considered by the Committee, some members had expressed doubts concerning the fulfilment of certain requirements under article 4 of the Convention. He was sure that the laws of India fulfilled those requirements, but would point out that the obligation of reporting Governments under that article did not necessarily enjoin upon them to enact new legislation where they felt existing laws were sufficient; but they should inform the Committee about existing legislation which satisfied the requirements of article 4 of the Convention.

10. With reference to some of the comments made by other members of the Committee, he could confirm to Mr. Shahi that civil marriages could be performed when the consenting parties belonged to different religions. In reply to Mr. Partsch, he explained that members of the scheduled castes and scheduled tribes had a reserved quota of posts, amounting to 20 per cent or more at all levels of the country's public administration as well as in the legislatures. With respect to scholarships, he had been unable to find in the report the percentages quoted by Mr. Partsch, but he believed that the basic information was in paragraph 22; it was indicative of the great progress achieved in the educational advancement of members of the scheduled castes and tribes. In conclusion, he assured Mr. Hollist that any segregation among students, to which he had referred in connexion with paragraph 20 of the report, was entirely contrary to the policy of the Government of India and to Indian legislation.

11. Mr. PARTSCH said that he had calculated the percentages he had mentioned on the basis of the figures in the report. He also pointed out that the third periodic report of India had contained full information on the implementation of article 4 of the Convention, a fact which had perhaps escaped the attention of some new members of the Committee. That report had included the texts of the relevant sections of the Penal Code, including section 505, the only omission being with regard to the implementation of article 4 (b).

12. The CHAIRMAN, speaking in his personal capacity, said that he would like to make two points. Firstly, Mr. Shahi should bear in mind that the Committee was concerned only with racial discrimination, and not with the full enjoyment by all citizens of all rights, that being something which could not be entirely guaranteed, particularly in developing countries. Secondly, he would point out that, when a State became a party to the International Convention on the Elimination of All Forms of Racial Discrimination, it must, even if it was a federal State, abolish all laws and customs that were contrary to the Convention,

since it would otherwise be failing to fulfil its obligations under the Convention.

13. Speaking as Chairman, he said the representative of India would have noticed that most members of the Committee who had spoken had been impressed by the quality of her country's report, which contained much more information than the previous reports, although there were still some omissions. He invited her to reply to the questions put to him by members of the Committee.

14. At the invitation of the Chairman, Mrs. Sibal (India) took a place at the Committee table.

15. Mrs. SITAL (India) said that she would convey to her Government the suggestions made by members of the Committee, and especially the requests for more detailed information regarding the measures taken to implement articles 4 and 7 of the Convention and regarding the scheduled castes and scheduled tribes, so that they could be borne in mind when the next report was being prepared. The next report would also include information on two new commissions, the Commission on Minorities and the Commission on Scheduled Castes and Scheduled Tribes.

16. She regretted that she was not in a position to answer all the questions that had been asked by members of the Committee, but the information requested would be provided in the next report.

17. Under article 46 of the Constitution, the Government of India had an obligation to promote the educational and economic interests of the weakest segments of the population, particularly the scheduled castes, and to protect them from all forms of social injustice and exploitation. The Indian Penal Code provided various penalties for anyone who promoted enmity or hatred between different classes.

18. With regard to the right to marry, persons belonging to different communities with different laws and customs could be married in a civil ceremony. If personal laws or customs conflicted with the legislation in force, cases could be brought before a court of law.

19. Private education was governed by the same rules as State education. The Constitution provided for the possibility of instituting legal action in the event of discrimination.

20. The contradiction which one member of the Committee had seen between paragraph 17 (v) and paragraph 18 (i) of the report did not exist, since paragraph 18 (i) referred to the right of all citizens under the passport laws to enter or leave the country freely, while paragraph 17 (v) related to the imposition in the interests of the scheduled tribes, of reasonable restrictions on the general rights of all citizens to move freely, settle and acquire property.

21. Lastly, she wished to point out that, where the problem of southern Africa was concerned, India had always condemned the gross and persistent violations by the apartheid régimes and had scrupulously complied with all United Nations resolutions.

22. Mrs. Sibal withdrew.

(k) THIRD PERIODIC REPORTS OF STATES PARTIES DUE IN 1977  
Austria (CERD/C/19)

23. At the invitation of the Chairman, Mr. Berchtold (Austria) took a place at the Committee table.

24. Mr. BERCHTOLD (Austria) said that his country's third periodic report contained the information which the Committee had requested when considering the previous reports. He wished to point out in particular that in May 1977 the Government of Austria, at the urging of the Committee, had enacted legislation aimed at meeting the requirements of article 5 (f) of the Convention.

25. Mr. NABAVI said that he welcomed the enactment of that legislation, and thanked the Austrian Government for the information it had provided.

26. With regard to the measures taken by the Austrian Government to implement the provisions of article 4 of the Convention (sect. III of the report), he did not agree with the interpretation of the scope and legal nature of article 4 given in the second paragraph. However, the next three paragraphs reflected what he considered to be the correct interpretation of that article: not only must there exist the legal possibility of declaring illegal and prohibiting the discriminatory activities of an organization, but it must also be possible to take preventive measures to block the establishment of such organizations.

27. With regard to section IV of the report, he noted with satisfaction that the Government of Austria had fully satisfied the Committee's desire to receive more information regarding measures taken to comply with the obligations imposed by article 7.

28. Mr. VALENCIA RODRIGUEZ noted that section I of the report by the Government of Austria referred to the enactment of a legal provision to give effect to article 5 (f) of the Convention. That was a welcome measure. The text reproduced in the report read: "Anyone who in public discriminates unjustly

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against a person or prevents his access to any place or service intended for use by the general public exclusively on the grounds of his race, colour, national or ethnic origin or religion commits an offence punishable by administrative authorities." The use of the word "unjustly" seemed to imply a distinction between unjust racial discrimination and just racial discrimination, whereas in fact, as a matter of principle, all racial discrimination should be illegal so far as the States parties to the Convention were concerned.

29. Section II of the report referred to the status of aliens and indicated that the law made no distinction between aliens. That brought up an important question, which had previously arisen at the time of the consideration of Austria's second report. The principle of equality apparently applied to aliens inter se. The rights of aliens vis-à-vis Austrian citizens, on the other hand, were governed by the principle of reciprocity; in other words, they depended on whether or not there was a bilateral agreement and, if there was none, they were governed by the way in which the other country treated Austrian citizens. He would like to know whether his interpretation was correct. The report stated that the rules applicable to aliens were in conformity with article 1, paragraph 2, of the Convention. That was true with regard to occupations reserved for nationals (it being understood that they entailed political responsibilities); he wondered whether that prohibition also applied to naturalized Austrian citizens.

30. He did not wish to go into the question whether it was necessary for States parties to enact legislation to implement article 4, but on that point he agreed with Mr. Nabavi's interpretation. It appeared, however, from the information provided in section III of the report that the Austrian Government had effective legal means to punish organizations which promoted racial discrimination. He wondered whether, during the period covered by the report, there had been occasion to make use of those means and whether any organization had been prohibited or penalized in pursuance of article 4 (b) of the Convention.

31. The information on article 7 of the Convention supplied in section IV was also valuable. However, the assertion that the freedom of the press, the freedom of expression and the freedom of information set limits to the measures a Government could take under that article did not seem entirely correct. In his view, the exercise of those freedoms could never be so unrestricted as to endanger the foundations of the State. Rather, the exercise of those freedoms, with proper guidance from the State, should contribute to the efforts to promote understanding

and harmony between racial and ethnic groups in a country. Praise was due for the intensive efforts in the field of education described in the report, and also for the work carried out by non-governmental organizations - in some cases with public support - to publicize the principles of the United Nations Charter and of the Convention.

32. The report made no reference to article 6, perhaps because that article had been dealt with in great detail in the two previous reports. He would like to know whether, during the period covered by the third report, any legal remedy for racial discrimination had been sought in the Austrian courts and whether any complaint or appeal on grounds of racial discrimination had been lodged by Austrian citizens under the European Convention for the Protection of Human Rights and Fundamental Freedoms.

33. Mr. DEVETAK said that the questions which he wished to ask referred principally to points which had come up during consideration of the earlier reports. The first group of questions concerned the application of articles 1, 2, 5 (e) (vi) and 5 (f) of the Convention in relation to the Slovene and Croat minorities in Austria, whose rights were also protected by articles 6 and 7 of the State Treaty for the Re-establishment of an Independent and Democratic Austria to which reference had been made in Austria's initial report (CERD/C/R.50/Add.6). With respect to that report the Committee had noted that apparently certain obligations under that international Treaty had been abridged or limited by federal law (Report of the Committee on the Elimination of Racial Discrimination, Official Records of the General Assembly, Twenty-ninth Session, Supplement No. 18 (A/9618), para. 135, in fine). A similar observation had been made with regard to Austria's second report (Official Records of the General Assembly, Thirty-first Session, Supplement No. 18 (A/31/18), para. 51). During the Committee's fifteenth session, held at Vienna, several hundred members of the national minorities, including some from Carinthia, had tried to see the members of the Committee to request their assistance but the interview could not be arranged because at the time the members of the Committee had been invited to go on an excursion outside Vienna. Subsequently a very convincing petition on the question had been received, which the Committee had transmitted to the Commission on Human Rights. In view of those facts, it was surprising that in the current report there should be not a single word on the situation of the minorities. According to recent reports from several public Austrian sources, more than 10 trials were currently under way in the

Austrian courts involving active members of the Slovene minority. In Burgenland, to cite another example, it was reported that a woman belonging to the Croat minority had been denied appointment as director of a secondary school on the ground that she was too much involved in minority activites. It was clearly imperative that the representative of Austria should speak about the present situation of the Slovene and Croat minorities in that country.

34. The second group of questions which he wished to ask concerned the application of articles 4, especially subparagraph (b), and 2 of the Convention. With regard to Austria's second report, doubt had been expressed in the Committee as to whether the existing legislation satisfied the requirements of paragraph (b) of article 4 of the Convention or the obligation contained in article 7, paragraph 5, of the State Treaty for the Re-establishment of an Independent and Democratic Austria to prohibit the activity of organizations whose aim was to deprive the Croat or Slovene population of their minority character or rights. Mention had also been made at that time of the existence of neo-Nazi organizations which should be prohibited (Report of the Committee on the Elimination of Racial Discrimination, Official Records of the General Assembly, Thirty-first Session, Supplement No. 18 (A/31/18), para. 54). In his opinion, the statements in the penultimate paragraph of section 3 of Austria's third report did not give a satisfactory answer to the questions asked by the Committee. More clarifications were needed. In particular, it would be desirable to have information concerning the activities of the KHD organization (Kärntner Heimat Dienst) which had been mentioned in an earlier report of the Committee (Official Records of the General Assembly, Twenty-ninth Session, Supplement No. 18 (A/9618), para. 133) and which he considered to be in violation of the provisions of article 4 of the Convention and of article 5, paragraph 5, of the State Treaty. Under the guise of the exercise of freedom of expression, the KHD organization seemed to be engaging in activities directed against the national minorities to which reference had been made.

35. Mr. BRIN MARTINEZ said that in section I of Austria's third periodic report it could be seen that the Austrian Government had made a great effort to reply satisfactorily to the questions put to it in relation to article 5 (f) of the Convention. However, it was not made categorically clear what would be the penalty applicable in the case of the offence referred to in that section.

36. There was also a question as to the equality of aliens in Austria with each other, since there could be inequalities of treatment of aliens whose countries had

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not entered into reciprocity agreements with Austria. In connexion with that point - mentioned earlier by Mr. Valencia Rodriguez - the obligations imposed by the Convention had not really been satisfied. With regard to article 4 of the Convention, he felt that, subject to the observations made earlier, the Government of Austria seemed to have done everything possible to comply with it. With regard to article 7 of the Convention, the Austrian Government was to be congratulated on having launched in a positive way a plan of dissemination, education and information with a view to combatting racial discrimination in all its forms.

37. Lastly, although the Government of Austria had indicated earlier that it considered apartheid to be a crime against humanity which must be stamped out, it was desirable that the Austrian Government, in the present circumstances and in view of the severe and just sanctions adopted by the General Assembly, the Security Council and other United Nations bodies, should explain what its position was with regard to those measures directed against the racist minority régimes of Rhodesia and South Africa.

38. Mr. SAYEGH, referring to section I of the report, noted with satisfaction that it took into account certain misgivings which had been expressed in the Committee with respect to the capacity of the Austrian authorities to eradicate discrimination in the absence of express legislation in that regard. Subsequently, a provision meeting that concern had entered into force. Nevertheless, he had certain difficulties with three expressions used in the text of that provision. Firstly, there was the concept of just discrimination, which he would not dwell upon because other speakers had already raised the problem. Secondly, there was the word "exclusively", from which it might be inferred that there was discrimination on other grounds; if that was the case, the effects of the legislation in question would be considerably weakened and the application of the objectives of the Convention would be limited. He asked the representative of Austria for clarification as to whether there existed precedents involving cases in which that law had been applied, so that he could evaluate that aspect of the matter. Thirdly, he asked for a clarification concerning the expression "offence punishable by administrative authorities" and the scope of the administrative sanctions in question, which seemed to be distinct from judicial sanctions.

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39. With regard to section IV of the report, concerning the application of article 7 of the Convention, he noted that in the second paragraph it was stated that in fulfilling obligations under article 7 the actual situation in a State party must be the point of departure. There were two ways of interpreting that text. One would be entirely obvious, since the application of any of the provisions of the Convention would require the actual situation existing in a given country to be taken into account. But there was a possible second interpretation, to the effect that the States parties would apply or not apply the Convention depending on what was the actual situation in a given country. The Committee could not agree with that second interpretation and it should be very clearly understood that all the provisions of the Convention must be applied, whatever the existing situation might be. To go into the matter in greater detail, it should be noted that article 7 of the Convention established three purposes: (a) to combat prejudices; (b) to promote understanding, tolerance and friendship among nations and racial or ethnic groups; and (c) to propagate the purposes and principles of the Charter of the United Nations and the international instruments of the United Nations relating to human rights. The relevance of the statement in question varied with respect to each of those three objectives.

40. With regard to the last part of the second paragraph of section 4 of the report, he observed that the freedoms of the press, expression and information, far from limiting the measures which a Government could take under article 7, should give it greater responsibilities in regard to providing information and education concerning the objectives of the Convention.

41. Mr. GOUNDIAM said that he had visited Austria and had been able to see for himself that it was an open and ethnically and culturally integrated country where respect for one's fellow man in all its aspects was a reality. Referring to section II of the report, he noted that according to subparagraph (c) foreign creditors, subject to promulgated government declarations, had the same rights as Austrian creditors; there should be a clarification as to whether the declarations in question were, as stated in the French text of the report, "déclarations publiées par le gouvernement" (declarations published by the Government) or if there were more specific limitations. In subparagraph (d) of section II, with

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reference to the statement that equal treatment of aliens and Austrian nationals was contingent upon reciprocity, as, for instance, in the case of protection of proprietary rights, he would like to ask the Austrian representative whether alien residents in the country were protected to the same extent and under the same conditions as Austrian nationals.

42. With respect to section IV of the report, referring to compliance with article 7 of the Convention, it was noted on page 4 of the English text that freedom of the press, freedom of expression and freedom of information set limits to the measures which a Government could take under article 7. He wished to point out that article 7 referred not only to the undertaking of States to protect the right to information but also to the need duly to bear in mind the principles of the Universal Declaration of Human Rights, which included the right of everyone not to be subjected to affronts to his dignity. Anyone who was the victim of the promotion of racial discrimination through the information media suffered an affront to his dignity. Consequently, the representative of Austria should clarify that aspect of the text of the report.

43. Mr. DECHEZELLES said that he was gratified by the satisfactory report submitted by the Government of Austria. As Mr. Goundiam and Mr. Sayegh had pointed out, the legislative provision reproduced in section I of that report, by referring to unjust discrimination, created an uncertain situation, since it would be difficult to determine how it could be distinguished from just discrimination. Another problem in that text was the use of the word "exclusively", inasmuch as it provided a loop-hole for evading compliance with the law, as practical examples had demonstrated in other countries.

44. The text of the provision had another short-coming which did not seem to be covered in the report, since it did not make it clear what the administrative sanction referred to was to be, who was to impose it or whether there was a danger that the administrative authority might act arbitrarily in applying or failing to apply the rule.

45. In general, it had to be said that the report omitted information on the application of article 6 of the Convention, which provided for effective remedies through competent tribunals and other State

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institutions. Having examined the new Penal Code promulgated in 1975, he felt bound to ask the representative of Austria whether the initiative in seeking a remedy lay in all cases with the Public Attorney, whether the injured party was entitled to institute public proceedings and whether duly recognized associations and institutions which fought against racial discrimination had the capacity to institute such proceedings.

46. With regard to the application of article 4 (c) of the Convention, while it was clear that the Austrian authorities could not allow authorities of national or local public institutions to foster or incite racial discrimination, it was conceivable that such a thing might happen. He asked what the civil, penal or administrative remedy would be in such a case.

47. With regard to section II, paragraph (a) of the report, it should be pointed out that the imposition on aliens who instituted proceedings of the obligation to give security for the costs of the proceedings was a type of provision that was fast disappearing from Western law but to which, strictly speaking, no substantive objection could be made.

48. Similarly, no basic objections could be made to section II, paragraph (b), of the report, concerning section 63, paragraph 3, of the Code of Civil Procedure.

49. On the other hand, in view of the provisions of article 4 (c) of the Convention, he felt bound to ask whether, in the case envisaged in section II, paragraph (d), an alien who considered himself to have been injured could seek compensation from the Austrian State.

50. In its previous report the Government of Austria had referred to the absence of case law on racial discrimination. Even if there was a total absence of serious disputes in the sphere of racial discrimination, subtle forms of such discrimination could still prevail which might be as dangerous as any others. For that reason, he stressed the importance of the remedy provided for in article 6 of the Convention: when methods of seeking remedies were not very well organized and easy access for the injured person to the courts was not ensured, a body of case law could hardly be built up or cases of that type identified or recorded.

51. Mr. NASINOVSKY said that the third periodic report submitted by Austria (CERD/C/19) dealt with very interesting issues arising out of the specific

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questions the Committee had asked in connexion with previous reports from that country. It gave replies to most of those questions, but had created some controversy about certain legal affirmations contained in it. It was regrettable that the new provision enacted in order to comply with article 5 (f) of the Convention was reproduced very summarily in the report, since the complete text of the provision would throw light on the application of the Convention. The summary provided created much doubt. It was not merely a matter of the use of the word "unjustly", but also of knowing whether the provision was a regulation, an act, a decree or a simple administrative rule. He wanted to know what the legal status of that provision was and which offences it sought to punish. In particular, it would be useful to know whether the offences were subject to a penal sanction or only to an administrative sanction. For all those reasons, it would be useful to have the complete text of the provision and he asked the representative of Austria to make it available to the Committee.

52. The second paragraph of section III of the report offered an unusual interpretation of article 4 of the Convention with which he could not agree. A careful reading of article 4 (b) and article 2, paragraph 1 (d), of the Convention showed that there could be no doubt about the specific obligation on States Parties to declare illegal and prohibit organizations and activities that promoted racial discrimination.

53. He also disagreed with the interpretation, given in the second paragraph of section IV of the report, of compliance of the obligations arising from article 7 of the Convention. That paragraph stated that the actual situation in a State party must be the basis to start from and that freedom of the press, freedom of expression and freedom of information set limits to a Government's measures under article 7. That was an arbitrary and inaccurate interpretation of the Convention, which said nothing on that subject. He believed, on the contrary, that the existence of those freedoms should facilitate the application of article 7 precisely because the press should be used as an instrument to combat prejudices that led to racial discrimination. Accordingly, the existence of freedom of the press, of expression and of information in a country could never constitute a limitation to the measures a Government should adopt in order to comply with the Convention.

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54. Mr. HOLLIST said that, in his view, the report of Austria was contrary to the spirit of the Convention in certain respects.

55. While, under article 1 of the Convention, the Convention did not apply to distinctions made by a State Party between citizens and non-citizens, that provision should not be interpreted lato sensu, since there were rights, such as equality before the law, that were not susceptible to the introduction of distinctions.

56. In paragraph 1 (a) of section II of the report, for example, it was stated that section 57 of the Code of Civil Procedure generally imposed the obligation on aliens bringing an action to give "security for the costs of the proceedings". That provision, in his view, constituted an additional impediment on aliens.

57. With regard to the principle of reciprocity which, according to paragraph 1 (b) of section II, governed equality of treatment as between aliens and Austrians in other cases, he asked whether the existence of such reciprocity was conditional on a written agreement or whether it was granted automatically when the need arose.

58. He pointed out that the fourth paragraph of section III of the report mentioned only the possibility of prohibiting the establishment of organizations that promoted discrimination; that might mean that their prohibition was optional.

59. Mr. PARTSCH said that, in his view, the short-comings in the report were due to the formalism characteristic of Austrian legislation rather than to legal defects.

60. He would explain the sense in which the word "unjustly" had been used in the provision cited in section I of the report, since it had given rise to misunderstanding. If at a restaurant a customer who was drunk was removed from the premises, that would constitute a legitimate and fully justified form of discrimination. It should also be noted that provision was not contained in the Penal Code but in the Code of Administrative Procedure; the writer of the report might have added that an appeal against any fine imposed by the administrative authorities could be made to an ordinary court.

61. With regard to the status of aliens, to which reference was made in section II, he reminded the Committee that an identical position on that subject had been taken in Belgium's report and had provoked no reaction in the Committee. The right of

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States to treat nationals and aliens differently, including the right not to treat all aliens alike, was a generally recognized principle. Moreover, the fact that the requirement of reciprocity existed in connexion with the provision of legal assistance to aliens did not mean that there was discrimination.

62. With regard to section III of the report, on the prohibition of organizations that promoted racial discrimination, he believed that the Constitution could not specify that all organizations that promoted racial discrimination were to be prohibited even before they were established, since they might not engage in discriminatory activities until after they were established. In Austria, however, there was a provision in the Penal Code under which any prohibited organization that continued its discriminatory activities was liable to penalties.

63. Mr. BAHNEV said that, although all aspects of the report had been discussed by the preceding speakers, he would revert to some important questions. First, it was not clear whether the text reproduced in section I of the report was a law, an administrative document or a provision or regulation of some other kind. A comparison of the English and Russian texts threw no light on the subject, and his doubts were strengthened by the observations made by Mr. Nasinovsky, Mr. Valencia Rodríguez, and Mr. Sayegh; it would therefore be useful for the representative of Austria to explain how that provision worked, particularly because it made reference to unjust discrimination and to the application of sanctions by administrative authorities, as earlier speakers had pointed out. Secondly, in connexion with article 4 (b) of the Convention, which was mentioned in section III of the report, the interpretation given to that article was a purely formal one and, in his view, there was another, more logical, interpretation.

64. A third question arose in connexion with compliance with article 7 of the Convention, as described in section IV of the report. He associated himself with Mr. Goundiam's observations on that subject and pointed out that, according to the material submitted by UNESCO, mass information media could and should serve to combat all types of prejudice and to disseminate the objectives of the United Nations Charter, not to spread hatred and racial prejudice, which in practice frequently occurred.