

822nd meeting

Friday, 5 August 1988,  
at 10.10 a.m.

Chairman: Mr. LAMPTEY

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

Second periodic report of Portugal (CERD/C/126/Add.3) (concluded)\*/

1. At the invitation of the Chairman, Mr. Maciel (Portugal) took a place at the Committee table.
2. Mr. MACIEL (Portugal), replying to the questions raised by the Committee, thanked members for their appreciative remarks and comments. He reaffirmed Portugal's intention of implementing the International Convention on the Elimination of All Forms of Racial Discrimination by incorporating it directly into Portuguese domestic law and by enacting legislation to give effect to its provisions.
3. With regard to the lack of information in the report (CERD/C/126/Add.3) on the composition of the population by ethnic origin, he said that the breakdown of foreign residents had been only by country of origin and not by race, in conformity with the principle of non-discrimination on racial grounds laid down in article 13 of the Portuguese Constitution. That form of breakdown was also in line with the Principles and Recommendations for Population and Housing Censuses, 1/ in which race was regarded as a supplementary characteristic.
4. Nor was the criterion of race taken into account in procedures relating to the retention or granting of Portuguese nationality. At the time of the April 1974 revolution and the accession of the former overseas territories to independence, thousands of persons, mostly of Portuguese nationality, had arrived in Portugal. Among them, applications to retain or be granted Portuguese nationality had been made by persons who, not being considered as nationals under the nationality law, wished to retain their ties with Portugal in conformity with the principle of jus soli or jus sanguinis. The Portuguese Government had accordingly decided that Portuguese nationality might be retained or granted on certain specific grounds or conditions, namely: protection of family unity, resolution of cases of involuntary statelessness, employment in public service, membership of the Portuguese armed forces, and existence of special ties with the national community. It would be recalled that many of the applications listed in table 2 of the report covered several members of one family, which might account for some apparent contradictions in the figures. Of the foreign residents referred to in table 1, some 50 per cent were nationals of former colonies and retained the nationality of their country of origin.
5. The granting of residence permits (see para. 33 of the report) was within the competence of the Aliens Service, which would take into account such factors as the applicant's police record, the purpose of the application, and

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\*/ Resumed from 820th meeting.

family ties with other residents. In the case of asylum-seekers, the applicant would be granted a temporary residence permit, which would be valid until a final decision had been taken on his application. That system was based on the principle that everyone had the right to freedom of movement and residence within the borders of the State, a principle recognized by the Portuguese Constitution and laid down in article 5 of the Convention.

6. In reply to questions about Portuguese administration of its overseas territories, he reminded the Committee that following the revolution of April 1974, one of the priority tasks of the new Portuguese authorities had been to complete the process of decolonization in Angola, Mozambique, Cape Verde, Guinea-Bissau, and Sao Tome and Principe. After 1975, therefore, Portugal had dismantled its former colonial empire. However, there were still two overseas territories under Portuguese administration: their status was different and did not form part of the traditional colonial system. The first of those territories was Macao, in which Portuguese administration would continue only until 1999. The date and procedures for the transfer of sovereignty had been the subject of numerous discussions between the Portuguese Government and the Government of the People's Republic of China, discussions which led to the conclusion of a formal agreement in April 1988. It should also be noted that over the past 10 years there had been continuous consultations between the two Governments on the administration of the territory. The other territory for which Portugal remained the administering Power, in accordance with resolutions of the General Assembly and other United Nations bodies, was East Timor. Since December 1975, however, Portugal had been prevented from performing its administrative role because of the invasion and illegal occupation of the territory by the Indonesian army. It should be noted that at the time of the invasion of East Timor, Portugal had already begun a decolonization process which was intended to enable the people of Timor to exercise their legitimate right to self-determination. Although the Portuguese Government could not in practice currently take up its administrative responsibilities in that non-autonomous territory, it had not forgotten its obligations towards the people of Timor and was making every effort to ensure that their right to self-determination became a reality.

7. In reply to questions about Portugal's implementation of article 3 of the Convention, he said that other countries, some of which did not have diplomatic relations with South Africa, had bilateral contacts with that country while remaining firmly opposed to the system of apartheid and desiring its abolition. Portugal's position in that regard was crystal clear: it resolutely condemned apartheid, which denied man's most fundamental rights, and believed that that immoral and unjust system should be abolished once and for all. Its position had been reiterated on countless occasions within various United Nations bodies. On the other hand, the Portuguese Government could not disregard the fact that there were 700,000 of its nationals living in South Africa, and it accordingly maintained contacts in order to protect the security of the Portuguese community. The same approach was adopted by other African countries which were neighbours of South Africa, and were endeavouring to arrive at negotiated solutions through dialogue.

8. Economic relations between Portugal and South Africa were fairly limited. Portuguese exports had totalled only 15 million European monetary units (ECU) in 1986, whereas imports had remained at 61 million ECU. The only direct financial involvement of Portuguese interests in South Africa was that of two Portuguese banks in the Bank of Lisbon and South Africa. On the other

hand, Portugal still had financial responsibility for the Cabora Bassa dam project in Mozambique, a project designed to supply electricity to South Africa. Portugal considered that the severance of economic relations with South Africa would have disastrous consequences for the most disadvantaged sectors of the South African population, who were the chief victims of apartheid.

9. The Portuguese Government believed that the struggle against apartheid could be more effectively waged through joint action by groups of States or through concerted action by the international community as a whole. As far as action by groups of States was concerned, Portugal had participated, since January 1986, in all the relevant decisions and initiatives taken by the EEC. At the international level, it had unreservedly condemned apartheid in all United Nations forums, and had called for the release of all South African political detainees, including Nelson Mandela, the return of exiles and the ending of the state of emergency in South Africa.

10. In order to reply to the other questions he had been asked, he would give a brief account of the measures - not only legal, but also social, economic and cultural - taken by Portugal in order to give effect to the ideals of protection of human rights and non-discrimination.

11. As far as the law was concerned, the Portuguese Constitution affirmed the principles of equality and non-discrimination, and prohibited the establishment of avowedly fascist organizations, in other words organizations which adopted or advocated values such as colonialism or racism. The Penal Code made it an offence to disseminate ideas inciting racial discrimination or encouraging any activity of a racist character. He was not aware of action of any kind by associations upholding a fascist or racist ideology.

12. As indicated in the report (paras. 91 et seq.), Portugal recognized the right to legal information and legal protection. In that connection, he had reminded the Committee (820th meeting, para. 9) that he had described recently adopted legislation concerning a system of legal aid and legal advice. In cases where the plaintiff's interests were directly injured or endangered, the new system made legal advice and the services of a lawyer available, free of charge, both for appearances before a national court and for appeals to international bodies such as the European Court of Human Rights or the Human Rights Committee. In that connection, he pointed out that under the various international instruments relating to human rights, local remedies must first be exhausted before a plaintiff could turn to an international body. Regarding the statement in the report that no case involving a problem of racial discrimination had been brought before Portuguese or international courts, that did not mean that such a case could not arise in Portugal. Nevertheless, it was to be hoped that the legal and judicial system as now constituted would be capable of dealing with any problems of that kind.

13. He wished to stress the fundamental role played by the media in increasing public awareness of legislation intended to enhance the protection of fundamental rights. For example, in a recommendation, the Press Council had condemned articles of a racist nature which had been published in a particular newspaper, had alerted public opinion to them and had requested the Attorney General of the Republic to initiate an inquiry into the matter.

14. In the social, economic and cultural fields, a number of measures had been taken to combat racial discrimination. As indicated in the report (paras. 191-210), the teaching of human rights made pupils and students aware of the existence of different cultures, religions and languages, and inculcated a spirit of tolerance and understanding. At university level, there was a course on rights, guarantees and fundamental freedoms which was specifically concerned with human rights. Human rights courses for occupational groups, such as magistrates and police and prison officers, had also produced very good results. As part of those courses, a number of instruments of the Council of Europe and the United Nations, such as the Code of Conduct for Law Enforcement Officials, 2/ were distributed in Portuguese and analysed.

15. According to recent statistics, the illiteracy rate in Portugal was less than 16 per cent. The highest proportion of illiterates was to be found among the elderly (persons of 65-69 years of age) and especially among women. As part of its campaign against illiteracy, Portugal had initiated a national programme designed to give adults an opportunity for greater participation in cultural and social activities by organizing some 2,000 literacy courses a year. Young people were not only given free, compulsory education, accessible to all, for a period of nine years, but could also take advantage of special literacy courses for school drop-outs. The Ministry of Education had also adopted measures to integrate Gipsies who were still nomadic into the education system.

16. As to language teaching, it should be noted that Portuguese was the only national language. However, under the system of compulsory, free basic education, pupils were required to learn another language (French or English) from the age of 10 onwards, and later a second optional foreign language. In the private sector, there were a number of schools specializing in the teaching of other foreign languages or providing an education based on a different culture (German school, French lycée, Islamic school, etc.).

17. With regard to access to public service, the Portuguese Constitution recognized equal rights for all citizens, the ability and qualifications of candidates being, of course, the determining factor. Foreigners and stateless persons resident in Portugal enjoyed the same rights and were subject to the same obligations as nationals, with the exception of political rights and the exercise of public duties which were not of a purely technical character. Foreigners who had acquired Portuguese nationality naturally had the same rights as nationals.

18. Under the Portuguese Constitution, all foreigners enjoyed the right to work, the right to just and favourable conditions of work, and the right to equal remuneration for equal work. The application of those principles had been the subject of a report to be submitted by Portugal to the Committee on Economic, Social and Cultural Rights. His Government had set up a labour equality commission to consider cases of non-application of the principle of equal remuneration. In addition, workers' committees were entitled to participate in the drafting of labour legislation. The freedom of trade unions was fully guaranteed, ensuring that the workers played a continuing role in national economic life. With regard to the employment situation, it should be noted that the unemployment rate had fallen in recent years and stood at 8 per cent in 1987.

19. The question of the declaration referred to in article 14 of the Convention was currently under study in Portugal. He reminded the Committee that Portugal had already recognized the competence of the monitoring bodies established under the International Covenant on Civil and Political Rights and the European Convention on Human Rights, thus ensuring that in cases of racial discrimination all persons subject to Portuguese jurisdiction were guaranteed means of redress at both the national and international levels.

20. In conclusion, he thanked the members of the Committee for their interest in the report submitted by Portugal and assured them that he would convey their comments to his Government so that they could be taken into account in future reports.

21. Mr. GARVALOV thanked the representative of Portugal for the additional information he had given the Committee. He would, however, like to clarify his own comments concerning the mandatory sanctions adopted against Southern Rhodesia (820th meeting, para. 34). In his view, even if those sanctions had not produced all the anticipated results, it was nevertheless a cause for satisfaction that the international community had succeeded in taking concerted action in that particular case. In the case of South Africa, on the other hand, concerted action had so far proved impossible because of the opposition of certain permanent members of the Security Council, who were using their right to veto to obstruct the imposition of comprehensive sanctions against that country under Chapter VII of the Charter of the United Nations.

22. Mr. Maciel (Portugal) withdrew.

Eighth periodic report of Morocco (CERD/C/148/Add.2)

23. At the invitation of the Chairman, Mr. El Ghali Benhima (Morocco) took a place at the Committee table.

24. Mr. EL GHALI BENHIMA (Morocco), introducing the eighth periodic report of Morocco (CERD/C/148/Add.2), said that his country had greatly appreciated the very favourable reception given to its earlier reports. The variety of questions asked during consideration of the seventh periodic report <sup>3/</sup> and the nature of the comments made testified to the attentiveness with which the Committee was following the Moroccan Government's continuing efforts to establish a balanced, just, integrated and fraternal society which would be the best guarantee of the protection and promotion of human rights. Morocco's respect for the Committee had induced it to do its utmost to submit a report which was as exhaustive and well-documented as possible.

25. In its previous reports, Morocco had already had an opportunity to describe the significant advances made in the area of human rights and the importance attached in the domestic public order, in both institutional and practical terms, to the rights enunciated in the International Convention on the Elimination of All Forms of Racial Discrimination.

26. Racial discrimination of any kind, whether in theory or in practice, was non-existent in Morocco because it was incompatible with Morocco's moral and political philosophy, which was based on the precepts of Islam, on Morocco's membership of the Arab-African community and on its situation as a country where several different civilizations met.

27. The Moroccan legal system derived from Muslim law and from modern law, which explained both its originality and its modernity. As far as its originality was concerned, Islam enjoined respect for man's physical and moral integrity, and had a high regard for values such as tolerance, justice and coexistence, which should be practised towards all individuals, regardless of political affiliation, religious belief, race or ethnic origin. Islam also recommended that the human being should be protected and defended against any attack or injury from any source.

28. As to modernity, Morocco had successfully overcome the ordeal of colonialism and had entered the modern world by subscribing to the principles fully adhered to by the international community and by rallying unanimous popular support for the country's institutions. To that end, it had gradually built up a body of legal instruments covering all aspects of the everyday life of the citizen, notably: the Moroccan Constitution, the Moroccan Nationality Code, the Penal Code, the Code of Civil Procedure, the dahir concerning the organization of the judiciary, the dahir setting forth the regulations applicable to civil servants and the Code of Public Freedoms.

29. On the basis of the foregoing, his Government was in a position to affirm once more that the practice of racial discrimination, whether de facto or de jure, was unknown on its territory, and that accordingly there had so far been no cases of violations of the Convention in Morocco. The Committee would find in Morocco's eighth periodic report replies to each of the questions asked in the course of the consideration of its seventh periodic report, in 1985. It should be noted that there had been no change in Moroccan legislation relating to the question of racial discrimination since the submission of the seventh report, and that there had been no case of violation of the Convention during that period.

30. Morocco's eighth report had been prepared in full compliance with the revised general guidelines concerning the form and contents of reports by States parties. 4/ Part I, which dealt with general matters, showed how efforts to combat racial discrimination were a feature both of Moroccan law and of the practice of the public authorities, and quoted the constitutional provisions which guaranteed both individual and collective rights and freedoms and prevented any possible manifestation of racial discrimination. The bilateral and multilateral conventions ratified by Morocco in the manner prescribed by the Constitution had become an integral part of domestic law. The International Convention on the Elimination of All Forms of Racial Discrimination was applicable in Morocco, and its provisions could be invoked in the courts.

31. Part II of the report contained information in relation to articles 2 to 7 of the Convention. It mentioned the efforts made by the Moroccan Government to repeal those parts of its domestic law dating from the Protectorate period which could have given rise to discriminatory treatment of individuals. In reply to a question asked in the Committee during its consideration of the seventh report in 1985, fuller details were given of measures taken by the Government to help the few nomads in the Atlas and southern provinces.

32. At the international level, the report dealt in detail with Morocco's position vis-à-vis the apartheid policy pursued by the South African Government, and confirmed that it did not have any kind of relations with that régime.

33. At the national level, the report described the laws and regulations available to the administration and the judiciary to prevent the possible emergence of racist movements, and gave details of acts by the authorities or by private individuals which could lead to discrimination. Such acts were contrary to the law and carried severe penalties.

34. With regard to the absence of discriminatory measures in other fields, the report enumerated the articles of the Constitution which guaranteed the right to own property, to freedom of worship, to education and work, to belong to trade unions and political parties, to housing, to freedom of movement, and to access to the courts. There was no manifestation of racial discrimination in education and teaching: the Moroccan authorities had established an education system which was characterized by its campaign against racial prejudice, from primary school to the end of university. A table in paragraph 99 of the report listed the subjects and topics taught which related directly or indirectly to the campaign against racial discrimination.

35. In the cultural field, there were a considerable number of cultural associations in Morocco which, *inter alia*, fostered intercultural dialogue between Morocco and other countries by organizing periodic cultural events and festivals. In addition, the Ministry of Culture and the Academy of the Kingdom of Morocco were making efforts to develop and publicize the cultural heritage of several nations. The official Moroccan media never failed to stress the unacceptable nature of racial prejudice or to make known the commitments Morocco had entered into under the relevant international instruments to which it was a party.

36. Since there was no racial discrimination in Morocco, there had been no suggestion that solidarity committees or associations should be established to combat a phenomenon which was unknown in Moroccan society. The Moroccan Government, whose prime objective was to guarantee and respect human rights, had always celebrated Human Rights Day, locally and nationally, in conjunction with the various cultural associations and the United Nations Office in Morocco.

37. Mr. BRAUNSCHWEIG noted that the eighth periodic report of Morocco (CERD/C/148/Add.2) gave a great deal of information on the functioning of institutions and on the law in general. Morocco was known to be a country with a tradition of religious freedom and tolerance. Consequently, the Moroccan Legislature had never felt the need to enact any criminal-law provisions specifically for the punishment of acts of racial discrimination (*ibid.*, para. 41 of the report). However, he believed that that approach was mistaken. Article 4 of the Convention clearly stipulated that States parties undertook to "adopt immediate and positive measures designed to eradicate all incitement to ... such discrimination" ... and to "declare an offence punishable by law all dissemination of ideas based on racial superiority or hatred", etc. Accordingly, the Government, having signed the Convention, should comply with that requirement, firstly, in order to implement one of the provisions of the Convention, secondly, because a Government could never be sure that racist movements or incidents would not occur in the country, and lastly, because the campaign against racial discrimination should be dissuasive, in other words, the Penal Code should contain provisions prescribing the penalties applicable to any violation of the principle of non-discrimination. Experience had shown that where the criminal law contained specific provisions covering racist acts, the country was better

placed to deal with such phenomena. He therefore asked the delegation of Morocco to suggest that the Moroccan authorities incorporate in the penal system specific provisions for combating racial discrimination.

38. Mr. BESHIR commended the constructive attitude of the Moroccan Government, which in its eighth periodic report (CERD/C/148/Add.2) had replied to questions raised by members of the Committee in connection with the seventh report. Morocco was one of the few countries in Africa which could lay claim to a high degree of tolerance. In that connection he referred to paragraph 9, which stated that Morocco had no class consciousness, no feudal classes, no Muslim "clergy" and no closed trade guilds; those were deemed to be a violation of Moroccan public order. First he would like to know why the existence of a Muslim "clergy" was deemed to be a violation of Moroccan public order and why mention had been made of the fact that there was no Muslim clergy: what was meant by "clergy"?

39. Secondly, it was apparent from paragraph 15 of the report that Moroccans were the product of a blend of Berbers, Arabs, Jews and blacks. He would like to know whether the term "Jews" referred to religion and, with regard to blacks, what was their origin, whether they were concentrated in a region remote from the Mediterranean coast, for example, and what was the definition of a black in Morocco. He also asked whether the plurality of Moroccan society was reflected in the composition of the State: were there Moroccan blacks or Moroccan Jews in Parliament, for example?

40. His third question related to paragraph 63, which referred to legal provisions applicable to Moroccans who were "neither Muslim nor Jewish": would those Moroccans be Christians or atheists?

41. Mr. RESHETOV said that a reading of the report (CERD/C/148/Add.2) gave the impression of a pluralist State, which attached great importance to the enjoyment of human rights. The report had one unique feature, a section devoted to replies to questions asked by the Committee when it had considered the seventh periodic report, and was noteworthy in that regard.

42. However, he shared the misgivings expressed by Mr. Braunschweig about the Moroccan Government's statement that there was no racial discrimination in the country. There was none as far as official policy was concerned, but it was well known that cases of racism were encountered daily in every country and that problems always arose because life was complex. More specifically, he wished to refer to the equality between the various religions in Morocco: such religious tolerance was to be commended. However, he could not help wondering whether freedom of conscience was guaranteed in Morocco. It was true that Morocco was a party to the International Covenant on Civil and Political Rights, article 18 of which affirmed the right to freedom of religion. However, religious freedom implied not merely equality, but the ability to exercise the right to freedom of thought, conscience and religion. He had not found the term "freedom of conscience" anywhere in the Moroccan report.

43. Mr. GARVALOV said that the Moroccan Government's initiative in including in its eighth periodic report (CERD/C/148/Add.2) replies to the questions asked by the Committee about the preceding report set an example which was greatly to be commended. He appreciated the detailed explanations given in paragraphs 14 and 15 of the report on the demographic composition of the

Moroccan population, and the excerpts from the book by Mr. Benslimane on the origins of the present-day population. However, he had been somewhat puzzled by the statement: "there is no typically Moroccan physical type as there is, for instance, in the case of an Egyptian, Greek, Scandanavian, German or Slav".

44. What the report said about the implementation of article 3 of the Convention (*ibid.*, paras. 34-36) was interesting, notably the hope expressed by Morocco "that the system of apartheid will be abolished forever, to put an end to the explosive situation in South Africa and enable South Africans to regain their dignity, which has been trampled underfoot for so long".

45. In conclusion, he noted from paragraph 62 of the report that, under article 3 of the Moroccan Nationality Code, Muslim personal law applied to all nationals except for Moroccans of Jewish faith, who were subject to the personal law governing Moroccans of Jewish faith. He took it that that meant there were two laws in force in Morocco, one for Moroccan Muslims and one for Moroccans of Jewish faith, and would appreciate further information on the point.

46. Mr. ABOUL-NASR said he was well acquainted with Morocco and knew from personal experience that there were no manifestations of racial discrimination in that country. He appreciated the difficulty which the Moroccan Government found in describing the demographic composition of the population by origins in view of the fact that, as stated in paragraph 14 of the report (CERD/C/148/Add.2), "the Moroccan nation has been a melting-pot in which all the original ingredients have blended together completely". However, it was stated subsequently (*ibid.*, para. 15) that Moroccans were the product of a happy blend of four elements: the Berbers, the Arabs, the Jews and the blacks from south of the Sahara. In that connection, he would like to have a rough idea of what percentage of the population each of those elements represented.

47. Mr. Beshir had commented on the reference to Muslim "clergy" in paragraph 9 of the report: there were no Muslim clergy in Morocco simply because the very idea of clergy was contrary to the Islamic rule.

48. With regard to the work quoted in paragraph 15 of the report entitled Nous, Marocains: permanences et espérances d'un pays en développement, he agreed with Mr. Garvalov that the analysis of the composition of the Moroccan population was interesting, but that the references to physical types outside Morocco were somewhat dubious.

49. A number of comments had been made about religion. He reminded the Committee that it was dealing with questions of racial discrimination and that reference should be made to questions of religion only in so far as they had some connection with racial discrimination. The Committee must not take over the role of other bodies, such as the Human Rights Committee.

50. Mrs. SADIQ ALI noted with great satisfaction that the eighth periodic report of Morocco (CERD/C/148/Add.2) was extremely full and detailed. She would merely like to have more information about the situation of the nomads in the Sahara, notably how many of them there were, and whether all possible steps had been taken to guarantee them enjoyment of the rights enunciated in article 1 of the Convention.

51. Mr. VIDAS said he was interested in all the questions already asked by members of the Committee. He congratulated the Moroccan Government on having submitted a report (CERD/C/148/Add.2) of high quality and thanked it for its willingness to continue an extremely fruitful dialogue with the Committee.

52. Mr. SONG Shuhua agreed that the Moroccan Government had submitted an excellent report (CERD/C/148/Add.2) and particularly commended it for having taken the trouble to respond to the Committee's comments on the seventh periodic report.

53. Like Mrs. Sadiq Ali, he too would like more details about the situation of the nomads of the Sahara, notably what steps had been taken by the Moroccan Government to make provision for their education, a question which undoubtedly presented certain difficulties, as had been found in his own country. In paragraphs 75 and 76 of the report it was stated that child labour was prohibited in Morocco, but it would be interesting to know whether it did exist in practice and, if so, how the Government was dealing with the situation.

54. Mr. SHAHI said he had had personal experience of the spirit of tolerance that prevailed in Morocco and was also in evidence in the eighth periodic report (CERD/C/148/Add.2) submitted by the Moroccan Government. But although Morocco was certainly a model of tolerance, notably in matters of religion, the Government was nevertheless not exempt from the obligations imposed on the Governments of all States parties under article 4 of the Convention and was thus bound to adopt the necessary legislation to prohibit racial discrimination.

55. In the past, the Committee had always considered it essential that States parties should give information on the demographic composition of the population, so as to be able to ensure that the various ethnic groups received equal treatment in the matter of human rights and fundamental freedoms. However, in the case of a country like Morocco, whose population was the result of a happy mixture of races, as in the Latin American countries, for example, the Committee's questions on demographic composition did not seem to be really justified. Furthermore, as the Moroccan Government had rightly stated in paragraph 124 of its report, the notion of "ethnic minority" is meaningless in the context of the demography of modern Morocco.

56. Clearly, the Committee's priority task was to deal with questions involving racial discrimination, and it must endeavour not to encroach on the fields of competence of other bodies such as, for instance, the Human Rights Committee. However, the right to freedom of religion, in particular, was enshrined in article 5 of the Convention, and there was accordingly nothing to prevent the Committee from taking up questions concerning discrimination on grounds of religion, as it had done in the past.

57. Mr. PARTSCH noted that a great deal of the information in the eighth periodic report of Morocco (CERD/C/148/Add.2) had already been given in earlier reports. Although States parties might take the view that the membership of the Committee changed and it would thus be useful to reproduce information already provided, he wondered whether it would not be preferable for successive reports of States parties to contain only material that was genuinely new.

58. In paragraph 57 of the report it was indicated that no restriction might be imposed on the exercise of the freedoms enunciated in the Constitution "save by law". He wondered whether that provision meant that the right to equality before the law might also be restricted, and whether the exercise of fundamental rights could therefore be restricted by law, which would be contrary to article 5 of the Convention and might have serious consequences in practice.

59. Mr. RESHETOV did not agree that it was unnecessary for the periodic reports of States parties to repeat information given in earlier reports; not only did the membership of the Committee change, but also it was important for the Governments of States parties to be able to make it known that they maintained their position of principle on various national problems. Furthermore, in any State party, forms of government might change, legislation might be amended or new problems might arise; it was accordingly essential for certain information to be repeated so that the Committee could assess the effectiveness of the measures taken by States parties.

60. The CHAIRMAN, speaking in a personal capacity, said that he shared Mr. Shahi's view on the Committee's consideration of questions relating to the freedom to practise one's religion and considered that the Committee should conform to the practice it had followed hitherto.

61. Mr. ABOUL-NASR said that the question at issue was not merely the right to freedom of religion, but rather the whole series of rights enunciated in article 5 of the Convention. The point was that the Committee should endeavour to consider the enjoyment of those rights only to the extent that they had some connection with racial discrimination.

62. Mr. BANTON shared the various views expressed, but considered that the problem was mainly one of priorities, notably in view of the fact that the time available to the Committee was limited. Consequently, it was particularly important to avoid any overlapping with other bodies in the United Nations system. For instance, it was clear that, under article 3 of the Convention, States parties were required to take action to combat apartheid, but in fact that was a matter that fell more within the competence of the General Assembly itself.

63. Mr. BESHIR said that, as he understood it, States parties to the Convention had undertaken to prohibit in the territory under their jurisdiction any discrimination on grounds of race or religion. It was thus the Committee's duty to ascertain whether there had been any cases of discrimination against persons holding different religious beliefs.

64. The CHAIRMAN observed that it was difficult to set very precise limits on the Committee's discussions because, even within the general context of racial discrimination, it was often found that the rights of ethnic minorities were closely connected with the rights of religious groups.

65. He invited the representative of Morocco to reply to the questions asked by the members of the Committee.

66. Mr. EL GHALI BENHIMA (Morocco) said he had particularly appreciated the reception accorded by members of the Committee to his country's eighth periodic report (CERD/C/148/Add.2) and the tributes paid to its spirit of tolerance and harmony.

67. With regard to article 4 of the Convention, he did not think his Government would have any objection to acting on the suggestions made by Mr. Braunschweig and other members of the Committee. He himself would bring to the attention of the competent Moroccan authorities the comments and observations made on the subject by members of the Committee regarding the need to adopt measures in accordance with the provisions of the Convention.
68. In reply to Mr. Garvalov's question, he stressed that all Moroccan citizens, whatever their religion, enjoyed equal rights. Although Moroccan Jews were subject to the rabbinical courts as far as their personal law was concerned, that was only in recognition of the rights of a particular religious minority, and out of respect for a belief which was regarded in Morocco as one of the three great revealed monotheistic religions.
69. With regard to the distribution of the population and the percentages represented by Arabs, Berbers, Jews and blacks respectively, he was unable to give any figures or to supply information about the geographical distribution of those various groups. In fact, such factors were not taken into account when censuses were conducted and Moroccans, whatever their origin, could travel freely within the country in exercise of their right to freedom of movement. Although it could be said, for instance, that the majority of Jews lived in large cities such as Casablanca, they were also to be found in the foothills of the Atlas Mountains, and some tribes comprised both Jews and Muslims, all of them living the same kind of life. Over the centuries, there had been a mixing of Berbers and Arabs, and it was impossible to draw a clear line of demarcation between them. It could nevertheless be said that the process of Islamization had been accompanied by Arabization and that the population as a whole was Arabic-speaking, although the country had not shed the French and Spanish influences it had acquired in the course of its history.
70. As to whether the Jews were to be considered as representing a religion or a race, it could be said that, apart from any racial consideration, they constituted a group which differed from the majority of the population through its religion. Arabs and Jews were both Semites who were descendants of Abraham. In antiquity, the first inhabitants of Morocco had been Berber animists or Jews.
71. The same reply held good for blacks, all of whom were Muslims; no racial problem arose in regard to them because, according to the Koran, skin colour was not held to provide grounds either for respect or for disrespect.
72. Moroccan Christians, who were few in number, had for the most part lived in the country during the time of the Protectorate; their dead were buried there and they had expressed the desire to stay by opting for Moroccan nationality, in accordance with the regulations in force.
73. Freedom of conscience existed and was guaranteed by law, at least with regard to Islam, Judaism and Christianity. In that regard, the Moroccan Legislature had sought to secure the stability of the State, which was both Islamic and monarchical. Such a State had little room for atheism, and any propaganda promoting atheism would be punishable by law.

74. Generally speaking, Islam had no clergy, and if the report had given the opposite impression, it was either the result of an error or because the writers had intended to draw a distinction between Sunnites and Shi'ites; although the latter did have some form of hierarchy, it was not strictly speaking a clergy.

75. Although it had not yet totally disappeared, nomadism was a phenomenon that was fast disappearing because of improvements in living conditions. In pre-Saharan Morocco at certain times of year livestock was still moved from one pasture to another, but only within a range of about 100 kilometres. For the most part, the residents of those areas had now settled in villages on a permanent basis. The problem of their education had also been solved because they were now settled in areas of the countryside which had been provided with amenities in order to prevent an exodus to the large cities.

76. Child labour was illegal, but there were still instances of the continuation of the practice, particularly in the carpet industry, where children had a reputation as wonderfully skilled workers because of their quick hands. But any violation was severely punished.

77. In conclusion, he would prefer to leave it to the Moroccan authorities concerned to reply to the questions asked in connection with article 9 of the Convention.

78. He thanked the members of the Committee for the valuable dialogue he had had with them, and for their courtesy and encouragement of States parties to the Convention.

79. The CHAIRMAN thanked Mr. El Ghali Benhima on behalf of the Committee and expressed satisfaction at the dialogue pursued with Morocco. He would await Morocco's ninth periodic report with interest.

80. Mr. El Ghali Benhima (Morocco) withdrew.

Ninth periodic report of Ghana (CERD/C/149/Add.13)

81. At the invitation of the Chairman, Mr. Wudu (Ghana) took a place at the Committee table.

82. Mr. WUDU (Ghana) said that Ghana's political, economic and social evolution had resulted in legislation and practices that discouraged racism and racial discrimination. A government directive of March 1972, for example, made it illegal for employers to question prospective employees about their ethnic origins. Under legislation guaranteeing freedom of movement, any person of any ethnic background or nationality could settle and work in any of the 10 administrative regions of Ghana.

83. The decisions of public tribunals, which were not meant to replace the regular courts, were subject to review by such courts, which could, if necessary, modify them.

84. With regard to constitutional matters, the Government was currently taking steps to establish full participatory democracy throughout the country. In the belief that effective administration required a national democratic structure, the Government was planning to hold elections in the course of the year for district assemblies, which would participate in the development of the country's political institutions. The country had been divided into 110 constituencies, and late in 1987, under the auspices of the National Commission for Democracy, voter registration had been carried out and had resulted in the registration of 5,899,098 voters out of an estimated total electorate of 6.6 million.

85. The district assemblies thus elected would constitute the highest political and administrative authority in each district; they would have political, consultative, legislative and executive functions, and would supervise all political and administrative authorities. The creation of the district assemblies was expected to promote the development of a new political culture at both city and village level.

86. The National Commission for Democracy was continuing to collate various views on the future structure of national political institutions. Careful note had been taken of the comments of members of the Committee about the reflection of specific provisions of the Convention in Ghana's national legislation. The report under consideration (CERD/C/149/Add.13) should provide a useful update on the information furnished in earlier reports, the most recent of which had been submitted in 1986. 5/

87. Mr. RHENAN SEGURA thanked Ghana for its report (CERD/C/149/Add.13) and for maintaining its dialogue with the Committee. However, it was perhaps the first time he had read a report that was so general in character and so totally lacking in specific information on the situation of the country concerned. As in Ghana's two previous reports, there was no detailed information on the demographic composition of the population, the report simply stating that it numbered 10 million. In the absence of other data, information on demographic composition would have been very useful to the Committee. As Mr. Reshetov had already stated in connection with Morocco, reports submitted should contain detailed information providing an overall picture of the situation and enabling comparisons to be made with earlier years.

88. Mr. FERRERO COSTA, while reaffirming the importance of establishing a constructive dialogue with the Committee, agreed that Ghana's report (CERD/C/149/Add.13) was too general in character; in that respect, it was like earlier reports, with the possible exception of the seventh, 6/ which had been somewhat fuller. The members of the Committee hoped that Ghana's next report would be more detailed and, above all, that it would comply with the guidelines laid down by the Committee.

89. In connection with paragraph 8 of the report in particular, he would like to know the current situation with regard to regulations prohibiting the formation of political parties and political activities on a tribal, regional, professional, racial or religious basis.

90. Mr. PARTSCH agreed with earlier speakers that it was difficult to gain a precise idea of the situation in Ghana on the basis of the report (CERD/C/149/Add.13). The excerpts from Law 42 of 1982 relating to the proclamation establishing the Provisional National Defence Council were very general in character and not sufficient to constitute a legal text applicable by the courts.

91. When Ghana's eighth periodic report had been considered, members of the Committee had already emphasized that they must have available to them the texts of laws in which the provisions of the Convention were supposed to be incorporated. Without those texts, it was impossible to know whether those provisions were in fact embodied in the law.

92. The assertion in paragraph 1 of the report that, since racial discrimination had never been practised in Ghana, there had never been a need to legislate particularly or extensively against it would be acceptable only if legislation prohibiting discrimination had existed before Ghana's ratification of the Convention. There, too, the Committee should have available to it the texts of the laws concerned. The Committee could only hope that Ghana's next report would contain the necessary material to enable it to judge whether the legislation in force was in conformity with the obligations imposed under the Convention.

93. Mrs. SADIQ ALI said that, since district assembly elections were to be held in Ghana, it would be interesting for the Committee to have before it excerpts from the legislation governing those assemblies. It would also be useful to have precise information on what categories of candidate would be standing for election, in view of the fact that political parties had been banned.

94. She would like to know the illiteracy rate in Ghana and to have details of the new programme for improving the employment situation, slum-eradication measures, and measures in the field of education and health.

95. In conclusion, in relation to article 2, paragraph 2, of the Convention, she would like to know what the current situation was in northern Ghana, given the fact that the population comprised a number of different ethnic groups.

The meeting rose at 1 p.m.

#### Notes

- 1/ United Nations publication, Sales. No. E.80.XVII.8.
- 2/ General Assembly resolution 34/169 of 17 December 1979, annex.
- 3/ CERD/C/117/Add.1. See also Official Records of the General Assembly, Fortieth Session, Supplement No. 18 (A/40/18), paras. 333-370.
- 4/ CERD/C/70/Rev.1.
- 5/ CERD/C/118/Add.28.
- 6/ CERD/C/91/Add.21.