

SUMMARY RECORD OF THE 328TH MEETING

held on Tuesday, 5 April 1977, at 3.20 p.m.

Chairman: Mr. KAPTEYN

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 3) (continued):

(h) THIRD PERIODIC REPORTS OF STATES PARTIES DUE IN 1976 (continued)

Morocco (CERD/C/R.88/Add.6) (concluded)

1. At the invitation of the Chairman, Mr. Skalli (Morocco) took a place at the Committee table.

2. Mr. SKALLI (Morocco) said he would reply to the questions put by the members of the Committee. With regard to statistics and information about the ethnic composition of the Moroccan population, he drew attention to the wording of article 1, paragraph 1, of the Convention, and said that, although there were different ethnic groups in Morocco, discrimination there was inconceivable, nor did it exist in practice. To employ the form of words used by one member of the Committee, information on that point could be provided but should not be regarded as an end in itself.

3. Some members had asked whether the Moroccan courts had revoked certain discriminatory measures. He could only say in reply that there were no discriminatory provisions in Moroccan legislation directed against anyone. Moreover, the Convention was an integral part of Moroccan law and any foreigner was perfectly entitled to invoke article 4 of the Convention in order to claim his rights.

4. As regards personal status, nationals of foreign countries could ask for their national laws to be applied to them, especially in cases of marriage and inheritance. The Moroccan Jews had their own rabbinical courts which, in matters of personal status, followed rabbinical law.

5. It had been asked to what extent Moroccan Jews were free to enter and leave the country. Certain Moroccan Jews had decided that it was in their interest to leave Morocco, but they had done so of their own free will, and sometimes their action had been influenced by a particular historical situation and by propaganda which sought to divide them from the Moroccan people. The freedom of movement they enjoyed in common with the rest of the population of the country was an integral part of Moroccan practice and customs. When, at the time of the Second World War, the German control delegation and the Vichy Government authorities had exerted pressure on King Mohammed V to restrict the freedom of the Moroccan Jews and to take action against their property and persons, he had replied that in Morocco there were only Moroccan citizens and that if any harm was done to the Moroccan Jews he could not answer for his

people's reactions. His firm attitude had made it possible for the Moroccan Jews to live in peace. After Morocco had become independent, there had been a Jewish Minister in the Government and a number of Jews in the Moroccan diplomatic service and administration. While it was true that some of them had left their posts, that was because they had thought they would find more profitable or interesting work elsewhere. Despite the attitude of the Moroccan Government towards certain international problems, no special measures had been taken in Morocco against the Jews and no distinction was made between Jews and other Moroccan citizens.

6. The Moroccan Constitution implicitly recognized the primacy of international law over domestic law. Consequently, international law took precedence in Moroccan legislation even over domestic law. Treaties that might affect the provisions of the Constitution were approved in accordance with the procedures laid down for the reform of the Constitution. It followed that all the conventions to which Morocco had acceded and which were compatible with its Constitution automatically became part of Moroccan law. The Constitution would not be amended unless Morocco acceded to a new convention whose provisions were not entirely consistent with those of the Constitution. The legal texts requested by members of the Committee, notably those that were being prepared in relation to certain articles of the Convention, would be made available to the Committee later. Information bearing on articles 5 and 7 of the Convention would be given in Morocco's next report. He would transmit the comments of members of the Committee to the Moroccan Government, which would not fail to take them into consideration in preparing its fourth report.

7. The CHAIRMAN, on behalf of the Committee, thanked the Moroccan representative for his statement and asked him to convey to the Moroccan Government the Committee's appreciation of its useful co-operation.

8. Mr. Skalli withdrew.

(d) SECOND PERIODIC REPORTS OF STATES PARTIES DUE IN 1975

Democratic Yemen (CERD/C/R.77/Add.12)

9. At the invitation of the Chairman, Mr. Ba-Saleh (Democratic Yemen) took a place at the Committee table.

10. Mr. BA-SALEH (Democratic Yemen), said that the Committee, at its 210th meeting, had observed that the information in the first report from Democratic Yemen was inadequate in certain respects, particularly concerning the provisions of articles 2, 3, 4 and 7 of the Convention. In its second periodic report (CERD/C/R.77/Add.12), Democratic Yemen had therefore mentioned the various provisions of the Penal Code that established measures to prevent any act of, or incitement to, racial discrimination. Attention should also be given to article 121, which helped to give effect to articles 3 and 4 of the Convention, reading as follows: "Whosoever commits one of the following two acts shall be punished with imprisonment for not more than three years: (a) propaganda with the aim of sowing hostility or fractional or tribal or racial hatred; (b) restriction of the rights of citizens and according them directly or indirectly privileges based on a regional outlook".

11. He could assure the Committee that school syllabuses and the present-day cultural life of his country were in line with the aims and purposes of article 7 of the Convention. However, Democratic Yemen would give all the information required on the subject in its next report.

12. Democratic Yemen had never maintained relations with the racist régimes of South Africa, Rhodesia or Israel. Since its admission to the United Nations in 1967, Democratic Yemen had always voted in favour of resolutions condemning racial discrimination and the apartheid policy of the régimes of southern Africa. It also took every possible measure to help peoples subjected to any form of racial discrimination to free themselves from it.

13. He hoped that the Committee would take into consideration the fact that although newly independent States had not always had sufficient experience in drafting reports, in practice they nevertheless fulfilled all their obligations under the various provisions of the Convention. In drafting its third report, Democratic Yemen would take into account the comments made and questions raised during the Committee's deliberations.

14. Mr. SAYEGH said that the second report of Democratic Yemen filled in a number of gaps in the first. The representative of Democratic Yemen had supplemented the information provided on the measures implementing article 4 of the Convention by giving the text of article 121 of the Penal Code. An examination of the Constitution of Democratic Yemen showed that certain of its provisions corresponded to paragraphs (a), (b), (c), (d) (subparagraphs (i), (ii), (iii), (vii), (viii) and (ix)) and (e) (subparagraphs (i), (iv), (v) and (vi)) of article 5 of the Convention. The report also contained information in response to the Committee's general recommendation III, concerning the relations of States Parties with the racist régimes of southern Africa. In respect of article 5 (f) and article 7 of the Convention, however, there were still some gaps in the report; nor was there any information about the ethnic composition of the population of Democratic Yemen. Nevertheless, as it stood, the second report marked a considerable advance on the first.

15. Articles 116, 121 and 135 of the Constitution of Democratic Yemen provided an assurance that existing and future laws, decisions by the Executive and by the administrative authorities and the judgements of courts and tribunals would be in conformity with the principles of the Constitution. That was an important point when it was borne in mind that Democratic Yemen had to face not only the difficulties normally confronting a new State but also the problems arising from a social revolution, which obliged the State to replace its former laws by new ones in harmony with the spirit and principles of its Constitution. In the absence of relevant new laws, the courts were required to deliver their judgements in conformity with the spirit and the principles of the Constitution. Since the Constitution of Democratic Yemen defined the limits within which the legislative, administrative and judicial activities of the authorities were to be exercised, he thought that the Constitution could be regarded as providing a set of measures that were sufficient for the time being to give effect to the provisions of the Convention. The second report was satisfactory but he hoped that the next would furnish the necessary additional information.

16. Mr. DEVIETAK said that the report submitted by Democratic Yemen would be of considerable assistance in facilitating co-operation between that State and the Committee. Articles 98, 99, 121 and 159 of the Democratic Yemen Penal Code, which had become law in 1976, were in line with the requirements of article 4, paragraph (a), of the Convention. He would like the representative of Democratic Yemen to explain how his country's legislation gave effect to the provisions of paragraph (b) of article 4. Several of the provisions of the Constitution dealing with the exercise of the economic, social and cultural rights referred to in article 5 of the Convention, and especially article 37 of the Constitution, which he read out, were satisfactory. Article 34 of the Constitution referred to the "race" and "ethnic origin" of the population of Democratic Yemen. Information about the ethnic composition of the population of Democratic Yemen would be helpful to the Committee. In his view, the policy laid down in the first paragraph of section III of the report would be of great value in giving effect to the provisions of article 3 of the Convention.

17. Mr. VALENCIA RODRIGUEZ said that the second report of Democratic Yemen gave a fairly clear picture of the situation of the country. It was stated in the report that the Constitution provided the necessary safeguards against all forms of racial discrimination. The Constitution laid down the principle of equality before the law and guaranteed the implementation of the provisions of article 5 of the Convention. In practice, it guaranteed equal enjoyment of almost all the rights referred to in article 5 of the Convention: the right to work, the right to education, the right to nationality, the right to religion, the right to freedom of expression, the right of assembly and the right to move freely within the territory of the Republic. It must, however, be asked whether the laws of Democratic Yemen gave effect to the other rights provided for in article 5 of the Convention, in particular the right to marriage and choice of spouse, the right to inherit and the right of access to any place or service intended for use by the general public.

18. Article 42 of the Constitution gave effect to the provisions of article 6 of the Convention. He would like to know, however, what the provisions might be which enabled a victim of racist acts to apply to the courts for redress. In connexion with article 24 of the Constitution, he wondered under what conditions foreigners could own property in Democratic Yemen, and whether those conditions were applicable to all foreigners or only to some groups of them.

19. With regard to articles 7, 98, 99 and 159 of the Penal Code, cited in the report, he pointed out that, according to article 4 (a) of the Convention, States were required to declare the dissemination of ideas based on racial superiority or hatred to be an offence punishable by law. He would be glad to have information about laws corresponding to subparagraph (b) of article 4 of the Convention, under which States were required to declare illegal and prohibit organizations which incited racial discrimination.

20. Lastly, he noted that the second report of Democratic Yemen did not contain any information on measures to implement article 7 of the Convention, or on the ethnic composition of its population.

21. Mr. NABAVI said he endorsed the remarks made by the preceding speakers. He noted with satisfaction that the questions raised when the first report of Democratic Yemen was discussed had been answered in the second report. Although Democratic Yemen had only recently acceded to independence, it was doing its best to carry out its obligations, for which it should be commended.
22. The articles of the Penal Code referred to in the second report concerned only some of the principles set out in the Convention; he asked whether the Committee could be informed about the "legislations and adequate administrative measures" which, according to the statement at the end of Section I of the report, ensured the practical implementation of the rights provided for in the Constitution.
23. With regard to article 48 of the Constitution, which recognized the right of citizens to congregate and demonstrate "within the spirit of the goals of the Constitution", it would be useful to have more details about the meaning of that limitation. He also hoped that the Committee would be given information on the ethnic composition of the population of Democratic Yemen, which would be of great value. He endorsed Mr. Devetak's comments on the subject of article 4 (b) of the Convention, and, lastly, he expressed the hope that the Government of Democratic Yemen would provide fuller details in its third report.
24. Mr. BAHNEV said that Democratic Yemen should be commended for having included within a small compass a report which answered practically all the questions that had been raised. The reference document which had been transmitted in addition to the report contained not only the text of the Constitution but also that of legislative provisions and the provisions of the Penal Code which were based on the principle of the equality of rights and duties of citizens. The importance attaching to the Constitution of Democratic Yemen was all the greater in that the country had only recently undergone far-reaching social changes, which were reflected in the report before the Committee. It was satisfactory to note the principle set out in chapter one of part two of the Constitution, whereby the State would do all it could to guarantee equality by providing equal political, economic, social and cultural opportunities for all citizens - a principle rarely found expressed in the reports from the various countries. He also attached particular importance to the right to work, laid down in article 35 of the Constitution, under which all able-bodied citizens were entitled to work. The other provisions of the Constitution referred to in Section I of the report were in line with the provisions of articles 5, 6 and 7 of the Convention. With regard to article 4 of the Convention, he considered that its provisions were covered by articles 98, 99, 129 and 159 of the Constitution of Democratic Yemen, but he noted that none of those articles made any reference to the organizations or propaganda activities inciting racial discrimination mentioned in article 4 (b) of the Convention. If his interpretation was correct, he hoped that the next report would provide details of the methods by which those provisions were implemented.
25. It would also be helpful to have further information on the practical application of article 5 of the Convention, for, although the legal basis of those rights was guaranteed, it was important to know how they are applied. The Committee might perhaps request the Government of Democratic Yemen to give further information on the matter. The Committee could only request States to provide certain information, or make a recommendation to that effect; it was not competent to adopt a more imperative formula.

26. He noted, incidentally, that an important observation he had made on the report of the Federal Republic of Germany had not been referred to in the summary record of that meeting.

27. The CHAIRMAN pointed out that the records were provisional summary records and that members of the Committee could submit any corrections they thought necessary. Note would be taken of Mr. Bahnev's remark in the Committee's report.

28. Mr. BLISHCHENKO said that, like the previous speakers, he considered that the second report of Democratic Yemen made a significant contribution to the performance of the obligations undertaken in the Convention and should be commended, especially when the effort which that contribution represented for a young republic which had only recently acceded to independence was taken into account. Respect for the obligations imposed by the Convention and concern to guarantee the social and economic rights of all citizens and protect them against racial discrimination was a characteristic of the Constitution of Democratic Yemen. That concern was particularly evident in articles 8, 10 and 13 of the Constitution. All the fundamental conditions necessary to ensure the suppression, prohibition and elimination of racial discrimination in all its forms were therefore present. Against that broad background, it would nevertheless be useful to have information about the practical application of those provisions, and he hoped that the next report would give some particulars on that aspect of the matter. He expressed the hope that the presentation of the next report would be based on the Committee's recommendation that Governments' replies should be arranged according to the articles of the Convention. That method of presentation would facilitate the systematic arrangement of information and its evaluation by the Committee.

29. In his view, the articles of the Democratic Yemen Penal Code corresponded closely to paragraphs (a) and (b) of article 4 of the Convention. Article 6 of the Convention was also covered by the Constitution, but it would be helpful to know how the relevant provisions were applied in court practice. With regard to article 7 of the Convention, the measures adopted by Democratic Yemen were very interesting, in that they reflected the experience of a developing country.

30. With regard to article 3 of the Convention, it should be borne in mind that in all international bodies Democratic Yemen had consistently raised its voice against apartheid, colonialism and neo-colonialism, in keeping with the spirit of article 3 of the Convention. Democratic Yemen should, however, be invited to state what measures it proposed to take not merely to prevent but also to prohibit and eliminate the practices of apartheid, in accordance with article 3 of the Convention. There need be no doubt that those measures would be in line with the attitude of opposition to racial segregation which Democratic Yemen had adopted within international organizations. The report by Democratic Yemen reflected the process of democratization taking place in that country and its desire to carry out all its obligations under the Convention.

31. Mr. DECHEZELLES said he shared the views expressed by earlier speakers concerning the importance of taking into account a country's social and economic conditions in order to understand its legislation. That point was particularly valid in the case of Democratic Yemen and, before studying its Constitution, full account should be taken of the situation in that people's democratic republic,

which had found itself faced, at the time of its establishment, with a very pronounced situation of underdevelopment, aggravated by the flight of capital and the exodus of the middle class traders, as well as by the closure of the United Kingdom military base and of the Suez Canal. When Democratic Yemen, which had a population of 1,220,000 inhabitants, mostly Moslem Arabs, had become independent, the proportion of illiterates had been 90 per cent, the road network had been very inadequate, agriculture had been rudimentary and industry embryonic. Given that situation, the scope of the achievements embodied in the Constitution could be appreciated and the Committee had reason to be satisfied. Many of its provisions, whether they dealt with the equality of all citizens without discrimination, which was provided for in article 34, the equality of rights guaranteed by the State for men and women in all fields, the right of work, the right to education, which was guaranteed in particular to those who had been deprived of education as a result of their social circumstances, the right to contribute to the organization of political, economic, social and cultural life, the guarantee of personal freedom, the right not to be deprived of one's nationality, freedom of expression, freedom of assembly, the freedom to practise a religion, freedom to receive medical attention, freedom of movement within the country, and freedom to leave and return to the country, could not fail to meet with the Committee's approval. It was true that questions had been asked regarding the legislative measures on which the Constitution was based, but it should be borne in mind that the change of régime and the absence of legislation which had resulted therefrom had posed very difficult problems for the newly-independent State, and Democratic Yemen might be forgiven for inevitable conflicts between its laws.

32. Whatever the way in which the other articles of the Convention were implemented, the requirements of article 6 appeared to be met, at least in criminal matters, by article 7 of the 1976 Penal Code which guaranteed to each citizen the right to have recourse to the judiciary to protect his legitimate rights and interests. Admittedly, the first part of the special section of the code, in particular articles 98 and 99 relating to crimes against peace, humanity and human rights, appeared a little surprising from a European standpoint, but it must be remembered that Democratic Yemen had to deal with a particular form of racism, namely tribalism. Article 159 of the Penal Code, which laid down the penalties applicable to racial contempt, was closer to the customary provisions.

33. Mr. PARTSCH associated himself with the observations made by the preceding speakers concerning the need to take account of the difficulties encountered by a newly independent State in preparing reports, particularly on legal matters. He nevertheless considered that, with due allowance for those unfavourable conditions, the Committee had a duty to draw attention to the gaps it found. Democratic Yemen had acceded to independence in 1967 after five years of revolutionary disturbances, and the Constitution had been applied in 1970, three years after independence by which time a certain degree of stability had been achieved. The second periodic report of Democratic Yemen was an improvement on its first report and in particular provided copious information in the implementation of article 5 of the Convention; but certain legal weaknesses were apparent in the articles of the Constitution. Thus it was stated in article 39 that torture during investigation was prohibited. Was it to be inferred from that wording that torture was authorized in other circumstances? In addition, he could not see why, if the right of self-defence

was guaranteed, the citizen was obliged to resort to the judiciary in order to assert that right, as indicated in article 42. It was apparent from article 43 that no citizen could be deprived of his nationality in the cases prescribed by law, but what those cases were should be made clear. Lastly, under article 46, freedom of religion was protected by the State only according to "observed custom".

34. Turning to the implementation of article 4 of the Convention in the Penal Code of Democratic Yemen, he said that article 98 related more closely to the Convention on the Prevention and Punishment of the Crime of Genocide. Article 99 prompted certain reservations; article 129 went beyond the scope of the Convention, since it related to all criminal acts and not only acts prompted by racial hatred; while article 159 related not to article 4 but to article 2, paragraph 1 (d), of the Convention. Lastly, he did not understand why the transitional provisions embodied in article 131 allowed laws and resolutions which were perhaps no longer necessary to remain in force, and he hoped that the next report of Democratic Yemen would explain why those emergency provisions had been maintained.

35. Mr. ABOU-NASR said that the report now being examined contained a very interesting description of the legal measures adopted in Democratic Yemen. Unlike Mr. Partsch he did not consider that the reference to article 129 of the Penal Code in section II of the report was irrelevant, for, in the definition of war crimes, reference was made to racial discrimination and the crime of apartheid. The references to articles 98, 99 and 159 were also relevant.

36. The report represented a great improvement, but it would be useful if certain points could be clarified. In the first place, the report contained a printing error: the right of every citizen not to be deprived of his nationality except in the cases prescribed by law, mentioned in section I of the report, was guaranteed by article 43 of the Constitution, not by article 34, as was apparent from the text of the Constitution which had been made available to the Committee. It would be interesting to have more precise information about the exceptions prescribed by law. In addition, he would like to know whether the provisions of article 50 concerning freedom of movement within the Republic, freedom to enter and leave the country and the right of immigration, applied both to nationals of Democratic Yemen and to aliens.

37. The opposition of the People's Democratic Republic of Yemen to colonialism, neo-colonialism, racism and apartheid, and the support which it gave to liberation movements, were well known. In conclusion, he would simply express the hope that that country would furnish information on the points mentioned in the course of the discussion.

38. Mr. PARTSCH said he had not wished to imply that the articles of the Penal Code of Democratic Yemen referred to in section II of the report were irrelevant. He had merely noted that article 98 related more particularly to genocide, that article 99 related to a very special case, and that article 129 was so broad in scope as to be difficult to comment on.

39. Mr. BRIN MARTINEZ said that Democratic Yemen provided a good example of the efforts that could be made by a newly independent country which had just freed itself from the imperialist yoke to apply international legal norms in as satisfactory a manner as countries which had long been independent. The second

report by Democratic Yemen filled the gaps in the preceding report: in particular, the information given on the Penal Code promulgated in 1976 showed that the legislation of that country was consistent with its international undertakings.

40. The report stated, at the end of section I, that the practical implementation of the rights guaranteed in the Constitution was realized by the provisions of a series of appropriate legislative and administrative measures: it would be useful if the text of measures of that kind could subsequently be made available to the Committee, in accordance with the assurance which had been given.

41. Mrs. WARZAZI said she supported most of the comments made on the second report of Democratic Yemen, in particular those by Mr. Dechézelles. The very useful information given by Mr. Dechézelles on various countries were of great assistance in making those countries better known, and she wondered whether it might not be possible for the secretariat to enter the information thus furnished by the experts in the Committee on special forms which might, after consultation with the States Parties, be annexed to the documents transmitted to the members of the Committee.

42. In order to respond to the wishes of the Committee, Democratic Yemen had made efforts which had undoubtedly been a strain on its resources, since it did not possess all the necessary means. The Constitution of Democratic Yemen would seem to meet all the requirements of the Convention; she noted in particular that the right of recourse to the judiciary was guaranteed to all citizens, regardless of their means, since the State provided assistance to the needy for that purpose. She agreed with Mr. Bahnev that the Constitution and the Penal Code guaranteed the same rights to all without discrimination as to race or origin. The articles of the special section of the Code which were cited were consistent with the provisions of article 4 of the Convention; the penalties which were prescribed in the event of an infringement of human rights were consistent with the condemnation of colonialism, racism and apartheid expressed by Democratic Yemen in all international bodies.

43. In the next report it might perhaps be possible to complete the information furnished by giving, for example, details of the implementation of article 7 of the Convention or the composition of the population of Democratic Yemen. Generally speaking, however, the second report was very satisfactory.

44. Mr. SAYEGH said that, as on previous occasions, he felt obliged to voice an objection concerning certain requests made by members of the Committee. In the first place, States Parties could say whether they had ratified the International Convention on the Suppression and Punishment of the Crime of Apartheid, but nothing in the Convention empowered the members of the Committee to ask them whether they had done so. In addition, the Committee could only ask whether the rights listed in article 5 of the Convention were guaranteed without distinction based on race, colour, descent, or national or ethnic origin; the Committee must not examine the existence of those rights in general in a particular country, because that would involve it in human rights questions which were not within its competence. Whenever requests of that kind were made, he always felt, whether or not he said so explicitly, that they went beyond the competence of the Committee.

45. Mr. BAHNEV thought that Mr. Sayegh's objection related in particular to a question which he had asked in connexion with article 5 of the Convention; in putting that question, he had sought an assurance that enjoyment of the rights listed in that article was guaranteed on a non-discriminatory basis in Democratic Yemen. Furthermore, there was a well-known understanding in the Committee regarding the interpretation of that article.

46. The CHAIRMAN said that it was useful to repeat occasionally the interpretations given to the articles of the Convention, because although the members of the Committee were acquainted with them, that was not true of all States; a general debate on questions of interpretation should nevertheless be avoided.

47. Mr. BLISHCHENKO said that there was no uniform opinion within the Committee on the obligations of States with regard to the implementation of article 5 of the Convention. The reports also differed on that point. According to one opinion, the application of article 5 must be treated as an obligation, like the application of articles 4, 6 and 7, for example; according to another opinion, the application of article 5 was not obligatory, and a State was free to decide whether or not to grant the rights listed therein and to furnish information on that point. Yet a third opinion was that a State could give information on the application of that article without accepting either of the two preceding opinions. Generally speaking, questions of racial discrimination could not be disassociated from questions of political, civil and other rights. The Committee had to try to determine whether, by its legislation, a State really created conditions which enabled the very possibility of racial discrimination to be eliminated. Under article 3, States Parties were required to condemn the practice of racial segregation in territories under their jurisdiction; it did not seem to be going outside the competence of the Committee to establish that States Parties actually took the measures necessary to fulfil that commitment.

48. Mr. BA-SALEH (Democratic Yemen) said that he was unable to comment immediately on the questions asked by the members of the Committee. In its next report, Democratic Yemen would do its best to answer all those questions.

49. The CHAIRMAN thanked the representative of Democratic Yemen for attending the Committee's meeting and for the information which he had given. He noted that the additional information requested by the members of the Committee would be provided in the third periodic report of Democratic Yemen, which was to be commended for its constructive and positive attitude.

50. Mr. Ba-Saleh withdrew.

(e) THIRD PERIODIC REPORTS OF STATES PARTIES DUE IN 1975

Additional information submitted by Norway (CERD/C/R.78/Add.9)

51. At the invitation of the Chairman, Mr. Hostmark (Norway) took a place at the Committee table.

52. Mr. HOSTMARK (Norway) briefly introduced the addendum to his country's third periodic report (CERD/C/R.78/Add.9). The purpose of the addendum was to reply to questions raised at the Committee's fourteenth session during its consideration of the third periodic report itself (CERD/C/R.78/Add.7). However, the questions asked at that time concerning Gypsies and Lapps would be dealt with in Norway's fourth periodic report. He stressed his country's high regard for the Committee's work and reaffirmed that Norway was resolutely combating racial discrimination, with the full support of the Norwegian people.

53. Mr. VALENCIA RODRIGUEZ said that Norway was to be thanked for providing the addendum in response to requests made by the Committee. The Committee would await the fourth Norwegian periodic report for the replies to the two remaining questions. In general, a frank and open dialogue had been started with Norway and it was to be hoped that it would continue.

54. With regard to the reply given with reference to item (a) (CERD/C/R.78/Add.9, pp. 2-4), it would be interesting to have more details concerning the "objective criteria" on which the authorities would found decisions concerning discrimination, in accordance with the principle of equal treatment under the law.

55. The information given under that question seemed to indicate that the victims of acts of racial discrimination had adequate guarantees of recourse to the courts; it was particularly interesting to read that "anyone who is the victim of racial discrimination is at the same time the victim of a punishable act and he may thus report the matter to the police". The provisions mentioned therefore seemed to be satisfactory from the point of view of the application of article 6 of the Convention.

56. With regard to item (b) (ibid., pp. 4-6), he considered that section 135a of Norway's General Civil Penal Code, the text of which was annexed to the addendum, could satisfactorily ensure the application of article 4 (a) of the Convention. The Penal Code also provided in its section 330 that those who participated in associations inciting to racism should be punished, but no mention was made of explicit provisions prohibiting the existence of such associations or prohibiting incitement to racial discrimination by public institutions, in accordance with article 4 (c) of the Convention; it would be useful if Norway could clarify that point. On the other hand, he noted with interest section 349a of the Penal Code, also reproduced in the annex to the addendum, which enumerated the penalties provided in cases of violation of the rights of persons because of their religion, race, colour or national or ethnic origin. However, in connexion with the right to work, mentioned in article 5 (e) of the Convention, the addendum stated that there were no penal provisions directed against acts of discrimination in the employment of personnel, the existing situation apparently having not made such provisions necessary (ibid., p. 6). He believed that it was better to anticipate

events, without waiting for discriminatory acts actually to be committed. That view was all the more justified by the fact that, under item (c) of the addendum (*ibid.*), it was stated that although there had been no legal proceedings as a result of alleged violations of sections 135a and 349a of the Penal Code up to the end of 1975, there had been two legal actions concerning violations of sections 135a in 1976.

57. Norway should be thanked for the clarifications it had given under item (d) (*ibid.*, pp. 6-7) with regard to its reservation in respect of article 14 of the Convention; by the terms of that reservation, the Committee could not deal with individual petitions which had been dealt with or were sub judice in another international forum.

58. Mr. Hostmark withdrew.

COMMUNICATION BY THE SECRETARY OF THE COMMITTEE CONCERNING THE DEATH OF A MEMBER AND OF TWO FORMER MEMBERS OF THE COMMITTEE

59. Mr. HOUSEMAND (Secretary of the Committee) drew the attention of the Committee to a letter dated 24 March 1977 addressed to the Secretary-General by the Permanent Mission of the Argentine Republic to the United Nations in New York. The letter read as follows:

"I have the honour to write to you in order to inform you of the death of Dr. Enrique Arturo Sampay. Dr. Sampay was elected member of the Committee on the Elimination of Racial Discrimination in January 1976 and was Vice-Chairman of this Committee.

"In accordance with part II, article 8, paragraph 5 (b) of the International Convention on the Elimination of All Forms of Racial Discrimination, the Argentine Government has made arrangements for the appointment of an expert, whose name and address and curriculum vitae will be communicated in due course.

"I request you to be kind enough to bring this information to the knowledge of the members of the Committee."

60. The CHAIRMAN suggested that the Committee should send a telegram of condolence to Mr. Sampay's family and to the Argentine Government. Mr. Sampay had been an eminent scholar and expert. During the short time that he had taken part in the Committee's work, since his state of health had prevented him from attending more than part of the thirteenth session, Mr. Sampay had performed his duties in the manner prescribed in rule 14 of the Committee's provisional rules of procedure - honourably, faithfully, impartially and conscientiously. He would undoubtedly have made a valuable contribution to the Committee's work and his death was a great loss for the Committee.

61. Following statements by Mr. ABOUL-NASR, Mr. SAYEGH, Mr. PARTSCH and Mr. DEVETAK concerning the death of two former members of the Committee, Mr. Peleš and Mr. Dehlavi, the CHAIRMAN paid a tribute to their memory and suggested that letters of condolence should be sent to their families also.

The meeting rose at 6.5 p.m.