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on the Elimination
of all Forms of
Racial Discrimination

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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION
Forty-ninth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION

Concluding observations of the Committee on the
Elimination of Racial Discrimination

Zaire

1. At its 1171st and 1173rd meetings, held on 14 and 15 August 1996 (see CERD/C/SR.1171 and 1173), the Committee on the Elimination of Racial Discrimination considered the third to ninth, as well as the tenth, periodic reports of Zaire (CERD/C/237/Add.2 and CERD/C/278/Add.1) and adopted, at its 1181st meeting, held on 21 August 1996, the following concluding observations.

A. Introduction

2. The Committee welcomes the opportunity to resume the dialogue with Zaire on the basis of its third to ninth and tenth periodic reports, after an interruption of 16 years. However, the Committee regrets that the reports contain no concrete information as regards the practical implementation of the provisions of the Convention, as requested in the general guidelines regarding the form and content of reports to be submitted by the States parties under article 9, paragraph 1, of the Convention.

3. The Committee also welcomes the presence of a representative of the State party, but would have appreciated experts from the capital being present in addition. The commitment that the questions which remained unanswered during the discussion would be the object of written answers from the capital in the near future is welcomed.

4. It is noted that the State party has not made the declaration provided for in article 14 of the Convention. Some members requested the State party to consider the possibility of making such a declaration.

B. Factors and difficulties impeding the implementation of the Convention

5. It is noted that Zaire is experiencing a severe economic crisis, which has led to the general impoverishment of the country and the deterioration of social and economic conditions. Moreover, the ethnic tensions in the Great Lakes region and the very high number of refugees from neighbouring countries who have come to Zaire during the past two years have to be taken into account in assessing the implementation of the Convention by the State party.

C. Positive aspects

6. The transition towards democracy, inaugurated by a decision of the Head of State on 24 April 1990, and the abolition of the one-party system are welcome developments. Note has been taken by the Committee of the timetable set by the authorities after the postponement of the general elections of 9 July 1995, in accordance with which a referendum on the new Constitution would be held in March 1997 and general elections would be held in May 1997.

7. The adoption on 9 April 1994, by a national conference composed of the main organized political forces in the country, of the Transitional Constitutional Act ("Acte constitutional de la transition"), in which a number of fundamental rights are enshrined, as well as the establishment by decree of the National Commission for the Promotion of Human Rights on 8 May 1995, are noted with satisfaction, although more information on the powers and functions of the Commission is needed.

8. The adoption on 28 November 1995, by the Heads of States of the Great Lakes region, of the Cairo Declaration on the Great Lakes region, which condemns the ideology of exclusion which can result in fear, frustration, hatred and tendencies towards extermination and genocide, as well as their commitment to put an end to the activities of the former members of the Rwandan Armed Forces (FAR), who use refugee camps in Zaire as a "base" to conduct raids against civilians in Rwanda, are welcomed. However, more information on the concrete measures taken to implement these declarations is needed.

9. It is noted with appreciation that legislation exists in Zaire to prohibit the promotion of racial discrimination as required by article 4 of the Convention, such as Ordinance-Laws No. 25/131 of 1960 and 66/342 of 1966 and the Decree of 13 June 1960, although it is noted that the provisions of article 4 are much broader than that of the present Zairian legislation, in particular with regard to article 4 (b) and (c).

10. It is also noted with appreciation that a number of the rights enumerated in article 5 of the Convention, namely the right to equal treatment before tribunals, to security of person, to vote and to stand for elections, to

freedom of movement, thought, conscience and religion, and to peaceful assembly and association, as well as certain economic and social rights, are included in the Constitutional Act. The information provided in the report on the legal provisions relating to those rights is welcomed, although it is noted that there is a lack of information regarding practical instances of their implementation.

11. Taking into account the particularly serious situation in Zaire with regard to inter-ethnic, tribal and regional tensions, the Committee welcomes the signature of an agreement between the Zairian authorities and the Office of the High Commissioner for Human Rights to establish a United Nations human rights office in Kinshasa.

D. Principal subjects of concern

12. Grave concern is expressed at allegations of large-scale discrimination against the Pygmies (Batwa) and at reports of violent clashes in Kivu involving the Hunde, the Nyanga and the Nande ethnic groups (considered to be natives of Zaire), and the Banyarwanda and the Banaymulengue ethnic groups (considered to be non-natives of Zaire, although they have lived in the country for generations), causing thousands of deaths. Reports of alleged regional "ethnic cleansing" in Shaba against the Kasai ethnic group, which led to their massive displacement to other parts of the country, and of attacks and widespread discrimination against Rwandan and Burundian refugees, are also a subject of great concern for the Committee.

13. The lack of statistical data on the composition of the population and on the representation of the various communities at all economic, social and political levels and in the public service, including the police and the armed forces, is regretted.

14. It is also regretted that, although the constitutional and legislative provisions existing in Zaire to implement article 2 of the Convention were described in the State party's reports, no information was provided to the Committee on the effective implementation of these provisions by the authorities and on possible cases of discrimination brought before the courts.

15. With regard to article 3 of the Convention, the Committee draws the attention of the State party to its General Recommendation XIX of 1995, which states that although the reference to apartheid may have been directed exclusively to South Africa in the past, article 3 prohibits all forms of racial segregation, whether institutional or non-institutional, in all countries.

16. It is noted with serious concern that, in violation of their obligations under article 5 (b) of the Convention and article 9 of the Constitutional Act, the authorities scarcely intervened to ease the tribal and ethnic conflicts in Shaba and Kivu and to protect the population. Concern is particularly expressed at reports alleging that in Shaba some local officials incited the Shaba population to hatred of the Kasai population. It is, however, duly noted that administrative and judicial measures have been taken by the authorities to punish some of the officials found responsible for such acts.

17. The provisions of Law No. 81-002 of 1981, amending Decree-Law No. 71-020 of 1971, to the effect that Zairian nationality would no longer be granted on a collective basis to the Banyarwanda, but only to those who could prove that their ancestors had lived in Zaire since 1885, are in violation of article 5 (d) (iii) of the Convention and are a major source of ethnic conflict.

18. With regard to the full and equal enjoyment of the right to education and training, as provided for in article 5 (e) and (v) of the Convention, reports indicate that only 2 per cent of the national budget was earmarked for education which affects the life and future of disadvantaged racial and ethnic sectors of the population.

19. The lack of comprehensive information on legal measures taken to fulfil the State party's obligations under article 6 of the Convention and on instances where complaints have been lodged by individuals against acts of racial discrimination and reparation was made to victims of acts of racial discrimination, makes it difficult to assess the effective implementation of the provisions of this article in Zaire.

20. With regard to the implementation of article 7 of the Convention, it is regretted that the information provided on the implementation of article 35 of the Constitutional Act and on the courses on human rights given in schools, universities and training programmes for the armed forces and the security forces did not allow a proper evaluation of the situation in practice.

E. Suggestions and recommendations

21. The Committee recommends the State party to provide in its next report information on the implementation of the various constitutional and legal provisions aimed at eliminating racial discrimination in all its forms, in accordance with article 2 of the Convention, with particular emphasis on the measures taken with regard to the conflicts in Kivu and Shaba and the situation of Rwandan and Burundian refugees.

22. The Committee recommends that the next periodic report include information on the powers, functions and activities of the National Commission for the Promotion of Human Rights, as well as comprehensive statistical data on the demographic composition of the population, as mentioned in paragraph 13 above.

23. The Committee also recommends that information be provided on the legal, administrative and practical measures taken to implement the Cairo Declaration on the Great Lakes region and the commitment undertaken to prevent raids by former members of the FAR into Rwanda from Zaire.

24. Concerning article 4 of the Convention, the Committee reaffirms that the establishment of acts of racial discrimination and incitement to such acts as offences punishable by law in the States parties' legislation is mandatory. In this regard, it draws the attention of the authorities to its General Recommendations VII and XV. The Committee also wishes to be provided with information, including statistics on complaints filed and sentences imposed,

to have an idea of the implementation in practice of the legal provisions prohibiting propaganda of racial discrimination or hatred and organizations which promote and incite racial discrimination.

25. The Committee recommends that further information be provided by the State party with regard to article 5 of the Convention, in particular on measures guaranteeing in practice the effective enjoyment by all persons without discrimination as to race or ethnic origin of the economic, social, cultural, civil and political rights listed in this article, with particular reference to the right to security of person and the right to education and training.

26. The Committee stresses the importance of specific legal provisions providing for effective protection and remedies against acts of racial discrimination and for the right of individuals to seek adequate reparation for any damage suffered as a result of such discrimination, as provided for in article 6 of the Convention.

27. With regard to article 7 of the Convention, the Committee would welcome information on the various programmes described in the report aimed at spreading awareness of human rights among the population, and in particular among law enforcement officials, including members of the armed and security forces. In this regard, the Committee draws the attention of the State party to its General Recommendation XIII.

28. The Committee suggests that the third to ninth and tenth reports of Zaire, as well as the present concluding observations, be widely disseminated among the public, as far as possible in the main languages spoken in the country.

29. The Committee recommends that the State party ratify at its earliest convenience the amendments to article 8, paragraph 6, of the Convention, adopted by the fourteenth meeting of States parties.

30. The Committee recommends that the State party's next periodic report, due on 21 May 1997, be a comprehensive report and that it address all the points raised in these concluding observations.