

SUMMARY RECORD OF THE FORTY-FIRST MEETING

Held on Monday, 12 April 1971, at 3.50 p.m.

Chairman: Mr. DAYAL

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ORGANIZATION OF WORK

The CHAIRMAN suggested that the Committee should devote four days of its session to the consideration of agenda item 3 and four days to item 4, reserving the final meetings for the consideration of items 5 and 6. He also noted that the officers of the Committee thought the working groups established to consider copies of petitions, copies of reports and the other information relating to the implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples under article 15 of the Convention should be reactivated. The working group dealing with the African continent would be strengthened by Mr. Sukati and the working group dealing with the Territories under Portuguese administration by Mr. Resich. The working groups would thus be constituted in the following way:

Pacific and Indian Ocean Region: Mr. Getmanets, Mr. Nasr,
Mr. Valencia Rodriguez;

African continent: Mr. Ingles, Mr. Tarassov, Mr. Haastrup, Mr. Sukati;

Atlantic Ocean, Caribbean, Gibraltar: Mr. Partsch, Mr. Peles, Mr. Ortiz Martin;

Territories under Portuguese administration: Mrs. Owusu-Addo,
Sir Herbert Marchant, Mr. Tomko, Mr. Resich.

Each working group was to draw up a working paper for submission to the Committee as a whole.

The officers of the Committee felt that petitions should be considered at the same time as the reports of the working groups on the region to which they related.

Mr. TARASSOV asked the representative of the Secretary-General whether the Secretariat could facilitate the task of the working groups by supplying them with a reference document indicating those passages in the relevant documents which particularly warranted the Committee's attention.

Mr. SCHREIBER (Director, Division of Human Rights) said that the Secretariat would do its best to assist the working groups by preparing the reference document requested.

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

The CHAIRMAN said that the Committee had before it twenty-one new reports. He suggested that they should be considered in the order in which they had been received.

Report of Brazil (CERD/C/R.3/Add.11)

Mr. HAASTRUP recalled that at its previous session the Committee had noted that most of the reports received were incomplete and that consequently States Parties should be requested to supply additional information on the administrative measures taken to combat racial discrimination. The Brazilian report described legislative measures guaranteeing the equality of citizens without distinction as to race or colour, quoting inter alia the Brazilian Constitution and even the penal law, which made punishable acts motivated by racial or colour prejudice. From those texts it could be presumed that racial discrimination did not exist in Brazil and it would appear that in the case of Brazil there was no need to request additional information regarding administrative measures.

Mr. VALENCIA RODRIGUEZ noted that the Brazilian report was especially important because it concerned a multiracial country. Article 153 of the Constitution set forth the principle of the equality of races. Article 165 applied that principle to the rights of workers. It would be interesting to know whether there were other legislative measures guaranteeing racial equality in other fields. Actually, the report provided a satisfactory answer to that question by citing Act No. 1390, but it did not state whether it had given rise to judicial recourse. If so, the report should have indicated the result. Also, Brazil might be asked for information on the administrative measures which had been taken.

He considered that, despite the few shortcomings which he had pointed out, the Brazilian report was a most satisfactory document and that the Committee should take note of it with particular interest. Brazil was a country where the races lived in harmony and where the mixing of races had produced a new type of man.

At the preceding session Mr. Partsch had expressed the view that Brazil had supplied an inadequate report. If it was thought useful to ask Brazil for additional information, that would have to be done in accordance with the directives established by the Committee in document CERD/C/R.12.

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Mrs. OWUSU-ADDO said that she thought the report submitted by Brazil was quite satisfactory and that the Committee should accept it as it was.

Mr. HAASTRUP pointed out that according to paragraph 6 of the report, the existing legislation in Brazil continued to be of a preventive character and the State had not had to resort to the penalties applicable under the law. It would appear from that statement that the principle of racial equality was respected. There was accordingly no need to request further information from Brazil.

Mr. NASR asked whether the Committee had to take a formal decision on the Brazilian report.

The CHAIRMAN said that for the moment the Committee was engaged in a preliminary consideration of the reports, on which members were invited to give their opinions without the Committee having to take a formal decision.

Report of the USSR (CERD/C/R.3/Add.12)

Mr. PARTSCH asked for clarification of the meaning of the word "nationality" in article 123 of the USSR Constitution, which was mentioned in the report.

Mr. TARASSOV said that the USSR was a multinational State and that its Constitution guaranteed the equality of rights of all Soviet citizens, regardless of their nationality. The persons referred to in article 123 of the Constitution were thus the citizens of the USSR; the rights of aliens were governed by other legislative provisions.

Mr. VALENCIA RODRIGUEZ observed that the USSR had always been an ardent defender of racial equality. In its report the Soviet Government, basing itself on principles which it had been proclaiming ever since 1917, officially declared that discrimination did not exist in the USSR. With regard to legislative measures guaranteeing equality before the law, it would be useful to know whether any actions had been brought under those provisions and what the outcome had been. Such information would be valuable when making comparative studies.

The report stated that the USSR had not needed to take additional measures in order to implement the Convention. It would be desirable to know whether the USSR expected to take action with a view to promoting harmony between the different

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(Mr. Valencia Rodriguez)

ethnic groups and to making the aims of the Convention better known. In conclusion, he stated that in his opinion the USSR report met the requirements of the Convention.

Mr. HAASTRUP said that he considered the USSR report satisfactory. He noted in particular that the Act of 1958 which was mentioned in the report had anticipated the provisions of article 4 of the Convention with which it was in conformity. Those parts of the report in which the USSR recorded its efforts to implement the various decisions of the United Nations with regard to the fight against racial discrimination were of great interest. The attitude of the USSR in that respect was entirely praiseworthy.

Mr. RESICH recalled that the USSR had actively supported all the documents drawn up in the United Nations to combat racial discrimination. That was particularly true of the Convention itself. The October Revolution had given a new dimension to the protection of human rights by extending it to economic, social and cultural rights.

Mr. NASR felt that the USSR had produced a complete and satisfactory report. He particularly welcomed the fact that propaganda which had the effect of encouraging discrimination was punishable under the law. Many States Members of the United Nations refused to take measures of that kind, on the pretext that they would endanger freedom of speech.

Mrs. OWUSU-ADDO said that the USSR should be thanked for its efforts to apply the decisions of the United Nations against apartheid and racial discrimination.

Mr. TARASSOV said that since the submission of the report on 17 March 1970 in accordance with article 9 of the Convention, few important additional legislative measures had been taken, but that the Soviet Government had been striving in practice to encourage friendship among all races and nationalities in the USSR.

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(Mr. Tarassov)

He could not list all the topics studied by the twenty-fourth Congress of the Communist Party which had recently been concluded, but he wished to draw the Committee's attention to the passage in the report of the Congress which dealt with the policy applied by the USSR with regard to the nationalities living together in its territory. The aim of that policy was to implement Lenin's ideas on friendship among nationalities. Great strides had been made in the development of all the sister Republics of the USSR in a spirit of friendship among peoples. While taking account of national characteristics and cultures, the Party would continue to promote an international outlook among the workers, combat nationalism and encourage profound respect among all nations and peoples.

In the area of foreign policy, the USSR had always striven to apply the decisions of the United Nations aimed at eliminating the vestiges of the colonial system. In particular, it had always opposed spartheid.

Mr. INGLES said he would like to make some general observations which would apply to all reports submitted to the Committee. He felt that all States Parties should be thanked for having submitted their reports. He drew attention to the fact that article 2, paragraph 2, of the Convention mentioned "certain racial groups" and "special and concrete measures" for their protection. Neither of the reports so far considered had mentioned specific measures to protect minorities. In his opinion, all reports should indicate any measures taken in accordance with article 2, paragraph 2, of the Convention. Another of the guidelines communicated to States (CERD/C/R.12) concerned the provision of information on the practice of the courts relating to cases of racial discrimination. The USSR report contained no information on the practice of the Soviet courts. It would also have been useful if reports indicated the existence of legislation in accordance with article 6 of the Convention, which prescribed not only that "States Parties shall assure to everyone within their jurisdiction effective protection and remedies, through the competent national tribunals and other State institutions", but also "the right to seek from such tribunals just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination".

In giving those examples, he wished to demonstrate that the Committee needed comprehensive information in order to be able to perform its functions, and that it could not do so unless the reports were in conformity with the guidelines which it had drawn up for States and provided the necessary information.

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Mr. HAASTRUP drew attention to the wording of certain of the provisions in the Convention. For example, article 1, paragraph 4, mentioned "such protection as may be necessary", and the Committee had to decide whether reports were complete in that respect. The Committee should consider the situation in the country concerned before it decided whether a particular provision of the Convention was applicable.

Mr. TARASSOV said that he would like to provide some clarification regarding national and cultural minorities. There were more than 100 nationalities in the USSR; some of them were very sizeable and others less so. If it was the Committee's wish that the report by each State should contain information on national or racial subdivisions, that information could be provided in the future but it had not been requested hitherto.

With regard to special measures to protect minorities, the whole policy of the USSR for more than fifty years, unlike the practice in Tsarist Russia, had been one of encouragement and assistance given by the more advanced peoples to the less advanced. A great many practical measures had been taken to help minorities: financial aid had been given, teachers had been provided, special alphabets had been devised for peoples with no written language, and leaders, chosen for their ability to represent the population, had been trained. Those were only a few examples, and whole volumes would be needed to describe in its entirety the policy followed for the past half century.

There were inevitably shortcomings in any report. For example, the report of the Philippines gave no information on the distribution of minorities among its population, nor did it indicate any special measures taken on behalf of those minorities. The Committee must therefore decide whether the reports as they stood were adequate. However, it was always possible to discover further shortcomings and if the desired additional information then had to be requested, the consideration of the reports would never be concluded.

The CHAIRMAN said that if there were no other comments on the report submitted by the Union of Soviet Socialist Republics he would take it that the Committee had concluded its examination.

He suggested that the meeting might be adjourned to enable the members of the Committee to study the texts and discuss among themselves the activities of the working groups.

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Mr. HAASTRUP proposed that the remaining time should be used and that the latter point should be considered in the meeting.

Mr. NASR felt that the Committee should provide guidelines for the working groups so that they could perform their functions effectively and would know whether they were expected to prepare summaries or comments.

Mr. SUKATTI noted that the Secretariat was responsible for giving the working groups guidance to help them in expressing their opinions on the texts transmitted to them.

Mr. PARTSCH felt that the Committee's task was not so much to summarize the various reports of which it received copies as to pick out those questions specifically pertaining to racial discrimination. The Committee should then, on the basis of that material, express its opinion on those questions after considering them from the point of view of the Convention.

Mr. INGLES thought that only the relevant passages of the reports should be summarized. He regretted that the other competent organs of the United Nations had not seen fit to indicate those passages.

He was glad that the Secretariat had agreed to prepare a kind of index and he wondered whether it should not also make a summary of those passages it had thus identified as relevant. The Committee could then make much more rapid progress in its work and carry out its proper task, which was to express opinions and make recommendations.

Mr. HAASTRUP supported Mr. Ingles' proposal. The summaries could greatly facilitate the task of the working groups.

Differences of opinion concerning the interpretation of article 15, paragraph 2 (b) had already arisen at the previous session. The Committee could perhaps settle the question at the current meeting and decide which organ was competent to declare whether or not a measure was directly related to the principles and objectives of the Convention.

Mr. PARTSCH said the Committee should take the time factor into account and that it would be very difficult for the Secretariat to prepare the summaries within a few days.

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(Mr. Partsch)

All the information in the reports was useful for obtaining a general picture, but the Committee should choose a number of questions on which it felt that its legal opinion could be useful to the political bodies which had sent those reports.

Mr. NASR drew attention to article 15, paragraph 4, which allowed the Committee to request the Secretary-General to submit all information relevant to the objectives of the Convention. If the Committee made such a request to the Secretariat, on the basis of that provision, he would like to know how long the work would take.

Mr. SCHREIBER (Director, Division of Human Rights) thought that the organs in question might perhaps have indicated the passages in the reports which would be most interesting to the Committee. They had not done so, probably because their work was not organized in such a way as to comply with a request of that kind. Perhaps, in the future, when they considered reports dealing with racial discrimination, they might agree to indicate more precisely those passages on which they would welcome the Committee's help. Also, the secretariats of those bodies might perhaps play a more active part in that respect. As had been said, the members of the Committee would perhaps not be satisfied with extracts or summaries of those documents. They might need the whole report to get a general picture of the situation in any given territory.

The Secretariat could assist the Committee in its task and was quite prepared to do so. In particular, it could draw the attention of the Committee and of its working groups, on request, to the passages which seemed relevant in the various reports. However, it could not guarantee that the list would be complete, as there would be cases where questions of racial discrimination would not be mentioned directly and an evaluation might be needed. It would be for the working group or the Committee to decide.

Also, regarding article 15, paragraph 3, the Secretariat would be quite prepared to help the Committee to draw up its reports to the General Assembly.

Article 15, paragraph 4, raised a separate question; the Secretary-General already provided the Committee, on request, with a great deal of information relating to the objectives of the Convention: members of the Committee, during and between sessions, had received detailed documentation on apartheid and other

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(Mr. Schreiber)

relevant matters. But the Committee still had to choose, from all the documents, those it wished to use or which it might find useful when considering reports and petitions. That choice could obviously not be made by the Secretariat, which could not take over the role assigned to the Committee in the Convention.

Mr. PARTSCH felt that, since the Committee itself must seek material of interest in the reports, it would be useful if the Secretariat would make available documents on the matters deemed relevant by the Committee. For instance, the Committee of Twenty-Four had had very interesting discussions, and the pertinent summary records could be useful to the Committee.

Mr. TARASSOV amplified the exact meaning of the proposal he had made earlier in the meeting. He had not asked the Secretariat to provide the Committee with ready-made conclusions, but had simply requested an indication of those passages which might interest the Committee when it considered the reports. The list would not be restrictive and the members of the Committee could later choose the material they thought most relevant. The working groups would of course draw their own conclusions. The Secretariat could thus help the Committee without becoming overburdened.

The CHAIRMAN suggested that a representative of the Secretary-General should help each working group to carry out its task, on the understanding that he would not be called upon to voice an opinion; it would be the Committee's responsibility to express opinions and, where necessary, make recommendations.

The meeting rose at 6.5 p.m.

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