

SUMMARY RECORD OF THE 411TH MEETING
held on Wednesday, 28 March 1979, at 10.30 a.m.
Chairman: Mr. LAMPTEY
The meeting was called to order at 10.40 a.m.

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

Fourth periodic report of Mongolia (CERD/C/34)

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

2. Mr. DASHENYAM (Mongolia) said that in submitting its fourth periodic report (CERD/C/34) his Government had taken into account comments made by the Committee on its previous report. Mongolia continued to observe the provisions of the Convention, avoiding all forms of discrimination and guaranteeing full political, economic and social rights to all its citizens. It supported international action taken in the context of the Decade for Action to Combat Racism and Racial Discrimination, and consequently had no diplomatic or other relations with racist régimes in southern Africa and supported the peoples of Namibia and Zimbabwe in their just struggle for independence.

3. As was indicated in the report, no cases of violations of the laws prohibiting racial discrimination had come before the courts in Mongolia during the period under review. In 1977, his Government had submitted to the United Nations a report on the implementation of articles 6, 7 and 9 of the International Covenant on Economic, Social and Cultural Rights. His country's laws prohibited all forms of exploitation and discrimination, and guaranteed to all citizens equality of rights. According to article 72 of the Mongolian Constitution, supervision of the observance of the law was the responsibility of the Procurator.

4. The press in Mongolia paid particular attention to the world-wide fight against racism and apartheid and reported cases of infringements of human rights wherever they occurred. The harmful nature of racial discrimination was stressed at all levels of education.

5. Mr. VALENCIA RODRIGUEZ, noting with interest the statement in the report that not a single case of racial discrimination had been brought before the courts in Mongolia during the period concerned, said it was heartening to see that the provisions of the Convention were being implemented in that country and that its Government was continuing energetically to combat racism and racial discrimination.

6. The report stated that Mongolian citizens enjoyed all the rights provided for in article 5 of the Convention, but did not refer to a specific law guaranteeing those rights. If there was such a law, he would be grateful for an opportunity of studying its provisions. Similarly, he would like to see the actual terms of article 83 of the Mongolian Constitution, mentioned in paragraph 2 of the report.

7. It was stated in the report that under article 53 of Mongolia's Code of Criminal Procedure incitement to racial hatred and restriction of rights on racial grounds were punishable offences. That provision conformed with article 4(a) of

the Convention, but there did not appear to be any provision which corresponded to article 4(b). In that connexion likewise, he thought it would be useful if the text of the article 53 in question could be made available to the Committee, as well as the text of the legislative provisions governing the status of aliens, referred to in the opening passage of paragraph 3 of the report.

8. The report mentioned bilateral agreements concluded by Mongolia with other countries which provided for legal aid in civil, family and criminal matters to citizens of those countries residing in Mongolia. He inquired whether that meant that different treatment would be accorded to citizens of other countries with which no such agreements had been concluded, in cases where legal aid was needed. Referring to paragraph 4 of the report, he said he would like to see the text of article 72 of Mongolia's Constitution in order to determine how far its terms satisfied the requirements of article 6 of the Convention.

9. Mr. PARTSCH appreciated the spirit of co-operation the Mongolian representative had shown in introducing his report. He agreed with Mr. Valencia Rodríguez that it would be helpful to know what were the terms of the legislative provisions enacted in Mongolia to implement article 4(b) of the Convention, and also to have available the text of article 53 of that country's Code of Criminal Procedure. He would also appreciate information on the status and treatment of ethnic minority groups, notably the Kazakhs.

10. The report (para.4) referred to the role of the Procurator in supervising the application of the law in accordance with article 72 of the Constitution. He inquired whether the Procurator was obliged to institute proceedings in cases where private citizens were seeking redress for damage suffered as a result of racial discrimination, or whether he had some discretionary power to decline to take action. It was important to note that only if remedies were open under the law to aggrieved persons would the provisions of article 6 of the Convention be fulfilled.

11. Mr. BRIN MARTINEZ felt that - as the preceding speakers had implied - the information given in the report on the way in which Mongolia was implementing articles 4, 5 and 7 of the Convention was somewhat too general; in future, specific reference should be made to the relevant legislation. He shared Mr. Partsch's concern regarding the existence of bilateral agreements giving special legal assistance to certain aliens. If the basic rights of all aliens resident in Mongolia were guaranteed under the law, why was it necessary to provide for special treatment for those from certain countries?

12. Mr. GOUNDIAM agreed that the report should have given fuller information, in particular regarding the terms and operation of article 53 of Mongolia's Code of Criminal Procedure; the specific penalties prescribed in that article should have been mentioned. He added that there seemed to be a certain contradiction between the third and fourth subparagraphs of paragraph 3 of the report; whereas the former stated that all aliens enjoyed equality of rights, the latter implied a difference of treatment between different categories of aliens, which did not appear justified and which called for explanation. Referring to the passage concerning article 72 of Mongolia's Constitution (para.4 of the report), he asked what, if any, rules and principles governed the Procurator's power to institute criminal proceedings. In addition, he asked for more specific information about the way in which, in keeping with article 7 of the Convention, measures to combat racial discrimination were made part of the training and education process at all levels in Mongolia, as indicated in the last paragraph of the report.

13. Mr. DECHEZELLES, referring to a comment made by the previous speaker, said he saw no contradiction between the contents of the third and fourth subparagraphs of paragraph 3 of the report. He wished to raise two main points. First of all, he believed the Committee should be supplied with the text of article 53 of Mongolia's Code of Criminal Procedure so that it could consider it in the light of article 4 of the Convention. Secondly, he gathered that the Procurator of the Republic of Mongolia was responsible for deciding whether or not legal proceedings should be instituted in certain cases. Should he decide not to do so, was it possible for the aggrieved party to bring the matter to court? Referring, lastly, to the statement in paragraph 2 of the report that no cases involving racial discrimination had arisen in the judicial practice of Mongolia during the period covered by the report, he said he would be grateful if the representative of Mongolia could enlarge on that statement.

14. Mr. NASINOVSKY said that, having read Mongolia's current report and its three preceding reports, he was convinced that the provisions of the Convention concerning the eradication of racism were being fully implemented in that country. The Mongolian Constitution guaranteed equal rights to all aliens. During the past decade Mongolia had evolved from a feudal to a progressive socialist country and the provisions of its Constitution were fully in keeping with the provisions of the Convention. The paragraph of the report dealing with the status of aliens in Mongolia was perhaps of special interest to the Committee. He explained that the agreement concluded between Mongolia and the Union of Soviet Socialist Republics dealt exclusively with various forms of assistance to be provided to aliens and contained no discriminatory provision, no provision to improve the lot of some or worsen that of others. Such agreements appeared to be necessary in cases where large numbers of the nationals of one country were resident in another country.

15. He congratulated the representative of Mongolia on the report and requested him to convey the Committee's appreciation of its attitude to and observance of the Convention to his Government.

16. Mr. DEVETAK, recalling that the previous report from Mongolia had indicated that a considerable number of Kazakhs were living in Mongolia and referring to article 83 of the Mongolian Constitution, requested the representative of Mongolia to supply the Committee with details on the way in which his country assisted the Kazakh population in developing its culture and maintaining its mother tongue. He found it praiseworthy that a small country which had fought for its independence for centuries should now be making such efforts to assist minority groups living in its territory. He would also be interested in learning, since Kazakhs also lived in the Union of Soviet Socialist Republics, how Mongolia and the Union of Soviet Socialist Republics co-operated with a view to safeguarding the cultural identity of the Kazakh people.

17. Mr. NABAVI welcomed the additional information provided in the report concerning the application of article 5 of the Convention in Mongolia. At its previous session, the Committee members had asked for the text of article 53 of Mongolia's Code of Criminal Procedure as well as for data concerning the demographic breakdown of the population. He very much hoped that the Government of Mongolia would make that information available in its next report, for without it the Committee would hardly be able to consider the application in Mongolia of article 7 of the Convention.

18. Mr. DASHENYAM (Mongolia), speaking at the invitation of the Chairman, said he would do his best to reply to some of the questions raised during the debate. Some speakers had mentioned the protection guaranteed by legislation to aliens in Mongolian territory. That question was linked with another. Bilateral agreements had been entered into between his country and some other countries to provide for legal assistance to aliens on the basis of reciprocity. That did not imply that the persons concerned enjoyed any special privileges or immunities. It had been found necessary to enter into such agreements with States with which his country maintained close relations and with which there were exchanges of workers and students. Similar agreements might be signed with other countries should the need arise.

19. Referring to the functions of the Procurator in Mongolia, he said that the Procurator exercised supervision over the strict observance of the law and, inter alia, over the observance of the provisions of the Convention in his country. He was also responsible for protecting the rights of all workers. No legal proceedings could be instituted without his agreement. It had been stated at the previous meeting, in another context, that public authorities did not always act in keeping with the policy of their Government. In Mongolia it was the Procurator's task to ensure that all laws were observed.

20. Mongolia was divided into 18 major administrative regions, one of which was the Kazakh region. In that region, the Kazakhs had their own schools, were taught in their own language and enjoyed the same rights as all other citizens of Mongolia. In the Union of Soviet Socialist Republics the Kazakhs had their own Republic. The Kazakhstan SSR and Mongolia maintained co-operative relations with regard to matters affecting the Kazakh people. Many persons of Kazakh origin held high office in Mongolia. It was inconceivable that any discrimination should be practised against Kazakhs or any other minority groups, for that would be contrary to the social structure of Mongolia. However, he believed that the Committee should be provided with details of the population breakdown and would request his Government to bear that point in mind when preparing its next report.

21. Referring to article 4(b) of the Convention, he said there were no specific laws in Mongolia concerning propaganda inciting to racial discrimination for no such propaganda existed, but all racial discrimination was prohibited and punishable.

22. He added that he would communicate the comments made by Committee members to his Government, which would take them into account in the preparation of its next report.

23. Mr. Dashenayam withdrew.

Second periodic report of Mexico (CERD/C/16/Add.1)

24. At the invitation of the Chairman, Mrs. López-Ortega (Mexico) took a place at the Committee table.

25. Mrs. LOPEZ-ORTEGA (Mexico), introducing the report (CERD/C/16/Add.1), said that in preparing the report her Government had taken into account the comments made by the Committee on its previous report. It had endeavoured to supply full details of the measures taken to give effect in Mexico to the provisions of the Convention and had included a population breakdown and data concerning the

assistance provided to the indigenous peoples of Mexico. Her Government would be ready to supply any additional information which the Committee might require.

26. Mr. VALENCIA RODRIGUEZ said that the report was very detailed and comprehensive. He welcomed the statement in the opening paragraph of the report that all the provisions of the Convention had become part of the law of Mexico, and considered it could be said that racial discrimination would be inconsistent with the traditions of the people of Mexico. He believed that the provisions made in the Federal District Penal Code which prescribed penalties for violations of human rights would cover all cases of racial discrimination, and asked if any case falling under article 364, section II, of that Code had ever been interpreted as a case involving racial discrimination.

27. Referring to paragraph 8 of Part One of the report concerning the right of peaceful assembly he said it would be useful for the Committee to be provided with the texts of article 9 of the Mexican Constitution and article 164 of the Penal Code so that they might be considered in the light of article 4(b) of the Convention.

28. He welcomed the exhaustive details given on the application of article 5 of the Convention, and particularly the attention paid to the rights of the indigenous people and the care taken in attending to their social needs. It was commendable that Mexico had set up bilingual schools and bicultural education.

29. Referring to paragraph 53 of Part Two of the report, he welcomed the legislative measures in force and also the frank statement concerning the de facto position regarding the employment of indigenous persons. He had also been interested to learn from paragraphs 35 to 39 of Part Two of the position of indigenous persons regarding housing and the various possibilities open to them of acquiring ownership. He asked if any incompatibility had been noted between communal and private ownership of housing (paras.35-39).

30. He noted from paragraph 3 of Part One of the report that all persons, even minors, had the right to institute proceedings for amparo. Presumably, therefore, article 17 of the Constitution might be invoked in the event of cases of racial discrimination; he would be grateful for confirmation of that point. The details provided concerning the indigenous population were extremely detailed and valuable, and the population breakdown was probably the first of its kind submitted to the Committee. It would be useful if future reports could give data concerning other population groups, for example, immigrants and half-breeds. The information provided on the historical background showed that the Government was well aware of past problems concerning indigenous groups and that it had made sustained efforts to improve the conditions and standard of living of the indigenous population, ever since the National Institute for Indigenous Affairs had been established in 1948. He welcomed the information in the report on the application of article 7 of the Convention and the action taken to foster a spirit of brotherhood and harmony among ethnic groups. He hoped that further information on that point would be made available in the next report.

31. Referring to Part One, paragraph 6, of the report he welcomed the action taken by the Government of Mexico in implementation of United Nations decisions regarding the policy to be adopted with respect to racist régimes. He believed that Mexico was doing all in its power to abide by the provisions of the Convention at the national and international levels.

32. Mr. NETTEL noted that the second Mexican report provided wide-ranging information on the situation of the indigenous populations, although it was not easy reading for anyone unfamiliar with Mexican law.

33. In paragraph 2 of Part One of the report, with reference to article 5 of the Convention, it was stated that every person enjoyed the guarantees granted by the Constitution. However, since those guarantees were not spelled out, it was difficult to form an opinion. It should also be noted that guarantees were not the same thing as rights. Generally speaking, the existence of legal norms could not be regarded as demonstrating that racial discrimination did not, in practice, exist. Furthermore, in connexion with the penalties specified under article 364, section II, of the Federal District Penal Code, the Committee could have no notion of the scope of the protection afforded to individuals without knowing exactly what rights and guarantees were established under the Constitution.

34. With regard to the obligations imposed under article 6 of the Convention, the report (CERD/C/16/Add.1) cited articles 16 and 17 of the Mexican Constitution (Part One, para.3, of the report). However, those two articles provided no remedy for individuals whose rights were infringed. Moreover, amparo proceedings, whose purpose was to settle "disputes" - which seemed a peculiar term in that context - could be instituted only with respect to acts by the authorities. He would like to know what remedy existed against violations committed by individuals.

35. The report stated (Part One, para.7) that Mexico's obligations under article 4(a) of the Convention were met by article 63 of the Federal Radio and Television Law. It should be noted in that respect that article 4(a) applied to all forms of dissemination of racialist ideas and incitement to racial discrimination, not just to radio and television broadcasts. Moreover, article 9 of the Constitution, which was quoted (Part One, para.8 of the report) in connexion with article 4(b) of the Convention, did not contain the kind of positive legislation which the Committee considered to be necessary.

36. Mr. VIDELA ESCALADA congratulated the Government of Mexico on its report, which clearly demonstrated that there was no racial discrimination in that country. The Committee had been given ample information on the demographic composition of Mexico and on the effective measures being taken to help the indigenous and least favoured sections of the population to achieve a higher level of educational and cultural development. It was clear that a considerable effort was being made to promote the respect of human rights and to protect the cultural heritage of minorities.

37. He would be interested to learn of any cases involving racial discrimination that might have been brought under the amparo procedure. With regard to article 4 of the Convention, he felt sure that those sections of the Mexican Civil Code which dealt with the establishment of legal entities clearly indicated that any organization which promoted racial discrimination was unlawful. As for incitement to racial discrimination, it seemed that the Mexican authorities would have to adopt specific penal provisions for that purpose.

38. Mr. PARTSCH pointed out that Part One of the report said little about measures taken to implement article 5 of the Convention, but he assumed that the subject was covered in greater detail in the parts of the report relating to the indigenous populations. Any measures taken should, of course, apply equally to all sections of the population.

39. He had been particularly impressed by the account of work of the National Institute for Indigenous Affairs and could only deplore the fact that its activities were limited by lack of resources and of international support. Perhaps it might be useful if the Committee were to place on record its belief that the Institute deserved increased assistance and encouragement. It deployed its activities not only from a central office, but also from branch offices, and was committed to a policy of ethnic pluralism. He particularly hoped that ways could be found of increasing the number of scholarships available to children for bilingual education.

40. He asked whether, in practice, illiterate members of Mexico's indigenous population were allowed to exercise their right to vote.

41. Mr. DAYAL, after analysing the form of the report, said it was important to consider very carefully the statements contained in Part One. He agreed that it would have been easier to assess the report if relevant articles of the Constitution had been quoted in full. In paragraph 2, for example, there was no indication of the specific rights guaranteed to individuals under the Constitution.

42. The second report purported to give fuller information on the questions that had been raised during the discussion of the initial one. However, two questions remained unanswered: first, did the Constitution explicitly ban racial discrimination and were sanctions provided? and second, in connexion with article 29 of the Constitution, under what circumstances could the rights of citizens be suspended?

43. Referring to the report's description of amparo proceedings, he thought it commendable that the citizen should have the right to complain against ill-treatment on racial grounds. The right to free telegraphic services for that purpose was an important provision, and the severe punishment for any denial of that right showed the seriousness attached to it by the Mexican authorities. He wondered whether amparo proceedings could be compared with writ petitions filed in High Courts under the Anglo-Saxon legal system.

44. In connexion with the measures taken in Mexico to implement article 4(a) of the Convention, he agreed with the point made by Mr. Nettel. The Committee had always taken the view that article 4 was mandatory on States parties to the Convention; accordingly, he would like more information on the extent to which article 164 of the Mexican Constitution complied with the requirements of article 4(b). As the report itself stated in its opening paragraph, Mexico's accession to the Convention had given it the status of Supreme Law. He therefore asked for an assurance that the establishment of a racialist organization was illegal and punishable by law.

45. He had been struck by Mr. Valencia Rodriguez's remarks on the status of indigenous populations and trusted that every effort was being made to bridge the gap between the de jure and de facto situations.

46. Mr. BRIN MARTINEZ pointed out that the report before the Committee was only the second of its kind and that the Mexican authorities had made a great effort to provide the requisite information. A careful reading showed clearly that Mexico had the legislative provisions necessary to ensure non-discrimination throughout its territory. In particular, article 364, section II, of the Federal District Penal Code provided penalties for anyone who violated the rights and

guarantees established by the General Constitution. Some of the difficulties experienced by certain members of the Committee in grasping the import of the provisions of Mexican law were no doubt due to the fact that they were more familiar with different legal systems.

47. The requirements of article 6 of the Convention were adequately covered by article 17 of the Mexican Constitution, while amparo proceedings provided the individual with very extensive protection against racial discrimination. He thought Mexico was to be congratulated on its Law of Amparo, which even offered citizens the right to free telegraphic communications.

48. With regard to the implementation of article 2 of the Convention in Mexico, he noted from paragraph 4 of Part One of the report that Mexican officials, upon assuming their posts, were required to swear that they would respect the Fundamental Political Charter and the laws deriving from it.

49. Mexico's position with regard to racial segregation and apartheid was well known; it had taken a firm stand at the International Atomic Energy Agency and in sport. Moreover, it did not maintain relations with any of the racist régimes of southern Africa.

50. With regard to the application of article 4 of the Convention, he agreed that certain shortcomings existed which he felt sure the Mexican Government would take steps to overcome at the earliest opportunity. In general, he felt that Mexico deserved to be congratulated on the great progress it had made in guaranteeing the equality of its indigenous and non-indigenous populations.

The meeting rose at 1 p.m.