SUMMARY RECORD OF THE 443rd MEETING
Held on Monday, 6 August 1979, at 10.50 a.m.

Chairman: Mr. LAMPTEY

In the absence of the Chairman, Mr. Nabavi, Vice-Chairman, took the Chair.

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

Fourth periodic report of Denmark (CERD/C/48/Add.2) (concluded)

1. Mr. VIDELA ESCALADA said that he approved of the methodology applied in Denmark's fourth periodic report. It was stated in the third paragraph of section VI that, except where provided for by bilateral agreement with the country concerned, aliens were generally not entitled to national, invalidity and widow's pensions. Under article 1, paragraph 1, of the Convention, the term "racial discrimination" meant any distinction, exclusion, restriction or preference based, inter alia, on national origin. Alien residents should receive benefits on the same basis, whether or not there were bilateral agreements to that effect. The Danish Government, which had such an impressive record in the struggle against racial discrimination, should rethink its position on that question.

2. He welcomed the fact that special instruction was to a wide extent given in the mother tongue of non-Danish-speaking children, and requested more information concerning the fulfilment of Denmark's obligations under article 7 of the Convention.

3. Mr. DAYAL, noting that section IV of the report gave information on the application of the terms of article 4 (b) of the Convention in Denmark, inquired whether an association whose activities were subject to the provisions of section 266 of the Penal Code or the Racial Discrimination Act would automatically be dissolved or whether a specific procedure was required for its dissolution. Section 132a of the Penal Code provided that any person who took part in the continued activities of an association after it had been prohibited or dissolved was liable to simple detention or imprisonment: was the financing of such associations subject to the same penalties? The report stated that the provisions of section 132a did not automatically apply to the leader of such an association. Yet it was reasonable to assume that the very fact of leadership of a prohibited or dissolved association was itself unlawful, and he was curious to know why the leading spirit of such an association should not be automatically liable to the penalties in question. He also wished to know who could initiate proceedings for the prosecution and dissolution of such an association, whether the Public Prosecutor, the Ombudsman or a private party.

4. With regard to section V, he requested information on the terms of reference and results of the referendum held in Greenland in January 1979 on the question of local autonomy.

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(Mr. Dayal)

5. As to section VII, he noted with satisfaction that the principal tool employed in combating prejudices leading to racial discrimination was the dissemination of information about other countries, civilizations and peoples, and that all ethnic minorities in Denmark were given equal access to education free of charge.

6. Mr. SVIRIDOV said that the report reflected the Danish Government's efforts to implement the Convention, co-operate with the Committee and reply to most of the points raised in connexion with the third periodic report. It failed, however, to answer the question concerning the attitude of Denmark towards the racist régimes in southern Africa and did not state whether steps were being taken by Denmark to break off relations with those régimes. That was a vitally important question related to an acute international problem, namely, the completion of the liberation of southern Africa from colonialism, racism and apartheid. Therefore, an answer to that question should be given.

7. Another question was whether in its domestic legislation Denmark had fully complied with its obligations under article 4 (b) of the Convention. According to the report, an association whose activities were subject to the provisions of section 266 of the Penal Code or the Racial Discrimination Act must be considered unlawful, but could be dissolved only if the activities formed a normal and regular part of its work. Thus, the dissolution of such organizations appeared to be optional, which was at variance with the terms of article 4 (b) of the Convention.

8. Section V of the report referred to the system of local autonomy for Greenland patterned on the system for the Faroe Islands. He asked whether Denmark considered that the granting of local autonomy to Greenland covered all its obligations under article 2, paragraph 2, of the Convention. He inquired as to the level of economic development of the Faroe Islands and Greenland as compared with the rest of the territory of Denmark and asked whether any steps were being taken to ensure that they attained equal levels of development. That question was of interest in view both of Denmark's obligations under article 2, paragraph 2, of the Convention and of existing practice in that regard, as, for example, in the USSR. It was well known that the Soviet Government consistently pursued a policy designed to equalize the levels of economic development in the various Union republics, and to that end special provision had been made to step up the rates of growth of the economies of the republics concerned. That enabled citizens of the USSR of different races and nationalities to enjoy genuine equality of rights in accordance with the Constitution of the USSR. For that reason, he wished to know what was the situation in that regard in Denmark.

9. Mr. GOUNDIAM, referring to the case mentioned in the first part of section I of the report, asked what was the hierarchical relationship between the Ombudsman and the Public Prosecutor, whether the latter was obliged to prosecute if the Ombudsman so ordered and whether the opinion of the Public Prosecutor was binding on the Ombudsman.

10. Turning to section II, he inquired whether under the Marketing Act it was an offence to refuse to sell, a refusal which could be based on racial grounds.

(Mr. Goundiam)

11. In section IV, subsection (b), of the report it was stated that rules could be laid down for the dissolution of associations formed for unlawful purposes, but that the Constitution did not define what purposes were unlawful and what the legal effects of such unlawfulness would be. He wished to know whether the legislature and the law-enforcement authorities had made any determination in that respect.

12. In conclusion, he inquired about the results of the referendum held in Greenland on the question of local autonomy.

13. Mr. DEVETAK commended the Danish Government for its efforts to implement the Convention at the national and international levels. He was concerned, however, that the fact that aliens were generally not entitled to national, invalidity and widow's pensions, except where provided for by bilateral agreement with the country concerned (sect. VI), could lead to discrimination.

14. He welcomed the measures taken by the Danish Government in respect of the teaching of non-Danish-speaking children, which were designed to maintain and develop the children's knowledge of their mother tongues and of the conditions prevailing in their countries of origin. It was stated in section VII of the report that in combating prejudices leading to racial discrimination the principal tool employed was the dissemination of information about other countries, civilizations and peoples. He requested more specific details about the efforts to disseminate such information and to support cultural or other associations of non-Danish-speaking youths. It was clear that the Government was aware of the need to ensure that children did not lose contact with their own countries and to facilitate their possible return home. He asked whether there were any programmes in the economic field to facilitate the return of migrants to their countries of origin.

15. Mr. BRIN MARTINEZ, referring to the case described in section I, subsection (a), of the report, asked whether the guest workers in question had had to move to more expensive housing and how the latter compared with the flats they had formerly occupied. Implementation of the Marketing Act cited in section II of the report would help to prevent the exploitation of marginal groups and ethnic minorities and contribute to the further social and economic development of Danish society. More information should be provided concerning the motives of the Danish authorities in the case of the marketing of a liquorice coin under the description of "nigger money".

16. With respect to the impact on domestic law of the Convention, dealt with in section III of the report, it was stated that in the event of ambiguity the domestic rules should be interpreted in accordance with the State's international obligations. The Danish Government should circulate to members of the Committee copies of the first section of the memorandum concerning Denmark's membership in the European Economic Community, which might give further information on the interpretation of domestic legislation and international treaties.

17. The programme for migrant workers was commendable. Apparently, however, Danish legislation did not yet fully comply with the provisions of article 4 (b) of the Convention. It was unclear whether associations whose activities were

(Mr. Brin Martinez)

subject to the provisions of section 266 of the Penal Code or the Racial Discrimination Act would automatically and necessarily be dissolved.

18. Mr. NETTEL observed that there was a growing tendency in the Committee to focus on the question of migrant workers. That very important question was dealt with in such bodies as the Sub-Commission on Prevention of Discrimination and Protection of Minorities and in ILO, as well as in bilateral negotiations. It seemed that whenever there was nothing else to criticize in a report, members seized upon the issue of migrant workers. In that connexion, it should be borne in mind that article 1, paragraph 2, of the Convention permitted States parties to apply distinctions between citizens and non-citizens. If that provision was kept in mind, members would not burden the Committee with matters that were outside the scope of its mandate.

19. Mr. HELSKOV (Denmark) said that he would transmit to his Government the requests of members for more details concerning court cases relating to violations of the Racial Discrimination Act.

20. With regard to the Marketing Act, he said that, since the Act related to what might be called "borderline" cases of racial discrimination, it provided for intervention by the Consumers' Ombudsman before a matter was brought to the courts. In the two cases which had involved violations of the Act, the enterprises concerned had altered their marketing methods as a result of the Ombudsman's intervention. In response to the request of members, the full text of the Marketing Act would be provided in the next report.

21. He agreed with those members who had observed that most of the information provided under section III on the impact of the Convention on domestic law had been drawn from the country's legal literature, rather than court judgements. The reason for that was that few court judgements had been handed down in the matter. In any event, many judges contributed to the country's legal literature.

22. With regard to Denmark's membership in the European Economic Community, the comments in the report concerning the rule of interpretation and the rule of presumption applied to all conventions ratified by Denmark.

23. As to article 4 (b), the main thrust of the relevant articles of the Constitution was to prohibit the Government from making prior authorization a condition for the establishment of an association. An association whose activities were in contravention of the Penal Code or the Racial Discrimination Act was unlawful. It was the duty of the Danish authorities to ensure compliance with Danish law in that regard.

24. As to whether the provision of financial assistance to an association that was prohibited was unlawful, he said that any type of participation in such associations fell within the scope of the Penal Code and was punishable, as was leadership in such associations, which by necessity implied active involvement.

25. One member had asked whether the Minister of the Interior or the Ombudsman was empowered to prosecute violations of the Marketing Act. It was the

(Mr. Helskov, Denmark)

responsibility of the Ombudsman to prosecute violators, and there was no reason to believe that the Minister of the Interior could prevent him from doing so. The Ombudsman's power derived from the fact that he was appointed by Parliament; if he was not satisfied with the handling of a particular case, he could ask Parliament to change the laws or the Government, if necessary.

26. With regard to section VI of the report, he would seek more detailed information regarding the bilateral agreements which had been entered into by the Danish Government. He was certain, however, that agreements had been concluded with the major countries of origin of the migrant workers in Denmark.

27. Replying to a question asked by Mr. Partsch, he said that an invalidity pension in Denmark was awarded to eligible workers for life, whereas benefits in respect of industrial injuries provided for one-time compensation.

28. As to the question of Greenland, on 17 January 1979 a referendum on local autonomy had been held, in which 70.1 per cent of the voters had voted in favour of the proposed scheme for local autonomy and 25.8 per cent had voted against it. Voter turnout had been 63.3 per cent of eligible voters. Accordingly, on 1 May 1979 the local autonomy system had entered into force. The full text of Act No. 577 providing for the local autonomy of Greenland had not been submitted with the report because the Government wished to await the results of the referendum. The arrangement for local autonomy in Greenland was patterned on that introduced in the Faroe Islands, which had worked to the satisfaction of all for 31 years. The Government provided massive economic assistance to Greenland, but the climatic and geographical conditions of the area were such that its economy was barely viable.

29. His Government would provide further information, as requested, concerning the application of article 7 of the Convention. In addition to measures in the educational field, the Government carried on important cultural and information activities aimed at combating racial prejudices. In that endeavour, the national television and radio networks were very active, and the Danish International Development Agency (DANIDA) was also making an active contribution in promoting the aims of the Convention.

30. As to article 3 of the Convention, the Danish Government had clearly stated its strong opposition to apartheid in various international forums.

31. Mr. DEVETAK said he wished to respond to the statement made earlier by Mr. Nettel.

32. The CHAIRMAN said that the Committee had completed ins consideration of the Danish report. As Mr. Nettel had made his statement in connexion with that report, it would be inappropriate to allow Mr. Devetak to make a statement at the current stage. However, Mr. Devetak might take up the issue raised by Mr. Nettle when the Committee was discussing another report.

33. Mr. GOUNDIAM, supported by Mr. BRIN MARTINEZ, said that the question on which Mr. Devetak wished to speak was an important one and that, while it might be discussed in some other connexion, it was imperative for the Committee to give some consideration to it.

34. Mr. SVIRIDOV said that it would be fully in accordance with the rules of procedure to allow someone to respond to the comments made by Mr. Nettel.

35. The CHAIRMAN said that the Committee had a very heavy agenda and appealed to Mr. Devetak to revert to the matter mentioned by Mr. Nettel in connexion with another report.

36. Mr. PARTSCH observed that some of the reports submitted to the Committee did not contain any information and failed to reply to questions asked by members at previous sessions. It was desirable in such cases for the Chairman to screen the periodic reports on the agenda of a session and suggest that such documents be deferred to subsequent sessions. Such a procedure would lighten the Committee's agenda and improve its work.

37. Mr. DEVETAK said that he felt himself to be the victim of discrimination in not being allowed the opportunity to respond to the statement of another member. However, he would agree to raise the matter in connexion with another report. The question of migrant workers was of general importance, and consideration might be given to the establishment of a sub-committee to deal with it.

38. Mr. Helskov (Denmark) withdrew.

Second periodic report of Australia (CERD/C/16/Add.4)

39. At the invitation of the Chairman, Mr. Kelly (Australia) took a place at the Committee table.

40. Mr. KELLY (Australia) said that, while his country's initial report had in large part been descriptive of federal legislation, policies and programmes designed to implement Australia's obligations under the Convention, its second report provided a wider view of the range of remedial processes, both legislative and administrative, established throughout Australia to achieve the aims of the Convention. The report drew attention to legislation proscribing discrimination on the ground of race, and highlighted the wide range of policies and programmes designed to promote equality and put an end to all forms of racial discrimination.

41. Full compliance with the aims and objectives of the Convention required concerted action at all levels of government, and, to that end, his Government had actively encouraged the State Governments and other government bodies to pursue policies within their areas of competence aimed at ensuring equality of opportunity for all Australians.

42. In preparing the report the Government had endeavoured to respond to the questions asked by members when examining the initial report. To the extent that the issues raised by the Committee formed part of the review of activities in Australia since 1976, they were dealt with in the body of the second report; other issues were dealt with in attachment "A" to the report.

(Mr. Kelly, Australia)

43. Paragraphs 53 to 59 of the report dealt with the application of article 4 of the Convention. While some members had expressed doubts in 1977 concerning the extent to which Australia had applied those provisions, his Government attached importance to the creation of conditions that would bring about the demise of racist propaganda and organizations as effectively and as quickly as possible. It firmly believed that in the current social, cultural and political circumstances, the most effective way to do so was to promote free and open public debate on those issues, rather than to limit freedom of association or any other civil liberties.

44. His Government acknowledged that the country was at a critical stage in the development of a united, cohesive, multicultural nation. That was one of the findings of the Galbally Report on post-arrival programmes and services to migrants, copies of which had been provided to the Committee as attachment "B" to the report under discussion. In recognizing the multicultural nature of the country and the need to maintain equal opportunity within a society of diverse cultural backgrounds, the Government had also acknowledged the need for wider understanding of the implications of multiculturalism.

45. The Government also firmly believed that, when circumstances so warranted, special measures should be adopted to ensure the adequate development and protection of disadvantaged minority groups in order to guarantee their full and equal enjoyment of human rights and fundamental freedoms. A major purpose of the Galbally programme was to overcome disadvantages experienced by newcomers, particularly those whose knowledge of the English language was inadequate, and to help them speedily to become self-reliant. As a result of the Galbally Report, the Government had embarked on a three-year programme, entailing the expenditure of $A 50 million, to upgrade services to migrants. That was in addition to its ongoing programmes in that field.

46. The Government was planning to establish an institute of multicultural affairs, which would conduct and commission research on multiculturalism and related issues, and make available the expertise it gained to the federal, State and local governments and educational institutions in Australia. The proposed institute would also draw on overseas experience and make its research available to overseas institutions.

47. The Government was expanding the machinery for consultations with ethnic communities and community groups on the delivery of services and programmes to meet the needs of migrants. At the same time, government officials at all levels were increasing their direct contact with ethnic communities and individuals. That trend was being facilitated by an increase in bilingual staff and through greater capacity for interpreting and translating.

48. With regard to the Aboriginals, the broad approach of the Government was to ensure equal access for Aboriginals to government services, and to adopt positive measures to help them overcome the disadvantage they had suffered. In addition, the Government had sought to discharge its obligation deriving from the past dispossession and dispersal of the Aboriginal people by providing certain special benefits not available to other citizens, for example, land rights in the Northern Territory.

(Mr. Kelly, Australia)

49. The Government had recently reaffirmed its policy of Aboriginal self-management, which was the key to its policy on Aboriginals. The Government recognized that, if self-management was to be effective, Aboriginals had to play a leading role in their affairs, through, inter alia, the setting of long-term goals and objectives in such areas as education, housing, health, employment and legal aid. They should also have a leading role in setting priorities for expenditure on Aboriginal affairs within the context of over-all budget allocations, and in formulating and evaluating programmes for action.

50. It was the Government's intention to establish an Aboriginal Development Agency, run and staffed by Aboriginals, to buy land, make loans for enterprises, housing and personal purposes, and provide grants for Aboriginal enterprises. The Agency was expected to be operational by the second half of 1980.

51. The Government was taking steps to establish broader machinery for the co-ordinated implementation in Australia of internationally recognized human rights and fundamental freedoms. Commonwealth and State authorities responsible for human rights had been consulting on how better to co-ordinate human rights policies. The Government had also announced its intention to move as soon as possible to ratify the International Covenant on Civil and Political Rights. Legislation would be introduced in 1979 to establish a Human Rights Commission.

52. The various policies and programmes reviewed in the second report were designed to ensure that Australia maintained its good record of protection of the country's inhabitants against discrimination and observance and promotion of fundamental human rights and freedoms. His Government would, for its part, continue to assist the efforts of the international community in putting an end to all forms of racism and racial discrimination.

53. Mr. VALENCIA RODRIGUEZ said that Australia's second periodic report, like its initial one, was a model of objectivity and responsibility.

54. With regard to the condemnation of racial discrimination and apartheid, he commended the measures adopted by the Australian Government as described in paragraphs 1 to 9 of the report. He welcomed the stand taken by Australia in international organizations, in particular in the United Nations, with regard to the export of arms to South Africa and sports contacts with that country, and its contributions to the various United Nations funds to assist the victims of racial discrimination and apartheid. He noted that the Government had not extended any official support for commercial relations with South Africa, and asked what Australia's policy was with regard to diplomatic and consular relations with that country.

55. As to the obligations of States parties under article 5 of the Convention, the report (para. 10) confirmed that the Racial Discrimination Act included express references to all the rights laid down in article 5. The effective enjoyment of those rights would be enhanced by the establishment of the joint Commonwealth-State human rights machinery as envisaged in paragraph 11 of the report.

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(Mr. Valencia Rodriguez)

56. He would welcome further information concerning the application of the Public Service Ordinance 1976 in the Northern Territory, referred to in paragraph 12. Paragraph 13 referred to the provisions of legislation in the State of South Australia, and additional explanations on that matter were provided in the last paragraph of attachment "A". He urged the Government to consider those provisions in the light of its obligations under the Convention.

57. It was his understanding that the exemptions provided for under the New South Wales Anti-Discrimination Act 1977, as referred to in paragraph 16 of the report, related to employment in such fields as the performing arts, where for reasons of authenticity a person of a particular race was required.

58. With regard to measures ensuring effective remedies in accordance with article 6 of the Convention, he welcomed the Racial Discrimination Act 1975 referred to in paragraph 17. The fact that between July 1976 and June 1978 some 1,291 complaints had been lodged under the Act was proof not so much that serious problems of racial discrimination existed but rather that the judicial machinery for redress was functioning satisfactorily.

59. With regard to the emphasis placed on conciliation in Australia, he noted that conciliation procedures often helped to alleviate racial tensions and solve disputes amicably. He agreed that, in some cases, recourse to the courts might be counter-productive. With regard to paragraph 19, he asked whether it was because of the express wish of the complainants that the seven cases in which the Commissioner for Community Relations had issued a certificate authorizing the complainants to institute civil proceedings had not been brought before the courts. In that connexion, he urged the Government to give consideration to the views concerning the powers of the Commissioner for Community Relations set out in paragraph 169 of the Committee's report to the thirty-second session of the General Assembly (A/32/18).

60. The Employment Discrimination Committees referred to in paragraph 20 of the report were also based on the notions of conciliation and persuasion. The case described in paragraph 21 was an example of how the system was functioning. The Government should continue to provide information concerning the activities of the Committees. In particular, he requested further information concerning the 296 complaints lodged with the Committees involving discrimination on the grounds of race, colour, national extraction, nationality, descent or national or ethnic origin (para. 23).

61. He noted with satisfaction the information contained in paragraphs 36 to 49 of the report, which demonstrated the constant concern of the authorities to repeal laws that might entail discrimination on the basis of race, colour or ethnic origin.

62. As to the reference to Aboriginal reserves in paragraph 43, he welcomed the information provided in paragraph 9 of attachment "A", which showed that the reserves were not institutions for the segregation of the Aboriginals, but rather land set aside for their benefit. The concept seemed, therefore, to be based on a desire to protect the Aboriginal population.

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(Mr. Valencia Rodriguez)

63. Paragraph 94 of the report concerned the referral by the Commonwealth Attorney-General to the Law Reform Commission of the question whether it would be desirable to apply Aboriginal customary law to Aboriginals. He asked what the Commission's final decision on that subject had been.

64. The Australian Government should be encouraged to maintain in full force, and to expand if possible, the programmes it had adopted in conformity with article 7 of the Convention, as described in paragraphs 109 to 124 of the report.

65. Lastly, he voiced his appreciation for the further information and replies to members' questions contained in attachment "A" of the report.

66. Mr. NETTEL, agreeing that the Australian report was praiseworthy, said that his views on Australia's observance of the provisions of article 6 of the Convention were much the same as those he had expressed when the Committee had discussed the most recent United Kingdom report: any individual who believed himself to be the victim of discrimination should have the right of direct access to the courts, without having to go through the medium of any government-appointed official. Article 6 of the Convention required States parties to assure effective protection and remedies through the competent national tribunals and - not "or" - other State institutions. Applications should not have to be filtered through any other agency. The report made it clear, however, that under the Racial Discrimination Act 1975 and similar legislation in South Australia and New South Wales, a claimant must have the consent of a government official before he could take his case to the courts. He could not dispute the claim in attachment "A", paragraph 4, that "direct access to courts, especially criminal courts, could be counter-productive", but the Australian Government should have considered that point before assuming binding obligations by acceding to the Convention.

67. In his view, the "with due regard" clause in the introductory part of article 4 of the Convention was not broad enough in scope to allow States to deviate from the obligations they assumed under article 4 (b) (paras. 53-57 of the report).

68. Mr. PARTSCH said that, while the Commissioner for Community Relations (para. 18), judged on his ability to secure compensation for the victims of racial discrimination, might not be regarded as another "State institution" within the meaning of article 6 of the Convention, the Anti-Discrimination Board referred to in paragraph 28 could be so regarded. He saw nothing wrong, in a country which attached such importance to conciliation and mediation as did Australia, in the introduction of a "filter" between would-be claimants and the courts. His only query concerned what happened in cases where the claimant sought damages in excess of the $A 20,000 which the Board could award (para. 28).

69. As to the Australian Government's apparent failure to live up to its obligations under article 4 (a) and (b) of the Convention, as described by Mr. Nettel, he drew attention to the fact that any act of violence or incitement to violence would be dealt with under Australian criminal law. Moreover, the Australian Government had agreed to keep the question of article 4 (a) of the Convention under review in order to see whether specific legislation in that area

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(Mr. Partsch)

was desirable (para. 57). The Committee was therefore concerned only with Australia's failure to prohibit acts of discrimination which did not directly disturb the public order or contain any incitement to violence. It would be difficult to say whether the "due regard" clause entitled the Government to abstain from passing legislation to cover cases where no incitement to violence was involved.

70. In conclusion, he asked for more information on the current status of the proposed legislation establishing a human rights commission and inquired what the percentage of the children of Aboriginals attending primary school in Australia.

71. Mr. TENEKIDES welcomed the fact that the Australian Government considered that its policies should be kept under constant review, and that the Parliament was constantly kept aware of the problems of racial discrimination. He approved also of the Government's attitude that racial discrimination should be combated within the larger framework of the protection of human rights, and commended its policy towards the racist régimes of southern Africa and the victims of racial discrimination.

72. He had heard that the Australian Government was considering the novel idea of allowing non-naturalized residents in Australia to take part in elections and to hold office; he asked for further details of that proposition, which was one that should be emulated by all States parties to the Convention.

73. Paragraph 16 of the report referred to cases where "for reasons of authenticity" employment was reserved for persons of a particular race. He asked for more information on that notion, and examples of what was meant.

74. He shared Mr. Nettel's concern that a person claiming to be a victim of discrimination should have direct access to the courts. He asked whether it was possible that the Commissioner for Community Relations might for any reason withhold the certificate referred to in paragraph 19.

75. He inquired whether any statistics were available concerning the immigrant population in Australia, and whether the customs and usages of the Aboriginal population were taken into account in the application of Australian law to Aboriginals.

76. Mr. DAYAL said that he had learned from the report of the Commissioner for Community Relations, which was one of the documents furnished by the Government of Australia as indicated in the foot-note on the cover page of Australia's second periodic report, that the general impact of the Racial Discrimination Act 1975 had been positive. Nevertheless, he wondered whether there was ever any conflict between federal legislation and the legislation concerning racial discrimination which, as the report documented, had been adopted by some of the federated States of Australia.

77. While he agreed that all persons should have the right of recourse to the courts in cases of discrimination, he pointed out that, according to the report

(Mr. Dayal)

of the Commissioner, it was difficult for Aboriginals, either because of their cultural backwardness or their natural timidity or because they had been subjected to intimidation, to invoke even the various administrative laws which were supposed to apply to them. The Commissioner suggested that he should be given the power to bring before the courts cases that had come to his attention if the processes of conciliation and mediation had failed. The extension of that power would greatly enhance the effectiveness of the Commissioner in combating racial discrimination.

78. It was gratifying to note that immigration into Australia was permitted without regard for race or national origin and that there was no longer a "white Australia" policy. He also welcomed the fact that minorities were represented in the membership of the Ethnic Affairs Council, which should ensure that their views were made known and taken into account.

79. When considering the first report of Australia, the Committee had taken the view that the requirements of article 4 of the Convention were generally covered but that the legislation did not go far enough, and had expressed the hope that, in reviewing its legislation, the Australian Government would consider enacting legislation along the lines suggested by article 4. He considered it a retrograde step that the Government should now consider that the desirability of enacting legislation under article 4 was doubtful. He hoped that the continuing review would lead to a favourable decision in that regard.

80. The Galbally Report (attachment "B") and the statement by the Australian Prime Minister left no doubt that Australia had taken important steps to incorporate immigrants into the fabric of Australian society.

81. Both the information provided to the Committee and Australia's attitude towards racial discrimination merited high commendation.

The meeting rose at 1.05 p.m.