

666th meeting

Thursday, 15 March 1984,
at 3.15 p.m.

Chairman: Mr. VALENCIA RODRÍGUEZ

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION (agenda item 7) (continued)

Sixth periodic report of Denmark (CERD/C/106/Add.9) (concluded)

1. Mr. GHONEIM, after commenting that the report demonstrated the Government's real concern to implement the Convention, confessed that he, too, had difficulty reconciling paragraphs 6 and 34. Whereas it was stated, in the former, that persons were not registered according to ethnic origin, the existence of ethnic minorities was recognized in the latter where it was claimed that all ethnic minorities in Denmark had the same access as Danish citizens to free education. How had the Government determined that to be the case if the population was not registered according to ethnic origin?
2. After praising the Government for according the right to vote in local elections to immigrants who had been residents in Denmark for a three-year period, he drew attention to paragraph 11 which referred to a ban on immigration of citizens of third countries. What was meant by the words "third countries"?
3. According to paragraph 17, information on the statutory amendments required for compliance with the provisions of article 3 - which concerned apartheid - were to be found in the first report. In fact, he had looked at that report and had found that it merely stated that the Government had not considered it necessary to take any special measures to give effect to article 3. Yet it was generally known that Denmark and other neighbouring countries had been taking some measures on the subject. Accordingly, he joined his colleagues in requesting further details concerning those measures.
4. Mr. YUTZIS said that he interpreted the first sentence of paragraph 15 as meaning that an immigrant should not be compelled to integrate in his new surroundings. However, given the difficulty that people generally had integrating in a new environment, it might be better to suggest that the responsibility for integration should be shared between immigrant and the recipient country.

/...

(Mr. Yutzis)

5. Referring to paragraph 20, which dealt with provisions for the dissolution of associations practising, or seeking to attain their objectives by violence, he noted that it was possible to use subtle means to promote racial discrimination. Would they be classified as violence for the purposes of the application of the law?

At the invitation of the Chairman, Mr. Hoppe (Denmark) took a seat at the Committee table.

6. Mr. HOPPE (Denmark), referring to the questions which had been raised concerning the relationship of Greenland to the rest of Denmark and to the European Economic Community (EEC), said that until 1953 Greenland had been a colony. The Constitution of 1953 had made Greenland an integral part of the realm having equal status with other parts. The people of Greenland were Danish and had the same rights and obligations as other Danish citizens. The Home Rule Act of 1978 had preserved the unity of the realm; in other words, competence in such spheres as foreign affairs, defence and currency policy remained vested in the national authorities in Copenhagen.

7. As to why the Faroe Islands had not joined the EEC at the time Denmark had and why Greenland was withdrawing from the Community, he pointed out that when Denmark had entered the EEC the Faroe Islands had enjoyed home rule for over 20 years and the authorities there had stated that they did not wish to join the EEC. Greenland, on the other hand, had been an integral part of the realm and had therefore automatically become a member. Following adoption of the Home Rule Act it had decided to hold a referendum to determine whether it should remain in the Community. That referendum had been held two years previously and a majority of the population had voted in favour of withdrawal. The treaty of withdrawal had only just been signed.

8. Greenland had two official languages, the indigenous language and Danish. The national authorities of Denmark continued to have responsibility for the implementation of the Convention in Greenland.

9. Concerning the question raised in connection with section 18 of the Home Rule Act providing for the establishment of a board for the purpose of settling any disputes that might arise between the national and the home rule authorities, he said that if the four political appointees on the board agreed then the matter was settled. However, if they did not then the question would be decided by the three judges on the board.

/...

(Mr. Hoppe, Denmark)

10. The Constitution did not provide for the possibility that Greenland might acquire independence. The questions relating to natural resources, educational level and economic development would be answered in the next report.
11. Regarding the question whether the residency requirement for foreign workers referred to residency in the realm or in the community in which elections were to take place he said that it referred to residency in the realm. Naturally in order to vote a person had to be registered on the list of those eligible to vote and in order to do that they had to be resident in the locality in which the vote was to take place. It was unlikely that a large number of immigrants would concentrate in one community for the purpose of influencing the voting. In any event they would have to obtain residency in that community. He would be happy to ask the Government to provide details, in its next report, regarding how many immigrants had voted in the 1981 local elections and how many had been elected.
12. Referring to the ban on immigration mentioned in paragraph 11, he said that the term "third countries" did not refer to any particular country or group of countries. It had been used to cover all countries other than the members of the European Economic Community - whose nationals were protected by the Treaty of Rome which guaranteed free movement of labour among member countries - and the Nordic countries, with whom Denmark had signed a passport union. It did not mean that no immigrants from other countries were allowed. However, most of the immigrants from other countries were joining their families. They could work provided that they obtained a work permit. The ban did not extend to refugees. There was a separate refugee policy and details of that policy and of how the Government dealt with applications for refugee status would be provided in the next report. Persons facing deportation did have recourse to the Minister of Justice and often to the courts. The Danish Government used the term "immigrant" rather than "foreign worker" because the term included all non-citizens resident in the country regardless of country of origin. A detailed breakdown of immigrants was given in paragraph 7 of the report.
13. Immigrants did have the option of becoming Danish citizens subject to certain requirements, including seven years' continuous residence in Denmark, knowledge of the Danish language and approval by a parliamentary committee. A detailed answer to the question whether the Danish Government had any long-term plans to deal with the integration of immigrants into society would be provided in the next report.

/...

(Mr. Hoppe, Denmark)

14. As stated in the report, citizens were not registered according to ethnic origin, but immigrants were. Replying to the question about the statement in paragraph 34 that all ethnic minorities had the same access to free education as Danish citizens, he said that "ethnic minorities" in that context denoted all those who were not Danish nationals - in other words, those who had immigrated.

15. The statement in paragraph 40 that within the purview of the Ministry for Cultural Affairs, racial discrimination seemed to be non-existent should be interpreted as meaning that in so far as the authorities knew, there was no racial discrimination. One member, referring to paragraphs 20 to 24 relating to provisions for the dissolution of organizations practising racial discrimination, had asked whether the Prosecution had demanded the dissolution of any organizations, whether the Police had investigated any associations and whether any individual had requested such investigations. He would refer those questions to his Government. Similarly, the request for information regarding implementation of article 3, which related to apartheid, would be answered in the forthcoming report. However, his Government's policy on apartheid was well known. Denmark had long been in the forefront of the struggle to eliminate apartheid. At the thirty-eighth session of the General Assembly, it had indicated that it favoured the adoption of mandatory economic sanctions against apartheid.

16. With regard to the question about the statement in paragraph 15 that immigration was primarily regarded as the individual immigrant's own responsibility, he said that if individual immigrants had special problems, the authorities took special measures to facilitate their integration. With regard to the question what constituted violence, raised in connection with paragraph 20 of the report, he said that as paragraph 29 made clear, any form of racial discrimination, including verbal, was outlawed. The actions of an organization which practised verbal discrimination were considered a form of violence and could be prosecuted under the law.

17. All the Committee's questions would be conveyed to his Government.

18. The CHAIRMAN said that the report indicated that Denmark's legislation was generally in conformity with the provisions of the Convention. In the discussion, members of the Committee had touched on the implementation of articles 3, 4, 6 and 7, the meaning of "violence", Denmark's condemnation of apartheid, the situation of foreign workers, Government policy on immigrants and their integration

/...

(The Chairman)

into the country, the procedure for acquiring Danish citizenship, the policy on asylum and refugees, the discriminatory practices described under article 5, the functions of the Ombudsman, the dissolution of associations, the language situation, the country's demographic composition, its relations with South Africa, the situation in Greenland and the latter's participation in the European Economic Community.

Mr. Hoppe (Denmark) withdrew.

Initial report of Papua New Guinea (CERD/C/101/Add.4)

At the invitation of the Chairman, Mr. Lohia (Papua New Guinea) took a place at the Committee table.

19. Mr. LOHIA (Papua New Guinea) said that his country was inhabited by over 3 million people speaking more than 750 languages and dialects, many of which were mutually incomprehensible. Other ethnic groups in the population included Europeans, Asians and Africans. Foreigners were employed in both the public and private sectors and provided much needed skills and expertise.

20. Racial discrimination had virtually disappeared since independence. However, the Government was vigilant in preventing racial discrimination. The Constitution incorporated the basic principles of the Convention and guaranteed other basic human rights as could be seen from paragraphs 6, 11 and 12 of the report. The Discriminatory Practices Act prohibited and penalized discriminatory practices and made incitement to racial hatred punishable by fines and terms of imprisonment. The Constitution established the "Ombudsman Commission" which had jurisdiction to investigate complaints of discrimination by the public authorities or private companies. If such complaints were found to be valid, the Commission could assist in bringing the matter before a court for remedial action.

21. His Government had not taken any specific legislative measures to stop any persons or organizations from sponsoring, defending or supporting racial discrimination, because it was not aware that such practices existed in the country. It maintained no links of any kind with South Africa and, in 1977, had passed customs regulations which made it an offence to import goods from or export them to South Africa. It had also made a declaration supporting the Gleneagles Agreement which discouraged sporting contacts by members of the Commonwealth with South Africa.

/...

22. Mr. DE PIÉROLA Y BALTA said that the Convention's purpose was not only to eliminate racial discrimination, but also to prevent the emergence of that abominable social ill. No country could assume that racial discrimination would never occur within its territory. The Government might consider adopting preventive measures if it had not already done so. It would be useful to know the country's demographic composition and to receive fuller information about the nationality of those who were described very generally in the report as Asians and Africans.

23. Mr. YUTZIS requested more information about the country's demographic composition and details regarding the ethnic composition of the work force, the numbers of the different groups in schools and universities and in Government posts.

24. Paragraphs 16 and 25 of the report claimed that there was no need to adopt measures under article 4 of the Convention. Laws, however existed not only to stop a particular activity but also to prevent a situation from developing. Perhaps the Government might wish to reconsider its position.

25. Mr. LAMPTEY referring to the statement in paragraph 3 that, with the advent of independence, discrimination on grounds of race had virtually disappeared, said that the implication was that the mere fact of accession to independence had eliminated racial discrimination. He would welcome elucidation of that point.

26. The distinction drawn in the Constitution between rights guaranteed to all persons (para. 11) and additional rights guaranteed only to citizens (para. 12) would seem to be in conflict with article 5 and he would welcome clarification; surely non-citizens who were legally resident in Papua New Guinea should have the same rights as citizens in respect of protection against, for example, the unjust loss of property.

27. With reference to the statement in paragraph 52 that no addition to or variation of existing laws was necessary to give effect to article 4, he said that the Committee had always taken the position that there was no conflict between the due process clause and State assurances that racial discrimination did not exist. Several Governments had entered the same reservation as Papua New Guinea to article 4 but a number of them had later come to accept the position taken by the Committee. He hoped that the Government would look at the situation once again with a view to adopting appropriate legislation.

28. Mr. PARTSCH emphasized that implementation of article 4 was very important in so far as it established an obligation to enact legislation. It could not be argued that, because a reservation had been entered no legislation was necessary. He could not find in the report any suggestion that incitement to racial discrimination was penalized and appealed to the Government to reconsider the matter.

29. Mr. CREMONA said that with reference to the reservation entered by the reporting State, he would like to know why the Government saw the provisions of sections 45, 46 and 47 of the Constitution as being in conflict with article 4.

30. According to paragraph 22 of the report, the law regarding adultery had been considered by the Law Reform Commission of Papua New Guinea to be discriminatory and in need of reform while according to paragraph 30 the courts had expressed similar concern regarding the application of the law to Papua New Guineans as compared to foreigners residing in the country. He would like to know whether the Government had made any declaration of intent regarding the possible amendment of that law.

31. Noting the statement in paragraph 79 that education was not compulsory he asked whether it was free.

32. Finally, he pointed out that the statement by the Prime Minister quoted in paragraph 32 conflicted with the claim made in paragraph 37 that the Government had no links with the Republic of South Africa. Had the Prime Minister made the statement before the adoption of the Customs Law prohibiting trade with South Africa?

33. Mr. KARASIMEONOV said that since there was no racial discrimination in the country he could not understand why the Government had entered a reservation to article 4. It should consider withdrawing its reservation.

34. He commended the record of Papua New Guinea in the struggle against South Africa; the country had prohibited economic relations with South Africa at some economic sacrifice to itself.

35. Mr. STARUSHENKO asked what was the official or State language and what was the attitude of the Government towards the language of the former colonial Power. What plans had been made for the use of other national languages?

36. The report claimed that, following independence, racial discrimination had virtually disappeared. Discrimination could be based not only on race but on

/...

(Mr. Starushenko)

ethnic background. The many ethnic groups in the country would shortly begin rapid development and history had shown that one or other ethnic group would at some point demand that greater attention should be paid to its needs. He had therefore been interested to read in paragraph 113 that the Government believed that by encouraging people to take part in cultural activities the people would become more aware of each other's culture and thereby create a harmonious society.

37. There were two ways of solving the problem of creating a nation. One was the "melting pot" approach adopted in the United States while the other approach was that of the Soviet Union; the latter had been described as the "shish kebab" method, whereby ethnic groups were grouped together in one people and, eventually, one nation. A Soviet people had been created but a Soviet nation had yet to be achieved. Papua New Guinea should study the issue and adopt the method best suited to its own needs.

38. He associated himself with other members of the Committee who had urged Papua New Guinea to adopt legislation in keeping with article 4.

39. He noted that Papua New Guinea had participated actively in the First World Conference to Combat Racism and Racial Discrimination; had it also participated in the Second Conference?

40. Mr. SHAHI said that he was very impressed with the information provided concerning the implementation of various provisions of the Convention.

41. Regarding paragraph 52 of the report, he wished to know how the provisions of sections 46 and 47 of the Papua New Guinean Constitution conflicted with article 4 of the Convention. Paragraph 53 of the report was inconsistent with paragraph 13; moreover the two sentences of the latter paragraph were incompatible. If the provisions of the Convention were directly enforceable by the courts, he failed to understand why the Government considered that it had no obligation to go beyond the Constitution.

42. Mr. LOHIA (Papua New Guinea) said that he would refer the questions to his Government. He acknowledged the concern expressed regarding the reservation his Government had made to article 4 and urged the Committee to bear in mind that his country was still adjusting to its new status as an independent nation.

43. His Government had established a Law Reform Commission to review the laws inherited from colonial times, some of which were in conflict with the Constitution. The Commission would endeavour to adapt the national legislation to

/...

(Mr. Lohia, Papua New Guinea)

reflect the view that racial discrimination must be totally eradicated from Papua New Guinean society.

44. With regard to the demographic composition of his country, over 90 per cent of the population was Melanesians. In addition, a large number were of Asian, African and European background, and his Government considered that the national legislation must ensure that all groups lived together in harmony. It was quite true that the practice of racial discrimination had been eliminated when the country had attained its independence. However, the issue was more complex when one discussed people's attitudes academically, for indeed, discrimination of some sort existed in every society. As to the observation that ethnic groups must be protected, he pointed out that protection of one group might be considered discrimination against others, and his Government was therefore very cautious in that regard.

45. With regard to the law on adultery, he noted that where the customs of the parties applied, the matter was referred to village courts, which comprised elders familiar with the traditions of the people as well as persons versed in modern law. The traditional Western legal system did not apply. The specific question raised by Mr. Cremona would be referred to his Government.

46. Turning to education, he said that education at the primary and secondary levels was essentially funded by the Government, although a small contribution was made by parents in keeping with the principle of self-reliance. The Government subsidized university education. English was the language used for international communication and in the schools, and Melanesian pidgin and Hirimotu were the official languages in Parliament and were used in the press and the schools. The preservation of all the country's languages was actively encouraged.

47. As to the query regarding the diversity of the population, he emphasized that his country cherished that diversity, which was a feature of a free democratic society. Lastly, his country had not attended the Second World Conference to Combat Racism and Racial Discrimination. It found it technically difficult to participate in a number of very important world conferences, but hoped that that situation would change.

48. Mr. EVRIGENIS said that the report submitted by Papua New Guinea was a brilliant one and that it was clear that substantial effort had gone into its preparation. Perhaps the interpretative statement regarding article 4 of the

/...

(Mr. Evrigenis)

Convention given by that country, was not a reservation concerning the importance of combatting racial discrimination, but rather, had arisen out of a desire to protect certain fundamental rights which were deeply rooted in the Constitution. He nevertheless urged the Government of Papua New Guinea to review its interpretation of the reservation.

49. The CHAIRMAN, summarizing the discussion, said that emphasis had been placed on the importance which the Committee attached to its dialogue with reporting countries and the high quality of the report had been praised. Members had referred mainly to the statement in the report that no racial discrimination existed in Papua New Guinea and to the historical background of the country, the scope of the Constitution, the reservation which the Government had expressed regarding its obligations concerning respect for fundamental human rights, the desirability of adopting legislative measures, the demographic composition of the country, the implementation of article 4, the exercise of certain rights established in article 5, the Government's policy with respect to education and language, and its relations with South Africa.

Mr. Lohia (Papua New Guinea) withdrew.

Sixth periodic report of Mauritius (CERD/C/106/Add.8) (continued)

At the invitation of the Chairman, Mr. Seereekissoon (Mauritius) took a seat at the Committee table.

50. Mr. SEEREKISSOON (Mauritius) said that he would endeavour to answer some of the questions raised during the Committee's consideration of his country's report. 51. He had been asked for further details on the demographic composition of the population. Hindus represented 51 per cent of the population; Muslims accounted for 18 per cent; Chinese, 2 per cent, and the general population, who were descendants of Europeans, Africans or persons of mixed origin, and were all Christian, 29 per cent. A public debate was in progress on the question whether Mauritius should continue the classification based essentially on religious considerations. Opponents of the system were mainly the younger members of the population, and its supporters were primarily older persons. The advantages of the system were, firstly, that it helped to preserve the cultural and religious identity of the diverse groups; secondly, that, while church and State were separate, freedom of conscience was guaranteed by the Constitution and each religion received a State subsidy determined by the number of its adherents; and

/...

(Mr. Seereekissoon, Mauritius)

thirdly, that eight seats in the Assembly could be filled by representatives of minorities with the highest number of votes among those communities which were under-represented or not represented at all.

52. Because the members of each community were dispersed throughout the country, there was substantial intermingling of the population. Lastly, he wished to assure the Committee that trade unions did exist in his country. Section 13 of the Constitution guaranteed freedom of association and, in particular, the freedom to form or belong to a trade union, as a fundamental right.

Mr. Seereekissoon (Mauritius) withdrew.

The meeting rose at 6.10 p.m.

/...