

540th meeting

Wednesday, 12 August 1981,  
at 10.35 a.m.

Chairman: Mr. BAHNEV

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

Fifth periodic report of Denmark (CERD/C/75/Add.5)

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

1. Mr. HELSKOV (Denmark) said that his country's fifth report should be read in conjunction with the previous reports and as a response to comments made by members of the Committee during its consideration of the fourth periodic report. A correction was required in the fifth paragraph of the section on the economic development of Greenland. The second sentence should read: "The capital transfers are distributed fairly equally over three areas: government expense and capital items and current block grants respectively to home rule and local government administration".

2. Mr. VALENCIA RODRIGUEZ, referring to the measures to give Greenland autonomy, said that Greenland could not live on its own commercial activities; it was therefore to be hoped that the capital assistance which Denmark was providing would ensure Greenland's stability. The Government should provide information on that subject in its next report.

3. The information on implementation of article 4 had fully answered the Committee's many questions, particularly those concerning the scope of section 78 (1) of the Constitution, on the prohibition of racist organizations. One point which was not clear was from whom the initiative to have an association declared illegal or racist came - the public prosecutor, the Ombudsman and/or any other person.

4. With reference to article 5, the report stated that the Ministry of Social Affairs was studying the possibility of amending the provisions of Danish pension laws relating to the build-up period, citizenship and residence. He hoped that information would be provided in due course on the results of that study. The measures taken by Denmark to facilitate the return of migrants to their countries of origin were commendably liberal.

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(Mr. Valencia Rodriguez)

5. In the section dealing with article 6, the Danish Government had fully replied to members' questions concerning the Ombudsman's functions and competence. The information on the two cases heard in Danish courts since the fourth report was welcome, but more details should be given on the two communications on racial discrimination in advertising received by the Consumer Ombudsman.
6. The information on implementation of article 7 described many important measures to promote tolerance among different ethnic groups. Information on measures in fields other than education would be welcome, however.
7. Mr. DEVETAK commended the Danish Government on its extremely frank approach to reporting on problems of racial discrimination. The Committee had still not received precise data on the country's demographic composition, and that information would be of great use.
8. He asked what the situation was in Greenland since the entry into force of the Home Rule Act, approved by referendum in 1979, and whether any new political or socio-economic measures had been taken. It would be useful to have the full text of the Home Rule Act - perhaps as an annex to the next report - and a fuller explanation of how its content reflected the provisions of the Convention, particularly those relating to language, culture and education. He wondered whether the new government in Greenland would be able to take appropriate action if local authorities infringed the provisions of the Convention; an ordinance of 1972 had extended the application of the Convention to Greenland and he asked whether it was still in force and, if so, what its status was under the Home Rule Act. Information on any changes in the competence of the Danish agencies concerned with Greenland as a result of the Home Rule Act would also be useful.
9. In connection with article 5, it was very important to have more information on the Danish Government's policy of aliens, especially migrant workers, and on the reunification of the families of those workers. He wondered whether the Danish Government had given any thought to giving migrant workers the status of an ethnic minority, with all the rights which that status entailed.
10. He respected the Danish Government's frankness in acknowledging that some racial tensions existed: it would be useful, however, to know the specific procedures by which foreign workers could seek remedies through the courts and

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state agencies. Denmark's stand on relations with South Africa, as exemplified in its efforts to sever economic relations, in co-operation with the other Nordic countries, was commendable, and up-to-date information on that subject would be welcome. Economic measures were particularly important because, as a developed country, Denmark was in a better position to influence South Africa than many other countries.

11. He commended the Danish Government on its willingness to work with the Committee on ways and means of implementing the Convention in Denmark.

12. Mr. BRIN MARTINEZ congratulated the Danish Government on its interest in maintaining a continuing dialogue with the Committee. More information on developments in Greenland since the start of home rule would be welcome. With reference to the figures on annual capital transfers from Denmark to Greenland, he asked whether provision had been made to continue or supplement that assistance beyond 1984, when Greenland was to achieve full autonomy.

13. He noted that a committee had been set up to plan the development of Greenland; specific information on any measures to improve the economic and social situation should be given in a future report.

14. With respect to the implementation of article 6, he congratulated the Government on its determination to prevent the dissemination of racist material in the press.

15. He gathered from the information on the implementation of article 7 that Denmark had no centralized programme for the dissemination of ideas of racial tolerance between Danish citizens and aliens. Since all responsibilities in that field lay with the local authorities, a uniform programme which they could all follow was extremely important. It would also be in line with the Convention's ultimate objective of encouraging countries to eliminate racial discrimination through information and education.

16. Mr. TENEKIDES said that Danish society was truly pluralistic and was based on strict respect for human rights and fundamental freedoms. That pluralistic spirit was manifested in its granting of autonomy to Greenland. He asked whether, when full autonomy was achieved, the population of Greenland would still be citizens of Denmark, electing representatives to the Danish parliament as well as to local legislative bodies. In connection with article 5, he asked whether Lapps, Eskimos

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(Mr. Tenekides)

and other ethnic groups had the same rights as other Danish citizens. In future, more information should be given on whether the population of the Faroe Islands enjoyed the rights prescribed by article 5. The Government's commendable concern for the economic well-being of the inhabitants of Greenland and the Faroe Islands was demonstrated by its generous capital assistance, which was an example of the special measures envisaged under article 1, paragraph 4.

17. The information on implementation of article 6 was ample and frank. It proved that whenever different ethnic groups lived side by side in a society there was tension, but that a well-policed society and appropriate legal safeguards could minimize any damaging effects of that situation. He asked whether migrant workers had the same right to form unions as Danish workers.

18. The information on developments in connection with article 7 was satisfactory. It was necessary not only to provide education to aliens and citizens alike, but to organize the education in such a way as to eliminate racist feelings. Accordingly, the emphasis on the study of different civilizations was commendable and in line with the humanist culture envisaged in the Convention.

19. Mrs. SADIQ ALI said that the report showed that the Government was in earnest about its dialogue with the Committee. She noted that special measures were being taken to ensure adequate protection of the inhabitants of Greenland and the Faroe Islands, given the fact that those territories were not economically viable. Since they would continue to be heavily dependent on Danish support, educational opportunities for their inhabitants in order to enable them to secure employment in Denmark were important. Possibly something more than the vocational training described in the section of the report on article 2 was required. She also asked what opportunities would be opened up with the transfer to home rule of the production and sales activities of the Royal Greenland Trade Department.

20. The information, in the section dealing with article 6, on racial discrimination in the press related only to discrimination against aliens, and she asked whether there had been cases of discrimination against Eskimos or Faroe Islanders. The measures, in pursuance of article 7, to familiarize children with the cultures, religions and philosophies of other lands were useful, but integrationist, multiracial organizations might well be needed in a society such as Denmark's, and she asked whether any such organizations existed.

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(Mrs. Sadiq Ali)

21. In conclusion, she asked what measures Denmark took to assist national liberation movements in southern Africa and whether it still maintained any relations with South Africa, particularly with regard to investment.

22. Mr. PARTSCH asked about the provisions for the implementation of international conventions in territories with autonomous status - whether, for example, the central Government had to ask the territory to enact the necessary legislation.

23. Mr. STARUSHENKO said that the Danish report was indeed an objective one. The information on racial discrimination in the press, for example, exposed the roots of racial discrimination and showed that it was possible to find means of preventing it. There was no doubt that Denmark was taking many measures to implement the Convention fully.

24. The information on the granting of autonomy to Greenland was extremely interesting, since autonomy was conducive to solving of ethnic problems. He would be interested to see in the next report the text of the provisions giving autonomy to Greenland. He would also like to see figures on per capita income in Greenland, in Denmark and among the Eskimo population, if they were available. In conclusion, he asked whether Danish loans for industrial and other purposes to the Faroe Islands were made to individuals or to local agencies.

25. Mr. HELSKOV (Denmark) pointed out that there were several Ombudsmen in Denmark. The one mentioned in the fifth periodic report was the Consumer Ombudsman. The Ombudsman of Parliament was responsible only to Parliament and dealt with cases brought against municipal and central administrations. Aliens who wished to lodge complaints could resort to either the Courts or the Ombudsman. The latter procedure was free of charge and did not entail any formalities.

26. In reply to a question on the ethnic composition of the population of Denmark, he said that the Government did not register persons according to ethnic origin; indeed, there were strict rules on what could be included in the civil registers.

27. With respect to the query on relations between the central authorities in Copenhagen and the local home rule authorities in Greenland, he said that the Constitution, the Penal Code and all legislation enacted before the coming into effect of home rule still applied in Greenland; laws designed to prevent racial discrimination were therefore in force in Greenland. Greenlanders were considered Danish citizens and were free to seek work in Denmark. In Greenland they could

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obtain the same unemployment benefits as in Denmark. Both Greenlanders and Faroe Islanders had two representatives in the Parliament even though the size of their populations did not require that level of representation.

28. Greenland's geographical position and climate placed natural limits on its economic development. The Government was endeavouring to expand the fishing industry in order to make the society more self-sufficient. Although cod fishing had been improved, certain problems in the Atlantic Ocean had seriously affected it. The authorities were trying to develop shrimp and salmon fishing, which to a certain extent alleviated the situation. The annual capital transfers from Denmark to Greenland would continue even after home rule had been fully established.

29. Referring to the questions on education in the context of article 7, he pointed out that education was the responsibility of local authorities in Denmark. There was no obligation to send children to school, and parents could choose to teach their children at home. Needless to say, most children attended school. There was a wide range of private schools, which were supervised by the State.

30. In reply to a comment about the prospects for completely eradicating racial tension, he said that Denmark had always been a haven for refugees from many parts of the world. Currently there were many refugees from Chile and the Socialist Republic of Viet Nam living in Denmark.

31. Foreign workers could establish trade unions of their own, since freedom of association was guaranteed by the Constitution. In practice, however, most foreign workers joined existing trade unions because they could thus obtain the same wages as Danish workers. There was no general trade union law in Denmark. The rules pertaining to trade unions had been established by agreement between employers and employees and had been expanded over the years on the basis of mutual agreement between the two parties.

32. Any cases of discrimination against Eskimos or Faroe Islanders would have been reflected in the report, which gave details of all cases brought before the Courts.

33. His Government had repeatedly voiced its strong condemnation of apartheid in various international forums. Denmark was participating in a joint Nordic action programme against South Africa. In conclusion, he said that those questions to which he had not replied would be answered in the next periodic report.

Mr. Helskov (Denmark) withdrew.

Fifth periodic report of the Netherlands (CERD/C/75/Add.6)

At the invitation of the Chairman, Mr. van Dongen (Netherlands) took a place at the Committee table.

34. Mr. van DONGEN (Netherlands) said that his Government considered the Convention an important tool in its efforts to stamp out discrimination throughout the world. The Committee was carrying out its mandate in an admirable manner. Unfortunately, it was still unable to avail itself of its competence to receive and consider communications from individuals and groups of individuals claiming to be victims of a violation of the Convention, and his Government was still actively urging States parties to submit the pertinent declaration under article 14. As matters stood, only 8 of the 10 declarations needed to accord the Committee competence in that field had been made. It was to be hoped that the remaining two declarations would be made in the near future.

35. His Government pursued an active policy at the international level to eliminate racial discrimination throughout the world. It had repeatedly condemned apartheid and would continue to ensure that the arms embargo against South Africa under Security Council resolution 418 (1977) was strictly applied. The sale of arms to South Africa had been prohibited in the Netherlands on a voluntary basis long before that decision.

36. The demographic data on the first page of the report did not accurately reflect the extent to which Dutch society had become multicultural. Those figures were based on nationality, not ethnic origin, and were the only accurate statistical data currently available. Registration was carried out on the basis of a number of characteristics, which included nationality and country of birth but not, as a matter of principle, ethnic origin or race. His Government felt that registration on the basis of ethnic origin or race not only ran counter to certain basic rights, but also created the potential for abuse. Nevertheless, in order to have a satisfactory policy with regard to minorities, the Government carried out scientific research in that field on the basis of data from available registration systems. Since the drafting of the report, more recent demographic figures had become available. As of 1 January 1981 the total number of non-nationals had increased to 537,800, or 3.8 per cent of the population. The estimated total for non-nationals and people of different ethnic origin was 753,500, or 5.3 per cent of

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the population. Using the definitions applied in the context of the Government's policy on minorities, it was estimated at 4.08 per cent of the Dutch population belonged to some ethnic minority.

37. His Government's minorities policy was designed to prevent and combat racial discrimination within the country, to reduce the social and economic disadvantages of members of minority groups and enable those groups to participate in the community, and to influence other members of society so that they offered constant scope for minorities to develop. In short, that policy covered the full range of measures required under article 2 of the Convention.

38. In view of the obligation imposed by the Convention on States parties to combat discrimination in private life, a new article 429 quater had been added to the Criminal Code in 1971, creating the new misdemeanour of racial discrimination in private enterprise in the field of goods and services, for which a criminal penalty was prescribed. In the light of further developments, that article had been amended in June 1981 so that it encompassed all forms of indirect discrimination and applied to all private enterprise, omitting the reference to goods and services. Article 429 quater was, of course, only one of the appropriate means mentioned in article 2, paragraph 1 (d). His Government felt that the imposition of criminal sanctions was not the only avenue to be pursued and that administrative sanctions, civil prosecutions and a well-balanced policy on minorities might prove to be more effective in the long run.

39. The section of the report on article 4 described to what extent the law on the right of association had changed in 1976 and what problems had arisen from the new provisions - articles 15 and 16 of the Civil Code. One of those problems concerned the question of evidence, because the power of the courts to declare a corporate body prohibited once and for all had been abrogated in 1976. Since certain members of the Committee had criticized that situation two years earlier, the Government had re-examined the matter and was considering a possible amendment to the Civil Code which would restore the power of a court to render a declaratory judgement prohibiting a juridical person whose aims or activities were contrary to public order, morality or the Netherlands legal order. Prohibition automatically led to dissolution of the body corporate concerned. Between 1971 and 1976 one of the explicit grounds for dissolution of a juridical person was practising, sustaining

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or promoting discrimination against people on the grounds of race - a provision incorporated into Dutch law on account of the Convention. In 1976, however, the provision had been dropped, and the Government had no intention of incorporating it in the proposed amendment to article 15 of the Civil Code since it felt that racial discrimination was included in the wider concept of the Netherlands legal order. He asked the members of the Committee whether they felt that the Convention required racial discrimination to be incorporated as a separate and independent ground for the dissolution of corporate bodies.

40. The Government was watching closely the activities of the Netherlands People's Union and the Centre Party, which overtly advocated racial discrimination. Those political parties had been allowed to stand in recent elections in certain districts, but had not been permitted by the Electoral Boards to do so in others. The Government was preparing an amendment to the Franchise Act with a view to setting up an appeal procedure culminating in the judicial arm of the Council of State so that the law would be interpreted uniformly throughout the country. However, even if the two political parties should be dissolved owing to a future declaratory judgement, that would not solve the problem as far as elections were concerned. The Franchise Act did not require legal personality as a precondition for registration: any group of 25 Dutchmen might apply for admission as sponsors of a candidate in a given voting district. In effect, therefore, former members of a dissolved political party could, as individuals, run for election. Nevertheless, the Government was unlikely to change the law on that point because the existing electoral system lay at the heart of its democracy; it was a case in which legitimate constraints on freedom of association ran counter to the basic features of the Dutch electoral system.

41. Mr. VALENCIA RODRIGUEZ stressed the importance of monitoring the strict implementation of the Convention in the Netherlands in view of the fact that non-nationals, many of them belonging to ethnic minorities, accounted for almost 4 per cent of the population. It was the declared aim of the Government to improve the lot of minority groups. Among the measures adopted, he was particularly impressed by the establishment of the Minorities Policy Co-ordination Department within the Ministry of Home Affairs. He hoped that the Committee would be kept informed of the work and achievements of that Department and of the progress of all

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the measures being taken in favour of disadvantaged immigrants from Suriname and the Netherlands Antilles, workers from the Mediterranean region, and Moluccans. It was particularly gratifying to note the continuation and intensification of social and other measures affecting immigrants, and the new provision of the Primary Education Act by which the regional language would be taught in schools in Friesland. The Committee should be informed of the final decision on the revision of that section of the Constitution which dealt with fundamental rights. In the light of the discussions that had taken place during consideration of the fourth periodic report (CERD/C/48/Add.5), he noted the amendment to article 429 quater of the Criminal Code which would make it a criminal offence to request or to issue "non-Jewish" or "non-Israeli" declarations. Some further explanation was required, however, on the continuation of that practice pending the entry into force of the new law.

42. He felt bound to express disquiet about the continued existence of the illegal Nederlandse Volksunie (NVU) despite the provisions of articles 15 and 16 of book 2 of the Civil Code and the decision of the Amsterdam District Court. The loss by the civil courts of the authority to declare organizations illegal and the opportunity provided to an illegal organization to alter its aims within a specified time-limit did not seem to be totally in conformity with the provisions of the Convention; however, he welcomed the fact that the Government was pursuing consultations on problems arising from the new provisions governing the right of association. He wondered whether the reference to outside financial assistance covered only assistance from other States and, if so, why financial assistance from within the Netherlands to an illegal organization was not punishable under article 140 or article 429 ter of the Criminal Code.

43. He requested more details about the implementation of the policy on publicly-owned housing for minorities and noted the information about discrimination by mail order companies and the valuable information in the annex to the report about research on discriminatory attitudes. He hoped that there would be some follow-up by the Government with respect to the conclusions of the research on the recruitment of police officers from among ethnic minorities.

44. Mr. DEVETAK said that the Government's stated acceptance of the idea that the Netherlands was a multicultural community in which ethnic minorities would occupy a

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permanent place was of major importance in that it revealed the appropriateness of the minorities policy, which recognized the different linguistic and cultural components of Dutch society resulting from, inter alia, immigration. That country's experience could provide a pointer to the solution of problems of ethnic minorities in other industrialized societies. He was gratified to read about the achievements of the minorities policy, such as broadcasting in the mother tongues of minorities, special tuition in Dutch, vocational training, special training programmes for young immigrants and women, and the special work projects for young unemployed South Moluccans. He would be interested to know what status minorities held under the Constitution and, if the Constitution did not recognize them as minorities, whether any amendments were proposed to ensure such recognition. He requested more information about the teaching of the regional language in Friesland, such as the number of children participating in the programme, and also on any measures taken to educate other ethnic minorities in their own languages and to safeguard their traditions and customs.

45. The report referred to a number of bodies that had been set up for minorities' affairs, such as the Minorities Policy Co-ordination Department of the Ministry of Home Affairs, the interministerial working party to deal with problems of young Moluccans, and the Minorities Information Studio; the inclusion in the next periodic report of some details about the results of their work would be most helpful, as would further details on the special participation bodies which were to be set up to enable minorities to express their opinions on policy plans directly affecting them. The Committee had already heard about provisions for the political representation of minority groups in countries such as Denmark and the Federal Republic of Germany, and it would be interesting to compare their experience with that of the Netherlands. He asked whether any bodies existed at the municipal or other level through which minorities could participate in political activities.

46. The report referred to a number of policy documents and studies concerning ethnic minorities, such as the report by the Advisory Council on Government Policy and the policy document presented to Parliament. If possible, all the pertinent documentation should be appended to the next report, or at least summarized in it. He looked forward to hearing about the further development of the minorities policy in the Netherlands.

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47. The CHAIRMAN reminded members of the Committee of the direct question that had been put to the Committee by the representative of the Netherlands; in the interests of dialogue, he expressed the hope that members would endeavour to answer it.

48. Mr. NETTEL said that he had been impressed by the fifth periodic report and by the introductory statement, both of which were further evidence of the outstanding role being played by the Government of the Netherlands in the struggle against racial discrimination, the unfortunate persistence of which it had readily admitted. A number of countries were experimenting, with some degree of success, with the kind of special participation bodies for minorities which the Dutch Government intended to set up. He would be interested to know on what legal basis and with what terms of reference and membership they were being organized. It would then be possible to compare the Dutch approach with the attempts being made elsewhere.

49. As to the question asked by the Government of the Netherlands, the Committee had always interpreted the Convention literally to mean that any organization or association which promoted or incited racial hatred or discrimination should be declared illegal or its formation prohibited. However, under the laws of some countries such an organization or association could not be dissolved until it became apparent that its objective was racially discriminatory. The Committee had not really taken an adamant stand on that question, but if article 4 (b) was implemented to the letter, then prohibition at the outset should be possible.

50. Mr. DECHEZELLES said that it was difficult to find much to say about such an exemplary, exhaustive and fully satisfactory report. That a country like the Netherlands should have accepted the idea that it had become a multicultural community in which ethnic minorities would occupy a permanent place, and that the necessary changes should be brought about to allow those minorities to develop in their own way as equal members of society was most admirable, as was the recognition that racial tensions and discrimination existed and needed to be combated. The Government was seeking solutions based on well-founded scientific evidence. The legislation adopted to combat discrimination was comprehensive, and there was valuable information in the report about cases of discrimination brought before the courts, inter alia, pursuant to article 429 quater of the Criminal Code.

(Mr. Dechezelles)

51. In the course of consideration of the fourth periodic report, the Committee had discussed at length the so-called "non-Jewish" and "non-Israeli" declarations. Far from condoning the practice, the Netherlands Government had tried to discourage it but, as the law stood at that time, it had been unable to prohibit the issuing of such declarations. However, a clear, concise and precise bill to amend article 429 quater of the Criminal Code had recently become law, making it a criminal offence to request or issue "non-Jewish" declarations. The implementation of the new law would be no easy matter, but he was convinced that the Government had the means to determine whether any particular company or private individual was being ostracized and to take action against any violations.

The meeting rose at 1 p.m.

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