

763rd meetingWednesday, 12 March 1986,
at 10.10 a.m.Chairman: Mr. CREMONACONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION (agenda item 6) (continued)Fifth, sixth and seventh periodic reports of Senegal (CERD/C/131/Add.5)

At the invitation of the Chairman, Mr. Guissé and Mr. Ly (Senegal) took a place at the Committee table.

1. Mr. GUISSÉ (Senegal), introducing his country's fifth, sixth and seventh periodic reports combined in a single document pursuant to the Committee's request, said that the will of the Senegalese people was expressed in the Constitution, which was both democratic and social in character. Accordingly, human rights were not merely set forth in a preamble but were incorporated in the actual body of the Constitution. It could be seen from article 4 and articles 6 to 20 that the Constitution provided for inviolable observance and protection of political freedoms, trade union freedoms, the rights and freedoms of the individual, the family unit, philosophical and religious freedoms, the individual and collective right to own property, and economic and social rights. The independence of the judiciary was guaranteed by the Supreme Court and the Higher Council of the Judiciary. Human rights and fundamental freedoms could be invoked and defended before all courts. The pre-eminence of the law was reflected in the subservience of the State to the law, both domestically and in international relations. In pursuit of that principle, Senegal, which knew no form of racial, ethnic or religious discrimination, had taken all the steps required to implement the Convention. Under article 4 of its Constitution, any act of racial, ethnic or religious discrimination was punishable by law.

2. With regard to the implementation of article 3, he pointed out that the Government, on 16 July 1963, had issued a declaration condemning the policy of apartheid and decided to sever all consular relations with Portugal and South Africa. Paragraphs 16 to 21 enumerated the measures taken to give effect to the provisions of article 3.

3. A number of articles of the Senegalese Criminal Code were relevant to the implementation of article 4; they were listed in paragraph 24 of the report. He

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(Mr. Guissé, Senegal)

pointed out that articles 3 and 9 of the Constitution prohibited organizations and propaganda activities which promoted and incited to racial discrimination and recognized participation in such organizations or activities as an offence punishable by law.

4. No restrictions were placed on the rights enumerated in article 5 of the Convention. The relevant codes were referred to in paragraphs 27 to 38.

5. With regard to article 6, all the remedies available under French law were provided for in Senegalese law. Decisions handed down by the lower courts could be challenged by way of appeal, and each person had the right to legal counsel and to be tried in a language which he understood. With regard to the implementation of article 7, Senegal had spared no effort to establish a cultural dialogue with all peoples in the world. Senegal had signed some 60 agreements on cultural co-operation, which were listed in the report, and had established an impressive number of educational institutions for the acquisition of knowledge about the main languages and civilizations of the world. It had established a human rights committee, which published the contents of all human rights treaties and organized a weekly radio broadcast in French and some vernacular languages. Moreover, a 1983 decree had created the Institute for Human Rights and Peace, whose purpose was to train citizens in human rights. The Government also made broad use of the mass media to publicize human rights information.

6. Mrs. SADIQ ALI said that she was pleased that the Government of Senegal had resumed its dialogue with the Committee after a lapse of several years. The report under consideration adhered to the guidelines; it was confined, however, to the constitutional measures which had been taken and gave inadequate coverage to a wide range of legislative, administrative, judicial and promotional measures showing how the principles set forth in article 1 of the Constitution were being translated into policy in the context of the country's ethnic diversity, in particular with reference to articles 1, 4 and 2 of the Convention. Further information would be useful about institutional arrangements dealing with pluralism, as well as about integrationist devices, and how the two were balanced. Moreover, in view of the prohibition of regionalism, it was not clear how the Government dealt with regional economic diversity.

7. Further information should also be provided not only on the demographic composition of the country, but also on the location and economic development of

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(Mrs. Sadiq Ali)

each group. It would be useful to know what specific measures had been adopted as part of the regional development plans to give the relatively backward groups access to power and economic opportunity, and how minority group cultures and life-styles were being preserved.

8. She expressed appreciation for Senegal's implementation of article 3, and for the additional information provided by the representative, which showed that Senegal had played a vanguard role in the fight against apartheid.

9. With regard to refugees, it would be interesting to have a breakdown of the refugee population by country of origin, as well as to know how the Government dealt with their needs. She wondered how many of them were citizens, how many were in refugee camps, and whether any treaties existed for their voluntary repatriation. More information concerning the policy toward immigrant and foreign workers would also be welcome. With reference to article 7, paragraph 1, of the Constitution, which provided that "in civil and criminal cases, no one may be tried without his being in a position to present a defence", she wondered what kind of assistance was being provided to economically deprived defendants, and how legal equality was established. With regard to subparagraph (e) of article 5 of the Convention, fuller information should be provided on the economic measures taken for Senegal's overall development, particularly with regard to the implementation of subparagraphs (i), (iii), (iv) and (v) of that article. More information would be welcome on unemployment and literacy rates, as well as on the allocations under the national budget and regional development plans for health, education and training programmes. It was understandable if the Government was unable to meet all the requirements as yet; she would appreciate, however, knowing what initial steps had been taken and what plans were being considered.

10. Senegal's record was commendable with regard to the implementation of article 7. She pointed out that co-operation between India and Senegal, particularly in linguistic research at the university level, was of a high order.

11. The CHAIRMAN, speaking in his personal capacity, said that paragraphs 22 to 26 of the report demonstrated that Senegal was seeking to implement article 4 of the Convention by a number of provisions. With regard to subparagraph (b) of that article, the report referred to article 9, paragraph 3, of the Constitution, which stated that "groups whose purpose or activity is contrary to the criminal laws or

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(The Chairman)

at variance with public order shall be prohibited". It would be interesting to know, however, whether that constitutional provision with its generic wording could itself afford a basis for prosecution without a specific law providing for punishment. The reporting State should also provide more details about the scope of article 1, paragraph 5, of Act No. 65-40 of 22 May 1965, concerning seditious associations, particularly with regard to criminal punishability.

12. Mr. BRAUNSCHWEIG said that Senegal should be commended for its efforts to establish a democratic State based on the rule of law. He noted that, although article 283 bis of the Criminal Code defined racial, ethnic or religious discrimination, the report stated in paragraph 12 that in Senegal there was no discrimination as so defined. He asked whether any case of such discrimination had ever been brought before the courts. He welcomed the Government's policy towards apartheid and wished to know what role the press played in influencing public opinion on that issue. Lastly, he would appreciate additional information on whether the diversity of dialects ever created conflicts.

13. Mr. LAMPTEY said that he knew through personal experience that Senegal was a very tolerant country which observed the rule of law and promoted human rights. Senegalese society was basically homogeneous, there being no significant minorities. All of the ethnic groups spoke Wolof, and there were no deprived groups within the meaning of the Convention. Since Senegal's accession to independence, all Senegalese had been developing on an equal footing.

14. He agreed with the Chairman's view concerning the implementation of article 4 and would welcome further information on article 814 (Act No. 79-02) of the Code of Civil and Commercial Obligations, concerning illegal associations.

15. Although the representative had said that there had been no instances of racial discrimination, it was unclear whether any individual cases had come to the attention of the authorities. Although the report provided ample information on the country's laws, he would agree with Mrs. Sadiq Ali that an account of some of the administrative actions taken could be included in the next periodic report. Lastly, he pointed out that, although the country was 90 per cent Moslem, the first President had been a Christian, and Christians still exercised considerable influence.

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16. Mr. KARASIMEONOV said that despite provisions in the Senegalese Constitution and Criminal Code, the country's legislation still did not fully meet the requirements of article 4 of the Convention.
17. Mr. ÖBERG said that except for the points raised regarding article 4, there seemed to be no gaps in Senegal's legislation in so far as compliance with the Convention was concerned. Nevertheless, further details would be useful especially regarding law enforcement. It was unclear whether there were any cases of discrimination that had not gone to court simply because law enforcement officials had failed to take action.
18. The reporting State should indicate whether those persons who could not be included in electoral registers, in conformity with article L3 of the Electoral Code, were forever deprived of their right to vote. The meaning of the term "incapacitated persons" was unclear.
19. Mr. YUTZIS said that the reporting State should clarify the meaning of the term "public order" as used in the Senegalese Constitution. Additional information would be appreciated on Government supervision of private schools and on the country's demographic composition.
20. Mr. GUISSÉ (Senegal), responding to questions asked by Committee members, said that Senegal would make every effort to provide information on administrative and legal measures which had been taken in connection with articles 1, 4 and 2 of the Convention. Ethnic differences in Senegal were blurred by the fact that the various ethnic groups belonged to two or three major religions.
21. Regionalism was punishable if it promoted discriminatory practices. Any organization which practised or encouraged discrimination was illegal and subject to punishment.
22. Primary school education was free in Senegal. If a child missed a year, he could attend a private, State-supervised school. There was an active literacy campaign focusing on local and international languages.
23. It was possible to keep track of refugees as they entered Senegal, but it was difficult to do so as they left especially if they had no visa or authorization. There were no refugee camps in Senegal. Refugees were integrated directly into Senegalese families and society.
24. All arrested persons were considered equal before the law and were automatically provided with the services of a competent, experienced lawyer. After

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(Mr. Guissé, Senegal)

trial, the defendant was asked to pay a token sum for legal aid. Public order could be defined as the minimum conditions necessary to guarantee basic rights.

25. The CHAIRMAN said that the real question was whether there were specific provisions declaring illegal and prohibiting organizations and propaganda activities which promoted or incited to racial discrimination, as called for under article 4 (b) of the Convention.

26. Mr. PARTSCH pointed out that Act No. 79-02 of 4 January 1979, the text of which was given on page 9 of the report, could be regarded as making provision - albeit indirectly - for such cases.

27. The CHAIRMAN said that the legislation referred to provided for sanctions only when an association operated without registration or previous authorization. There appeared to be nothing to prevent an association, once registered, from carrying out propaganda activities which promoted or incited to racial discrimination. Moreover, article 4 (b) of the Convention required that participation in racist organizations and activities should be treated as an offence punishable by law. From the information provided, it could not be said that that requirement had been satisfied.

28. Mr. GUISSÉ (Senegal) took note of the comments made by the Chairman and Mr. Partsch. He could assure them that Senegalese legislation was, indeed, in full conformity with article 4 of the Convention. Further information and details on the relevant laws could be provided in the next periodic report.

29. Several members of the Committee had asked for details of any individual legal cases involving racial discrimination. As far as he was aware, no such cases had been brought before the courts. Similarly, no instances of punishment for discrimination on racial grounds could be cited. Particular emphasis in Senegalese national legislation was placed on prevention, and, as could be seen from the report, broad provisions were made in that regard.

30. Concerning apartheid, the mass media in Senegal sought to provide clear, full and objective treatment of events in South Africa. There were weekly radio broadcasts on developments relating to apartheid and extensive coverage was also given in the print media. No restrictions were placed on the scope and content of such reporting, the aim of which was to inform national public opinion and enhance its awareness of action being taken against apartheid at the international level.

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(Mr. Guissé, Senegal)

31. It was not surprising that the range of national languages and dialects in Senegal should give rise to questions as to what difficulties the authorities faced in implementing national laws with respect to racial discrimination. In practice, few difficulties were encountered, first because the country had one official language, French, and secondly, because the Wolof language was spoken or understood by most Senegalese. In the courts, interpreters could be used and there was provision for reviewing or overturning judicial decisions when misinterpretation had occurred.

32. Private schools formed a significant part of the educational system and it was therefore important to ensure proper supervision of them by the State. That supervision was both administrative and financial, since the State bore part of the burden for the operation of those schools as well as responsibility for the recruitment of suitably qualified teachers.

33. Several questions had been raised with regard to article L3 of the Electoral Code, under which certain categories of persons could be excluded from electoral registers. Such sanctions were definitive in some cases, but could also be temporary in character - for example, in accordance with the five-year suspension law. Once a person had been rehabilitated, he could again enjoy his full rights. The rationale behind such sanctions was that a criminal offender could not be regarded as socially responsible, or indeed suitable for elective office. As far as legally incapacitated persons were concerned, it was felt that legal provision was needed to protect the interests of such categories of people as the senile or the mentally ill.

34. Mr. LY (Senegal), responding to questions concerning regional development, said that the Senegalese Government had since 1972 been engaged in planning new types of rural communities. At present, under the guidance of regional administrators, certain communities were encouraged to decide themselves on essential matters relating to the requirements of the local population and to establish their own budget. The idea was that such communities would eventually be able to operate on the basis of self-management.

35. On the subject of refugees, Senegal was a party to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol thereto, and to the 1969 Convention Governing Specific Aspects of the Refugee Problem in Africa of the

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(Mr. Ly, Senegal)

Organization of African Unity. On that basis, Senegal had established a Commission made up of high-ranking judges of the Supreme Court and representatives of the principal departments concerned, including the Ministry of Foreign Affairs. Its function was to determine refugee status and make recommendations to the President of the Republic, who had the final decision on refugee matters. The Commission worked in close co-operation with the Office of the United Nations High Commissioner for Refugees, whose representative could attend the Commission's meetings as an observer and could be heard on each case.

36. With regard to the rights of migrant workers, Senegal had signed a number of co-operation agreements with other friendly countries whose nationals settled temporarily in its territory. Apart from the provisions of those agreements, other basic measures of protection were envisaged for migrant workers in keeping with Senegal's obligations under the various international human rights instruments to which it was a party.

37. Regarding the question of linguistic differences, the official language of Senegal was, of course, French. Although the Wolof language was spoken or understood by most Senegalese, there had been no attempt to impose any one national language throughout the country. On the contrary, Senegal's policy was to encourage the various ethnic tongues, which were widely taught in primary schools in order to enable Senegalese to become literate and pursue their education on the basis of the language they knew best.

Mr. Guissé and Mr. Ly (Senegal) withdrew.

Seventh periodic report of Denmark (CERD/C/131/Add.6)

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

38. Mr. HOPPE (Denmark) said that Denmark's seventh periodic report was organized in conformity with the Committee's revised guidelines and concentrated on developments since the submission of the sixth periodic report in 1983. It provided a summary of measures taken unilaterally and at the international level and contained, in annex V, comments on specific questions raised in connection with consideration of the previous report.

39. The Danish Government consistently condemned all forms of racial discrimination, especially South Africa's policy of apartheid, which represented an appalling system of institutionalized racism. It worked actively in favour of

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(Mr. Hoppe, Denmark)

decisions by the Security Council on mandatory sanctions against South Africa, and, in the absence of such decisions, had implemented a number of concrete measures, as described in the report, that might serve as an inspiration for other members of the international community who accepted the need to bring about fundamental changes in the attitude of the South African Government.

40. Denmark participated in the international endeavours in the Security Council and in the General Assembly, in the Nordic group of States and with its partners in the European Economic Community. To mention one example, the Ministers for Foreign Affairs of the 10 member States of the Community and of Spain and Portugal had decided to harmonize their positions on a series of restrictive measures against South Africa, pointing out that they might consider other measures, including sanctions, in the absence of significant progress within a reasonable period. The Foreign Ministers of the five Nordic countries, moreover, had adopted a new and expanded programme of action against South Africa.

41. Denmark had also decided on far-reaching national measures to curtail its economic relations with South Africa, the latest being a prohibition of all new investments in and leasing to South Africa and Namibia. The Government had furthermore introduced in Parliament a bill prohibiting the importation of coal from South Africa and was preparing legislation to halt all Danish imports from and exports to that country. As the Danish Consulate General in South Africa had recently been closed, the result of those measures would be the virtual elimination of contacts between Denmark and the apartheid régime. Relevant documents in that regard had been circulated informally to Committee members.

42. He wished to emphasize Denmark's awareness of the need to be alert to developments in its own society in order that even simple and isolated signs of a trend towards discriminating, intimidating, insulting or degrading treatment, verbal as well as physical, of a group of people or of individuals on account of race, colour, national or ethnic origin or belief should be effectively prevented.

43. The Committee's attention should also be drawn to the dramatic increase in the number of refugees seeking asylum and permanent residence in Denmark. The number of so-called spontaneous asylum-seekers - i.e., refugees who entered Denmark on their own initiative and not under the auspices of the Office of the United Nations High Commissioner for Refugees - had increased from 332 in 1983 to 4,312 in 1984. That trend had continued in 1985.

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(Mr. Hoppe, Denmark)

44. Denmark had a long-standing humanitarian tradition of extending help to people in need, and the Government was undertaking a major effort to ensure proper treatment of those refugees and their integration into Danish society. In September 1985, it had adopted a comprehensive, integrated programme in that regard dealing with all aspects of the question, including reception, legal protection, education, housing and employment.

45. In conclusion, he wished to remind members of the Committee that in October 1985 Denmark had made the declaration provided for under article 14 of the Convention.

46. The CHAIRMAN, speaking in his personal capacity, welcomed the inclusion in the report of information concerning court cases involving racial discrimination. While the inclusion of such information was a frank admission that a measure of racial discrimination existed, on the positive side, it showed that the relevant laws were actually working and were being enforced. With regard to the proceedings described in paragraph 44 (b) of the report, he asked which authorities were responsible for serving the writ that had not been served in time and, in the context of that paragraph, what the significance was in Danish law of the fact that an individual made a defamatory statement alone or in association with someone else.

47. Mr. KARASIMEONOV asked whether the Committee could assume that Denmark no longer had any diplomatic relations with South Africa. He would also welcome information on the steps taken by Denmark to encourage other members of the European Economic Community which still had extensive relations with South Africa to take effective measures against the apartheid régime.

48. Mr. ČIČANOVIĆ noted that, although it was stated in paragraph 6 that Denmark did not collect information on the ethnic origin of individuals, that did not mean that there were no minorities or ethnic groups in the country, as other parts of the report confirmed. He noted that the Aliens Act distinguished between three categories. It would be interesting to know what the purpose of that division was, whether there was differential treatment of any of the three groups and whether any steps were taken to ensure that there was no discrimination against any one of those groups. Details on the criteria for issuing work permits should be provided.

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(Mr. Čičanović)

49. Denmark had an outstanding record of opposition to apartheid and it was to be hoped that the Government would decide to sever all contacts with the racist régime.

50. With regard to the implementation of article 4, it would be interesting to learn whether there had been any court cases regarding discrimination with respect to employment practices. More detailed information on the status of Greenlanders would be useful.

51. He would welcome a fuller account of the measures taken by the Government to promote tolerance towards minority groups through teaching in the schools. A breakdown of the national origin of refugees entering Denmark would also be relevant.

52. Mrs. SADIQ ALI welcomed the very extensive information which had been provided in the report on the implementation of article 3 of the Convention. Details on the results of the negotiations referred to in paragraph 17 of the report should have been provided. It would be interesting to learn whether any action had been taken by the authorities to penalize any violations of the arms embargo against South Africa. She expressed satisfaction at the humanitarian assistance provided by the Danish Government to refugees, liberation movements, victims of apartheid and the front-line States.

53. In the context of declining prosperity, rising unemployment and economic recession, an increase in discrimination against aliens might be expected. It was surprising, therefore, that very few cases of alleged discrimination had been mentioned in the report.

54. Some of the questions asked by members during the consideration of the sixth periodic report, such as those concerning the economic situation of the Eskimos (A/39/18, para. 266), had not been answered in the report before the Committee. It was to be hoped that answers to those questions would be forthcoming.

55. Mr. SONG Shuhua, referring to paragraph 8 of the report, requested clarification of the requirements for becoming a Danish citizen. Paragraphs 12 and 13 of the report described some of the measures which had been taken in Denmark to restrict the entry and employment of aliens. It would be interesting to learn whether there was any corresponding legislation for the protection of aliens.

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(Mr. Song Shuhua)

56. The report contained ample information on the positive measures taken by the Government in opposition to apartheid but it was still not clear whether Denmark had any diplomatic relations with South Africa.
57. He would welcome information on the representation of the members of minority groups, such as the Eskimos and the Greenlanders, in higher education and the civil service.
58. Mr. ÖBERG said that Denmark ranked among the nations of the world where human rights were best protected. However, Denmark was presumably not unaffected by the rising tide of xenophobia in the industrialized countries of Europe owing primarily to increased unemployment. It was surprising, therefore, that only two court cases involving racial discrimination had been reported. It might be that too little attention was being paid to the phenomenon of discrimination, or that immigrants, particularly newcomers, were poorly informed about the possibilities which existed for seeking redress for discriminatory treatment. Information on any provisions prohibiting discrimination in employment would be particularly relevant in that connection.
59. The Committee had unanimously agreed the preceding year to remind States parties that the provisions of article 4 of the Convention were mandatory. The State party therefore should indicate whether it had enacted any legislation formally prohibiting the existence of racist organizations. He noted with satisfaction the measures taken by Denmark in implementation of article 7 of the Convention and asked whether the Government was envisaging any intensification of its efforts in that area.
60. Mr. DE PIÉROLA Y BALTA said that the small number of cases involving discrimination against aliens mentioned in the report seemed to indicate that the preventive measures taken by the Government were successful. He wondered if the representative of Denmark could confirm whether that was the case.
61. He commended the Government for the measures it had taken, both alone and in association with other countries, vis-à-vis the racist Government of Pretoria. Specific information should be provided on the level of Denmark's diplomatic relations with South Africa. The reporting State should also indicate whether any effective remedies were available to individuals who felt that their basic human

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(Mr. de Piérola y Balta)

rights had been violated and whether those remedies provided for prompt redress. Clarification of the legal status of Greenland and its inhabitants would also be welcome.

62. Mr. YUTZIS commended the Government for the declaration which it had made under article 14 of the Convention. The very ample information provided on the implementation of article 3 showed that the Government was taking a correct approach with regard to the racist régime of South Africa. He looked forward to the Government's comments on the question raised by Mr. Öberg concerning the number of incidents of discrimination in Denmark at a time of rising xenophobia. He wondered whether the problem was disappearing in Denmark, or whether it had been brought under control or was simply not adequately monitored.

63. In connection with article 5, it would be useful if the Government could indicate whether work was recognized as a right in Denmark. In its fifth periodic report (CERD/C/75/Add.5), the Government had indicated that it was considering the possibility of extending pension benefits to aliens. The willingness of the Government to contemplate such a step was commendable but no further information on the matter had been provided in subsequent reports.

64. Mr. SHAHI said that he would welcome a breakdown by nationality of the "spontaneous asylum-seekers" referred to by the representative of Denmark in his introductory statement. He hoped that replies would be forthcoming to questions asked during the Committee's consideration of the previous report concerning the position of the Eskimos in Greenland.

The meeting rose at 1 p.m.

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