

SUMMARY RECORD OF THE 366th MEETING

held on Wednesday, 22 March 1978, at 10.55 a.m.

Chairman: Mr. LAMPTEY

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CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 6) (continued):

(e) INITIAL REPORTS OF STATES PARTIES DUE IN 1976 (concluded)

Belgium (concluded) (CERD/C/R.85/Add.5)

1. Mr. NISSET (Belgium), replying to questions on the initial report of Belgium raised by members of the Committee at the preceding meeting, said that the small groups likely to practise or advocate discriminatory practices mentioned in section 3 of the report were composed mainly of ex-servicemen, some younger people who sympathized with national socialist ideology and one or two extreme rightist movements. They were very few in number, and their activities were generally confined to holding meetings, distributing pamphlets and painting slogans on walls. The Government could, of course, prohibit such groups; however, it considered that it could take action as effectively against individual offenders as against the groups to which they belonged. In any case, it should be stressed in that regard that public opinion often feared measures which had the appearance of censorship for fear that those provisions might later be abused. However, Belgian law did provide for the possibility of prohibiting activities contrary to the public order and preventing paramilitary demonstrations.

2. The Bill concerning the Prevention and Punishment of Certain Acts Prompted by Racism or Xenophobia had become the victim of a prolonged ministerial crisis in Belgium and had not yet been enacted by the parliament. Another draft was being prepared for submission by the new Government, and the points raised and comments made in the Committee would be transmitted to the Belgian administration for consideration during the formulation of that draft.

3. The first communal advisory councils for foreigners had been created in 1968, and a European union of such councils had been established in 1972. The councils dealt with all aspects of the lives of immigrants: their relations with the administration and with Belgians generally, their children's welfare, housing,

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cultural matters, and so on. There were, however, certain categories of foreigners for whom it was very difficult to find appropriate spokesmen to ensure contact with the administration.

4. While there had been complete freedom of movement for workers within the territory of the European Economic Community since 1968, the Benelux countries did operate a scheme giving preference to would-be immigrants who were capable of supporting themselves. There were also some 50 reciprocal agreements between Belgium and various countries. The Government did not believe such bilateral agreements to be discriminatory, as they imposed no limitations on the rights of citizens of any State.

5. There were, of course, internal remedies which could be invoked in the event of acts of discrimination. Indeed, petitions could be made to the European Court of Justice at Strasbourg only after all internal remedies had been exhausted. The existing statistics on the processes of Belgian law did not make it possible to determine how many cases involving discrimination were taken to court in any year, but he hoped that such information could be provided in the next periodic report.

6. He was happy to state that Romania had joined the list of countries co-operating with Belgium in the elimination of discriminatory statements in history books. It was actually in the Dutch-speaking part of the country that the idea of revising history books had been started but all Belgian school-books were being scrutinized.

7. Following the historic mixing between the north and south of the country, integration of the Flemish and Walloon populations of Belgium had been such that it could no longer be claimed that there were any indigenous ethnic minorities in the country. The only remaining distinction between Belgians was one of language; French and Dutch were both official languages, and some 70,000 Belgians spoke German. A Cultural Council had been established for each language in 1970 and the Councils had developed in parallel, so that German-speaking citizens now enjoyed the same cultural facilities as the other 9 million Belgians.

8. Article 6 of the Belgian Constitution had been drafted in a different age, when the primary concern of the drafters had been to ensure that the country did not revert to the ways of the previous régime. However, its meaning had been extended as conditions in the country changed, and it was now interpreted to cover

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all forms of racial discrimination. Furthermore, it had been supplemented by article 6 bis, which sought to ensure equality of rights for ideological and philosophical minorities.

9. International instruments signed and ratified by the Belgian Government were self-executing if such was the intention of those who drafted them and if they were so worded as to enable courts to refer to them directly without necessitating recourse to internal law for implementation. For example, certain articles of the European Convention for the Protection of Human Rights and Fundamental Freedoms were directly applicable in all cases.

10. For educational purposes, immigrant children were generally integrated with Belgian pupils in regular schools, although they could receive special tuition in their own language and culture. Particular attention was currently being given to the provision of such additional tuition in the Arabic language and culture.

Problems were presented by some schools where up to 80 per cent of the children were not Belgian, which made it more difficult in those circumstances for foreign children to mix with Belgian children, which would be desirable, and thereby become acclimatized more quickly to the Belgian way of life. The Government was alert to the problem, and would endeavour to provide additional information in its next report.

11. The State had facilitated the establishment of an Islamic centre in Brussels for the 170,000 residents of Belgium who practised Islam. Houses had moreover been converted into mosques, Islam having been officially recognized, public funds would be used to cover the costs of maintaining the buildings and for the salary of ministers, as was done for the other recognized religions. Since the relevant basic legislation had been conceived to serve the Catholic religion, the means of adapting it to the Islamic situation were currently being studied.

12. Mr. GOUNDIAM requested that in its next report the Belgian Government should provide details of the protection available under Belgian law for intellectual property, and in particular folklore, much of which had originally emanated from countries of Africa and other parts of the third world.

13. Mr. Niset withdrew.

(S) THIRD PERIODIC REPORTS OF STATES PARTIES DUE IN 1976 (continued)Nepal (CERD/C/R.88/Add.10)

14. At the invitation of the Chairman, Mr. Lohani (Nepal) took a place at the Committee table.

15. Mr. NABAVI observed that the third periodic report submitted by Nepal, like its predecessors, provided inadequate information on the matters with which the Committee was concerned. In fact, the report contained only one new piece of information, namely, the text of parts of the Press and Publications Act, 1975. All other information in the report had been provided before or was irrelevant. There was no reference to the implementation of articles 4 and 6 of the Convention or to the ethnic composition of the population of Nepal.

16. He also noted that the text of article 10 of the Nepalese Constitution, as quoted in the third periodic report, differed substantially from the text of ostensibly the same article given in the previous reports. He would like to know which was the correct version, and whether the Constitution had been amended since the submission of the second report.

17. Mr. DAYAL said he was sure that there was no racial discrimination in Nepal on which the Government could report. Nevertheless, States parties to the Convention had an obligation to submit the specific information requested by the Committee in connexion with its work. He hoped that, before submitting its fourth periodic report, the Government of Nepal would take note of the communications on the submission of reports which the Committee had sent to States parties.

18. Mr. VALENCIA RODRIGUEZ said that the only new information in the third periodic report of Nepal concerned the Press and Publications Act, 1975, article 5 of which did not constitute full compliance with the requirements of article 4 of the Convention. He hoped that Nepal would bring its legislation into full compliance with article 4 of the Convention, and also with articles 5, 6 and 7, and that it would provide information to that effect to the Committee in its next report.

19. The report could have been improved by a mention of the fact that Nepal rejected the racist régimes of southern Africa.

20. Mr. GOUNDIAM felt that the Nepalese report was not sufficiently explicit, although the legislation described seemed to be adequate to cover all situations. The report could have given fuller illustrations of the operation of the

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legislation, particularly with regard to the penalties which were imposed for violations of the legislation.

21. Mr. VIDELA ESCALADA said that the Nepalese report was too general and did not meet the needs of the Committee. He welcomed the information concerning the Press and Publications Act, which was evidence of the Government's efforts to eliminate all forms of racial discrimination. However, the emphasis of the provisions cited in the report was on hatred among groups within the country; legislation should also prohibit the creation of hatred against other races beyond the borders of the country.

22. Mr. DECHEZELLES felt that the Nepalese report could usefully have contained more information that would enable members of the Committee to enter into and understand the situation in Nepal, particularly with regard to the existence of castes, how the caste system operated and the racial composition of the population. He hoped that in its next report the Government would provide further information on the penalties imposed for violations of the legislative measures cited in the current report.

23. He was curious about the wording of article 10 of the Constitution, which seemed to differ somewhat from that given in the previous reports. He noted that article 10 (3) prohibited "discrimination ... only on grounds of religion, race, sex, caste, tribe or any one of them", and wondered whether that meant that racial considerations could constitute a secondary cause of discrimination.

24. Mr. PARTSCH recalled that in the initial report submitted by the Government of Nepal there had been much discussion of the "public good", but mainly in terms of the internal relations among the people of the country. Reference had been made to various classes, professions and areas of the country, but there had been no mention of ethnic origin. Article 5 of the Convention specified the inadmissibility of national or ethnic origin as a ground for discrimination. He hoped that that omission would be clarified in future reports.

25. He noted that the civil and criminal code provided for non-discrimination between a son and daughter in sharing inherited property, but that the provision in question seemed to refer only to unmarried daughters over 35 years of age. He wondered what was the position of married daughters or of daughters under 35 years of age.

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26. Mr. LOHANI (Nepal) said that he would bring to the attention of his Government the comments made by members of the Committee, and in particular the requests for information on his Government's compliance with articles 4 to 7 of the Convention and for further information on the ethnic composition of the population.

27. With regard to Mr. Partsch's question, he felt that the provision on inheritance spoke for itself and that it represented an improvement over the previous code.

28. Mr. Lohani withdrew.

(h) FOURTH PERIODIC REPORTS OF STATES PARTIES DUE IN 1976

India (CERD/C/R.90/Add.32)

29. At the invitation of the Chairman, Mrs. Sibal (India) took a place at the Committee table.

30. Mr. HABAVI said that he welcomed the detailed information in India's latest report concerning the demographic and social structure of the population. He was not sure, however, of the meaning of the terms "scheduled tribes" and "denotified tribes". He had also failed to find in the report any information on the implementation by the Government of India of articles 4 and 7 of the Convention.

31. Mr. HOLLIST recalled that the Committee had previously requested the Government of India to make available reports prepared by the Commissioner for Scheduled Castes and Scheduled Tribes; he hoped that those reports would soon be forthcoming. It would also be valuable to have any information which the Government could provide on compliance with article 4 (b) of the Convention, concerning the prohibition of organizations which promoted and incited racial discrimination. While it was clear that the Government was taking action to promote racial harmony, the reference to hostels for scheduled castes and scheduled tribes raised some doubts. Such hostels could serve to isolate groups and accentuate their differences rather than promote the integration intended by the Convention. He also asked what the Government was doing to preserve the cultures and languages of various groups, so that they did not lose their identity. Lastly, it would be valuable to have more information on the implementation of article 7 of the Convention.

32. Mr. VALENCIA RODRIGUEZ said the Committee should not overlook the important fact that India was a multiracial society, as demonstrated by the 1971 census.

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33. The recent addition to section 505 of the Indian Penal Code, which made it an offence to circulate statements creating or promoting enmity, hatred or ill-will between different classes on racial and other grounds, certainly fulfilled the obligation imposed on States parties under article 4 (a) of the Convention, but he wondered whether any measures had been adopted to implement the rest of that article. The independence of the Indian judiciary meant that adequate protection and remedies were available against any acts of racial discrimination, in implementation of article 6 of the Convention; he would be interested to know whether any cases had actually been brought before the courts and, if so, what had been their outcome.

34. The report dealt in considerable detail with the efforts being made to raise the economic and social status of the 119 million people belonging to the scheduled castes and scheduled tribes. He hoped that the Government would continue to make progress in that field and to report on it to the Committee.

35. Although there was nothing in the current report about the implementation of article 7, it was well known, and had been mentioned in earlier periodic reports, that the Government of India was fulfilling its obligation with regard to its attitude towards the racist régimes of southern Africa.

36. Mr. GOUNDIAM observed that the report contained a great deal of sociological information about India and the activities of its Government. There were differences between the various religious communities, but he was convinced that India would succeed in overcoming them. The fact that Indian women were working side by side with the men was a sure guarantee of success.

37. He wondered whether the recent addition to section 505 of the Penal Code provided for any penalties. In that connexion, he found the expression "racial and other grounds" rather vague, and would like some clarification of how it was applied in practice. He agreed with Mr. Valencia Rodriguez that it would be interesting to have reports on any cases of racial discrimination that had been brought before the courts. There appeared to be no reference to private education in paragraph 8 of the report; it would be helpful to have information on that sector.

38. The provisions mentioned in paragraph 10 of the report appeared to give the scheduled castes and scheduled tribes some kind of official status, whereas in other countries there was a tendency towards prohibiting any identification by race

or ethnic origin. He would like a clarification of the second sentence of paragraph 14, since it was not clear, at least in the French text, whether the reference to "common" institutions meant that they were open to both sexes or to persons of various castes. Lastly, there seemed to him to be a contradiction between the curtailment of the rights of all citizens to move freely referred to in paragraph 17 (v) and the constitutional right to freedom of movement mentioned in paragraph 18 (i).

39. Mr. PARTSCH said that, in his opinion, it would have been easier to see what progress had been made in India if there had not been so much repetition of information from the third periodic report.

40. Paragraph 18 (ii) seemed to give predominance, where the right to marriage and choice of spouse was concerned, to the law of the community; he wondered what steps were being taken at the national level to ensure that such traditional laws did not contain provisions prohibiting marriage between members of different groups of the population.

41. He noticed that a relatively high percentage of people from the scheduled castes and scheduled tribes were in public service; although they formed only 14 per cent of the population, they accounted for 17 per cent of the employees in government service. He understood that special measures had been taken to increase access to government jobs in order to compensate for the discrimination practised against the scheduled castes and tribes in the past; however, since paragraph 12 indicated that only 0.28 per cent of the persons belonging to those sectors had been granted scholarships, he was forced to conclude that a high proportion of those in government service were employed in unskilled and menial tasks. Without greater access to higher education, it would seem very difficult for the groups in question to obtain skilled jobs in the civil service.

42. Mr. VIDELA ESCALADA said that the Government of India was undoubtedly doing everything it could to implement the provisions of the Convention, and the information given on the scheduled castes and scheduled tribes was particularly important in that regard. He too would like to know what penalties applied for offences under the new subsection of section 505 of the Penal Code. He was sure that India was taking a very praiseworthy stand with regard to the implementation of article 7 of the Convention, but he would like to see information on that subject included in the report.

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43. Mr. DECHEZELLES said it must be borne in mind that India was a huge country, with a population comprising peoples of very different ethnic origins and with a caste system going back to the dawn of history. The most striking fact was that, since independence, India had made an unceasing effort to ensure that all its citizens enjoyed full freedom. Such questions as the access of the underprivileged classes to the civil service must be viewed in the proper perspective. Even in Western Europe, children of the upper or cultured class still had, in spite of the theoretic equality of opportunity and by virtue of their education, better access to high-level posts. Guaranteeing equal opportunities for all was a slow process. The important point was that India was making a great effort. He was deeply convinced that modern India was among the best of those working for the elimination of racial discrimination.

44. Mr. BAHNEV said that the fourth periodic report of India contained much interesting information and was in the tradition of the constructive dialogue the Committee had always had with the Government of India. The detailed account of the social and economic measures taken gave ample evidence of the way in which India was implementing the Convention by improving the social situation of the underprivileged sectors of its population.

45. He would find it helpful to have the full text of the recent addition to section 505 of the Indian Penal Code mentioned in paragraph 5 of the report. With regard to paragraph 8, he would like to know what steps were being taken to prevent racial discrimination in private educational institutions. Lastly, he would like to know how the Indian authorities defined a person's racial affiliation.

46. Mr. DEVETAK said that, like previous reports from the Indian Government, the fourth periodic report contained much valuable information about the tremendous effort that was being made to develop the country socially and economically, and others could certainly benefit from seeing how India was solving its problems. It was most gratifying to note the results achieved with regard to the scheduled castes and scheduled tribes, which accounted for 22 per cent of the Indian population. Opportunities were being provided for them in the fields of education, employment, land tenure and political representation so that they could catch up with the rest of the population. Most important, all the measures were aimed at integrating those groups into Indian society through social and economic

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development, rather than isolating them. He hoped that information on further progress in that regard would be included in future reports.

47. Like other members of the Committee, he would like to see some information on India's attitude to the racist régimes of southern Africa. The position of the Indian Government was, of course, well known, but it needed to be restated in the report.

The meeting rose at 1 p.m.