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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-third session

SUMMARY RECORD OF THE 1301st MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 20 August 1998, at 10 a.m.

Chairman: Mr. ABOUL-NASR

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GE.98-17769 (E)

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The meeting was called to order at 10.20 a.m.

PREVENTION OF RACIAL DISCRIMINATION, INCLUDING EARLY WARNING MEASURES AND URGENT ACTION PROCEDURES (agenda item 3) (continued)

Draft decision on Rwanda (continued) (CERD/C/53/Misc.45/Rev.1)

1. The CHAIRMAN invited the Committee to resume its consideration of the draft decision on Rwanda (CERD/C/53/Misc.45/Rev.1).

Paragraph 13

2. The CHAIRMAN said that the general reader would need clarification of the workshop referred to in the paragraph.

3. Mr. WOLFRUM, commenting that he himself had no information about the workshop, said that it did not belong in a decision dealing with such important matters as genocide. He would delete the reference to the workshop altogether and simply have the Committee welcome any support given to the new national human rights body in Rwanda.

4. Ms. McDOUGALL (Country Rapporteur) explained that what had been entitled a “workshop” was far more important than the title would denote and was actually intended to be the legitimizing process for the National Human Rights Commission, which would be the central body in Rwanda for the protection of human rights. The international community had focused on the workshop as a critical means of defining the mandate and methods of work of that body.

5. Mr. WOLFRUM said that that should be made clear in the text, and proposed that after the first sentence, the paragraph should be amended to read: “The Committee recommends that technical and advisory services of the United Nations High Commissioner for Human Rights, including the assistance from members of the Committee, are extended to that National Human Rights Commission in Rwanda so that it can take up its functions and perform them effectively.”

6. Paragraph 13, as amended, was adopted.

Paragraph 14

7. The CHAIRMAN, speaking as a member of the Committee, asked about the nature of the human rights and humanitarian responsibilities in the Great Lakes region referred to and who held those responsibilities.

8. Ms. McDOUGALL (Country Rapporteur) said that a preliminary list would include the Security Council, the Under-Secretary-General for Political Affairs, the United Nations High Commissioner for Human Rights, the Special Representative of the Commission on Human Rights for Rwanda, the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Rwanda and all other representatives of the Secretary-General whose task it was to deal with human rights and humanitarian issues in the Great Lakes region.

9. The CHAIRMAN, speaking as a member of the Committee, observed that there had not been one reference to the Organization of African Unity anywhere in the draft decision, although it too had certainly been making efforts in the Great Lakes region, as elsewhere.

10. Ms. McDOUGALL (Country Rapporteur) said that the word "Secretary-General" in the first line could be replaced by the words "Secretaries-General of the United Nations and of the Organization of African Unity".

11. Paragraph 14, as amended, was adopted.

Paragraph 15

12. The CHAIRMAN, speaking as a member of the Committee, suggested softening the language by replacing the phrase "urgent request to the State party to" by the phrase "urgent hope that the State party would".

13. Paragraph 15, as amended, was adopted.

14. The draft decision on Rwanda as a whole, as amended, was adopted.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 4) (continued)

Draft concluding observations concerning the eleventh to fourteenth periodic reports of the Niger (CERD/C/53/Misc.42 (circulated in French only), future CERD/C/304/Add.62; CERD/C/53/CRP.1/Add.13)

Paragraph 2

15. Mr. DIACONU (Country Rapporteur) proposed the deletion of the phrase "to the vast" after the phrase "in response" in the second sentence.

16. The CHAIRMAN said he hoped that in future a sentence like the second sentence in paragraph 2, welcoming the resumption of dialogue and the additional information supplied orally by the delegation, would be included in the case of all reporting States parties.

17. Paragraph 2, as amended, was adopted.

Paragraphs 3 and 4

18. The CHAIRMAN asked what the connection was with racial discrimination.

19. Mr. DIACONU (Country Rapporteur) said that both paragraphs referred to the situation of the Tuareg and were therefore pertinent.

20. Paragraphs 3 and 4 were adopted.

Paragraph 5

21. Paragraph 5 was adopted with minor drafting changes.

Paragraph 6

22. Mr. RECHETOV, supported by the CHAIRMAN, said that it set a bad precedent to cite geographical and climatic conditions as affecting democratization because other countries would begin to use that excuse.

23. Mr. DIACONU (Country Rapporteur) said that paragraph 6 referred, exceptionally, to the geographical and climatic situation as factors that had an impact on democratization in the country because the progressive desertification that was affecting the entire country and displacing whole populations was in fact making the Government's task of providing the basics for its people very difficult.

24. Mr. de GOUTTES proposed replacing “facteurs importants” (“important factors”) by “facteurs influents” (“contributing factors”).

25. Paragraph 6, as amended, was adopted.

Paragraph 8

26. Mr. RECHETOV said that it was not the implementation of article 3 of the Convention that was at issue but rather the Government's position on the matter. If the Government's position had in fact been clarified, the paragraph should be deleted.

27. Mr. DIACONU (Country Rapporteur) recalled that the impression had been that the Government had not understood that aspect; but, since paragraph 15 asked for information about racial segregation, there was no need to express concern and the paragraph could be deleted.

28. Paragraph 8 was deleted.

Paragraph 9

29. The CHAIRMAN, speaking as a member of the Committee, said that the paragraph seemed unduly long.

30. Mr. VALENCIA RODRIGUEZ said that he failed to see the connection between the last sentence and the rest of the paragraph, which had to do with article 4 of the Convention. Perhaps it could be included as a separate paragraph.

31. Mr. DIACONU (Country Rapporteur) proposed the deletion of the last sentence.

32. Paragraph 9, as amended, was adopted.

Paragraph 10

33. Mr. DIACONU (Country Rapporteur) proposed that the words “a subject of”, before the word “concern”, should be replaced by “a source of”.

34. Paragraph 10, as amended, was adopted with minor drafting changes.

Paragraph 11

35. The CHAIRMAN observed that when the Committee lacked information it should simply request it rather than expressing concern.

36. Paragraph 11 was adopted.

Paragraph 12

37. Mr. SHAHI said that he agreed that too many concerns were being expressed over a lack of information. The new format for concluding observations, which would combine the section listing concerns and the section listing recommendations, would obviate that problem.

38. Mr. DIACONU (Country Rapporteur), supported by Mr. VALENCIA RODRIGUEZ, said that the concern in question was covered in paragraph 16, and proposed that paragraph 12 should be deleted.

39. Paragraph 12 was deleted.

Paragraph 14

40. The CHAIRMAN noted that the paragraph asked for information about the relations between the various ethnic groups. Surely the representative of the State party had provided information on that point?

41. Mr. DIACONU (Country Rapporteur) said that, although the representative had provided some information, the issue of ethnic relations was the most pressing one to have emerged from the consideration of Niger's report, and more information was needed.

42. Paragraph 14 was adopted.

Paragraph 15

43. Paragraph 15 was adopted with minor drafting changes.

Paragraph 17

44. Paragraph 17 was adopted with minor drafting changes.

Paragraphs 18-20

45. The CHAIRMAN suggested that it might save space to ask for information about Niger's implementation of article 5 as a whole, rather than asking for information about each subparagraph in turn.

46. Mr. SHERIFIS noted that paragraph 20 asked for supplementary information about social and economic indicators concerning all ethnic groups in the country. He suggested that it should also ask for information about the participation of all ethnic groups in decision-making bodies, such as Parliament, local government, the civil service and in other aspects of public life.

47. Mr. DIACONU (Country Rapporteur) said that information about civil and political rights was requested in paragraph 18, which dealt with the State party's implementation of article 5, paragraphs (c) and (d). Economic and social indicators had been requested because they helped to show how well the State party guaranteed the economic and social rights of various groups.

48. He suggested that paragraph 18 should be deleted and paragraph 20 reworded to read: "... supplementary information about the implementation of article 5, paragraphs (c) and (d), dealing with civil and political rights, and on economic and social indicators ...".

49. Paragraph 18 was deleted.

50. Paragraph 19 was adopted with minor drafting changes.

51. Paragraph 20, as amended, was adopted.

Paragraph 21

52. Paragraph 21 was adopted with minor drafting changes.

Paragraph 22

53. Mr. DIACONU (Country Rapporteur) said that the paragraph, which called upon the State party to consider making the declaration provided for in article 14 of the Convention, was a standard text but that he, personally, did not approve of it.

54. Paragraph 22 was adopted.

55. The CHAIRMAN said that the paragraph numbering would be corrected as necessary.

56. The draft concluding observations concerning the eleventh to fourteenth periodic reports of Niger as a whole, as amended, were adopted.

57. Mr. BANTON expressed his satisfaction with the format of the concluding observations on Niger: it was not necessary for every point raised in the section "Suggestions and recommendations" to be described in the section "Principal subjects of concern". He hoped that country rapporteurs drafting future concluding observations would follow that trend.

58. Mr. GARVALOV asked whether the request to the State party to make the declaration provided for in article 14 of the Convention was made of all States parties which had not made the declaration, his impression being that there was some inconsistency in that regard.

59. Mr. RECHETOV said that the request seemed to be made quite arbitrarily. For instance, it had not been made in the case of Ireland, but it had been made in the case of Niger, a poor African country in a difficult situation. He also wanted to know how many members of the Committee had to make a point before it was included in the concluding observations.

60. Ms. ZOU Deci said that, since the Committee had been told that 80 per cent of the Niger population was illiterate, it was unrealistic to expect individuals to bring complaints of racial discrimination before the Committee. It was impossible to treat all States parties alike in all circumstances.

61. Mr. BANTON recalled that members had asked the representative of Jordan at the current session whether his Government had considered making the declaration provided for in article 14, and had received a clear reply. The issue had not, therefore, been raised in the concluding observations. The Committee was not asking whether the State party intended to make the declaration or not, but whether it had considered the matter; if it had not, it was appropriate to ask, whereas if it had decided against it, the matter would rest there.

62. Mr. SHERIFIS agreed that the Committee was merely asking for information. If it did not receive the information it needed on any other point, it asked for it, and the present case was no different.

63. Mr. RECHETOV said that two alternative wordings could be drawn up, one for more developed countries, and another, more flexible form of words, for developing countries. However, States parties should not be given the impression that the Committee was trying to impose its own ideas on them or encourage them to take a step which was not mandatory under the Convention.

64. Mr. de GOUTTES felt strongly that it would be a mistake to have a “two-track” form of words. The same wording should be used for all States parties.

65. The CHAIRMAN, speaking as a member of the Committee, said that, as members were aware, he was personally opposed to the request to States parties to consider making the declaration provided for in article 14. It was underestimating States parties to suggest that they had not considered the matter; and there was a general recommendation of the Committee to that effect. However, the Committee had agreed that, for consistency's sake, it would continue to include the request in its concluding observations during the current session. Speaking as Chairman, he said that the matter was to be debated at the beginning of the next session in March 1999, and he suggested that the discussion should be resumed then.

66. It was so decided.

Draft concluding observations concerning the second to ninth periodic reports of Gabon (continued) (CERD/C/53/Misc.38, future CERD/C/304/Add.58)

67. The CHAIRMAN invited the Committee to resume its consideration of the draft concluding observations concerning Gabon (CERD/C/53/Misc.38).

Paragraph 8

68. Mr. NOBEL (Country Rapporteur) read out the following revised version of paragraph 8: "The Committee notes the insufficiency of the information on the demographic composition of the population, including the composition of the foreign community and indigenous Pygmy groups."

69. Paragraph 8, as amended, was adopted.

Paragraph 13

70. Mr. NOBEL (Country Rapporteur) read out the following revised version of paragraph 13: "The Committee recommends the State party, in its next report, to provide fuller information on the demographic composition of the population in the light of paragraph 8 of the reporting guidelines."

71. Paragraph 13, as amended, was adopted.

72. The draft concluding observations concerning the second to ninth periodic reports of Gabon as a whole, as amended, were adopted.

Draft concluding observations concerning the tenth to twelfth periodic reports of Cuba (CERD/C/53/Misc.41; future CERD/C/304/Add.60; CERD/C/53/CRP.1/Add.6)

Paragraph 3

73. Ms. ZOU Deci recalled that, during the debate, Cuba's economic difficulties had been attributed to the economic blockade of the country.

74. Mr. van BOVEN said that "embargo" was a more correct legal term than "blockade".

75. Mrs. SADIQ ALI (Country Rapporteur) suggested the following wording: "It is recognized that Cuba has experienced serious economic difficulties as a result of the economic embargo since the beginning of the 1990s that affect the full enjoyment ...".

76. Paragraph 3, as amended, was adopted.

Paragraph 5

77. Mr. van BOVEN proposed that, in the second sentence, "however" should be deleted and that "harmonious" be inserted before "interracial relations".

78. Paragraph 5, as amended, was adopted.

Paragraph 6

79. Mr. BANTON, responding to a comment made by Mr. YUTZIS, suggested that "assimilated to Cubans" should be replaced by "enjoy the same rights as".

80. Paragraph 6, as amended, was adopted.

Paragraph 8

81. Mr. GARVALOV pointed out that a great deal of information on the implementation of article 7 of the Convention had been provided in the periodic report of Cuba (CERD/C/319/Add.4) and during the debate with the representatives of the State party. Therefore, “articles 4 to 7” should read “articles 4 to 6”.

82. Following a brief exchange of views in which Mr. DIACONU, Mr. NOBEL, Mr. BANTON, Mr. RECHETOV, the CHAIRMAN, Mr. van BOVEN, Mr. SHAHI and Mr. SHERIFIS took part, Mr. de GOUTTES suggested that the last two sentences should be deleted, their content being covered by paragraph 10.

83. Paragraph 8, as amended, was adopted.

Paragraph 10

84. Mr. DIACONU suggested that “in the light of article 6 of the Convention” should be added at the end of the paragraph because he was concerned about the exclusive role of the Attorney-General in initiating procedures for a complaint to be taken to court.

85. Mr. van BOVEN proposed that “suffering from” should be changed to “affected by”.

86. Paragraph 10, as amended, was adopted.

Paragraph 11

87. Mr. DIACONU suggested deleting “the implementation of” in the reference to the Committee’s general recommendations.

88. Paragraph 11, as amended, was adopted.

89. The draft concluding observations concerning the tenth to twelfth periodic reports of Cuba as a whole, as amended, were adopted.

90. Mr. GARVALOV said he hoped that the wording of paragraph 12 of the concluding observations concerning the reports of Cuba would likewise be used in concluding observations on the reports of other States parties.

Draft concluding observations concerning the ninth to thirteenth periodic reports of Nepal (CERD/C/53/Misc.46, future CERD/C/304/Add.61; CERD/C/53/CRP.1/Add.12)

91. Mr. NOBEL (Country Rapporteur), introducing the draft concluding observations, said that amendments proposed by Mr. Banton had been incorporated into the revised text before the Committee. He had also included a reference to the situation of refugees from Bhutan in Nepal (paragraphs 15 and 23), in line with the wording of the relevant resolution adopted recently by the Sub-Commission on Prevention of Discrimination and Protection of Minorities.

Paragraph 3

92. The CHAIRMAN questioned the need for the statement that Nepal was one of the least developed countries of the world.

93. Mr. NOBEL (Country Rapporteur) explained that the statement reflected remarks made by the State party in its report.

94. Paragraph 3 was adopted.

Paragraph 4

95. The CHAIRMAN, supported by Mr. WOLFRUM, wondered why it was necessary to draw particular attention to Nepal's accession to major human rights instruments. That had not been done in the case of other States parties and might set a precedent. He suggested that the paragraph should be deleted.

96. Paragraph 4 was deleted.

Paragraph 6

97. Mr. DIACONU, referring to the first sentence, queried the relevance to the Convention of the Foreign Affairs, Population and Social Committees of Parliament, and suggested their deletion.

98. Mr. SHERIFIS pointed out that foreign affairs were relevant to article 3 of the Convention. Similarly, the work of the other two committees mentioned came under the scope of several articles, including article 5, of the Convention. He would prefer the sentence to be left as it stood. However, he considered that the second sentence, requesting the State party to provide information, did not belong under section C, “Positive aspects” and should be transposed to section E, “Suggestions and recommendations”.

99. The CHAIRMAN said he took it that the Committee wished to adopt paragraph 6 as amended by Mr. Sherifis.

100. Paragraph 6, as amended, was adopted.

Paragraphs 7 and 8

101. The CHAIRMAN questioned the need for the statements concerning the State party's willingness to collaborate with non-governmental organizations (NGOs) and to disseminate its report and the Committee's concluding observations thereon to NGOs.

102. Mr. van BOVEN said that the statements were justified because the State party's cooperative attitude had been highlighted by the Committee during its consideration of the report.

103. Mr. RECHETOV and Mr. WOLFRUM endorsed those remarks.

104. Paragraphs 7 and 8 were adopted.

Paragraph 9

105. Mr. SHERIFIS observed by way of general comment that he did not consider the lack of clear information in a State party's report to be a principal subject of concern.

106. Paragraph 9 was adopted.

Paragraphs 10 and 11

107. Ms. ZOU Deci suggested that paragraphs 10 and 11 should be merged, since they both dealt with article 4 of the Convention.

108. Mr. NOBEL (Country Rapporteur) said that the paragraphs must be kept separate, since paragraph 10 concerned Nepal's reservation concerning article 4, whereas paragraph 11 related to the implementation of that article.

109. Mr. WOLFRUM said that, as it stood, the intent of paragraph 10 was unclear. It should explicitly refer to Nepal's reservation rather than its “position” and be combined with paragraph 11.

110. Mr. BANTON agreed that the two paragraphs should be merged into a single one, beginning: “Concern is again expressed regarding the State party's reservation to article 4 of the Convention.”

111. Mr. GARVALOV, speaking on a point of order, said that it was for the Chairman to reopen the debate on paragraph 10.

112. The CHAIRMAN agreed, saying that both in his personal capacity and as Chairman he would prefer the more cautious wording of paragraph 10, with no explicit reference to Nepal's reservation since the matter of reservations was open to debate and was not really the Committee's concern.

113. Mr. van BOVEN disagreed with the Chairman. The Committee was entitled to express its views on the reservations entered by States parties, and had done so in the past.

114. Mr. NOBEL (Country Rapporteur) suggested, in the light of the discussion, that paragraph 10 should be deleted because, in any case, the question of Nepal's reservation to article 4 was also dealt with under section E, “Suggestions and recommendations” (paragraph 18).

115. The CHAIRMAN said he took it that that proposal was acceptable to the Committee, pointing out that the substantive issue of reservations would be discussed by the Committee at a later stage.

116. Paragraph 10 was deleted.

117. Mr. SHERIFIS, supported by Mr. BANTON, said that the phrase “while noting with satisfaction that all acts of racial discrimination are punishable by law,” was out of place in paragraph 11 and should be deleted.

118. Paragraph 11, as amended, was adopted.

Paragraph 14

119. Mr. BANTON, supported by Mr. NOBEL (Country Rapporteur), suggested the deletion of paragraph 14, since the training of civil servants and the teaching of human rights were covered in paragraph 22.

120. Paragraph 14 was deleted.

Paragraph 15

121. Mr. NOBEL (Country Rapporteur), replying to a question by the CHAIRMAN, said that his source of information for the number of refugees from Bhutan in Nepal was the Nepalese delegation itself. The figure of 100,000 Bhutanese refugees had also been confirmed by the Sub-Commission, which reported the presence of 90,000 refugees in camps and 10,000 outside camps in Nepal.

122. Paragraph 15 was adopted.

Paragraph 17

123. Mr. SHAHI, specifying that he did not object to the paragraph, queried the accuracy of the phrase “affirmative action programmes”. To his recollection, the Nepalese delegation had acknowledged that it was making only very modest efforts to assist the deprived in the country.

124. Paragraph 17 was adopted.

Paragraph 18

125. Mr. DIACONU suggested, for the sake of accuracy, the insertion of the word “full” before “applicability”. He was not sure that Nepal's reservation to article 4 prevented the implementation of the Convention, but it certainly did restrict it to some extent.

126. The CHAIRMAN, speaking as a member of the Committee, said that the Committee would need to be consistent in its concluding observations. If Nepal was invited to withdraw its reservation to article 4, all States parties which had entered reservations to the Convention should be asked to do likewise.

127. Mr. DIACONU pointed out that Nepal's reservation to article 4 had been entered some 30 years previously. Other States parties, like France and Italy, also had reservations to that article dating back many years, but their recent legislation, which was in full conformity with the provisions of the article, meant that such reservations were virtually a dead letter and had probably been long forgotten. He took the view that all reservations to the Convention should be examined by the Committee on a case-by-case basis to ascertain whether or to what extent they hindered implementation of the instrument. Thereafter the Committee could if necessary make recommendations to individual States parties for the withdrawal of reservations.

128. Mr. de GOUTTES said that although France's reservation to article 4 dated back some time, it had not been altogether forgotten. In fact, it was

currently the subject of an inter-ministerial review, along with reservations to other human rights instruments. Personally, he had no objection to the Committee referring to reservations in its concluding observations.

129. Mr. van BOVEN pointed out that Nepal had also entered a reservation to article 6 of the Convention, which should be reflected in the text.

130. Paragraph 18, as amended, was adopted.

Paragraph 23

131. Mr. VALENCIA RODRIGUEZ suggested the deletion of the words “in good faith”; the Committee would not wish to imply that the Government of Nepal might conduct negotiations in any other spirit.

132. Mr. SHERIFIS sought clarification of the rationale behind the paragraph. Did the Committee have information at its disposal to suggest that the Nepalese authorities did not recognize the rights of refugees from Bhutan?

133. Mr. NOBEL (Country Rapporteur) said that information from a variety of sources showed that the Bhutanese people in question did not enjoy their rights under the Convention relating to the Status of Refugees. The problem in a nutshell was that the Nepalese Government failed to recognize their status as refugees and categorized them as temporary residents, while the Government of Bhutan did not want them on its territory since it considered them to be ethnic Nepalese.

134. Mr. WOLFRUM stated his preference for a more general recommendation to the effect of seeking a peaceful solution to the situation, without any specific reference to the status of the people in question under international law.

135. Mr. NOBEL (Country Rapporteur) said that although the State party's report made no mention of the situation, he had drawn attention to the matter in his capacity as Country Rapporteur. The Nepalese delegation had been very frank and had acknowledged that there was a problem. The United Nations High Commissioner for Refugees and other United Nations bodies were in no doubt as to the status of the people concerned, whose situation had very serious legal and humanitarian implications. The people from Bhutan in Nepal were genuinely suffering and it would therefore be unwise for the Committee to confine itself to a statement along the lines suggested by Mr. Wolfrum. He would endeavour to redraft the paragraph to reflect all the concerns expressed for consideration at a subsequent meeting.

136. The CHAIRMAN said he took it that Mr. Nobel's suggestion was acceptable to the Committee.

137. It was so decided.

The meeting rose at 1.05 p.m.