

GAMBIA

CERD A/37/18 (1982)

61. The initial report of the Gambia (CERD/C/61/Add.3) was considered by the Committee after a brief introductory statement made by the representative of the reporting State.

62. Members of the Committee commended the Government of the Gambia for its good report, which gave an outline of the constitutional framework underlying the protection of human rights and fundamental freedoms in general, and the campaign against racial discrimination in particular. They also welcomed the fact that the Gambia had never maintained diplomatic, economic or other relations with the racist regime of South Africa.

63. Some members of the Committee observed that, since the initial report had been drawn up, the Gambia had been upset by events which might have had effects of a constitutional nature, and wished to have more information about the human rights situation in the Gambia following the conclusion of the treaty with Senegal in 1981. They wished to know, in particular, what the Gambia's new legal status was, whether Senegambia was a federation or a confederation, whether constitutional guarantees had been affected, whether the laws of Senegal were applicable in the Gambia, the effects of those events on the population and whether the new arrangements were in conformity with the Convention.

64. Several questions were raised on the various provisions of the 1970 Constitution of the Gambia in the light of the commitments entered in by that State when it became a party to the Convention. It was asked, in particular, whether the provisions contained in subsections 4 to 7 of section 25 of the Constitution, which guarantees the right not to be discriminated against, were deemed to correspond to those of article 1, paragraphs 2, 3 and 4 of the Convention and what criteria were employed to decide that racial discrimination was permissible in the various cases listed in subsection 4. It was pointed out that there was a reservation on customary law in subsection 4 (d) of section 25 that could contain features of a discriminatory nature, and clarification was requested on that provision of the Constitution. The opinion was expressed that it was to be feared that the implementation of the provisions of subsections 5, 7 and 8 of section 25, which were of a general nature, might depend on subjective considerations put forward by the authorities. Clarification was also requested on the formulation of certain terms and ideas contained in section 25, subsections 2, 4 (b), 4 (e), 5, 6 and 7 of the Constitution. It was felt, in addition, that it would be useful for the Committee to be provided with the text of some articles of the 1970 Constitution to which reference was made in the report in order to understand properly the measures set out in it.

65. In connection with article 2 of the Convention, members of the Committee noted that the report contained little information on the ethnic composition of the population and that no mention was made of the implementation by the Gambia of paragraph 1 (e) of that article. They therefore asked whether the word "tribe" employed in the Constitution designated an ethnic group, whether tribes in the Gambia were distinguished by differences of language and cultural traditions, what other tribes existed in the country besides the three principal tribes named in the report, whether the

country's two main political parties, the People's Progressive Party and the United People's Party, were still dominated, the former by the Mandinka tribe and the latter by the Fula and Wollof and what administrative or other measures had been taken to promote understanding and harmony between the various tribes and to develop their cultural identity. Information was requested, in particular about the people of Lebanese origin and the white workers living temporarily in the Gambia and on what measures, apart from legislation, the Gambian Government had taken to prevent acts of discrimination by any individual, group or organization, including State authorities and bodies.

66. With regard to article 4, it was noted that under section 25, subsection 4 (e), of the Gambian Constitution, an exception could be made to the principle of non-discrimination in favour of an act which was "reasonably justifiable in democratic society" and it was recalled that obligations undertaken by a State party under article 4 of the Convention were not subject to any condition. It was also observed that the provisions of the Criminal Code of Gambia quoted in the report did not meet all the requirements of article 4 of the Convention and that the report was not explicit enough on the suppression of the dissemination of any racist ideology and ideas based on racial superiority and hatred and the activities of racist organizations. It was therefore asked whether there was a jurisprudence to fill the gap in the Criminal Code and what laws or regulations the authorities of the Gambia could use to implement the provisions of article 4 of the Convention. It was otherwise suggested that the provisions of the Criminal Code quoted in the report should be reviewed or additional legislative measures should be taken in the light of article 4 of the Convention, which had mandatory force.

67. Some members of the Committee noted that some of the rights guaranteed under article 5 of the Convention were not mentioned in the report, such as political rights, economic, social and cultural rights and the right of access to any place or service intended for use by the general public, and they requested information in this respect. It was asked, in particular, whether there were refugees or tribes in the Gambia who had been given political asylum, and what the rights of workers were in the Country. With reference to section 22 of the Constitution concerning freedom of expression, a member noted the absence of any precise rules and asked how it was possible to know whether any particular legislative provision was necessary in order to protect the reputation, rights and freedoms of other persons.

68. In connection with article 6 of the Convention, reference was made to section 28 of the Gambian Constitution, which provided machinery for remedies in the event of violation of the rights guaranteed, and it was asked whether there had been any instances of persons whose rights had been violated obtaining satisfaction through the machinery provided for by section 28. Moreover, since the report made no mention of any provision concerning the right to seek reparation or satisfaction for any damage suffered as a result of racial discrimination, it was asked whether the Gambia had any legislation in that regard. It was also noted that section 28 of the Constitution empowered the Supreme Court to nullify all laws it held to contravene the fundamental rights and freedoms guaranteed under chapter 3 of the Constitution, and it was asked whether there were cases where laws had been found to be at odds with the Constitution and in particular with the principle of non-discrimination.

69. Some information was also requested by the Committee on the measures taken by the Gambia

to conform to the provisions of article 7 of the Convention.

70. In replying to some of the questions raised by members of the Committee, the representative of the Gambia stated that the treaty of association between Senegal and the Gambia had not given birth to a new State but to a confederation of two sovereign States which, under article 2 of the Treaty, preserved their sovereignty. Each of them also preserved its Constitution and its legal system. He then provided information on the ethnic structure of the population of his country and explained that the multiracial society of the Gambia included Moors from Mauritania, and “Syrians” from the Lebanon or Syria, who were sometimes of Gambian nationality.

71. With regard to special steps to be taken on behalf of the most backward ethnic groups, he stated that the entire country was engaged in the struggle for development, that the rights of each ethnic group, including cultural rights, were recognized in the Constitution and that there was no problem in the country of cultural domination by the most numerous group. He also explained that there were more than two political parties in the Gambia and that political parties did not follow the ethnic divisions.

72. With regard to article 5 of the Convention, the representative stated that the list of rights guaranteed by the Constitution and included in the report was not exhaustive and that only those rights which had seemed most important had been mentioned. He finally assured the Committee that he would convey all the questions and comments to the attention of the competent authorities of his country.

CERD A/46/18 (1991)

302. At its 921st meeting, on 8 August 1991 (see CERD/C/SR.921), the Committee reviewed the implementation of the Convention by the Gambia based on its initial report (CERD/C/61/Add.3) and its consideration by the Committee (see CERD/C/SR.550). The Committee noted that no reports had been received since 1980.

303. Members of the Committee recalled that during the examination of the Gambia's initial report, the Committee had asked for the texts of the Constitution and the Penal Code, as well as for clarifications regarding some provisions of those texts, including article 25 of the Constitution. Questions had also been raised concerning the ethnic composition of the Gambian population and the influence of certain tribes on the country's political parties. In addition, the Committee had suggested certain revisions to the Penal Code in order to bring it into conformity with article 4 of the Convention, which was obligatory in character. Members also noted that the report did not contain information on the law pertaining to the awarding of compensation for acts of racial discrimination.

Concluding observations

304. Members of the Committee recalled that the Gambia had played a major role in the promotion and protection of human rights in Africa and that it was all the more important for it to meet its reporting obligations under the Convention.

305. In concluding the review, the Committee regretted that the Gambia had not responded to its invitation to participate in its meeting and to furnish relevant information. It decided that all the necessary documentation should be forwarded to the State party in order to facilitate the presentation of a new report, in line with the Committee's guidelines, as soon as possible.

CERD A/51/18 (1996)

259. At its 1154th meeting, held on 14 March 1996 (see CERD/C/SR.1154), the Committee reviewed the implementation of the Convention by Gambia based upon its previous report (CERD/C/61/Add.3) and the Committee's consideration thereof (see CERD/C/SR.550). The Committee noted with regret that no report had been submitted to the Committee since 1980.

260. The Committee regretted that Gambia had not responded to its invitation to participate in the meeting and to furnish relevant information. The Committee decided that a communication should be sent to the Government of the reporting State setting out its reporting obligations under the Convention and urging that the dialogue with the Committee should be resumed as soon as possible.

261. The Committee suggested that the Government of Gambia avail itself of the technical assistance offered under the advisory services and technical assistance programme of the Centre for Human Rights, with the aim of drawing up and submitting as soon as possible an updated report drafted in accordance with the reporting guidelines.

CERD A/ 56/18 (2001)

221. At its 1463rd meeting, on 22 March 2001 (see CERD/C/SR.1463), the Committee reviewed the implementation of the Convention by Gambia based upon the concluding observations⁵ of its initial report (CERD/C/61/Add.3) in 1980 and previous reviews⁶ of the implementation of the Convention in 1991 and 1996. The Committee noted with regret that no report had been submitted to the Committee since 1980.

222. The Committee regretted that Gambia had not responded to its invitation to participate in the meeting and to furnish relevant information. The Committee decided that a communication should be sent to the Government of Gambia setting out its reporting obligations under the Convention and urging that the dialogue with the Committee should resume as soon as possible.

223. The Committee suggested that the Government of Gambia avail itself of the technical assistance offered under the advisory services and technical assistance programme of the Office of the United Nations High Commissioner for Human Rights, with the aim of drawing up and submitting as soon as possible a report drafted in accordance with the reporting guidelines.

⁵ [Official Records of the General Assembly], Thirty-seventh Session, Supplement No. 18 (A/37/18), paras. 61-71.

⁶ Ibid., Forty-sixth Session, Supplement No. 18 (A/47/18), paras. 302-305 and ibid., Fifty-first Session, Supplement No. 18 (A/51/18), paras. 259-261.