

MADAGASCAR

CERD 26th No. 18 (A/8418) (1971)

28. From its 56th to its 58th meetings, the Committee proceeded to determine formally its view as a Committee (as distinct from the views expressed at previous meetings, which were those of the individual members) as to which reports were “satisfactory”, in the sense that they furnished all or most of the required information, and which reports were “unsatisfactory” or “incomplete” and therefore needed to be supplemented by further information. The initial report (and supplementary report, if any) of each State Party was put before the Committee separately by the Chairman. Where there was no consensus, the question whether a State Party’s report (or reports) was “satisfactory” or whether, failing that, the Committee wished to request additional information from that State Party, was decided by vote.

...

30. On the other hand, the reports submitted by the following 17 States Parties were considered by the Committee “incomplete” or “unsatisfactory”, in the sense that significant categories of information were either totally lacking or insufficiently provided in them: ... Madagascar ... At its 58th meeting, held on 23 April 1971, the Committee adopted the text of a communication which it decided to request the Secretary-General to submit to the aforementioned States Parties, in accordance with rule 65 of its provisional rules of procedure. (The text of this communication is reproduced in annex V.)

...

35. [At its fourth session] ... The Committee decided that further information was needed from the following six States Parties, whose initial reports were considered “incomplete” or “unsatisfactory” ... It adopted similar decisions with respect to the supplementary reports of two States Parties: ... Madagascar.

CERD 27TH Session, No. 18 (A/8718) (1972)

54. Noting that neither ... the supplementary report submitted by Madagascar, conformed to the guidelines laid down by the Committee (CERD/C/R.12) 6/ or contained sufficient information to enable it to determine whether or not the States Parties concerned had discharged their obligations under the Convention, the Committee decided at its 95th and 97th meetings to request ... Madagascar to compare the reports ... submitted with the guidelines laid down by the Committee in its communication under reference and, in the light of the discussion of those reports by the Committee, to furnish it with all pertinent information. Furthermore, the Committee adopted general recommendation II in conjunction with its examination of the report submitted by Madagascar (see paragraphs 85-91 below).

...

86. The supplementary report of Madagascar (see paragraph 54 above) contained the following statements:

“The Malagasy Government has taken note of communication CERD/C/R.12 of 28 January 1970 in which the Committee on the Elimination of Racial Discrimination indicates the types of information it would like to receive, through the Secretary-General, under article 9 of the Convention.

“In this connexion, the Malagasy Government considers that the detailed questionnaire in the aforementioned communication is intended for countries in which either de facto or de jure racial discrimination exists. As such problems are unknown in Madagascar, it has taken no new legislative, judicial or administrative action to implement the above-mentioned Convention.”

87. The Committee discussed the question raised by this statement in conjunction with its consideration of the supplementary report of Madagascar at its 95th and 97th meetings. During the discussion, some members pointed out that an interpretation of the guidelines laid down by the Committee, such as that contained in the report from Madagascar, would have the effect of dividing States Parties into two groups - those which were required to meet the obligations set forth in the Convention and those which were exempt from so doing. In so far as the guidelines laid down by the Committee in its communication of 28 January 1970 were merely a recapitulation, in a different form, of the provisions of the Convention which were applicable to all States Parties, they were intended for all States Parties without distinction, whether or not racial discrimination existed in their respective territories.

6/ [Official Records of the General Assembly], Twenty-fifth session, Supplement No. 27 (A/8027), annex III-A.

CERD 28th No. 18 (A/9018) (1973)

252. The initial report of Madagascar, submitted on 17 April 1970, was considered by the Committee at its third session. It was considered unsatisfactory, and additional information was requested. A supplementary report, dated 27 April 1971, was considered at the fourth session; it was considered unsatisfactory, and further information was requested. Another supplementary report, submitted on 12 December 1971, was considered at the fifth session; it was considered unsatisfactory, and further information was requested. Another supplementary report, dated 24 July 1972, the second periodic report, submitted on the same date, and a supplement thereto, dated 4 January 1973, were considered together at the seventh session (143rd meeting).

253. Members expressed the opinion that the reports under consideration followed the guidelines laid down by the Committee. Special note was taken of the information contained in the latest of these reports, stating that the Government of the reporting State, having examined the “policy of dialogue” with South Africa initiated by a previous Government, had concluded that such a policy - which was in accordance neither with the national interest of the reporting State nor with the solidarity of the Malagasy people with other African peoples - had failed to achieve its alleged objective, namely, “the mitigation of the system of apartheid”; and that the Malagasy Government had accordingly chosen to renounce a number of economic projects which had been inaugurated in partnership with South Africa, and to unite its efforts with those of the “uncompromising adversaries of racial segregation”. Note was taken also of the provisions of article 14, paragraph 4, of the Malagasy Constitution, which provided that international treaties ratified by the State “shall from the moment of their publication take precedence over national laws”, as well as the provisions of article 13 of Ordinance No. 62-041 of 1962, which declared that the general provisions set forth in the preamble to the Constitution - including the proclamation that “all men have equal rights and duties without distinction as to origin, race or religion” - “shall be upheld by judges who shall at all times ensure respect for an compliance with those principles when applying the law”.

254. Noting that the legislative provisions cited in the report declared incitement to “hatred among the citizens or inhabitants” a punishable offence, some members inquired whether the other acts mentioned in article 4 of the Convention - particularly in paragraph (b) of that article - had been also covered by other provisions of the penal laws of the reporting State.

255. The representative of Madagascar referred to the information contained in the reports, to the effect that all conventions ratified by his country were incorporated into internal positive law and stated that, therefore, the provisions of the Convention had greater legal force than those of ordinary law.

256. The Committee decided to consider the reports satisfactory and expressed the hope that the Government of the Malagasy Republic would continue to co-operate with the Committee.

CERD 29th No. 18 (A/9618) (1974)

144. The third periodic report of Madagascar was considered by the Committee in conjunction with the information submitted by that State Party in response to decision 3 (VII) of the Committee. The readiness with which the reporting State had answered requests for information in accordance with the Committee's general recommendations III and IV and decision 3 (VII) was welcomed by the Committee. The Committee noted with appreciation the supplementary information furnished by the representative of the Government of Madagascar, to the effect that the Penal Code was currently in the process of revision and that the new provisions eventually incorporated into it would include some specific measures relating to the Convention; that the texts of the relevant provisions would be communicated to the Committee when they passed into law; and that the Constitution was also being reviewed.

145. The question was asked about the implementation of article 7 of the Convention, and whether the Government of the reporting State had envisaged any measures in the field of teaching, education, culture and information. Interest was expressed in receiving statistical data and other particulars on the various ethnic groups listed in the report.

146. The representative of the Government of the reporting State assured the Committee that, if the information on the population which was requested was available, it would be made available to the Committee.

CERD A/31/18 + CORR.1 (1976)

132. The fourth periodic report of Madagascar was considered without the participation of a representative of the Government of the reporting State. The Committee noted with appreciation that the report under consideration took account of the comments made during the consideration of the preceding reports of Madagascar, provided the additional information requested by the Committee and contained pertinent replies to the questions put by members of the Committee. It was noted with satisfaction that, in addition to the information supplied in previous reports, the present report contained information about the new Constitution, about the penal code and labour legislation under preparation, about the implementation of the provisions of articles 6 and 7 of the Convention, and about the subject-matter of general recommendation III. It was hoped that the next report would contain the information envisaged in general recommendation IV.

133. Members of the Committee took note of the assurance that the penal code currently under preparation would give effect to the relevant provisions of the Convention. It was hoped that the relevant provisions of the penal code under preparation would be communicated to the Committee in due course. Some members expressed the view that the procedure followed in trying offenders against the legislation prohibiting racial discrimination - including the "summary inquiry" procedure and the time-limit of from one to three days - were inadequate. The scope of the limits placed on the employment of foreign labour called for clarification, but some members expressed the opinion that it was normal, in a country suffering from unemployment, for the Government to place some restrictions on the employment of foreign workers. It was observed that the reporting State was fulfilling its obligations under article 6 of the Convention satisfactorily.

134. Several members of the Committee welcomed the information contained in the report about the measures adopted by the Government of Madagascar to give effect to the Provisions of article 7 of the Convention. Those measures, about which detailed information was provided, aimed at accomplishing all the aims mentioned in that article: they were directed at "combating prejudices which lead to racial discrimination", at "promoting understanding, tolerance and friendship among nations and racial or ethnical groups" and at "propagating the purposes and principles of the Charter of the United Nations" and other international instruments, including the Convention.

135. The detailed information provided in the report about the policy of the Malagasy Government, at the international level, in its struggle against racism and racial discrimination and in its support for liberation movements throughout the world, was noted with appreciation.

CERD A/33/18 (1978)

224. The fifth periodic report of Madagascar was considered by the Committee together with the introductory statement made by the representative of the reporting State, which supplemented the information given in the report. Some members expressed the wish that that information had been included in the report under consideration, and hoped that in any case it would form part of the next report.

225. With regard to article 12 of the Constitution of 1975, the text of which was contained in an annex to the report, it was noted that the prohibition of discrimination applied only to citizens of Madagascar; discrimination against persons who were not citizens of the country was, apparently, not prohibited. It was noted also that there was no reference to penalties of any kind for persons contravening that article.

226. Members of the Committee took note of the statement that the revision of the penal code had not yet been completed and that in due course the legislation designed to satisfy article 4 of the Convention would be submitted to the Committee. That statement, however, was found to be difficult to reconcile with the statement in the report that no measures had been taken to give effect, inter alia, to the provisions of article 4 of the Convention because the cases envisaged in those provisions had no relevance to the situation prevailing in the reporting State. The representative of Madagascar explained away the seeming contradiction by referring to the measures taken by his Government, on which the fourth periodic report had given ample information, and by specifying that the statement in the report under consideration referred only to the period covered by it.

227. It was recalled that, in its previous report, the Government of Madagascar had provided the Committee with detailed information on the measures taken by it to implement article 7 of the Convention (A/31/18 and Corr.1, para. 134), and it was asked whether any new developments in that regard had since occurred.

CERD A/36/18 (1981)

300. The sixth periodic report of Madagascar (CERD/C/66/Add.21) was considered by the Committee without the participation of a representative of the reporting State.

301. The Committee regretted that a constructive dialogue with the Malagasy Government was hampered by the lack of information in its report, which was necessary for a satisfactory discussion, and by the absence of its representative. The Committee was of the view that the Malagasy Government should provide information on specific issues relevant to the various provisions of the Convention and should prepare its next periodic report in accordance with the Committee's guidelines and include in it the replies to the questions asked during the discussion in the Committee of the fifth periodic report. The Committee also hoped that a representative of the Malagasy Government would be present when the next periodic report was examined in order to clarify points of interest to the Committee, with special reference to the country's new Constitution and other questions previously raised relating to article 2, paragraph 2, and article 7 of the Convention.

302. With reference, in particular, to article 4 of the Convention, the Committee expressed the hope that the Malagasy Government would speed up the preparation of its revised Penal Code and would inform the committee about the relevant legislative text.

303. In connection with article 5 of the Convention, it was noted from the report that the Constitution prohibited racial and other forms of discrimination, and an assurance was given that the guarantee of non-discrimination was not limited to Malagasy nationals but applied to all residents, including aliens, who could also rely on the protection of the Government; more information was requested on that provision with the full text of the relevant legislation.

304. At the proposal of the Chairman, the Committee decided to bring to the attention of the Malagasy Government the summary record of its 518th meeting concerning the consideration of the Government's sixth periodic report with a request for answers to questions raised during the discussion in the Committee of this and the previous report of Madagascar.

CERD A/38/18 (1983)

238. The Committee considered the seventh periodic report of Madagascar (CERD/C/91/Add.29) after a brief introductory statement of the representative of the reporting State in which he referred, in particular, to the text of Act No. 82/013 of 11 June 1982 penalizing acts of racial discrimination.

239. Members of the Committee expressed their appreciation to the Government of Madagascar for continuing its dialogue with the Committee despite the problems which it faced at home and abroad. It was observed, however, that although it appeared from the information provided that there was no problem of racial discrimination in Madagascar, the Government was under an obligation to pass the legislation required by the Convention. In this connection, the Government was requested to furnish in its next periodic report the complete text of article 12 of the Constitution, with its full definition of racial discrimination, so that the Committee could see to what extent that definition satisfied the stipulation of article 1, paragraph 1, of the Convention. One member noted that the Malagasy Government clearly wished the Committee to evaluate its report in the light of its political philosophy. However, while the Government avoided collecting census data on an ethnic basis with a view to promoting national unity, it was none the less obliged to furnish the Committee with detailed information on the country's demographic composition so that the Committee could evaluate the country's compliance with its obligations under the Convention. Some members regretted that the report was not fully in keeping with the Committee's guidelines and expressed the hope that those guidelines would be followed in the preparation of future reports.

240. Turning to the implementation of article 2 of the Convention, some members of the Committee referred to article 1 of the Labour Code and asked whether the classification of aliens into wage-earners and non-wage-earners was made by the Minister for Labour, or whether the distinction depended upon the state of the job market; whether the foreign workers were recruited by bilateral agreement and, if so, under what conditions; and whether they were required to return to their own countries upon completion of their contracts. Referring to the report that Madagascar's schools for foreign nationalities were also attended by "some Malagasy pupils", it was asked whether those pupils constituted a privileged class or were selected according to such criteria as the languages they spoke; were the foreign schools allowed to set their own syllabuses, or did they have to abide by the general educational policy of the Republic. Some members wondered whether aliens could acquire Malagasy nationality, what rights they would enjoy if they did; whether they would be free to return to their country of origin and whether they would be subject to any travel restrictions. Referring to information provided in the report concerning "stateless" and "not declared" persons, it was asked what rights were enjoyed by such persons and whether any agreement to repatriate them existed; whether the stateless persons had been in that category for any length of time; if they had, whether they received social benefits and whether their children were entitled to education. A member also requested information on the status of the people living in the more backward regions of the country and the policy of the Government to improve the conditions in those areas.

241. With reference to article 3 of the Convention, the Committee congratulated the Government of Madagascar for its firm policy concerning relations with the racist régime of South Africa and its attitude to the practice of apartheid.

242. In connection with article 4 of the Convention, several members expressed concern about the attitude expressed in the report that there was no problem of racial discrimination and therefore no need to take any measures in view of its elimination; that taking such measures would lead to racial discrimination rather than to its elimination; and that the attraction of the forbidden fruit had to be avoided. This approach appeared incompatible with the mandatory rules of the Convention designed to build an international barrier against racial discrimination. In examining the rules enacted, the Committee noted that the promulgation of the Press Charter and the new article 115 of the Penal Code were encouraging signs of Madagascar's willingness to fulfil its obligations under the Convention. However, it was pointed out that article 115 fell short of the requirements of article 4 (a) and (b) of the Convention and that the final paragraph of article 115, moreover, contained a very broad exception to the principle being established. It was asked why such an exception had been made and what "distinctions, exclusions, restriction or preferences" it was intended to cover. The report also did not indicate whether, in accordance with article 4 (b) of the Convention, organizations which promoted or incited racial discrimination could be declared illegal or prohibited. Furthermore, it was noteworthy that the provisions of the Press Charter applied to oral as well as to written defamation and therefore went further than many press codes. However, the fact that there were provisions in both the Constitution and the Press Charter against racial discrimination seemed to be in contradiction with the policy of the Government to avoid the adverse effects of an anti-racist law. Some members pointed out that the penalties imposed by existing legislation were sufficiently severe. It was asked whether article 28 of the Constitution could be used to prohibit the dissemination of racial propaganda on the grounds the racial discrimination was not "in conformity with the objectives of the revolution".

243. Regarding Madagascar's implementation of article 5 of the Convention, some members requested an illustration of how article 38 of the Constitution operated and how it applied to a citizen who could not, for some reason, exercise his full civil and political rights. According to article 39 of the Constitution, freedom of conscience and religion was guaranteed by the neutrality of the State towards all beliefs. In this regard it was asked whether the omission of "freedom of thought" was deliberate and what was meant by the word "cults" in article 39. Additional information was required on the regulations governing a person's right to leave Madagascar, either in search of employment or to join his family abroad and on the role of trade unions in the context of Madagascar's socialist ideology. One member expressed concern that a person could be deprived of all civil rights if found guilty of certain offences against the State. Such penalty amounted to the civil death of an individual. The hope was expressed that the Malagasy Government would adopt a liberal interpretation of articles 14, 16, 25, 28 and 30 of the Constitution, which appeared to abridge other rights which the same Constitution guaranteed.

244. With regard to implementation of article 6 of the Convention, detailed information was requested in the next report on recourse procedures available to citizens in civil, penal and administrative areas.

245. In accordance with implementation of article 7 of the Convention, members of the Committee wished to know whether human rights subjects were included in training programmes for teachers, police officers, magistrates and other public officials; what was the role of the mass media in propagating the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights, the United Nations Declaration and Convention on the Elimination

of All Forms of Racial Discrimination, and what efforts were being made to promote understanding, tolerance and friendship among nations and racial or ethnic groups.

246. In replying to questions by the Committee, the representative of Madagascar drew attention to the Charter of the Malagasy Socialist Revolution and said that it had been adopted by referendum and had established the general objectives and framework within which all future economic and social legislation must be developed. As regards the purpose of the classification of aliens into wage-earners and non-wage-earners in article 1 of the Labour Code, he stated that the prior authorization required in the Labour Code for the employment of aliens was intended to prevent foreigners, in their own interest, from arriving in the country without work, thereby becoming a burden on the State and placing themselves in conditions of hardship, and that the granting of the authorization depended on prevailing employment condition. Concerning the recruitment of foreign workers, he said that Madagascar had entered into bilateral co-operative agreements on the subject with other countries. A foreign worker must have a contract, specifying the duration of his employment, and a residence permit. Stateless persons had the same rights as foreigners and they were free to remain in Madagascar forever. As far as language policy was concerned, the representative explained that the Government was seeking to enrich the Malagasy language and to ensure uniformity of terminology that was particularly important in the area of science and technology. Currently there were two official languages - Malagasy and French - and all official documents were published in both languages. As regards the Government's policies towards the disadvantaged population, he stated that the Government's objective was the steady development and full employment of its 18 ethnic groups, 85 per cent of whom were still suffering the effects of the colonial past, and that Act 77/002 of 22 December 1977 had adopted a planned approach to socialist development. That Act formulated an overall plan for full agricultural and industrial development by the year 2000, whose aims were the complete nationalization of the main sectors and strategic activities of the economy, full employment and the satisfaction of the basic economic, social and cultural needs of the people.

247. In connection with article 4 of the Convention, the representative stated that Madagascar had enacted Act 82/013 of 11 June 1982 as new article 115 of the Penal Code, establishing penalties for acts of racial discrimination. That Act had a precursor in the Press Charter which had provided the bases for an arsenal of laws to suppress racial discrimination if and when it appeared; it provided the heaviest penalties for violations relating to foreigners, and the penalty for senior officials was greater than that for low-ranking officials. With regard to the deprivation of rights sanctioned in articles 14 and 16 of the Constitution, the representative stated that such extreme measures would indeed constitute a form of civil death for those who wished to sabotage the Malagasy revolution, but such instances had not occurred and the measures had never been invoked.

248. With regard to article 5 of the Convention, the representative explained that the law concerning loss of civil rights had not yet come into effect. Moreover, its purpose was to deter anyone who might wish to prevent the country from advancing along the path of socialism. Concerning the freedom of religion, he said that, while there was complete freedom of association, religious worship should not lead to disturbance of the peace, and that the churches were subject to the same régime as were associations. Furthermore, he informed the Committee that no discriminatory conditions were imposed on the right to leave the country; however, everyone was required to obtain an exit visa, the issue of which was subject to compliance with regulations concerning fiscal obligations, and to

have a return ticket. As far as trade unions were concerned, the representative stated that unions could be either affiliated to a political party or totally independent from any party and that the right to strike was recognized. However, certain categories of workers, such as public health officials, law enforcement officials, senior administrative officers, postal workers, the staff of the meteorological service and others who, if they went on strike, would create national and international disruption, did not have that right.

249. With reference to article 7 of the Convention, the representative said that civics was taught from the primary to the university level and that the courses did include a human rights aspect. In addition, every year on United Nations Day and on Human Rights Day a message was issued by either the President of the Republic or by one of the Ministers in order to remind the population of the importance of human rights.

250. The representative also stated that his Government would be able to glean many insights from the questions that had been raised by the Committee; they would be transmitted to his Government to be dealt with, as appropriate, in the next report.

CERD A/40/18 (1985)

253. The eight periodic report of Madagascar (CERD/C/118/Add.10) was considered by the Committee at its 713th and 714th meetings, on 13 and 14 March 1985 (CERD/C/SR.713 and SR.714).

254. The report was introduced by the representative of Madagascar, who referred to the long struggle of his country for emancipation. He said that differences of race and origin had been at the root of the social and economic exploitation by the foreign oppressors. Madagascar had become a party to the Convention in order to contribute to the establishment of a society in which equality of rights and duties would prevail both within the country and in its international relations.

255. The Committee thanked the Government of Madagascar for its comprehensive report, which complied with the Committee's general guidelines (CERD/C/70/Rev.1) and reflected Madagascar's readiness to co-operate with the Committee. It was aware that Madagascar was in the process of building a new socialist society and must be allowed sufficient time to reflect the provisions of the Convention in its national legislation. The Malagasy Constitution provided a solid basis for the implementation of the Convention and certain of its articles had been partially implemented through new legislation.

256. With respect to article 2 of the Convention, the Committee took note of the reference in the report to the Cultural Charter for Africa, under which it was obligatory for Madagascar to recognize the separate ethnic groups, and requested further information on that matter.

257. In relation to article 3 of the Convention, members of the Committee commended the Malagasy Government for its contribution to the struggle against the racist régime of South Africa and for its active support for the efforts of the people of South Africa to liberate themselves from the apartheid régime.

258. Regarding article 4 of the Convention, the Committee pointed out that the requirements of that article had not been adequately met and that the interpretation given in the report to article 4 of the Convention was too narrow. The Committee drew the attention of the Malagasy Government to the previous remarks of the Committee to the effect that article 115 of the Penal Code fell short of the requirements of article 4 (a) and (b) of the Convention and that the final paragraph of article 115 contained a very broad exception to the principle being established. Members requested clarification on that exception and asked where and under what circumstances organizations which promoted an incited racial discrimination could be prohibited. It was also pointed out that the Malagasy Press Charter, and particularly its article 63, did not implement the requirements of article 4. The Committee would welcome information on any legislation contemplated to give full implementation to article 4 of the Convention.

259. Concerning article 5 of the Convention, members of the Committee wished to know which rights aliens would not enjoy in Madagascar. They asked what percentage of those elected belonged to minority groups, what percentage of public employees belonged to minority groups, what languages other than French and Malagasy were taught in elementary schools, what languages were

used in the courts and whether interpretation was available if needed. They asked for clarification of the statement in the report that “no right or freedom may be invoked by a citizen who has not fulfilled his obligations to the community...”. They indicated that the Convention did not set conditions for the enjoyment of relevant rights and freedoms. Further information was requested concerning measures taken to provide poor citizens with legal assistance in order to defend their rights with the same chances as richer adversaries.

260. As far as article 6 of the Convention was concerned, members of the Committee asked whether the “release on bail” mentioned in the report was guaranteed for those without means, whether recourse to the Administrative Chamber of the Supreme Court and recourse to the Constitutional High Court were parallel procedures or whether one blocked the other and what the next step in administrative proceedings was once the Constitutional High Court had handed down its decision.

261. In connection with article 7 of the Convention, one member asked whether the statement in the report that “neither art nor culture develops outside politics” meant that all forms of art which did not serve political ends were prohibited in Madagascar.

262. Replying to comments made by members of the Committee with reference to the implementation of article 4 of the Convention, the representative of Madagascar said that article 63 of the Malagasy Press Charter should be interpreted in terms of the precept that anything not forbidden was permitted. Furthermore, the relevant provisions of the Malagasy Penal Code stipulated that no offence could be punished by a penalty that had not been listed in the legislation prior to the time the offence was committed. He read out article 64 (2) of the Malagasy Press Charter, which provided further examples of offences and penalties relating to racial discrimination. In addition, under Order No. 72-023 of 18 September 1972, no extenuating circumstances could be taken into account in cases involving offences under articles 63 and 64 of the Press Charter.

263. With regard to questions on the implementation of article 5, he drew the attention of the Committee to the relevant articles of the Malagasy Constitution which identified the obligations which citizens of Madagascar were expected to fulfil before they could enjoy fundamental rights, such as compulsory national service. Among the rights enjoyed by the poor were free legal assistance in the courts. He said that information on the rights of minorities could be provided in his country’s next report. The requirements referred to in the report with respect to foreigners included the possession of a visa when entering Madagascar, authorization to acquire property in the country and a work permit in order to be employed; that list, however, was not exhaustive. When foreigners were required to testify in courts, they were provided with the services of sworn interpreters.

264. In relation to questions raised regarding the implementation of article 6, he informed the Committee that the Constitutional High Court heard cases of unconstitutionality; recourse to that court blocked the procedure of any other tribunal until it handed down its verdict.

265. In connection with the question regarding Madagascar’s cultural policy, he said that it was inspired by the principles of the Cultural Charter for Africa; it was in application of the provisions of that Charter that it was stated in the country’s development plan for 1978-1980 that there was no neutral culture, nor art for art’s sake. In Madagascar, artists were free to use their talents, to express

their own ideas.

266. He informed the members of the Committee that all their observations would be transmitted to his Government.

CERD A/44/18 (1989)

100. The ninth periodic report of Madagascar (CERD/C/149/Add.19) was considered by the Committee at its 835th meeting, on 9 August 1989 (CERD/C/SR.835).

101. The report was introduced by the representative of the State party, who emphasized that the Malagasy legislature was endeavouring to translate the principal provisions of the Convention into norms of national law, taking into account the Committee's comments.

102. Members of the Committee welcomed the report of Madagascar, which had been prepared in accordance with the Committee's guidelines (CERD/C/70/Rev.1). In general, questions were asked concerning the situation of the Indo-Pakistani and Chinese minorities, particularly after the race riots that had occurred in February 1986.

103. Members of the Committee observed that the stipulations of article 4 of the Convention had been only partially incorporated into Malagasy law and, in that regard, they wished to know whether the provisions of the new Penal Code, apart from those concerning press offences, would be filling gaps in the existing legislation.

104. With regard to article 5 of the Convention, members of the Committee, noting that the relevant provisions of the Constitution covered only some of the rights mentioned in that article, requested additional information concerning exercise of the right to vote and the development of social legislation in Madagascar. They also inquired whether the current revision of the Code of Criminal Procedure aimed at simplifying it might not lead to the elimination of certain safeguards concerning rights of defence.

105. In reply to the questions raised by members of the Committee, the representative of the State party acknowledged that problems of cohabitation among ethnic groups could arise in Madagascar. However, the causes of the race riots that had been referred to were an economic rather than a racial nature and the Malagasy authorities had assumed their responsibilities and had protected the minorities in question. Most members of the Indo-Pakistani minority had remained in Madagascar, where they were continuing to play an important role in the economy. Moreover, there were legal weapons to prevent a recurrence of such disturbances.

106. With regard to article 4 of the Convention, he confirmed that the Malagasy legislature had given much attention to press offences in the past, with a view to protecting national unity from arguments liable to exacerbate tribalism and instigate ethnic divisions. However, censorship had been abolished and the legislature would henceforth be seeking a solution that would adequately meet the requirements of article 4.

107. Concerning article 5 of the Convention, he pointed out that, with the exception of persons who had forfeited their civic rights, no one was prevented from exercising his right to vote and the right to work was fully guaranteed by the Constitution, even though its application in practice was liable to encounter difficulties. The reform of the legal system, which had been undertaken owing to the complexity of the existing system, had not been completed, since the question of the system of joint

liability was still being debated and had not yet been settled.

108. In conclusion, the representative of the State party said that the questions to which he had been unable to reply would be duly answered in future reports.

CERD A/50/18 (1995)

597. At its 1116th meeting, held on 10 August 1995 (see CERD/C/SR.1115) the Committee commenced its review of the implementation of the Convention by Madagascar based on its previous report (CERD/C/149/Add.19) and the consideration thereof by the Committee (see CERD/C/SR.835). The Committee noted that no new report had been received since 1989. The Committee received a request from the Government of Madagascar to defer the review from the forty-seventh to a future session. This request was accepted on the understanding that the report would be submitted in time for it to be considered at the forty-eighth session of the Committee. It was decided to have transmitted to the Government a list of the Committee's principal concerns with regard to implementation of the Convention in Madagascar, and to inform the Government that the Committee expected that the issues listed would be adequately addressed in the report to be submitted. The Committee also recommended to the Government that it request technical assistance from the Programme of Advisory Services and Technical Assistance of the United Nations Centre for Human Rights.

CERD A/51/18 (1996)

160. The Committee examined the implementation of the Convention by the Government of Madagascar at its 1150th meeting, held on 11 March 1996 (see CERD/C/SR.1150), based on the previous periodic report of the State Party (CERD/C/149/Add.19) and the summary record of the consideration thereof by the Committee (CERD/C/SR.835), and at its 1154th meeting, held on 14 March 1996, adopted the following concluding observations.

Introduction

161. The Committee notes that no new report has been received since 1989 and that no reply has been given by the Government to the Committee's list of principal concerns, addressed to it in August 1995, with regard to the implementation of the Convention in Madagascar. The Committee had also recommended, during its forty-seventh session, that the Government request technical assistance from the Centre for Human Rights, which it has not done.

Factors and difficulties impeding the implementation of the Convention and principal subjects of concern

162. Grave concern is expressed at the continuing deterioration of the social, cultural and economic conditions prevailing in the State Party. The general impoverishment of the country, the dysfunctioning of social services and social security and the existence of tensions between various groups of the population, which all lead to phenomena of racial or ethnic discrimination, are a matter of anxiety for the Committee.

Suggestions and recommendations

163. The Committee requests the Government of Madagascar to submit without delay a comprehensive report in compliance with the Committee's guidelines for the preparation of State Party reports.

164. The general part of the updated report should contain information relating to the composition of the State Party's population and to its ethnic characteristics, as well as to the recent evolution of the political, social and economic situation prevailing in the country. Issues such as the inter-ethnic tensions, discrimination against the Indo-Pakistani community, the increasing impoverishment of the rural population, the acute lack of social services and health services, and the alarming situation of education, which intensify discrimination between ethnic groups within the population, and the social impact of structural adjustment programmes implemented under the auspices of the International Monetary Fund should be addressed.

165. The second part of the report should contain detailed information on the implementation of articles 2 to 7 of the Convention. This part should describe the existing penal legislation implementing article 4 of the Convention, as well as the available remedies against any acts of racial discrimination, implementing article 6 of the Convention, and provide examples of complaints and statistics about such remedies. The role and achievements of the Mediator, as far as protection

against racial discrimination is concerned, should also be spelled out. The report should further indicate what measures have been taken by the Government to alleviate the effects of the economic crisis on the most disadvantaged groups of the population. Existing measures adopted in the field of education and awareness-raising to counter racial or ethnic discrimination, to promote tolerance and to make the principles of the Convention better known should also be described.

166. The Committee recommends that the State Party ratify the amendments to article 8, paragraph 6, of the Convention, adopted at the fourteenth meeting of States Parties.