

NIGER

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: ... Niger ... 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.)

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

139. The initial report of Niger, submitted on 20 January 1970, was considered by the Committee at its third session, together with a supplementary report submitted on 10 April 1970. The reports were found unsatisfactory, and additional information was requested. Such information was not received by the Committee. The second periodic report, dated 14 February 1972, was considered at the seventh session (132nd meeting).

140. It was noted that an effort had been made to provide information on some specific provisions of the Constitution and the Penal Code having a direct bearing on the requirements of the Convention, as requested during the discussions of the earlier reports of the Niger at the third session of the Committee.

141. However, it was observed that the report was not comprehensive and did not conform to the guidelines laid down by the Committee. Some members disagreed with the implication of the statement, contained in the second periodic report of the Niger, to the effect that, since no manifestations of a racial nature had occurred in the country, the Government had not taken any new legislative, judicial, administrative or other measures. Notwithstanding article 6 of the Constitution and article 102 of the Penal Code, it was argued, the mandatory requirements for positive action, contained in articles 4, 6 and 7 of the Convention, for example, had not been met.

142. Questions were required about the status of the relations of the Niger with the racist régimes in southern Africa, in accordance with General Recommendation III; about the date of entry into force of the Penal Code, and whether it was before or after the ratification of the Convention; about the exact scope, and the full text, of article 102 of the Penal Code. It was suggested that the Committee should ask the Government of the Niger to Provide information in its next report relating to the implementation of articles 4, 6 and 7 of the Convention; and a desire was expressed for receiving information on the ethnic composition of the population.

143. The representative of the Niger informed the Committee that his country had no relations of any kind with the racist régimes of the South Africa, Portugal and Rhodesia. He read the text of the second paragraph of article 102 of the Penal Code, of which the text of the first paragraph had been furnished to the Committee in an earlier report. He stated that the Niger was made up of at least eight different peoples who lived together in perfect harmony. And he assured the Committee that he would transmit the questions raised by members to his Government and convey to it the comments made during the discussion.

144. The Committee decided to consider the report as satisfactory and to express the hope that the third periodic report of the Niger would provide answers to the questions raised by various members of the Committee.

CERD 30th No. 18 (A/10018) (1975)

100. While taking note of the statements made in the third periodic report of Niger that no new legislative, judicial, administrative or other measures, which had any relevance to the application of the Convention, had been taken since the submission of the second periodic report, and that the suspension of the Constitution in April 1974 had caused no change in the applicability of other legal provisions (including article 102 of the penal code, which deals with discrimination), members of the Committee observed that no information had yet been provided by the reporting State, in any of its reports, on the implementation of article 4, paragraph (b), or articles 6 and 7 of the Convention, or on legislative measures of a secondary nature giving effect to the principle of equality enshrined in the Constitution and to the other rights enumerated in article 5 of the Convention. Nor had the successive reports of the Niger provided the information envisaged in general recommendation III of the Committee, concerning relations with racist régimes. It was also observed that the reports of the Niger were not organized in accordance with the guidelines laid down by the Committee at its first session.

101. Although they recognized that the suspension of the Constitution was a sovereign right of any State, members of the Committee were of the opinion that it was within the purview of the legitimate concern of the Committee to ascertain that the suspension was of a general nature, applying to all citizens, without restriction, limitation or preference for or against any given racial or ethnic group. Some members observed that article 6 of the Constitution, which had been suspended, was the basic legislative provision relative to the implementation by the reporting State of article 4, paragraph (a), and article 6 of the Convention; and they asked if other measures had been taken to ensure the continued implementation of those articles of the Convention. It was also asked whether Ordinance No. 59-135, which gave effect to the provisions of article 4, paragraph (a), of the Convention, had been affected by the suspension of the Constitution. A request was made for the reporting State to specify in its next report exactly which provisions of the Constitution had been suspended and what other laws had been enacted to replace those provisions, particularly where human rights were concerned.

102. The representative of the Niger informed the Committee that his country had no relations with the South Africa régime; that his Government had long ago prohibited all trade with South Africa and denied South African aircrafts overflight and landing rights; and that the guaranteed of the rights of the individual and the penal code remained in force in spite of the suspension of the Constitution. He assured the Committee that his Government would take into account any questions that had not been answered, as well as the comments made by members of the Committee, when preparing its next report.

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

74. The fourth periodic report of the Niger was considered by the Committee without the participation of a representative of the Government of the reporting State. The Committee took note of the statement that the Government of the Niger had not taken any new measures giving effect to the provisions of the Convention; the statement that the suspension of the 1960 Constitution in 1974 had caused no change in the application of the domestic laws in force; and the information about “linguistic groups of different ethnic origins” who inhabit the country.

75. Noting the statement that “all citizens, without discrimination, enjoy the rights enumerated in articles 5 and 6” of the Convention, some members of the Committee observed that the Government of the reporting State should make an effort to supply detailed information concerning the legal provisions on the basis of which those rights were accorded. Some Committee members referred to the statement that “foreigners are entitled to all the rights normally accorded to aliens” and wished to know what exactly those rights were. The statement that “the provisions of article 4 (a) of the Convention appear to be fully covered by article 102 of the Penal Code” (the text of which was transmitted to the Committee at its request) was questioned by some members, who thought that the first part of that article of the Penal Code gave effect to the provisions of article 2, paragraph 1 (d), of the Convention, while the second satisfied only in part the requirements of article 4 paragraph (a), of the Convention. It was observed also that the provisions of article 4, paragraph (b), of the Convention were not implemented by any of the legal texts supplied to the Committee in the successive reports of the Niger. Finally, it was regretted that the report under consideration did not provide the information envisaged in general recommendation III.

CERD A 34/18 (1979)

269. The fifth periodic report of the Niger (CERD/C/20/Add.28) was introduced by the representative of the reporting State, who stated that while the report was not exhaustive, it described the main steps taken by his Government to give tangible expression to its devotion to the principle of non-discrimination.

270. The report and the introductory statement were welcomed sympathetically by members of the Committee who pointed out that the Niger was among those States which, despite considerable difficulties, showed an obvious desire to submit satisfactory reports to the Committee. A considerable improvement in comparison with previous reports was noted. A member referred in particular to the fact that the Niger, though possessing limited resources, particularly in respect of trained personnel, scrupulously complied with its obligation under article 9 of the Convention. Another member noted that even if the Constitution had been suspended, the Government of the Niger still continued to implement the major principles enshrined in it.

271. Some short-comings, however, were pointed out in connection with the application of articles 4, 5, 6 and 7 of the Convention, and members of the Committee asked for supplementary information and further particulars.

272. With respect to articles 2 and 6 of the Constitution which guaranteed secularity and equality before the law for all “without distinction as to origin, race, sex and religion”, it was indicated that the Constitution was still suspended and that, nonetheless, those were in any case extremely general principles requiring clarification as to practical implementation arrangements.

273. With respect to article 4 (a) and (b) of the Convention, it was hoped that in the next report the authorities of the Niger would be able to describe provisions punishing the offences and activities mentioned in that article. A member further hoped that the Government of the Niger would transmit to the Committee the text of the articles of the Penal Code which guaranteed the protection and remedies specified in article 6.

274. With regard to subsection B of section I of the report concerning various economic, social and cultural rights, a member noted that guarantee of these rights without distinction as to race was not always clear from the provisions quoted. More specific inquiries were made by another member as to whether, for example, religious broadcasts similar to those mentioned in connection with secularity were provided for Moslems.

275. With reference to article 7 of the Convention, a member observed with satisfaction that school curricula in the Niger met the requirements of that article. Some members of the Committee, however, requested the Government of Niger specifically to indicate the measures taken in the areas of education and public information to implement their obligations under article 7. The text of the Niger’s general education legislation was requested by the Committee.

276. Finally, it was pointed out that the figures for the population of the Niger were only estimates and that they could be supplemented by data on the economic and social situation of the various

constituent ethnic groups and the treatment given to them.

277. The representative of the Niger, replying to various questions raised by members of the Committee, indicated in particular that the suspension of the Constitution had had no juridical consequences. By virtue of the Ordinance of 22 April 1974, the laws continued to be applied with strict respect for human rights and individual freedoms. The representative also stated that although strictly speaking the Universal Declaration on Human Rights was not a legally binding instrument, the authorities in the Niger, none the less, considered it as a framework within which to ensure the respect and protection of individual freedom, and particularly freedom of expression.

CERD A/38/18 (1983)

487. The sixth and seventh periodic reports of the Niger, submitted in one document (CERD/C/91/Add.34) were considered by the Committee together with the introductory statement made by the representative of the reporting State, who stated that the suspension of the Constitution of the Niger in 1974 had in no way affected respect for the spirit and letter of the Convention. Niger was in the process of launching a national project known as the “development society”, which would enable all active members of the population without distinction to take part in the conduct of public affairs. The Ministry of Justice was planning to amend the Penal Code and was considering the possibility of incorporating additional provisions directed at eliminating racial discrimination in order to comply with the relevant articles of the Convention.

488. Members of the Committee commended the Government of the Niger on its report which was outstanding both in style and in content, and pointed out that the Niger had demonstrated its sincerity with respect to implementing the Convention and maintaining a dialogue with the Committee. They also welcomed the demographic data provided in the report. They were particularly interested in learning about the current status of the Constitution and wondered whether the provisions of the Convention were directly applicable, for example, in the courts, administrative and other aspects of life in the country: they asked how racist propaganda and acts of racial discrimination were punished, as well as whether the Niger had ratified the African Charter on Human and People’s Rights referred to in the report. Clarifications were also requested concerning the legal effect given by the Government to the Universal Declaration of Human Rights, in particular, if a citizen claimed that one of his rights had been violated, could the courts invoke the Declaration.

489. With respect to articles 2 and 4 of the Convention, the report stated that there had been no need to take special measures because the Niger was a country where racial discrimination did not exist. However, it was recalled that States parties should take immediate measures to ensure that racial discrimination did not arise. Furthermore, article 102 of the Penal Code did not prohibit the establishment of organizations that might practice racial discrimination and the Government should therefore take steps to ensure such prohibition. The hope was expressed that the appropriate steps would be taken to implement that article.

490. With regard to article 3 of the Convention, it was noted with satisfaction that the Niger had an impeccable record at the international level in condemning the practice of apartheid and maintained no relations with South Africa.

491. Referring to implementation of article 5 of the Convention, members of the Committee commended the steps taken by the authorities with regard to the right to education and training, despite the difficulties relating to the nomadic populations. Further details were requested on how the literacy and education programmes were progressing and whether special schools had been established to train teachers to speak the various mother tongues. In the field of the implementation of other economic and social rights, additional information was asked for on agricultural development plans, patterns of land tenure, progress achieved in land reform and how the health network was organized in the country, given the large nomadic population and also how many

doctors were employed in the public health institutions, as well as on development projects to raise the living standards of the population. Members of the Committee, noting that political parties and elections had been suspended, asked to be provided with information on the national project referred to in the report, in particular, what were the rules for representation of the various ethnic groups, whether there were measures to prevent domination of one group over the others, whether any machinery had been established to bring about conciliation between ethnic groups at the grass-roots level and whether there was any system for providing legal aid to the needy to ensure full equality before the law. With respect to the right to freedom of opinion and expression, some members requested further details regarding publications and radio and television stations as well as if the mass-media could be owned by private individuals, or whether they were by law wholly State-controlled. Several members asked whether a citizen of Niger had access to the courts if he considered that he had been the victim of racial discrimination.

492. In connection with article 7 of the Convention, members of the Committee requested that the Niger provide, in the next periodic report, information about the courses being established in schools to promote better understanding of the purposes and principles of the Charter of the United Nations and also whether the Niger had entered into any agreements with its neighbors in order to eliminate racial prejudice.

493. The representative of the Niger replied to a number of questions raised by members of the Committee. He stated that the Constitution of the Niger remained suspended and political parties banned, but courts applied all international instruments and those laws not explicitly abrogated by the new authorities. The Niger had not yet ratified the African Charter on Human and People's Rights but the necessary procedures were under way.

494. With reference to the question of minorities, the representative clarified that the problem was economic in nature with the nomadic population and did not involve discrimination on ethnic grounds, and that the efforts were being made to strike a balance in the development of the various regions of the country in agriculture, stockbreeding and mining, respectively. Some problems had arisen with regard to increased participation by Niger nationals in mining and other sectors of the economy and the replacement of foreign personnel.

495. With regard to the implementation of article 4 of the Convention, the representative of the Niger said that action was currently being taken in respect of the provisions of that article.

496. In reply to questions raised in connection with article 5 of the Convention, he stated that school enrolment had reached 17.3 per cent by 1971, the latest year for which figures were available, and that the so-called nomad schools were functioning quite well but some parents were reluctant to enrol their children. Turning to the right to equal treatment before the tribunals, the representative said that there were civil and administrative courts in the country and although there was no formal legal aid system in Niger, in practice every assistance was provided to those with insufficient means to engage a lawyer. On the question of freedom of trade union associations, he stated that trade union rights and rights of assembly had been restored. There was a single central trade union organization, but in addition each occupation had its own trade union, which was not always affiliated with the central organization at the national level.

497. In connection with article 7 of the Convention, the representative informed the Committee that the Niger had concluded treaties on friendship and good-neighbourliness with all its neighbours and joint economic co-operation commissions met periodically. He assured the Committee that all other questions would be dealt with in the next periodic report of the Niger.

CERD A/44/18 (1989)

190. The eighth, ninth and tenth periodic reports of Niger, submitted in one document (CERD/C/172/Add.1) were considered by the Committee at its 838th meeting, held on 11 August 1989 without the participation of a representative of the reporting State (CERD/C/SR.838), a fact regretted by the Committee. Owing to the subsequent political and legal changes that had occurred in the country, members of the Committee pointed out that the report did not reflect the current situation in Niger.

191. Members wished to know, therefore, whether the country was still subject to a suspended Constitution or if work on the basis of the National Charter of 1987 had led to a new Constitution, and if this was now in force.

192. Turning to specific articles of the Convention, members asked, in connection with article 4, whether a new Penal Code or an amendment to article 102 of the old Penal Code had been adopted in order to make punishable the creation or maintenance of racial organizations. They requested that the texts of any such amended laws be transmitted to the Committee in the next periodic report, particularly because of the relevance of article 102 of the old Penal Code to articles 3 and 4 of the Convention. Furthermore, members inquired whether article 222 of the old Penal Code also covered acts committed by government officials, or whether such officials were held responsible under administrative procedure exclusively.

193. With reference to article 5, members wished to know how ethnic or linguistic groups in the country were represented in elected bodies and if they had any influence on the presentation of candidates for elections. They asked whether new rules in the Rural Code, and on the right to inherit, had come into force. Information was sought on whether improvements in the public health system had been achieved and on the numbers of doctors working in the district of Agadez. Members wished to know whether enrolment in schools had increased and if primary education was taught in the various native languages. They also asked if it had been possible to surmount the difficulties in the so-called nomad schools, where parents had been reluctant to enrol their children. Further information was requested on the attempt to introduce an African language as the official language of the country, in place of the French language.

194. With regard to article 6, members wished to know the legal basis for claiming damage in Civil Courts if article 102 of the old Penal Code were to be violated.

195. The Committee decided that the summary records of the meeting should be sent to the Government of Niger in order that their response to the questions posed could be included in their next periodic report.

CERD A/53/18

445. The Committee considered the eleventh, twelfth, thirteenth and fourteenth periodic reports of the Niger (CERD/C/299/Add.18) at its 1297th meeting held on 18 August 1998 and, at its 1301st meeting on 20 August 1998, adopted the following concluding observations.

A. Introduction

446. The Committee takes note of the State party's submission of its eleventh, twelfth, thirteenth and fourteenth periodic reports. It expresses its satisfaction with the resumption of the dialogue with the State party and the additional information provided orally in reply to the questions raised by the members of the Committee during the consideration of these reports. The Committee notes, however, that, although the reports submitted by the State party follow the Committee's guidelines, more detailed information is required on the implementation of the Convention.

B. Positive aspects

447. The signing of an agreement to establish peace between the Government of the Republic of the Niger and the Organisation de la Résistance armée (ORA) (Armed Resistance Organization) in 1995 is welcomed with satisfaction. The establishment of the High Commissioner's Office for the Restoration of Peace is also welcome.

448. Note is taken of the various activities being carried out in the fields of culture and education and, in particular, the strengthening of the itinerant schools system.

449. The planned measures for the administrative decentralization of the country are also noted with interest as a means of finding better solutions to the problems of the various communities.

C. Factors and difficulties impeding the implementation of the Convention

450. Note is taken of the fragility of the State party's process of democratization. The very low standard of living, the geographical and climatological situation, the extremely high population growth rate and the very low literacy rate in the State party are also key factors.

D. Principal subjects of concern

451. Concerns were expressed about acts of violence against persons belonging to certain ethnic groups, particularly the Toubous, the lack of information about measures for incorporating ORA armed forces into the army and the country's civil activities and the participation of various ethnic groups in public life.

452. With regard to article 4 of the Convention, note was taken with concern of the lack of specific legal provisions prohibiting racial discrimination. Although article 102 of the Penal Code declares any act of racial or ethnic discrimination punishable by law, the dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination and acts of violence and provocation

of or assistance in racist acts are not explicitly prohibited by law within the meaning of the Convention.

453. The ambiguity of Order No. 84-6 (1984) governing associations and prohibiting those of a regional or ethnic nature, which may also lead to the prohibition of cultural associations that have no involvement in acts of racial discrimination, and the lack of information given by the State party in this connection are matters of concern.

454. The lack of information on the implementation of article 5 (c) and (d) of the Convention and, in particular, on the participation of the various ethnic groups in political life is noted with regret.

455. The Committee also notes that there is a lack of information on foreign refugees in the Niger and the return of Niger refugees from abroad.

E. Suggestions and recommendations

456. The Committee requests information on relations between the country's various ethnic groups and on efforts to get them to live together peacefully and harmoniously.

457. In the light of its general recommendation XIX (47) of 17 August 1995 on article 3 of the Convention, the Committee recommends that the State party should provide all the necessary information on the implementation of this provision.

458. In view of article 4 of the Convention, the Committee encourages the State party to bring its Penal Code into line with the provisions of the Convention and recommends that the State party should inform it in its next periodic report of its efforts and of racially motivated offences, as well as of complaints and judicial decisions concerning racist acts, regardless of their nature.

459. The Committee also requests information on other legislative reforms which have been scheduled or undertaken, particularly with regard to the right to freedom of association, in accordance with the provisions of article 5 (d) (ix) of the Convention.

460. While welcoming the information provided by the delegation, the Committee would like to have additional information in the next report on the implementation of article 5 (c) and (d) relating to the exercise of civil and political rights, as well as on economic and social indicators for all the country's ethnic groups.

461. The State party should also supply detailed information on the teaching, educational, cultural and information activities it is carrying out to prevent and combat all forms of racial discrimination and on the activities of the Association nigérienne pour la défense des droits de l'homme (Niger Association for the Protection of Human Rights).

462. The Committee recommends that the State party should ratify the amendments to article 8, paragraph 6, of the Convention adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention.

463. It is noted that the State party has not made the declaration provided for in article 14 of the Convention; some members of the Committee requested that the possibility of such a declaration should be considered.

464. The Committee recommends that the State party's next report, due on 4 January 1998, should be an updating report and that it should cover all the points raised in these concluding observations.