

## NIGERIA

### CERD 26<sup>th</sup> No. 18 (A/8418) (1971)

28. From its 56<sup>th</sup> to its 58<sup>th</sup> 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.

29. The Committee expressed itself as satisfied with the completeness of the reports submitted by the following 15 States Parties, from which no additional information was requested: ... Nigeria ...

**CERD 28<sup>TH</sup> No. 18 (A/9018) (1973)**

173. The initial report of Nigeria, submitted on 11 August 1970, and a supplementary report dated 16 March 1971, were considered by the Committee at its third session and deemed satisfactory. The second periodic report, dated 17 February 1972, was considered at the seventh session (135<sup>th</sup> meeting).

174. The second periodic report of Nigeria stated: “The position of the Federal Government of Nigeria remains substantially the same as communicated in the first report.” Several members expressed the view that the report under consideration should, under the circumstances, be considered satisfactory.

175. One member expressed the view that it would have been better not to include the word “substantially” in the statement contained in paragraph 2 of the report and quoted in the preceding paragraph. The hope was expressed that future reports would provide information on the composition of the population, on the administrative measures adopted to give effect to the provisions of the Convention, and on the status of relations with the racist régimes in southern Africa in accordance with general recommendation III, which, it was noted, was adopted after the report under consideration had been submitted. Some members referred to the information contained in the initial and supplementary reports submitted earlier by Nigeria and raised the following questions: Had there been any new evaluation of the provisions of articles 50 and 51 of the Criminal Code in the light of article 4 of the Convention? Was the right of applying to the High Court for redress, in accordance with article 32 of the Constitution (which corresponded in part to article 6 of the Convention) limited to the rights specifically enumerated in part I of the Constitution, or did the Constitutional article under reference apply also in all other cases of racial discrimination? With regard to the implementation of article 7 of the Convention: How was the Government encouraging and promoting multiracial organizations and movements and what were the results achieved by the National Committee for the Dissemination of Information on the Evils of Apartheid?

176. The representative of Nigeria assured the Committee that his Government did not have and never would have diplomatic, economic or other relations with the racist régimes in southern Africa. He recalled that his country held the chairmanship of the Special Committee on Apartheid and the vice-chairmanship of the United Nations Trust Fund for South Africa. The National Committee for the Dissemination of Information on the Evils of Apartheid, while not vested with powers, devoted itself actively to emphasizing the evils of apartheid and promoting racial tolerance. Government information media also participated from time to time in that task. Equality in the enjoyment of all the rights enumerated in article 5 of the Convention were guaranteed by the Constitution, but political activities were for the time being suspended. He assured the Committee that his Government’s third periodic report would reflect all the comments made by members of the Committee and requested that the information he had just provided be regarded as part of Nigeria’s second periodic report.

177. The Committee decided that the statement made by the representative of Nigeria would form part of the second periodic report of that State party. It decided to consider that report satisfactory and to request Nigeria to include the information requested during the discussion in its third periodic

report.

**CERD 29<sup>TH</sup> No. 18 (A/9618) (1974)**

241. The Committee took note of the information contained in the third periodic report of Nigeria, supplementing the information contained in the earlier reports submitted by that country. It noted with satisfaction that Nigeria had signed the International Convention on the Suppression and Punishment of the Crime of Apartheid. On the other hand, it was noted with regret that some of the questions raised during the consideration of the second periodic report of the reporting State at the seventh session of the Committee (A/9018, para. 175) had not been answered in the third periodic report.

242. The questions put to the representative of Nigeria related to the following: the High Court of Nigeria; the procedure for bringing cases to the High Court for redress, in accordance with section 32 (1) of the Constitution of Nigeria and article 6 of the Convention; the situation in Nigeria regarding the granting of citizenship after 1972; and the application of the definition of the words “seditious intention”, contained in article 50 (2) (d) of the Nigerian Criminal Code, to non-Nigerians as well as Nigerians. The representative of Nigeria replied to all those questions.

## **CERD A/32/18 (1977)**

177. The fourth periodic report of Nigeria was considered together with the introductory statement made by the representative of the Government of Nigeria before the Committee. It was noted that the present report did not contain much information in addition to that which had already been supplied in previous reports from Nigeria.

178. Noting that Nigeria had been in a state of emergency and under military rule since 1966, some members of the Committee asked about the scope of the Emergency Act and the extent to which it affected the fundamental human rights provided for in the Constitution.

179. Referring to article 2, paragraph 1 (d), of the Convention, some members asked whether any penalty was attached to a violation of the provision in section 28 (1) of the Nigerian Constitution of 1963 relating to disabilities or restrictions: they wondered whether a statement of policy in the Constitution was sufficient to prohibit and bring to an end racial discrimination practised in violation of that policy.

180. Several members expressed the view that sections 50 and 51 of the Nigerian Criminal Code did not satisfy the requirements of article 4 of the Convention. It was noted that, as early as its seventh session, the Committee had asked about the extent to which the provisions of those sections of the Penal Code had been reviewed to bring them into line with the provisions of the Convention, but that the present report did not answer that question.

181. As neither the reports previously received from the Government of Nigeria, nor the report under consideration, contained information on the legislative, administrative or other measures adopted to give effect to article 5 of the Convention, a hope that the fifth periodic report would give such information was expressed.

182. With respect to article 6 of the Convention, it was observed that, although satisfactory progress had been made, the situation could be further improved.

183. It was noted that no information on the implementation of article 7 of the Convention had yet been received from the Government of Nigeria; and it was observed in that connection that the provisions of that article were mandatory and not contingent upon the existence of some discernible need for their application in a particular country.

184. The information on the implementation of United Nations resolutions concerning relations with the racist régimes in southern Africa, in response to general recommendation III and decision 2 (XI) of the Committee, was welcomed by several members. However, it seemed to some members that the scope of the Order of 1976 was narrower than that of the Decree of 1973 cited in the report, in that the earlier law prohibited totally any kind of trade relations with the racist régimes in southern Africa while the later law appeared to apply only to exportation of goods.

185. It was noted with regret that the report contained no information on the composition of the Nigerian population in terms of ethnic and racial origin, as requested in general recommendation

IV of the Committee.

186. Some members, welcoming the existence in Nigeria of a National Committee for the Dissemination of Information on the Evils of Apartheid, asked for information on the scope of that Committee's action and the content of its programmes.

187. The representative of the Government of Nigeria assured the Committee that the observations made by its members would be carefully studied by the competent authorities in Nigeria.

## **CERD A/34/18 (1979)**

291. The fifth periodic report of Nigeria (CERD/C/20/Add.31) was considered together with the introductory statement made by the representative of the reporting State.

292. The report was commended by the Committee which considered it as a valuable effort to maintain and enhance a constructive dialogue between the reporting State and the Committee.

293. It was recalled that, during the consideration of the fourth period report of Nigeria, the Committee had asked to what extent the suspension of the 1963 Constitution affected the implementation of the provisions concerning human rights and especially the principle of non-discrimination contained in the Convention. It was noted that the fifth periodic report offered no answer to that question. In connection with the reference made in the report to a Constitution of the Federal Republic of Nigeria (Enactment) Decree 1978, it was asked whether that decree related to a new Constitution or to the 1963 Constitution, which had been partially suspended.

294. Some members of the Committee expressed the wish to receive information about the demographic and ethnic composition of Nigeria's population. It was recalled that although the Committee when considering the initial report of Nigeria had requested such information, yet the current report contained no information on the subject. It was pointed out that the complex ethnic structure of Nigeria was an important factor causing internal difficulties to that country, and it was requested that information on such difficulties be also reflected in the next report of Nigeria.

295. With regard to the implementation of article 3 of the Convention, members of the Committee noted that the Constitution of Nigeria was especially important because it prohibited any manifestation of racism. Some members felt nevertheless that more information was required on Nigeria's international stance on the implementation of that article and of the corresponding general recommendations of the Committee. It was pointed out, in particular, that the Government of Nigeria should supply further information on its relations with the racist régimes of southern Africa.

296. The Committee noted with regret that the information contained in the report about the implementation of articles 2 and 4 of the Convention could not be considered sufficient. It was recalled that in the course of the consideration of the fourth periodic report of Nigeria, there had been a discussion about Nigeria's compliance with article 4 (a) and (b) of the Convention. The Committee felt that sections 50, 51 and 63 of the Criminal Code, quoted in the report, did not correspond to the stipulations of articles 2 and 4 of the Convention. Specific provisions were necessary as no analogy was permitted in criminal law. With regard to part III of the report relating to the same requirements of the Convention, the Committee noted the expressions of principle and the confirmation of Nigeria's firm undertaking to comply with the provisions of those articles and requested that relevant legal or administrative texts be provided to the Committee in the next periodic report.

297. In connection with the implementation of article 5 of the Convention, it was noted that, according to article 36 (2) of the Nigerian Constitution, "no person other than the Government of the Federation or of a State or any other person or body authorized by the President, shall own,

establish or operate a television or wireless broadcasting station for any purpose whatsoever". It was asked if the prohibition mentioned in that article of the Constitution applied to all citizens, whether this prohibition affected the nature of broadcasts, and whether permission was granted to broadcast one type of information and not others. Moreover, the view was expressed that the right to housing and to education did not appear to be duly guaranteed by the Constitution and it was suggested that the Government of Nigeria might study the possibility of instituting such constitutional guarantees. With regard to the practice in Nigeria that nobody is refused or denied access to any public place or service on account of race, colour or national origin, it was noted that reference to religion had been omitted and it was asked whether this common law obligation was embodied in a written law of Nigeria. With reference to article 32 (1) of the Constitution, quoted in the report, the question was raised whether the fulfilment of an obligation imposed by law, mentioned in paragraph (b) of that article, referred to financial obligations arising from a court sentence or whether it encompassed other types of obligations as well. Finally, the Committee expressed interest in knowing whether the state of emergency referred to in Nigeria's previous report was still in effect, and if so, whether it was affecting the full enjoyment of the rights listed in article 5 of the Convention, and whether any restrictions had been imposed on any particular tribal or racial group.

298. As regards the implementation of article 6 of the Convention, several members of the Committee stated that the information contained in the report could not be considered as satisfying the requirements to that article. In connection with article 42 of the Nigerian Constitution containing provisions relating to protection and remedies against acts of racial discrimination, it was asked what procedure was followed for the application of those legal provisions, what steps could be taken by the plaintiff, and if there were specific procedures enabling an individual to bring a suit against the State for discrimination by a government official.

299. It was also asked whether the Chief Justice of Nigeria had made any rules with respect to the practice and procedure of a High Court as provided for in article 42 (3) of the Constitution and whether the National Assembly had exercised the powers available to it under article 42 (4) to confer upon a High Court additional powers to exercise more effectively the jurisdiction conferred upon it by the Constitution. With regard to paragraph 4 (b) of the same article, which empowered the National Assembly to make provisions for the rendering of financial assistance to indigent citizens in specific cases, it was asked what specific provisions had in fact been made, what procedure was followed to render such assistance and what the term "indigent citizen" actually meant. The Committee was of the view that it had to be informed on those matters so as to be able to form an opinion as to whether the relevant provisions of the Nigerian Constitution and the laws implementing them were in conformity with the Convention.

300. With regard to the implementation of article 7 of the Convention, the Committee was of the view that, in its next report, Nigeria should submit additional information on education, exchange programmes and public information programmes aimed at promoting understanding, tolerance, and friendship among nations, and in particular on the scope of the activities undertaken and the results achieved by the National Committee for the Dissemination of Information on the Evils of Apartheid and on the progress made by Nigeria in the search for the cultural identity of the black world through its membership in African regional and subregional organizations.

301. The representative of Nigeria informed the Committee that, as a matter of fact and of law, there



was no longer a state of emergency in Nigeria and that the elections were in their final stages. The 1963 Constitution was still in force; the 1978 Constitution had been ratified and would enter into force on 1 October 1979. However, the guarantees of the 1963 Constitution concerning fundamental human rights were embodied in the new Constitution. With regard to the question concerning religion, he stated that Nigeria was a secular State and every citizen was free to practice the religion of his choice. He finally assured the Committee that complete answers to other questions raised by its members would be given in the sixth periodic report of his Government.

## **CERD A/36/18 (1981)**

220. The sixth periodic report of Nigeria (CERD/C/66/Add. 25) was introduced by the representative of the reporting State who provided supplementary information on Nigeria's stance with regard to the implementation of article 3 of the Convention and on the role it had played in the crusade against racism and racial discrimination. The representative referred, in particular, to the activities of the National Committee for the Dissemination of Information on the Evils of Apartheid, the Federal Ministry of Information and the newly established Human Rights Workshop whose main objects were respectively: the promotion of racial tolerance, the formulation of government policies and strategies to combat racial discrimination and apartheid and the explanation of fundamental human rights provisions in the Nigerian Constitution. He also referred to Nigeria's contribution to and participation in international conferences of solidarity to combat racial discrimination, to Nigeria's co-operation in the implementation of the programme of the Decade for Action to Combat Racism and Racial Discrimination and to an official statement against the apartheid régime of South Africa, made by the Nigerian President during his recent state visit to the United Kingdom of Great Britain and Northern Ireland. Furthermore he stated that his Government had recently taken measures against companies having trading links with South Africa and that it had also been keeping all other enterprises which depended on Nigerian raw materials under surveillance.

221. Members of the Committee welcomed the valuable additional information provided by the Nigerian representative and expressed their appreciation at the part played by Nigeria in the international campaign against racism and apartheid. In this connection, one member expressed the wish that information on action taken under article 3 of the Convention should form part of the future period reports of Nigeria. In general, it was hoped that the next periodic report would comply with the guidelines prepared by the Committee.

222. Members of the Committee welcomed also the information provided in the report, about the end in 1979 of the state of emergency in the country, under which some of the fundamental human rights provisions of the 1963 Constitution of Nigeria had been suspended, and drew attention in particular to the information regarding the new Nigerian Constitution of 1979. This Constitution established the right to form "broad-based" political parties in order to soften the heavy tribal accent in the Nigerian political outlook.

223. It was noted that the 1979 Constitution seemed to be identical with the previous Constitution of 1963 except for section 39 which replaced section 28 of the 1963 Constitution, but not reproduced in the report. It was also observed that Nigeria's fifth periodic report had listed the provisions of the Constitution of 1978, which had been enacted by decree, but that there was no mention of this Constitution in the sixth periodic report. It was therefore asked whether the enactment referred to in the fifth periodic report of Nigeria as the 1978 Constitution was identical with the 1979 Constitution and whether the Committee could be provided with the text of the 1979 Constitution in order to ascertain the extent to which the provisions of the Convention were being applied. In that connection, one member inquired what effect the 1979 Constitution had had on the laws promulgated under the 1978 Constitution and, in particular, whether the Criminal Code mentioned in the fifth report and the Customs Tariff Order of 1976, which prohibited the exportation of goods to South Africa, Rhodesia and Namibia were still in force. Another member noted that the text of

the Fundamental Rights and Freedoms of the 1963 Constitution was based almost word by word on the European Convention for the Protection of Human Rights and Fundamental Freedoms which, however, for various reasons did not contain a general guarantee of equality before the law. He therefore inquired whether the present Nigerian Constitution guaranteed the right of equality before the law and social rights contained in the European Social Charter to both Nigerian citizens and to aliens.

224. Members of the Committee observed that various questions raised, when the Committee examined Nigeria's fifth periodic report, with regard to Nigeria's compliance with articles 2 and 4 of the Convention had still not been answered. With reference to article 2 of the Convention, it was observed that mere passing of decrees could not eliminate the difficult problems created by tribalism and it was asked that Nigeria's next periodic report should give more information about the new political organization of the country and the progress made in dealing with tribalism. It was recalled, in this connection, that under Committee's General Recommendation IV, States parties were invited to endeavour to include in their periodic reports relevant information on the demographic composition of the population. With reference to article 4 of the Convention, it was asked that specific measures to give effect to the provisions of that article should be quoted in the next periodic report.

225. With regard to article 6 of the Convention, one member requested information on the enactment in the country of a new proposal for the provision of legal aid.

226. Referring to article 7 of the Convention, it was asked what internal measures had been taken to inform the population, and especially school children, about the structure of the United Nations, human rights and, in particular, the prejudices which could lead to racial discrimination.

227. Replying to questions raised by members of the Committee, the representative of Nigeria explained that the provisions of the 1963 Constitution had largely become obsolete. Few provisions had been absorbed into the new 1979 Constitution, notably those of chapter IV referring to such rights as the right to life, the rights to the dignity of the human person, and the right to personal liberty, to which new provisions were added, referring to the right to freedom of thought, conscience and religion. The 1978 and 1979 Constitution were identical. The Constitution, which had actually been applied in 1978, had been given formal legal effect in 1979 when the new civilian administration replacing the military administration had come into office, and it had then become known as the 1979 Constitution. The representative also provided some details on the suspension of some of the fundamental rights provisions of the 1963 Constitution during the state of emergency which had been lifted in 1979 and stated that questions concerning the state of emergency and the formation of political parties were sub judice. At present, the President of Nigeria could not proclaim a state of emergency in one of the States or throughout the Federation without the approval of two thirds of the members of the National Parliament or the Parliament of the State in question.

228. With regard to the implementation of articles 2, 3, 6 and 7 of the Convention, the representative referred to relevant provisions of the 1979 Nigerian Constitution.

229. As regards specifically the problems created by tribalism in the country, he explained that the total Nigerian population of approximately 80 million comprised some 250 tribes or linguistic

groups. That situation had contributed to the international difficulties experienced before the new administration had come into office. A 12-State structure had been brought into being in 1967 as a means of solving the internal difficulties arising from ethnic differences. A further 7 States had been established on 3 February 1976. Before the creation of the 19 States, there had been only four regions in addition to the Federal territory of Lagos, and that situation had contributed to the internal imbalances referred to by some members of the Committee. Although such imbalances had now been rectified, the Council of States had recently recommended to the Federal Government that 11 more States should be created, bringing the total to 30. That would simplify the two-thirds division, which was difficult to make with the present number of 19, and which had led to some friction.

230. With reference to article 4 of the Convention, he stated that Nigerian legislation prohibited any incitement to racial discrimination and that section 63 of the Criminal Code specified that directing or assisting an unlawful association constituted an offence.

231. In connection with article 6 of the Convention, he informed the Committee that in addition to the Federal High Court which sat in Lagos, each of the 19 States of the Federation had a High Court and Magistrates' Courts. For Islamic law, there were sharia courts in various States, mainly in the northern part of the country, and there was also a sharia Court and a court of appeal at the federal level. Also with respect to Islamic law, there were the district courts which existed in the northern part of the country and were comparable with the Magistrates' Courts. The representative gave a detailed report on the remedies available through these judicial instances in the event of a breach of fundamental human rights.

232. The representative then provided some additional information relating to the implementation of article 7 of the Convention and stated, in particular, that the National Committee for Dissemination of Information, under the responsibility of the Federal Minister of Information, had launched school activities designed to ensure that Nigerian school children were brought up in a spirit of racial tolerance. Most schools had separate programmes designed to make children aware of the meaning and objectives of the Convention.

233. He finally assured the Committee that the next periodic report would provide information with regard to those questions which had remained unanswered.

## **CERD (A/38/18) (1993)**

498. The seventh periodic report of Nigeria (CERD/C/91/Add.32 and Add.35) was considered by the Committee together with the texts of the Constitution of 1979, the Handbook of the Federal Court of Appeal, the Electoral and Appropriation Acts of 1982 and other documents published in the Official Gazette of Nigeria. In his introductory statement the representative of the reporting State pointed out that Nigeria was in the forefront of the struggle against racism, apartheid and racial discrimination. The Nigerian National Committee, which had been established to promote racial tolerance, had organized activities to disseminate information on the evils of apartheid. He referred to some provisions of the Constitution and to measures taken by the Government to eliminate racial discrimination in the political, economic, social, cultural and any other field of public life. Furthermore, the representative stated that the centre-piece of Government policy was the worth of the human person and the principle of racial equality. He added that the Nigerian legal system guaranteed everyone, irrespective of race, colour or nationality, the right to equal treatment before the tribunals and all others administering justice.

499. The Committee commended the Government of Nigeria for the faithfulness with which it submitted its periodic reports to the Committee and welcomed the supplementary information contained in the unofficial addendum circulated to members by the representative of the reporting State. Members of the Committee noted that the 1979 Constitution had marked a turning point in the history of the country and radical changes had been introduced in many of its policies. Noting that the number of states in the Federation was to be increased, the Committee asked information about the new political organization of the country; on what basis the boundaries of new states were drawn and whether the reorganization would imply any amendments to the Constitution or a radical change in the current state-federal relationship. They also requested additional information on the demographic composition of the population, particularly regarding the newly-created administrative and political states, their levels of economic development and on measures taken to assist states whose economic situation was less favourable than others.

500. In connection with article 2 of the Convention, some members of the Committee asked additional information on the role and powers of traditional leaders, on the various sects which existed in the different states and how religious activities were regulated by law. Information was also requested on the expulsion of aliens who had entered Nigeria in accordance with the agreement between the countries comprising the Economic Community of West African States (ECOWAS), how ECOWAS regulated the movement of aliens within member States; whether any machinery existed to deal with cases of aliens who stayed beyond the allotted time-period and whether there were any provisions in the agreement relating to illegal immigration and the protection of migrant workers. Members of the Committee also wished to know whether Nigeria had ratified the ECOWAS citizenship code and whether there was any programme in the country to inform the public, especially through the mass media, about the regulations of ECOWAS. Lastly, it was asked whether Nigeria had provided any assistance to the countries whose citizens had been expelled. With regard to other foreigners, more details were requested on whether there were any groups who benefited from any special rights under treaties or agreements; how foreign professionals working in Nigeria were recruited; what their status was and what benefits they were entitled to.

501. With regard to article 3 of the Convention, the Committee observed that Nigeria had given ample proof of its total commitment to the fight against racial democratic and apartheid by the adoption of practical measures such as the Import Prohibition Order of 1983. Additional information was requested on the assistance which Nigeria was providing to front-line States to enable them to lessen their dependence on South Africa.

502. With reference to article 4 of the Convention, some members of the Committee observed that the provisions of sections 50 (2), 51 (1) (a) and 63 of the Criminal Code fell far short of the requirements laid down in paragraphs (a) and (b) of that article, in particular, there was no express mention of racial discrimination in either of those provisions of the Convention. Although section 15 (2) (d) of the Constitution prohibited discrimination on the grounds of place of origin, sex, religion, status, ethnic or linguistic association or ties, there was a need for implementing specific legislation to prohibit and declare punishable by law incitement to racial discrimination, and to declare illegal and prohibit organizations which promoted and incited racial discrimination.

503. As far as article 5 of the Convention was concerned, it was felt that the report described in frank manner the difficulties encountered by the Government in the field of housing, medical care and education. In view of the numerous ethnic groups in the country, some members requested further information on the education system and on the teaching of the various languages, in particular, whether members of various ethnic groups could receive an education in their own languages, especially at the primary level. They also requested whether there were specific educational programmes for disadvantaged groups whose languages were not used for administrative purposes and whether there were special funds to promote the cultural activities of ethnic groups with a different heritage.

504. With reference to article 6 of the Convention, members of the Committee asked for the clarification on whether the ordinary judicial system constituted the normal avenue of recourse for victims of racial discrimination or whether any other procedure had been established in Nigeria; and whether any speedy or streamlined legal remedy was available to the victims of racial discrimination to obtain redress, as for example in the case of an individual who was refused admission to a school on grounds of race. They also wished to obtain information on court cases involving racial discrimination, in particular, concerning a 1980 case in which a Nigerian citizen had been deported.

505. With respect to article 7 of the Convention, further details were requested about the activities of centres in Nigeria devoted to the study of African languages, art, traditions, history and literature as well as on the measures taken by the Government to improve understanding on the basis of equality and to foster the cultural and linguistic heritage of different groups.

506. In reply to some of the questions raised by members of the Committee, the representative of Nigeria said that in order to create a new state the Constitution stipulated that, after approval by a two-thirds majority of the people living in an area, a request must be submitted and approved by a simple majority in the National Assembly.

507. In the matter of aliens, he indicated that, in accordance with the relevant agreements, aliens must have the relevant documentation and could stay in the country a maximum of 90 days, if they committed no crimes.

508. Concerning the implementation of article 4 of the Convention, the representative said that his Government had hoped that the provisions of that article were being implemented through the Criminal Code and through chapter II of the Constitution. However, after having heard the observations made by the Committee, he would bring the matter to his Government's attention with a view to strengthening implementation of article 4 in the light of the observations that explicit sanctions were required to reinforce sections 50 and 51 of the Criminal Code.

509. Replying to another point raised, he said that recourse could be brought to the State courts or the federal courts, whichever of the two was most convenient. He also referred to the case of an individual who had been unlawfully detained and deported and explained that the Court had decided against the Government and the individual had been awarded substantial compensation.

510. With regard, in particular, to the right to education, the representative of Nigeria said that an expanded programme had resulted in virtually free education at all levels and that a need for teachers had been satisfied through exchange programmes with other countries and that many teachers had been hired on contract from Ghana.

511. The representative of Nigeria stated that the other questions raised by members of the Committee would be brought to the attention of his Government for a full reply in his country's next periodic report.

## **CERD A/40/18 (1985)**

371. The eighth periodic report of Nigeria (CERD/C/118/Add.14) was considered by the Committee at its 720<sup>th</sup> meeting, on 19 March 1985 (CERD/C/SR.720). The report was introduced by the representative of Nigeria, who presented additional information, subsequently issued in an addendum to the report (CERD/C/118/Add.26).

372. Members of the Committee commended the Nigerian Government for its report. They pointed out that the addendum presented by the representative of Nigeria testified to the seriousness with which the Government had approached the dialogue with the Committee. The addendum conformed to the Committee's general guidelines (CERD/C/70/Rev.1) and furnished up-to-date information with regard to the new Government. It was encouraging to learn that the essential provisions of the Constitution and the national legislation had been kept intact, so that the Convention continued to be implemented.

373. The Committee pointed out that though Nigeria was the most populous country in Africa, with a long history and great religious and cultural diversity, no information had been provided on demographic trends. The next report should contain full information on the ethnic composition of the population.

374. In relation to article 2 of the Convention, members of the Committee asked whether the new Government had reviewed the country's policies and legislation for any possible conflicts with the Convention, as required by article 2, paragraph 1 (c). They wished to know how the Nigerian Government interpreted article 23, paragraph 2, of the Convention, which could sometimes warrant granting special privileges temporarily under the law, to disadvantaged groups in order to ensure their adequate development. In that connection, information was requested concerning the differences in the living standards of the various ethnic groups, particularly with regard to health services and housing. Members of the Committee welcomed the Government's liberal policy towards religious sects, which would contribute to better relations among ethnic groups, because of the interrelationship between the latter and the religious groups. Regarding the allocation of funds to the states, members wished to know more about the government's revenue-raising operations and to what extent states were required to raise their own resources. They were also interested in knowing how the new Government would respond to any request for the creation of a new state emanating from specific groups or regions which wanted greater participation in their own affairs.

375. Members of the Committee praised Nigeria for its exemplary opposition to apartheid and its vanguard role in the struggle against that policy. They wished to continue to receive information on action being taken by Nigeria in its implementation of article 3 of the Convention.

376. The Committee indicated that the implementation of article 4 of the Convention had been discussed in connection with previous reports. On those occasions the Committee had pointed out that, for full compliance with article 4, explicit sanctions were required to reinforce relevant sanctions of the Nigerian Criminal Code. The Committee reiterated its opinion that the relevant provisions of the Criminal Code of Nigeria did not fully meet the requirements of article 4 of the Convention. The definition of seditious intention given in the report referred only to hostility



between classes. Members of the Committee asked whether any provision of the Nigerian Criminal Code applied specifically to racial or ethnic hostility. Furthermore, they observed that the Criminal Code did not seem to prohibit organizations which promoted and incited racial discrimination, as was required under article 4 (b) of the Convention.

377. In relation to article 5 of the Convention, the Committee noted that, notwithstanding the military take-over, the report indicated that human rights had safeguarded. The Committee inquired whether the rights provided for under article 5 of the Convention had been modified by Constitution (Suspension and Modification) Decree No. 1 of 1984. Members sought clarification of current policy on the right to form political parties. They wished to know whether trade unions were associated with political parties and whether section 37 of the 1979 Constitution permitted trade unions to form a political party. The Committee asked whether measures had been passed to establish legal equality in situations where there were incongruities in economic and social patterns. Members were interested to know what incentives the Government had provided to encourage equal access to education, particularly in view of the fact that free primary and secondary education had been abolished. The Committee needed a fuller picture of educational and cultural measures being undertaken for Nigeria's own development. Members expressed the hope that the next report would give a detailed account of the measures the Government was taking to apply its oil wealth to ensure the economic, social and cultural rights of its citizens under article 5 (e) of the Convention. Members also asked whether there was any specific protection under the law for immigrants and foreign workers. Further information was requested on cases (d) and (e) referred to in the addendum to the report in connection with article 5 of the Convention.

378. Regarding article 6 of the Convention, members were interested to know what effective protection and remedies were available in Nigeria in order to obtain the speedy redress of violations of human rights and fundamental freedoms. They sought clarification as to whether the cases referred to in the addendum had arisen as a result of racial discrimination or of arbitrary decisions taken by the authorities. The next report should contain further information on recourse procedure, up-to-date information on court judgements and concrete illustrations of cases involving racial discrimination.

379. Where article 7 of the Convention was concerned, members of the Committee commended the Government for its implementation of that article. They requested further information on what was being done to disseminate the principles and objectives of the Convention and other human rights instruments, and on whether they were studied in university courses.

380. In reply to the questions raised and observations made by members of the Committee, the representative of Nigeria said that he would briefly answer a few of the questions raised by the Committee; the remaining questions would be referred to his Government for consideration and would be adequately discussed in Nigeria's next report.

381. He explained that states in Nigeria were entitled to raise their own revenue to supplement the funds allocated to them by the federal Government; the federal Government in fact encouraged them to do so.

382. He emphasized that Nigeria, which was in the forefront of the fight against apartheid and racial

discrimination, maintained no diplomatic or military relations with South Africa. He also drew attention to the Import Prohibition Order of 1983, which stipulated that any enterprise intending to enter into a contract with Nigeria must submit a declaration stating that it had no business connections with South Africa.

383. The Committee's recommendations regarding Nigeria's implementation of article 4 of the Convention had been referred to his Government. Having considered the matter and having reviewed section 50 (2) of the Criminal Code, which defined seditious intention as "an intention ... to promote feelings of ill will and hostility between different classes of the population of Nigeria", the Government had concluded that the word "classes" also meant races in that context, so that the section in question fulfilled Nigeria's obligations under article 4. However, since the Committee maintained that it still had not been provided with any legislation that specifically met the requirements of that article, he would once again refer the question to his Government. The Government's position on the matter would be stated precisely in the next report.

384. Turning to questions raised in connection with the implementation of article 5 of the Convention, he stated that trade unions in Nigeria were not related to political parties. The right to form trade unions, which derived from section 37 of the 1979 Constitution, had remained unaffected by the suspension of political activities under Constitution (Suspension and Modification) Decree No. 1 of 1984. In the somewhat similar case of Archbishop Anthony Olubunmi Okogie and others vs. Attorney-General of Lagos State and others, cited in the section of the addendum relating to article 5 of the Convention, the Court of Appeal had held that section 18 of the Constitution, which had not been affected by the Constitution (Suspension and Modification) Decree No. 1 of 1984, had not been intended to abrogate the enjoyment of the freedom of expression conferred on the Archbishop under section 36 of the Constitution. As defined in section 36, freedom of expression also meant the freedom to hold opinions and to receive and impart ideas and information without interference. He informed the Committee that universal, free primary education had not been abolished. It had been maintained as a means of promoting the Government's educational objectives embodied in section 18 of the 1979 Constitution.

385. Regarding procedures available to ensure the enjoyment of fundamental human rights in relation to the implementation of article 6 of the Convention, he pointed out that section 42, paragraphs 1 to 4, of the Nigerian Constitution provided for adequate and impartial treatment at law of allegations of infringement of fundamental rights, and that that provision had been discussed fully in Nigeria's seventh periodic report.

386. With regard to the implementation of article 7 of the Convention, the representative of Nigeria informed the Committee that the various international human rights instruments, including those relating to apartheid, were included in the university curriculum in Nigeria, generally in the context of human rights courses offered by the international law departments. Nigeria's next periodic report would present the complete curricula of those departments.

## **CERD A/44/18 (1989)**

418. The Committee considered the ninth periodic report of the Federal Republic of Nigeria (CERD/C/149/Add 25) at its 851<sup>st</sup> and 852<sup>nd</sup> meetings, held on 22 August 1989 (CERD/C/SR.851 and 852).

419. The representative of the State party, introducing his report, said that during the period under consideration Nigeria had continued its efforts to protect the rights, dignity and worth of the human being, thus maintaining the tenets of the Convention of the Elimination of All Forms of Racial Discrimination. He drew the Committee's attention to the cases listed in the report, which demonstrated that citizens were able to go before the courts and that where judgements were adverse to the Government, it complied with them. He also drew attention to the information provided under article 5 of the Convention, which showed that efforts were being made to improve the living standards of ethnic groups, as well as housing and services, and to reduce unemployment.

420. Having noted that the report did not answer some of the questions raised during discussion of the previous report and did not fully comply with the guidelines elaborated by the Committee, members of the Committee sought further information on the country's current régime and the alliance between the military and civilian groups; on the nature of the relationship existing between the Armed Force Ruling Council (AFRC) and the federal Government; on the demographic composition of the country, notably the relationship between Muslims and Christians and whether both groups participated in the Government. With reference to the issue of the creation of new states within the Nigerian federation, it was asked whether states would be established in response to ethnic, linguistic or religious demands and whether the information was available on the demographic composition and ethnic representation of existing states. It was also asked whether the system ensured that all ethnic groups were adequately represented in provincial governments. More detailed information was sought on the representation of various ethnic groups within each of two governing bodies - AFRC and the National Council of Ministers.

421. Members also wished to know when full civilian government was likely to be restored. At the same time, it was stated that the reporting of events up to 1986 in the ninth periodic report was to be commended and that the record of the Government that had come to power in the latter part of 1985 with regard to the implementation of the Convention bore no comparison to that of the administration it had replaced. It was noted that the rule of law was being upheld. The fear was expressed that the Committee was at times overstepping the bounds of what was required of it under the Convention by delving into general human rights issues, which were dealt with by other bodies. It was pointed out, with reference to the constant requests, addressed to developing countries in particular, for statistical data regarding ethnic and religious groups, that the establishment of rigid distinctions between such groups was not conducive to harmony and racial and religious integration. It was emphasized that the report covered the situation in Nigeria up to 1986, whereas most of the Committee's comments and questions related to developments since that date and would consequently need to be answered by the representative of Nigeria or dealt with as soon as possible in the tenth periodic report.

422. With reference to article 2 of the Convention, additional information was requested on the

implementation of provisions contained in paragraph (c) of that article; and on the measures being taken to defuse the “ethnic, religious and linguistic tensions” mentioned in paragraph 3 of the report.

423. With regard to article 3 of the Convention, it was declared that Nigeria played an outstanding role in the anti-apartheid movement and was an inspiration to others. However, details of the case of Dr. Patrick Wilmont, reportedly deported for criticizing Nigerian businessmen who had sold Nigerian oil to South Africa, were requested and it was asked what action had been taken against these businessmen.

424. As for the implementation of article 4 of the Convention, members regretted the report’s failure to provide information on Nigeria’s implementation of that article and the hope was expressed that the following report would contain such information as well as a response to the comments made in that connection by the Committee’s members during the consideration of the eighth periodic report.

425. In connection with article 5 of the Convention, it was asked why the Government had removed Shariah from the list of debatable items in the Constituent Assembly, leaving it in the hands of the military; whether that decision complied with article 5 (d) (vii) of the Convention; what was the status of the Islamic Courts in the 11 northern Nigerian states and what was the possibility of their extension to other regions. With reference to the clashes between Muslims and Christians in Kaduna state in April 1987, additional information was requested on the treatment of the detainees and how quickly they had been brought before the relevant military authorities and on whether any action had been taken against the offending members of the security forces. The information was also requested on the judicial inquiry into the deaths of 24 convicts during a prison riot on 6 May 1987 in Benin prison. With reference to thousands of prisoners awaiting trial, it was asked what action was being taken to expedite those trials. The clarification of the phrase “acts prejudicial to public order” in paragraph 20 of the report was requested.

426. Further information was sought on the reason for the temporary ban that the Government had placed on the journal NewsWatch on 25 April 1987 and on the actions taken by the Government against the National Association of Nigerian Students, the Nigerian Labour Congress and the Academic Staff Union of Universities in July 1988.

427. Having noted that the dual nationality of a number of citizens of Benino-Nigerian origin had increased the difficulty of combating illegal traffic in narcotics and in immigration, members wished to know whether any steps had been taken to resolve that problem and also requested an explanation of the presence of Cameroon troops in Bornu state and of the border clashes in that area. Members also wished to know whether there were any restrictions of any kind on the application of article 5 (d) (i) and (v) in any of the states in Nigeria and, if so, what reasons could be given; and what guarantees there were for the participation of representatives of all groups or tribes in the federal Government.

428. With reference to article 6 of the Convention, members noted that the report gave no details on its applications and asked what action was taken by the Government to assure the “effective protection and remedies” called for by that article, and to what extent the legal assistance to members of the indigenous populations, particularly in any cases of racial discrimination, was

provided by the Nigerian Aid Council.

429. With regard to article 7 of the Convention, the hope was expressed that Nigeria would study the Committee's guidelines on that article and that its following report would provide a clear picture of the situation in the country.

430. The representative of the State party, replying to questions and comments from members of the Committee, assured them that all their observations would be duly taken into account by the Government of Nigeria, which, since its accession to power in 1987, had been untiring in its efforts to promote human rights. It was not right to describe Nigeria as a State torn by religious tension. Although Muslims and Christians lived side by side, there was a large number of animists in the country. Nigeria was a secular State whose 21 states had not been constituted on the basis of religious criteria. In that area, the country had made considerable progress and, in any case, the tensions that had arisen in the past had had an economic rather than a religious cause. He informed the Committee that Nigeria did not recognize dual nationality. As far as the Armed Forces Ruling Council was concerned, there was no provision requiring it to be composed of Christians or Muslims; every effort was made to achieve as equitable a representation as possible of the 21 states of the federation. The same principle applied to the National Council of Ministers. The Armed Forces Ruling Council was the supreme legislative organ of the country, while the National Council of Ministers was responsible for questions of policy. On the question of demographic data, measures had been taken with a view to holding a national census in 1991. The new Constitution would come into force in 1992 with the country's return to civilian rule; it would reaffirm the fundamental rights and principles proclaimed in articles 2 and 4 of the 1979 Constitution. The representative also provided some clarification of the parts of the report dealing with religious freedom.

431. In connection with application of article 4 of the Convention, the representative said that in the Nigerian Government's view article 50 of the Criminal Code ensured the application of article 4, since in its context the word "classes" should also be understood as including races. Nevertheless, an amendment to that article would shortly be made.

432. Referring to the questions relating to article 6 of the Convention, the representative said that in 1986, following the Committee's recommendation on the subject during its consideration of Nigeria's eighth periodic report, the Government had passed a decree to amend the Legal Assistance Act for the purpose of providing such assistance in civil cases as well.

433. Lastly, since the Committee had taken up consideration of the ninth periodic report of Nigeria three years after its submission, that report certainly needed to be updated. In its tenth periodic report, the Government of Nigeria would be expected to provide full information on developments during the past three years, as well as replies to questions asked during the consideration of the ninth periodic report.

## **CERD A/48/18 (1993)**

306. The tenth, eleventh and twelfth periodic reports of Nigeria, submitted in one document (CERD/C/226/Add.9), were considered by the Committee at its 993<sup>rd</sup> and 998<sup>th</sup> meetings, held on 6 and 10 August 1993 (see CERD/C/SR.993 and 998).

307. The reports were introduced by the representative of the State party who indicated that, with a population of over 88.5 million, Nigeria was the most populous black country in the world. The predominant ethnic groups were the Hausa, Fulani, Yoruba and Ibo. Other major ethnic groups included the Edo, Ibibio, Isoko, Urhobo, Itsekiri, Kanuri, Nupe, Efik, Ijaw, Egbira, Idoma, Tiv, Kamiri, Chambe, Gwaris and Ekoi, and there were over 200 smaller ethnic groups with their own culture and traditions. Despite their ethnic, cultural and linguistic diversity, Nigerians exhibited a cohesiveness that was a product of centuries of trade, inter-marriage and other contacts.

308. The civil, political, economic, social and cultural rights of all Nigerians, regardless of the race or minority to which they belonged, were ensured and protected by a number of institutions, such as courts of law, which were independent of government control, and the Public Complaints Commissioner, whose office had been in existence for two decades and who handled complaints from individuals, groups and corporate bodies. The Code of Conduct Bureau had been established to complement the efforts of the Public Complaints Commissioner. The Nigerian Law Review Commission regularly reviewed national laws to bring them into line with contemporary domestic issues and international legal instruments. Additionally, Nigeria had recently established a human rights monitoring unit under the Federal Ministry of Justice in order to enhance the implementation of human rights instruments and to receive petitions and complaints on human rights violations. State governments had similar units in their justice ministries.

309. Members of the Committee welcomed the resumption of dialogue with Nigeria and expressed the hope that Nigeria's cooperation with the Committee would be regular in the future. They noted that the report under consideration failed to answer the many questions raised during the consideration of the ninth periodic report and to comply fully with the Committee's guidelines. They also regretted the absence of detailed information on the ethnic composition of Nigerian society, which was crucial for the Committee's monitoring of the implementation of the Convention. They requested additional information on the numerous internal conflicts and ethnic violence and their causes, and concerning the recent suspension of basic guarantees for the enjoyment of fundamental human rights. Additional information was also requested as to especially vulnerable groups, such as the Ogoni, who were suffering from the degradation and pollution of their lands as a result of oil exploitation by multinational corporations, as well as from acts of the police and oil companies. In the latter connection, members wished to know how the Government planned to accede to the demands of minorities to manage their own economies and resources; what the effects of the Nigerian Enterprises Promotion Decree of 1989 (repealing the Indigenization Decree of 1977) would be in regard to the participation of local ethnic groups in the exploitation of natural resources. They also wished to have more detailed information concerning the impact of the policy of national unity on ethnic and religious minority groups in 30 states. They considered that the tense political situation in Nigeria, which was the result of many factors, not least the ethnic and religious difficulties which were surfacing, adversely affected the implementation of the Convention, and they

felt that the Committee should keep the implementation of the Convention by Nigeria under review, taking it up again at its next session.

310. With respect to article 1 of the Convention, members asked what the rights and guarantees of non-citizens were under the Constitution and why a distinction was made in national legislation between citizens of Nigeria by birth and other Nigerians.

311. In regard to article 2 of the Convention, members of the Committee wished to know how the Government of Nigeria encouraged the formation of integrationist multiracial organizations and movements, referred to in paragraph 9 of the report, how those organizations functioned and what their impact was on general government policy with respect to the implementation of the Convention.

312. As far as article 3 of the Convention was concerned, members of the Committee congratulated the Government of Nigeria on the steps taken, especially at the international level, to implement its provisions, but pointed out that Nigeria must also undertake to prevent, prohibit and eradicate all practices of racial segregation in the territories under its jurisdiction.

313. While noting that Section 39 of the Constitution of Nigeria seemed to meet the requirements of article 4 of the Convention, members of the Committee indicated that the report did not explain how its provisions were implemented. In addition, they pointed out that the definition of "seditious intention" did not cover all the instances of racial discrimination contemplated in article 4 and asked for further clarification on that issue. Members felt that the system of special courts and military tribunals was not compatible with the protection of the rights set out in article 4 of the Convention. Furthermore, clarification was sought of the reported proscription by a Decree of 20 May 1992 of all ethnic, religious and regional associations that had supported political candidates. Finally, members asked whether the Constitution prohibited the existence of racist organizations or banned participation in such organizations.

314. Having emphasized that under article 5 of the Convention the State had an obligation to guarantee the civil, political, economic, social and cultural rights of the whole population and not just of citizens, members wished to receive more detailed information on the implementation of all its provisions. They asked, in particular, what had been done to ensure the fair and equitable representation of all ethnic groups in federal and state parliaments and what concrete steps had been taken to achieve national reconciliation; what action had been envisaged to prevent regional interference and the long-term dissolution of local government councils; whether the right to freedom of opinion and expression was guaranteed by law; whether freedom of movement and residence was permitted within the borders of the State; what the prospects were for increased investment in employment, education and housing and what the Government policy was in this regard.

315. In connection with article 6 of the Convention, members wished to know whether victims of acts of racial discrimination had the right to compensation; how human rights institutions, such as the office of Ombudsman, functioned; to what extent those institutions were independent and how far the Government responded to their recommendations.

316. With respect to article 7 of the Convention, members of the Committee wished to know whether training was provided for officials who had to deal with ethnic conflicts, with a view to eradicating prejudice which lead to racial discrimination and to fostering understanding and tolerance among racial and ethnic groups.

317. Replying to the questions asked and comments made, the representative of the State party said that Nigeria would henceforth maintain its dialogue with the Committee and that every effort would be made to submit the reports in time. The concept of national unity was not at variance with the existence of many ethnic groups. It was part of the aspiration to forge a single nation so that all citizens would consider themselves Nigerians and put Nigeria first. It by no means implied prohibition of the culture, language and traditions of different ethnic groups. The report did not contain data on the demographic composition of Nigeria because such figures were not available; the population census carried out two years previously had not provided for the collection of information on ethnic groups or religion, in order to prevent states from inflating figures in order to increase their revenue from the Federal Government, as had happened in the past.

318. The representative provided the Committee with some information on the institutional organization of the Nigerian Federal State and said that the past practice of states of depriving local governments of the funds allocated to them by the Federal Government had been eliminated by the direct transfer of 10 per cent to local governments. The various conflicts referred to by members as ethnic or religious had in fact been triggered by economic factors, such as the land question. The way to control "ethnic" conflicts was by tackling the underlying cause - the underdevelopment of the country. The representative provided further information with respect to the situation of the Ogoni in Rivers State, pointing out that the Federal Government gave back to the oil-producing areas the 3 per cent of the total revenue from oil exploitation reserved for their development, and 2.5 per cent for the protection of the environment.

319. With regard to article 4 of the Convention, the representative said that the Government discouraged people from forming political parties based on religious or ethnic criteria, since such criteria necessarily implied the exclusion of certain sections of the population; any such party that gained power would be unrepresentative of the whole nation that it ruled.

320. With respect to article 6 of the Convention, the representative of the State party informed the Committee that the Nigerian legal system did not prevent anyone who considered he had suffered racial discrimination from seeking remedy through the courts. There were three levels of courts: magistrate courts, High Courts and the Supreme Court. Some states also had customary courts, such as Shariah courts, for dealing with problems of custom and practice specific to certain areas.

#### Concluding observations

321. At its 1008<sup>th</sup> meeting, held on 17 August 1993, the Committee adopted the following concluding observations.

##### (a) Introduction

322. The Committee noted the submission of the report which, however, did not fully comply with



the Committee's revised guidelines on the preparation of reports. The resumption of the dialogue with the representative of Nigeria had contributed to a better understanding of the situation in that country. The Committee hoped that in the future the State party would comply with its obligations under article 9 of the Convention. The Committee noted that, in response to questions asked and comments made by members, some additional information had been provided orally by the delegation. The Committee welcomed the Government's commitment to supply it with additional written information.

(b) Positive aspects

323. The Committee noted with interest that, since its independence, Nigeria had been striving to reconcile regional and religious tensions and to accommodate the interests of diverse ethnic groups. The recent creation of nine additional states within the Federal Republic of Nigeria attested to that trend. The expected entry into force on 27 August 1993 of a new Constitution and transition from military to civilian rule would enhance democratic development thus creating favorable conditions for a more effective implementation of the Convention. The Committee noted with appreciation the steps Nigeria had taken at the international level to implement article 3 of the Convention.

(c) Factors and difficulties impeding the application of the Convention

324. The Committee noted that the advent of an elected government would contribute to the improvement of the overall human rights situation in the country, which, apart from a rather tense political situation, was also considerably influenced by a severe economic crisis and continuing interethnic or religious conflicts.

(d) Principal subjects of concern

325. The Committee expressed its concern over the ongoing interethnic conflicts. The Committee was particularly concerned over reports that the Nigerian Police Force had, in some circumstances of violence, been ineffective in protecting the rights of civilians.

326. The Committee found that national legislation, particularly Section 50, paragraph (d), subsection (21), of the Nigerian Criminal Code, did not fully meet the requirements of article 4 of the Convention and that the provisions of article 5 of the Convention were not adequately implemented.

(e) Suggestions and recommendations

327. The Committee recommended that national legislation be brought into full compliance with the provisions of the Convention, in particular regarding a definition of racial discrimination (article 1 of the Convention); prohibition of racist organizations and propaganda activities that promote and incite racial discrimination (article 4 (b) of the Convention); the effective enjoyment of the rights set forth in article 5 of the Convention; and the provision of effective protection and remedies to everyone within the jurisdiction of the State party against any acts of racial discrimination (article 6 of the Convention).

328. Furthermore, the Committee requested that in its next report the Government of Nigeria should provide it with better data on the ethnic composition of the society.

329. In the light of all information available to it, the Committee found that the actual situation in Nigeria warranted closer monitoring of the implementation of the Convention and decided to request the Government of Nigeria to provide the Committee with additional information to be considered by the Committee at its spring session in 1994.

## **CERD A/50/18 (1995)**

598. The thirteenth periodic report of Nigeria (CERD/C/263/Add.3 and CERD/C/283) was considered by the Committee at its 1115<sup>th</sup> and 1117<sup>th</sup> meetings, held on 10 and 11 August 1995 (CERD/C/SR.1114 and 1116).

599. The report was introduced by the representative of the State party who said that one of the major tasks facing the present administration which assumed power in November 1993 was the restoration of law and order among the diverse cultural, ethnic and linguistic groups existing in Nigeria. In doing so, the administration ensured that the fundamental human rights enshrined in the Nigerian Constitution of 1979 were not unduly tampered with. It also intended to announce a programme of transition to democratic rule on 1 October 1995. The representative also referred to the ethnic composition of his country and to the constitutional provisions devoted to the recognition, promotion and enforcement of the rights of groups and individuals. He stated that the Federal Government had made provision for direct funding of the Local Government Councils, that it had established an Oil Mineral-Producing Areas Development Commission and that the Nigerian Investment Promotion Commission Decree of 1995 was designed to attract foreign investment into the country.

600. The representative further referred to measures taken by its Government in the educational field and for the advancement of women, and stated that under Section 39 of the 1979 Constitution, Nigerian citizens were guaranteed the enjoyment of political and civil rights without discrimination. The various rights enshrined in the Constitution were justiciable and many Nigerians sought redress in the courts of law when those rights were violated. They were entitled to legal aid to initiate proceedings. Finally, he stated that measures to ensure compliance with article 7 of the Convention included the establishment of the Technical Aid Corps Programme of the Ministry of Foreign Affairs, whereby young graduates volunteered to serve in developing countries for a given period.

601. Members of the Committee expressed appreciation for the readiness of the State party to continue the dialogue with the Committee, for its timely submission of the report, and for the high level of representation participating in the discussion. It was observed, however, that Nigeria's reporting record showed a lack of continuity in that questions asked in connection with one report had not been answered in subsequent reports. In addition, the Committee had received considerable information on the legal framework but rather little on actual practice; it was stressed that, in reporting, States parties should go beyond a list of legislative measures and should provide information on their application in practice.

602. In connection with article 1 of the Convention, members of the Committee took note of the difficulties encountered by the Federal Government of Nigeria in its efforts to promote harmony among the 250 ethnic groups living in the country, and welcomed the special measures taken or planned by the Government in that regard. They also noted that section 39 (1) of the 1979 Nigerian Constitution provided for the protection of citizens against discrimination, but did not cover non-citizens or provide protection against discriminatory actions or practices outside the governmental sector. In addition, it was observed that it was not clear which constitutional provisions were currently in force.

603. With regard to article 2 of the Convention, reference was made to numerous allegations of discrimination and other violations of human rights on grounds of ethnic origin which had been brought to the attention of the Committee by non-governmental organizations. According to those allegations, the Nigerian security forces would have committed a series of human rights abuses, including killings, torture and massive arrests, particularly against the Ogoni ethnic group; the Federal Government was alleged to have fomented ethnic antagonism and to tolerate a situation of impunity with respect to the perpetration of human rights abuses. It was, therefore, asked whether there had been any investigation on whether in Ogoniland unlawful orders had been given, what measures the Government had taken to consult ethnic groups about their grievances, whether there was a problem of "tribalism" in the country and, if so, what policy the Government was undertaking to mitigate it. Detailed information was also requested on the action taken recently against the Movement for the Survival of the Ogoni People and, in particular, against Mr. Ken Saro-Wiva, leader of the Movement arrested in May 1994, and against other members of the Movement arrested in August 1995. In addition, further details were requested as to how national integration was being actively encouraged, how the Government viewed the aspirations of the various ethnic groups and the movements for their survival and what it was doing or intended to do to accommodate their views. It was further asked what measures were being taken to preserve the identity of the ethnic groups affected by the changes and deterioration of their environment, how the distribution of revenue was actually regulated and why the benefits from the use of natural resources were not equitably shared among the population as a whole and, more particularly, among the people from whose land they were extracted. It was also asked why the Nigerian Government had refused to authorize a non-governmental organization to conduct an investigation into the situation in Ogoniland in 1994. It was pointed out, in this connection, that a glaring discrepancy existed between information on the situation in Nigeria contained in the report and that provided by reliable non-governmental sources.

604. With reference to article 3 of the Convention, members of the Committee acknowledged the leading role of Nigeria in the struggle against apartheid and in its dismantling. In this connection, information was requested on what Nigeria was currently doing at the international level to honour its commitment to combat racial discrimination, and, in particular, to provide assistance in many areas of Africa for the solution of ethnic conflicts.

605. With regard to article 4 of the Convention, members of the Committee pointed out that specific penal provisions should be enacted by Nigeria in order to fully comply with the provisions of that article, and that precise information on the progress made in this regard should be included in Nigeria's next periodic report. It was asked, in particular, whether the Government had concluded its review of how to unify the Criminal Code that operated in the south and the Penal Code that operated in the north of the country, what was the status of the Convention in Nigerian domestic law and whether its articles could be invoked directly before the court.

606. With reference to article 5 of the Convention it was asked how the verdict was determined in criminal trials, whether there were complaints of ethnic bias in court proceedings, whether threats were ever made to the security of persons because of their ethnic origin and how effective was the remedy obtained in the case of discrimination in general, and discrimination in employment, in particular. More information was requested on the establishment and functioning of civil disturbances special tribunals to try certain types of offences, the judgements of which were without

appeal. It was observed that because there was no avenue of appeal from the decisions of such tribunals their operation might infringe the right to equal treatment provided for by article 5 (a) of the Convention. Information was also requested on the reply of the Nigerian Government to the International Labour Organization with regard to the expulsion of Chadian workers, and on any measures that prohibit political activities and limit press freedom. Information was further requested on any plans affecting ethnic relations that might feature in the restoration of civilian rule.

607. Referring to article 6 of the Convention, members of the Committee wished to receive examples of judgements passed in application of section 39 of the 1979 Constitution relating to measures to combat racial discrimination. They also wished to know more about the circumstances in which persons had applied to a court for the redress of alleged violations of fundamental human rights, what action the Government had taken in that regard, and what was the relationship between the Federal Court of Appeal and the Shariah Court of Appeal. Information was requested on the Legal Aid Scheme and the modifications made in it. In addition, members of the Committee wished to receive details of decrees, other enactments and court rulings relating to the punishment of violations of civil liberties and acts of racial discrimination and description of remedies available.

608. With regard to article 7 of the Convention, members of the Committee wished to know how, in practice, law enforcement officials were trained to face situations of ethnic conflict, how ethnic discrimination was avoided in their recruitment and whether they were given training in the area of human rights and the prevention of discrimination. They also wished to know how the Government intended to foster the idea of tolerance, responsibility and cooperation among ethnic groups and what was the legal status of associations representing ethnic groups.

609. In their replies, the representatives of Nigeria stated that the allegations of human rights violations perpetrated by the security forces against the Movement for the Survival of Ogoni People in general were groundless. Those members of the Movement who had been arrested were charged with criminal offences. They were part of a group which had transformed the originally peace-loving and constitutionally minded Movement into a violent one. No representatives of any organization, national or international, had been prevented from visiting Ogoniland. With regard to the question on revenue distribution, the representatives indicated that the trend was for the Federal Governments's share of revenue to decrease while that of states and local governments increased. They also referred to various measures introduced by the Government to minimize environmental degradation in the areas where hydrocarbons were extracted.

610. With regard to article 4 of the Convention, the representatives referred to the committee set up by the Federal Government to review and reform the Criminal Code and assured the Committee that it would be informed of the results of the review and reform procedure.

611. Referring to article 5 of the Convention, the representatives enumerated the fundamental human rights enshrined in the 1979 Constitution which had not been suspended under military rule. They also stated that the establishment of the civil disturbances Special Tribunal had been prompted by the level of damage and the nature of the crimes committed in the north of the country. They added that the rights of the defendant were the same in all tribunals without exception. The representatives further stated that political associations recently created would have an opportunity to transform themselves into political parties in preparation for future elections, and that freedom

of the press was guaranteed in the country.

612. With reference to article 6 of the Convention, the representatives indicated that under the 1979 Constitution a Public Complaints Committee and a Code of Conduct Bureau had been established, both of which were still operating and had authority to enforce their decisions. The Public Complaints Committee had wide powers to deal with allegations of unfair treatment of members of the public by civil servants as well as grievances concerning both public and private enterprises and employers.

### Concluding observations

613. At its 1125<sup>th</sup> meeting, held on 17 August 1995, the Committee adopted the following concluding observations:

#### (a) Introduction

614. The will and the readiness of the State party to continue the dialogue with the Committee are welcomed. The regularity of the submission of reports by the State party, in accordance with article 9 (1) of the Convention is appreciated. The attendance of a high-level delegation and the further information submitted are also welcomed.

615. It is noted that the State party has not made the declaration provided for in article 14, and some members requested that the possibility of such a declaration be considered.

#### (b) Positive aspects

616. The recognition by the delegation of the existence in Nigeria of more than 250 groups distinguished by ethnic origin and the preoccupation of the Government to assure harmonious and peaceful relations between these groups are well noted.

617. The leading part played by Nigeria in the struggle against apartheid is acknowledged with satisfaction.

618. The Nigerian educational programmes which implement the provisions of article 7 of the Convention are welcomed.

619. Since some ethnic tensions have been associated with ecological changes, the Committee welcomed the statement on the action taken to ameliorate the ecological and developmental situation in the oil producing areas of the country, including the establishment of the Oil Mineral Producing Areas Development Commission and the direct allocation of compensatory payments.

#### (c) Principal subjects of concern

620. Concern is expressed that the record of Nigeria's reporting shows that many questions raised in connection with previous reports have not been fully answered in subsequent reports.

621. It is noted that not all the grounds of discrimination listed in article 1 (1) of the Convention are covered by the Constitution and legislation of the State party.

622. Concern is expressed at the delay in introducing legislation in implementation of the provisions of article 4 of the Convention.

623. Concern is expressed that while the report and the further information describe the legal framework for action against racial discrimination, little is said about the implementation in practice of the relevant provisions.

624. Concern is expressed that in circumstances such as those of Nigeria, in which political and religious differences may easily be associated with ethnic differences, any breakdown in law and order can exacerbate ethnic tension.

625. Concern is expressed over allegations that agents of the Government have contributed to ethnic antagonisms in the course of attempts to maintain law and order, particularly in the Rivers State.

626. Concern is expressed about the training of law enforcement officials in accordance with the Committee's General Recommendation XIII.

627. Particular concern is expressed that Decree 12 (Federal Military Government Supremacy and Enforcement Decree, 1994), that states "no act of the federal military government may be questioned henceforth in a court of law" and which ousts "courts of jurisdiction" can adversely affect proceedings invoking protection against racial discrimination.

628. Particular concern is also expressed that trial by Special Tribunals, some of them with no right of appeal, could counter the right to equality before the law, without distinction as to ethnic origin, in accordance with article 5 of the Convention.

(d) Suggestions and recommendations

629. The Committee recommends that in its next periodic report the State party should describe the actions it has taken against individuals or groups which cause disaffection against ethnic groups and to defend the rights of their members.

630. The Committee recommends that in the course of its current review of its legislation, the Government give the necessary attention to measures designed to meet the requirements of articles 1 (1) and 4 of the Convention.

631. The Committee recommends that the Government review the effectiveness of the protection it provides against racial discrimination in the enjoyment of civil, political, economic, social and cultural rights in accordance with article 5 of the Convention.

632. The Committee recommends that the State party investigate situations of ethnic disorder and the causes thereof, including any possible unlawful orders, with a view to taking the necessary remedial measures in accordance with the Convention and to ensure that no one can act with

impunity in these circumstances.

633. The Committee recommends that the Government, when promoting projects of economic development, undertake the necessary measures to effectively protect the identity of ethnic groups in the areas concerned.

634. The Committee recommends that the Government review the effectiveness of the recourse measures which should be available to all persons within their jurisdiction in accordance with article 6.

635. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted by the fourteenth meeting of States parties.

636. The Committee recommends that the State party's fourteenth periodic report, due on 5 January 1996, will be submitted in due time.