

REPORT
OF THE
COMMITTEE
ON THE ELIMINATION
OF RACIAL DISCRIMINATION

GENERAL ASSEMBLY

OFFICIAL RECORDS: THIRTY - THIRD SESSION

SUPPLEMENT No. 18 (A/33/18)



UNITED NATIONS

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UNITED NATIONS
New York, 1978

NOTE

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LETTER OF TRANSMITTAL

11 August 1978

Sir,

I have the honour to refer to article 9, paragraph 2, of the International Convention on the Elimination of All Forms of Racial Discrimination, according to which the Committee on the Elimination of Racial Discrimination, established pursuant to the Convention, "shall report annually, through the Secretary-General, to the General Assembly of the United Nations on its activities".

The Committee on the Elimination of Racial Discrimination held two regular sessions in 1978 and, at its 406th meeting held today, unanimously adopted the attached report in fulfilment of its obligations under the Convention; it is submitted to you herewith for transmission to the General Assembly at its thirty-third session.

The Committee notes with appreciation that in pursuance of a suggestion made by the Committee at its seventh session, the General Assembly has considered the reports of the Committee separately from other items of its agenda, and trusts that this practice will be continued.

Accept, Sir, the assurances of my highest consideration.

(Signed) George O. LAMPTEY
Chairman of the
Committee on the Elimination
of Racial Discrimination

His Excellency
Mr. Kurt Waldheim
Secretary-General of the United Nations
New York

I. INTRODUCTION .

A. States parties to the Convention

1. On 11 August 1978, the closing date of the eighteenth session of the Committee on the Elimination of Racial Discrimination, there were 100 States parties to the International Convention on the Elimination of All Forms of Racial Discrimination, which was adopted by the General Assembly of the United Nations in resolution 2106 A (XX) of 21 December 1965 and opened for signature and ratification in New York on 7 March 1966. The Convention entered into force on 4 January 1969 in accordance with the provisions of its article 19.

2. By the closing date of the eighteenth session, seven of the States parties to the Convention had made the declaration envisaged in article 14, paragraph 1, of the Convention. A list of States parties, and an indication of those which have made the declaration under article 14, paragraph 1, of the Convention, is contained in annex I below.

B. Sessions

3. The Committee on the Elimination of Racial Discrimination held two regular sessions in 1978 at United Nations Headquarters, New York. The seventeenth session (363rd to 383rd meetings) was held from 20 March to 5 April 1978 and the eighteenth session (384th to 406th meetings) from 24 July to 11 August 1978.

C. Membership of the Committee

4. In accordance with the provisions of article 8 of the Convention, representatives of the States parties held their 6th meeting at United Nations Headquarters on 12 January 1978, 1/ and elected nine members of the Committee on the Elimination of Racial Discrimination from among the candidates nominated, to replace those whose terms were due to expire on 19 January 1978. The names of the members of the Committee for 1978-1979, including those elected or re-elected on 12 January 1978, are as follows:

1/ See Official Records of the International Convention on the Elimination of All Forms of Racial Discrimination, Sixth Meeting of States parties, Decisions (CERD/SP/8).

| <u>Name of member</u> | <u>Country of nationality</u> | <u>Term expires on 19 January:</u> |
|---------------------------------------|-------------------------------------|------------------------------------|
| Mr. Yuli BAHNEV | Bulgaria | 1980 |
| Mr. Pedro BRIN MARTINEZ | Panama | 1980 |
| Mr. Rajeshwar DAYAL | India | 1980 |
| Mr. André DECHEZELLES | France | 1980 |
| Mr. Silvo DEVETAK | Yugoslavia | 1980 |
| Mr. Abdel Moneim M. GHONEIM <u>2/</u> | Egypt | 1982 |
| Mr. Ousmane GOUNDIAM <u>2/</u> | Senegal | 1982 |
| Mr. Christopher O. HOLLIST <u>3/</u> | Nigeria | 1982 |
| Mr. George O. LAMPTEY <u>3/</u> | Ghana | 1982 |
| Mr. Mohied-Din NABAVI | Iran | 1980 |
| Mr. Evgeny N. NASINOVSKY | Union of Soviet Socialist Republics | 1980 |
| Mr. Erik NETTEL | Austria | 1980 |
| Mr. Karl Josef PARTSCH <u>3/</u> | Germany, Federal Republic of | 1982 |
| Mr. Fayez A. SAYEGH <u>3/</u> | Kuwait | 1982 |
| Mr. Agha SHAHI <u>2/</u> | Pakistan | 1982 |
| Mr. Georges TENEKIDES <u>2/</u> | Greece | 1982 |
| Mr. Luis VALENCIA RODRIGUEZ <u>3/</u> | Ecuador | 1982 |
| Mr. Federico VIDELA ESCALADA | Argentina | 1980 |

D. Solemn declaration

5. At the opening of the seventeenth session, those members of the Committee who were elected or re-elected by the meeting of the States parties to the Convention on 12 January 1978 made a solemn declaration in accordance with rule 14 of the provisional rules of procedure of the Committee. Mr. Videla Escalada, whose appointment by the Government of Argentina to serve as a member of the Committee for the remainder of the term of Mr. Arturo Enrique Sampay had been approved by the Committee at its sixteenth session, but who had not attended that session, also made a solemn declaration.

E. Attendance

6. All members attended the seventeenth session of the Committee. Messrs. Brin Martínez, Goundiam, Nettel, Shahi, Ténékidès and Valencia Rodríguez

2/ Elected on 12 January 1978.

3/ Re-elected on 12 January 1978.

attended only part of that session. All members attended the eighteenth session of the Committee. Messrs. Brin Martínez, Shahi and Ténékidès attended only part of the eighteenth session.

F. Election of officers

7. At its 363rd meeting, held on 20 March 1978, the Committee elected the following officers for a term of two years in accordance with article 10, paragraph 2, of the Convention:

Chairman: Mr. George O. LAMPTEY
Vice-Chairmen: Mr. Pedro BRIN MARTINEZ
Mr. Evgeny Nikolaevich NASINOVSKY
Mr. Karl Josef PARTSCH
Rapporteur: Mr. Fayez A. SAYEGH

G. Agenda

Seventeenth session

8. At its 363rd meeting, on 20 March 1978, the Committee adopted the items listed on the provisional agenda, submitted by the Secretary-General, as the agenda of its seventeenth session, with the understanding that a new item, entitled "Departure from the practice of issuing members of the Committee first-class tickets for attending meetings of the Committee", would be inserted therein.

9. The agenda of the seventeenth session as adopted reads as follows:

1. Opening of the session by the representative of the Secretary-General
2. Solemn declaration by the newly elected members of the Committee, under rule 14 of the provisional rules of procedure
3. Election of officers
4. Adoption of the agenda
5. Action by the General Assembly at its thirty-second session on the annual report submitted by the Committee on the Elimination of Racial Discrimination under article 9, paragraph 2, of the Convention
6. Consideration of reports, comments and information submitted by States parties under article 9 of the Convention
7. Consideration of copies of petitions, copies of reports and other information relating to Trust and Non-Self-Governing Territories and to all other territories to which General Assembly resolution 1514 (XV) applies, in conformity with article 15 of the Convention
8. Implementation of article 7 of the Convention

9. Reservations, declarations and statements of interpretation made by States parties to the Convention
10. Revision of rules 34 and 62 of the provisional rules of procedure of the Committee
11. Decade for Action to Combat Racism and Racial Discrimination
 - (a) Contribution of the Committee to the activities of the Decade
 - (b) Contribution of the Committee to the World Conference
12. Meetings of the Committee in 1979 and 1980
13. Departure from the practice of issuing members of the Committee first-class tickets for attending meetings of the Committee ^{4/}

Eighteenth session

10. At its 384th meeting, held on 24 July 1978, the Committee agreed to modify the wording of item 4 of the provisional agenda, submitted by the Secretary-General, deleting the reference to subitem (a) concerning "Contribution of the Committee to the activities of the Decade". The Committee then adopted the items listed on the provisional agenda, as amended, as the agenda of its eighteenth session, as follows:

1. Adoption of the agenda
2. Consideration of reports, comments and information submitted by States parties under article 9 of the Convention
3. Consideration of copies of petitions, copies of reports and other information relating to Trust and Non-Self-Governing Territories and to all other territories to which General Assembly resolution 1514 (XV) applies, in conformity with article 15 of the Convention
4. Decade for Action to Combat Racism and Racial Discrimination: contribution of the Committee to the World Conference
5. Meetings of the Committee in 1979 and 1980
6. Report of the Committee to the General Assembly at its thirty-third session under article 9, paragraph 2, of the Convention

H. Co-operation with the International Labour Organisation and the United Nations Educational, Scientific and Cultural Organization

11. In accordance with decision 2 (VI) of 21 August 1972 of the Committee concerning co-operation with the International Labour Organisation (ILO) and the

^{4/} For consideration of this item, see chap. IX, sect. B below.

United Nations Educational, Scientific and Cultural Organization (UNESCO), representatives of both organizations attended the seventeenth and eighteenth sessions of the Committee.

12. At its seventeenth session, the Committee had before it a report received from UNESCO (See CERD/C/13) submitted in response to the request of the Committee at its fifteenth session, 5/ and providing information on UNESCO's activities and studies relevant to the implementation of article 7 of the International Convention on the Elimination of All Forms of Racial Discrimination. 6/ At the 380th meeting, held on 3 April 1978, the representative of UNESCO introduced the report submitted by his organization and, at the subsequent meeting, replied to a number of questions raised by the members of the Committee in the context of its consideration of the item entitled "Implementation of article 7 of the Convention". At the 404th meeting (eighteenth session), held on 10 August 1978, the representative of UNESCO, in a statement made before the Committee, formally extended an invitation to the Committee to hold its nineteenth session at UNESCO headquarters in Paris. 7/

13. At the eighteenth session, the report of the ILO's Committee of Experts on the Application of Conventions and Recommendations, submitted to the sixty-fourth session of the International Labour Conference, was made available to the members of the Committee on the Elimination of Racial Discrimination in accordance with arrangements for co-operation between the two Committees. The Committee took note with appreciation of the report of the Committee of Experts, in particular of those sections which dealt with the application of the 1958 Convention (No. 111) concerning discrimination in respect of employment and occupation as well as of other information in the report relevant to its activities.

5/ For details, see Official Records of the General Assembly, Thirty-second Session, Supplement No. 18 (A/32/18), chap. I, sect. H and chap. III.

6/ For consideration of the item entitled "Implementation of article 7 of the Convention" at the seventeenth session, see chap. III below.

7/ See chap. IX, sect. A, paras. 405 and 406 below.

II. ACTION BY THE GENERAL ASSEMBLY AT ITS THIRTY-SECOND SESSION ON THE ANNUAL REPORT SUBMITTED BY THE COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION UNDER ARTICLE 9, PARAGRAPH 2, OF THE CONVENTION

14. The Committee considered this item during its seventeenth session, at the 378th and 379th meetings, held on 31 March 1978.

A. The Rapporteur's analysis of the debate in the Third Committee

15. In his analysis of the general debate in the Third Committee on the Committee's annual report, the Rapporteur of the Committee noted that, in addition to the introductory statement made by the Director of the Division of Human Rights, statements were made by 18 delegations, of which 17 represented States parties to the Convention.

16. The topics dealt with by the Member States participating in the debate were classified by the Rapporteur into four main categories.

17. The first category comprised comments on the Committee and on the quality of its work and its reports. The Committee had been commended by 12 Member States, five of whom had also commended its annual reports. Three Member States had reaffirmed their continued co-operation with the Committee. The continuing dialogue between the Committee and States parties to the Convention had been welcomed by eight Member States; two Member States had also welcomed the constructive relationship of the Committee with the General Assembly; and two Member States had cautioned against any action by the General Assembly that could be construed as transgression against, or interference in the work of, the Committee.

18. The second category comprised comments on the decisions taken by the Committee during the year covered by the annual report under consideration. Five Member States had expressed themselves in support of the Committee's decisions 1 (XV), 2 (XV), 1 (XVI) and 3 (XVI), concerning the Golan Heights, the Panama Canal Zone, the West Bank of the Jordan River and Cyprus, respectively; one Member State had expressed itself in support of the action taken by the Committee regarding the report submitted by Chile; and two Member States had urged the Committee to continue to express its solidarity with the peoples fighting against the racist régimes in southern Africa and to try to achieve the international isolation of those régimes. Furthermore, 10 Member States had welcomed the Committee's adoption of general recommendation V, seeking detailed information on the implementation of article 7 of the Convention; three Member States had expressed continued support for the Committee's efforts to elicit from States parties to the Convention information on the status of their relations with the racist régimes in southern Africa, in accordance with the Committee's general recommendation III and decision 2 (XI); and two Member States had expressed support for the Committee's continued efforts to obtain more adequate information under article 15 of the Convention. Moreover,

seven Member States had welcomed the Committee's decision regarding its contributions to the World Conference to Combat Racism and Racial Discrimination; and three Member States had welcomed the Committee's decision 2 (XVI) on the classification and distribution of documents of the Committee.

19. The third category comprised suggestions made by Member States concerning the work of the Committee. Of these, the Rapporteur referred to the observations relating to the application of article 5 of the Convention, made by the representative of France; those relating to the implementation of article 7 of the Convention, made by the representatives of Italy and the Netherlands; and the suggestions relating to the exercise by the Committee of its responsibilities under article 9 of the Convention, made by the representative of the Netherlands.

20. Finally, the fourth category comprised observations explicitly or implicitly critical of the work of the Committee, made by the representatives of the United Kingdom and the Federal Republic of Germany.

B. Comments by members of the Committee on the observations and suggestions made by Member States

21. Noting that the representative of France had once again raised the important question of how States parties could undertake to guarantee equality in the enjoyment of the rights enumerated in article 5 of the Convention without recognizing the rights themselves in their national laws, Mr. Dechezelles recalled that that was a difficult question which the Committee had discussed on various occasions without being able to reach agreement. Mr. Partsch was of the view that the list of rights in article 5 of the Convention was not a substitute for those contained in the International Covenants on Human Rights, but it did give the Committee an opportunity to investigate to what extent those rights were respected in a given country, whether or not they were embodied in the constitution. Mr. Dayal, agreeing with the proposition that the Convention could not be used to make the rights enumerated in article 5 legally binding, expressed the opinion that the question of racial discrimination should be examined in the context of the rights enjoyed in each State, rather than in a vacuum.

22. Referring to the observation made by the representative of the Federal Republic of Germany, to the effect that the Committee should look more closely at the effective implementation of article 6 of the Convention, Mr. Nettel commented that it was unfortunate that that representative had not indicated how the Committee had failed with respect to article 6. He agreed that the Committee should increase its efforts in that connexion but nevertheless felt that its record was not a bad one. Mr. Dechezelles felt that the representative of the Federal Republic of Germany had rightly called for further efforts to encourage the implementation of article 6 of the Convention, and Mr. Partsch did not think that any criticism of the Committee had been intended by that representative in his reference to article 6.

23. Reference was made to the statement of the representative of the United Kingdom, that "there was a growing tendency for the Committee to stray into fields not within its competence" (A/C.3/32/SR.28, para. 71). Mr. Nettel felt that that comment need not, perhaps, be taken as being too critical, because the representative in question - who had had a special relationship to the Convention and was particularly vigilant with respect to the Committee - had not been present

when the reports of States parties had been considered by the Committee. Mr. Nabavi - while reaffirming his position that the Committee should always remain within its sphere of competence, which was specified and defined in the Convention - did not share the view of the United Kingdom representative.

24. Mr. Hollist referred to a suggestion made by the representative of the Netherlands, to the effect that the "de facto division of work" which "had come into being more or less spontaneously" within the Committee might profitably be "extended and formalized" in order to facilitate speedier consideration of a larger number of reports submitted by States parties under article 9 of the Convention (A/C.3/32/SR.29, paras. 34 and 35); he felt that the idea, although not altogether clear, was worth studying. Mr. Sayegh noted that the Committee had already considered that suggestion on a number of occasions and had not adopted it, and that in any case the Committee had been able so far to consider all the reports submitted by States parties to the Convention without the need for a division of work. He observed that, at some future time, if there was a substantial increase in the volume of work, it might be necessary to update the Committee's procedures; at the moment, however, there was no need to take specific action in that regard. Mr. Lamptey also expressed the opinion that the Committee's present methods were satisfactory.

25. There was more extensive discussion in the Committee of another suggestion made by the Netherlands representative to the Third Committee, to the effect that, in his reminder to States parties to submit their biennial reports, the Secretary-General should summarize the questions asked by members of the Committee during its examination of the previous report of the State party concerned (A/C.3/32/SR.29, para. 36).

26. Mr. Hollist was of the opinion that the proposed procedure would certainly help to improve the quality of the reports submitted by States parties to the Convention. Mr. Nasinovsky agreed that the procedure proposed by the representative of the Netherlands would be extremely useful in soliciting more specific information in the periodic reports of States parties. Mr. Lamptey proposed that the Committee endorse the suggestion made by the Netherlands representative.

27. On the other hand, Mr. Sayegh was of the view that it was the Committee's responsibility to decide what questions were still pending in the reports of States parties, and that that responsibility should not be delegated to the Secretary-General. In order to give States parties a clearer idea of the information they should submit in their future reports, he proposed that the Secretary-General should attach to the reminders he sends to States parties not only the summary records of the meetings at which their previous reports had been considered by the Committee but also the sections of the Committee's annual reports summarizing the Committee's discussion of those reports. Mr. Dayal, noting that what was important was to help States parties to deal in their future reports with aspects of the problem which the Committee considered important and concerning which specific questions had been asked, agreed that the importance and pertinence of the questions to be taken into account by States parties in preparing their future reports should be evaluated not by the Secretary-General but by the Committee itself. He therefore supported Mr. Sayegh's proposal. Mr. Nettel also supported that proposal, since he felt that if the Secretary-General transmitted to the Government of a State party a complete list of the questions raised in connexion with that State's report, the representative of that State might be placed in a difficult situation vis-à-vis his Government.

28. At its 379th meeting, the Committee decided to request the Secretary-General to attach to the reminders he sends to States parties regarding their next periodic reports a copy of the section of the Committee's annual report in which the Committee's consideration of the previous report of the State concerned is summarized.

C. Comments by members of the Committee
on General Assembly resolution 32/13

29. Mr. Nasinovsky noted that General Assembly resolution 32/13 was realistic, contained a positive appraisal of the work of the Committee and at the same time helped to focus attention on a number of specific issues.

30. One of those issues, to which Mr. Nasinovsky drew attention, was referred to in paragraph 2 of the resolution under consideration, in which the General Assembly stressed the necessity of providing the Committee with sufficient information in order to enable it to discharge fully its responsibilities under article 15 of the Convention. Mr. Nasinovsky expressed the hope that efforts would be made by the Secretariat to ensure that that was done at the next session, particularly with regard to those Trust and Non-Self-Governing Territories regarding which information had so far been extremely scanty or completely lacking.

31. Mr. Devetak called attention to paragraphs 5 and 6 of resolution 32/13 and suggested that the Committee should consider what further action was needed pursuant to their provisions. With reference to the provisions of paragraph 5, Mr. Bahnev and Mr. Nasinovsky also hoped that the Committee would pursue its efforts to focus the greatest attention on the just cause of the peoples struggling against the oppression of the colonialist and racist régimes in southern Africa.

32. Some members of the Committee commented with satisfaction on the results of the separate vote taken in the Third Committee on operative paragraph 7 of draft resolution A/C.3/32/L.12 (which, when adopted by the General Assembly, had become resolution 32/13), in which the General Assembly "endorsed" the Committee's decisions 1 (XV), 2 (XV), 1 (XVI) and 3 (XVI) relating to the Golan Heights, the Panama Canal Zone, the West Bank of the Jordan River and Cyprus, respectively. Noting that that paragraph had been adopted by 70 votes to 1, with 28 abstentions, Mr. Dechezelles thought that the Committee therefore had reason to feel satisfied. Referring to the results of the vote, Mr. Nabavi noted, first, that the only negative vote had been that of Israel, which was directly affected by the provisions of paragraph 7 and which, in addition, was not a State party to the Convention; and, secondly, that 12 of the 28 abstentions had been by States which had not ratified or acceded to the Convention. Mr. Sayegh drew attention to paragraphs 23 to 26 of document A/C.3/32/SR.30, according to which the delegations of some Member States which had not participated in the separate vote on paragraph 7 had subsequently announced that, if they had been present during the vote, they would have voted in its favour, and the delegation of another Member State had announced that it had abstained in the voting on paragraph 7 by error and wished the record to reflect that it was in favour of that paragraph. He also drew attention to the statements made on behalf of several Member States whose delegations had abstained in the separate vote on paragraph 7, explaining that their abstention had been prompted, in part, by the belief that the General Assembly should not endorse decisions of a Committee that was not a United Nations organ (A/C.3/32/SR.30, paras. 16 and 27).

33. Commenting on paragraph 8 of General Assembly resolution 32/13, Mr. Devetak expressed the view that the reference to "other international instruments and agreements" in that paragraph implied that the Committee should take instruments other than the Convention into account when considering reports from States parties, even though the Committee's competence was limited to the Convention.

D. Comments by members of the Committee on the dialogue with the General Assembly

34. Mr. Devetak observed that, while the comments made in the debate on the Committee's report during the General Assembly session did not impose any obligation on the Committee, which was an autonomous body, they provided an important source of information and broad policy guidelines for the Committee's work. Mr. Nasinovsky considered the statements made by representatives in the Third Committee on the situation regarding the implementation of the Convention a very important source of additional information, which the Committee should keep in mind when examining the periodic reports of States parties.

35. In assessing the relevance of the various views expressed by representatives of Member States in the Third Committee during its consideration of the annual reports of the Committee, Mr. Nabavi drew a distinction between Member States which were parties to the Convention and those which were not. He stated that consideration of the Committee's reports in the Third Committee was a very effective means of initiating a dialogue between the Committee and States parties to the Convention and an effective way for the Committee to obtain the views of those States, whereas that was not true in the case of States which were not parties to the Convention.

36. Mr. Dechezelles reiterated his view that it was not proper for States not parties to the Convention to evaluate the work of the Committee. He emphasized also that the Committee had the right to take decisions independently and that that rule should be respected by the General Assembly.

37. All members of the Committee who participated in the consideration of the item under discussion expressed their satisfaction with the general debate in the Third Committee, during the thirty-second session of the General Assembly, on the Committee's eighth annual report. Mr. Dayal observed that the general tone of the statements made in the Third Committee had been good, that most of them had been favourable and even laudatory, and that the moderate criticisms expressed or implied concerning the Committee's interpretation of its functions were criticisms to which the Committee had already been accustomed. On the whole, he thought, the reaction had been very positive: a fruitful dialogue was being established between the Committee and the General Assembly, and there was reason to expect that dialogue to become deeper and more intensive. Mr. Nettel said that the General Assembly's interest in the Committee's annual report should be noted with thanks.

38. Summing up the discussion, the Chairman said that it was clear from the debate that the Committee attached great importance to the permanent dialogue maintained between itself and the General Assembly and that that opinion should be reflected in the Committee's annual report.

III. IMPLEMENTATION OF ARTICLE 7 OF THE CONVENTION

39. This item was considered during the seventeenth session at the 380th and 381st meetings, held on 3 April 1978.

40. It will be recalled that, at its fifteenth session, when the Committee adopted general recommendation V, it had decided to consider also at the following session the question of formulating general guidelines that might assist the States parties in their implementation of article 7 of the Convention, and to seek the assistance of UNESCO in that regard (A/32/18, paras. 324-330); and that, at its sixteenth session, the Committee had added a new item to its agenda for that session, on the implementation of article 7 of the Convention, had held a preliminary consideration of that item and had decided to resume consideration of it at the seventeenth session (ibid., paras. 10 and 41-53).

41. At its seventeenth session, the Committee had before it a two-part document prepared by UNESCO entitled "Contribution by UNESCO to the work of the Committee on the Elimination of Racial Discrimination" (see CERD/C/13), eight supporting documents furnished by UNESCO, and the text of the statement made by the representative of UNESCO at the sixteenth session of the Committee.

42. The representative of UNESCO introduced the report contained in document CERD/C/13 and, in another statement, commented on the observations made by members of the Committee and replied to the questions raised by them.

43. In his opening statement, the representative of UNESCO expressed the hope that a representative of the Committee would attend, and submit a paper to, the University Conference on the Teaching of Human Rights to be held at Vienna in September 1978, in which the Committee at its sixteenth session had expressed special interest (A/32/18, para. 52); extended to the Committee, on behalf of the Director-General of UNESCO, an invitation to hold a future session at UNESCO headquarters in Paris; and informed the Committee that UNESCO would be prepared to submit to it annually a report on the implementation of article 7 of the Convention, should the Committee decide to include the subject as a regular item on its agenda.

44. With regard to the first point, Mr. Nabavi agreed that the Committee's participation in and submission of a paper to the University Conference on the Teaching of Human Rights would be beneficial, both for the Committee and for other participants in the Conference. Mr. Nasinovsky and Mr. Sayegh, on the other hand, noted that that Conference would deal with questions that directly concerned specialists in pedagogy and university administration rather than the expertise of the members of the Committee. While agreeing that the Committee should indicate that it would study the documentation for the Conference and take account of the latter's results, they saw no need for the Committee to send a representative. Mr. Partsch said that the discussion of the relationship between measures to combat racial discrimination and guarantees of human rights was connected with the subject of the Conference, and that it might therefore be fruitful for a member of the Committee to attend the Conference. The representative of UNESCO explained that the Conference would consider not only reports by experts but also reports submitted by States on their practices with regard to the teaching of human rights;

he therefore felt that it would be useful for a representative of the Committee to attend. The Chairman observed that, as the Secretary of the Committee would probably be invited to attend, he would make available to Conference participants the relevant documents of the Committee.

45. The invitation to hold a future session of the Committee at UNESCO headquarters in Paris was welcomed by Messrs. Nabavi and Sayegh. Mr. Sayegh suggested that, if such a session was held, it should be devoted mainly to the consideration of article 7 of the Convention, since the resources that could be provided by UNESCO in that connexion were greater than those available at either United Nations Headquarters or the United Nations Office at Geneva. On behalf of the Committee, the Chairman accepted in principle UNESCO's invitation, and stated that, if the Committee received a formal invitation before the eighteenth session, it would consider it then. 8/

46. With regard to UNESCO's readiness to submit to the Committee annual reports on the implementation of article 7 of the Convention, Mr. Partsch expressed a fear lest that might lead States parties to the Convention to take their reporting obligations less seriously, on the ground that UNESCO had already done the work. However, the representative of UNESCO emphasized that the proposed reports of that organization would be based on the measures adopted by States in compliance with article 7 of the Convention and reported by them. The Chairman stated that, if it was convenient for UNESCO to prepare annual reports, the Committee would appreciate that contribution; he emphasized, however, that that did not mean that the Committee would - or could - delegate to another organization the responsibility of overseeing the implementation of article 7 of the Convention, however much it benefited from the exchange of experiences with that organization.

47. With regard to the document submitted by UNESCO, members of the Committee commented on two points directly relevant to the question of formulating general guidelines that might assist the States parties in their implementation of article 7 of the Convention: the diversity of the situation in different countries, and the impact of the principle of freedom of expression upon the implementation of article 7.

48. Concerning the first point, Mr. Sayegh referred to the opening paragraph of section V of part II of the UNESCO document, entitled "Recommendations concerning the use of information and education in combating racism", in which it was stated:

"The four reports ... offer ample evidence of the diversity of problems in the area of inter-ethnic relations. It is evident that a single strategy of action valid for all countries cannot be devised; the measures taken must correspond to specific situations."

He agreed with that statement and suggested that it should be borne in mind when the Committee was formulating guidelines for States parties. Mr. Nasinovsky also agreed that the particular situations of different countries must be kept in mind. Mr. Nabavi drew attention to the fact that the Government of Austria - in its comments on general recommendation V and in its third periodic report, considered at the seventeenth session - had stressed that the implementation of article 7 had to be viewed in the context of the particular situation of States parties. And

8/ See chap. IX, sect. A, para. 405 below.

Mr. Dechezelles recalled that, during the consideration of the Committee's annual report by the Third Committee at the thirty-second session of the General Assembly, the representative of Italy had stated that measures taken to implement article 7 should be adapted to the situation in individual countries. He observed that, in countries where there were no acute problems of racial discrimination, the question should be approached very carefully in order to avoid results contrary to those intended.

49. Concerning the relevance of the principle of freedom of expression to the question under consideration, Mr. Sayegh recalled that representatives of some Member States had stated, during the consideration of the Committee's latest annual report by the Third Committee, that their constitutional systems were based inter alia on the principles of freedom of education and freedom of expression and that, in practice, those principles considerably restricted the ability of their national Governments to interfere with teaching or with the activities of the information media. He wondered whether UNESCO had found any way of helping States deal with such difficulties.

50. Mr. Videla Escalada expressed the view that freedom of expression was not an absolute right and that States parties should be able to fulfil their obligations under article 7 without infringing on that principle. Mr. Hollist agreed that freedom of expression was not absolute and did not conflict with the implementation of article 7 of the Convention; he said that States of every type could adopt measures conducive to the implementation of that article.

51. Mr. Bahnev pointed out that, by ratifying the Convention - in full awareness of its content and in exercise of their sovereign rights - the States parties had acknowledged that it was possible for them to adopt the measures indicated in the Convention in order to fight racial discrimination, and that - by virtue of article 7 - they had undertaken to adopt "immediate and effective measures" in the fields of "teaching, education, culture and information". Mr. Sayegh drew attention to the fact that, unlike article 4 (where the obligation to adopt certain measures was qualified by the phrase, "with due regard to the principles embodied in the Universal Declaration of Human Rights and the rights expressly set forth in article 5 of the Convention"), article 7 contained no qualifications whatsoever; he observed also that none of the 30 States parties which had entered reservations at the time of ratification of or accession to the Convention had referred to article 7 in their reservations. Mr. Devetak also noted that, although freedom of expression was undoubtedly a basic principle in the sphere of human rights, the States parties, by ratifying or acceding to the Convention, undertook to restrict that freedom by virtue of the obligations accepted by them; and that two types of obligations under the Convention restricted that freedom to some degree: the obligations set forth in article 4 and those imposed by article 7.

52. While agreeing with Mr. Devetak's analysis, Mr. Dechezelles pointed out that States parties undertook to adopt the measures envisaged in article 7 within the limits of their competence and their powers. He drew a distinction between the power of a State to influence certain aspects of the educational system (in such matters as school curricula and textbooks, for example) and its ability to determine the content of the press or impose bans on it. The powers of certain States were more limited in the field of information than they were in the field of education; in the former, there was "a private, reserved sphere" within which individuals were free to act as they wished, subject to article 4 of the Convention. Mr. Partsch also referred to the limited competence of certain Governments to

influence the media of information and added that, in such countries, an attempt to "give orders to the press on how to deal with a question" might provoke negative reactions; he concluded that, in considering what type of measure under article 7 of the Convention might be effective, account must be taken of the difference between countries which enjoyed freedom of expression and those in which the mass media were controlled by the State.

53. The representative of UNESCO stated that his organization, whose constitution enunciated the principle of freedom of expression, was trying to solve the problem under consideration with the help of its members. Without prejudging the domestic solutions applied by States on the basis of that principle, all UNESCO declarations contained certain formulas which made it possible to solve certain problems. For example, in article 6, paragraph 2 of the draft declaration on race and racial prejudice, there was the phrase "So far as its competence extends and in accordance with its constitutional principles and procedures, the State should ..."; article 5, paragraph 2, contained the words "States, in accordance with their constitutional principles and procedures ..."; and article 5, paragraph 3, contained an appeal to the mass media "and those who control or serve them, as well as all organized groups within national societies", followed by the phrase, "with due regard to the principles embodied in the Universal Declaration of Human Rights, particularly the principle of freedom of expression". He felt that it was possible in that way to reconcile respect for freedom of expression with the commitments made by States in an international organization.

54. In the course of the consideration of the information contained in the document submitted by UNESCO, there was some discussion of the draft declaration on race and racial prejudice. Mr. Nabavi said that it would go a long way towards helping States to adopt whatever measures were necessary in the light of their own economic and social situations. Mr. Sayegh asked to what extent the norms of the Convention were reflected in that draft declaration. Mr. Videla Escalada described it as a very important document. Mr. Partsch agreed; but he observed that, unfortunately, the draft declaration completely neglected the Convention: it repeated some of the Convention's formulations while contradicting others - although many attempts had been made to call attention to the discrepancies, even in so fundamental a matter as the definition of racial discrimination.

55. Mr. Sayegh observed that the main instrument discussed in the UNESCO document - namely, the Convention and Recommendation against discrimination in education - had a more direct bearing on article 5, subparagraphs (e) (v) and (vi), of the International Convention on the Elimination of All Forms of Racial Discrimination than on article 7 of that Convention. It would be more useful for the Committee, in connexion with article 7, to discuss another UNESCO instrument - namely, the recommendation concerning education for international understanding, co-operation and peace, and education relating to human rights and fundamental freedoms. Referring to this recommendation Mr. Ghoneim asked whether UNESCO had any programme to implement the principles of paragraph 11 (on inculcating in children, adolescents and adults the principles of the Universal Declaration of Human Rights and of the International Convention on the Elimination of All Forms of Racial Discrimination) and what role the Committee might play in that regard.

56. Some suggestions were made in relation to the activities of UNESCO. Mr. Nasinovsky expressed the hope that UNESCO would undertake studies and make recommendations relevant to the implementation of article 15 of the Convention: the many peoples living in Trust and Non-Self Governing Territories should not be

overlooked. Mr. Bahnev noted that UNESCO studies revealed that the mass information media in some countries had not always fostered the elimination of racial prejudice which was the aim of article 7 of the Convention. Mr. Bahnev and Mr. Nasinovsky, referring to the extremely important role of the mass media in the struggle against racial discrimination, expressed the hope that UNESCO would conduct a study of how that role was performed in all States members of that organization.

57. The representative of UNESCO commented on the latter suggestion by stating that such studies had already been begun and had made it possible to ascertain that the best method for dealing with such complex subjects was to carry out preliminary studies of limited scope on specific problems in specific countries, in order to identify the complex factors involved and analyse all the ways in which the question might be approached, before undertaking studies of more general scope. He also informed the Committee that UNESCO intended to carry out a general study of the press and South Africa, within the framework of the International Year Against Apartheid.

58. Mr. Hollist, Mr. Nabavi and Mr. Videla Escalada, while appreciative of the extensive and valuable information supplied by UNESCO, were of the view that the document under consideration did not provide the Committee with sufficient information on the basis of which it could proceed to formulate general guidelines for the implementation of article 7 of the Convention. Mr. Bahnev thought that it might be advisable to wait until more replies had been received from States parties before attempting to formulate those guidelines. Mr. Dayal felt that the Committee should for the moment confine itself to expressing general opinions on the question, but should keep the item on its agenda and continue to discuss it, and, in due course, establish guidelines that would be useful to the States parties.

59. The representative of UNESCO observed that it had seemed preferable, from the methodological viewpoint, to identify the problems raised by the implementation of article 7 of the Convention from the experience of four countries, as was done in part II of the document under consideration, and from the work done by UNESCO since its foundation, as was done in part I of that document, in the hope that that would help the Committee formulate guidelines for States parties. He also drew attention to the recommendations, contained in the report, concerning more effective use of information and education in the struggle against racism and the promotion of new ways of utilizing information and education.

60. Members of the Committee expressed their appreciation for the co-operation of UNESCO with the Committee. Mr. Dayal said that the document submitted by that organization demonstrated both its readiness to co-operate and how useful its co-operation would be for the Committee. The Chairman expressed the Committee's appreciation for the co-operation of UNESCO and stressed its usefulness for the present and for the future.

61. At the 381st meeting, held on 3 April 1978, the Committee decided to resume consideration of the item at the nineteenth session.

IV. CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION
SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE
CONVENTION

A. Submission of reports 9/

Reports received by the Committee

62. From the establishment of the Committee on the Elimination of Racial Discrimination until the closing date of its eighteenth session (11 August 1978), a total of 339 reports under article 9, paragraph 1, of the Convention were due from States parties as follows: 95 initial reports, 84 second periodic reports, 74 third periodic reports, 50 fourth periodic reports and 36 fifth periodic reports.

63. By the end of the eighteenth session, a total of 297 reports had been received by the Committee as follows: 92 initial reports, 76 second periodic reports, 66 third periodic reports, 39 fourth periodic reports and 24 fifth periodic reports.

64. In addition, 55 supplementary reports containing additional information were received from the States parties, submitted either at the initiative of the States parties concerned or at the request of the Committee made upon its examination of their respective initial or periodic reports under the Convention.

65. During the year under review (that is, between the closing dates of the Committee's sixteenth and eighteenth sessions), 53 reports were received by the Committee consisting of 7 initial reports, 6 second periodic reports, 8 third periodic reports, 8 fourth periodic reports and 24 fifth periodic reports. In addition, two supplementary reports were received during the year.

66. The relevant information concerning all reports received during the year is contained in table 1 below:

9/ The dates on which all reports (initial, second, third, fourth and fifth periodic reports and supplementary information) were due or submitted during the year under review, and reminders, if any, sent to States parties concerned in accordance with rule 66 of the provisional rules of procedure, may be found in annex II below.

Table 1

Reports received during the year under review

| State party | Type of report | Date on which the report was due | Date on which the report was submitted | Number of reminders sent |
|--|-------------------------|----------------------------------|--|--------------------------|
| | Initial reports | | | |
| Chad | | 16 September 1978 | 18 July 1978 | - |
| Ethiopia | | 25 July 1977 | 4 April 1978 | 1 |
| Guinea | | 13 April 1978 | 25 August 1977 | - |
| Lao People's Democratic Republic <u>a/</u> | | 24 March 1975 | 9 January 1978 | 6 |
| Qatar | | 22 August 1977 | 26 October 1977 | - |
| Somalia | | 27 September 1976 | 20 June 1978 | 3 |
| Zaire | | 21 May 1977 | 7 October 1977 | 1 |
| | Second periodic reports | | | |
| Botswana | | 22 March 1977 | 26 September 1977 | 2 |
| Fiji <u>b/</u> | | 11 January 1976 | 13 July 1978 | 4 |
| Lao People's Democratic Republic <u>a/</u> | | 24 March 1977 | 9 January 1978 | 2 |
| Mexico | | 22 March 1978 | 24 April 1978 | - |
| Trinidad and Tobago | | 4 November 1976 | 15 February 1978 | - |
| United Arab Emirates | | 21 July 1977 | 16 January 1978 | 1 |
| | Third periodic reports | | | |
| Fiji <u>b/</u> | | 11 January 1978 | 13 July 1978 | - |
| German Democratic Republic | | 26 April 1978 | 25 May 1978 | - |
| Jamaica | | 5 July 1976 | 29 December 1977 | 3 |
| Lesotho | | 4 December 1976 | 26 August 1977 | 2 |
| Mauritius | | 29 June 1977 | 10 May 1978 | 1 |
| New Zealand | | 22 December 1977 | 10 May 1978 | - |
| Senegal | | 18 May 1977 | 11 July 1978 | 2 |
| Tonga | | 17 March 1977 | 21 February 1978 | 2 |

Table 1 (continued)

| State party | Type of report | Date on which the report was due | Date on which the report was submitted | Number of reminders sent |
|--|-------------------------|----------------------------------|--|--------------------------|
| | Fourth periodic reports | | | |
| Bolivia | | 21 October 1977 | 24 August 1977 | - |
| Brazil <u>c/</u> | | 5 January 1976 | 10 March 1978 | 1 |
| Finland | | 16 August 1977 | 30 August 1977 | - |
| Ghana <u>c/</u> | | 5 January 1976 | 20 March 1978 | 4 |
| Greece | | 19 July 1977 | 21 July 1978 | - |
| Mongolia | | 4 September 1976 | 5 May 1978 | 3 |
| Morocco | | 17 January 1978 | 7 October 1977 | - |
| Norway | | 6 September 1977 | 25 November 1977 | - |
| | Fifth periodic reports | | | |
| Argentina | | 5 January 1978 | 23 January 1978 | - |
| Brazil <u>c/</u> | | 5 January 1978 | 10 March 1978 | - |
| Bulgaria | | 5 January 1978 | 26 April 1978 | 1 |
| Byelorussian Soviet Socialist Republic | | 7 May 1978 | 9 June 1978 | - |
| Cyprus | | 5 January 1978 | 16 January 1978 | - |
| Czechoslovakia | | 5 January 1978 | 9 March 1978 | - |
| Egypt | | 5 January 1978 | 27 February 1978 | - |
| Ghana <u>c/</u> | | 5 January 1978 | 20 March 1978 | - |
| Hungary | | 5 January 1978 | 26 January 1978 | - |
| Iceland | | 5 January 1978 | 5 January 1978 | - |
| Iran | | 5 January 1978 | 27 October 1977 | - |
| Kuwait | | 5 January 1978 | 8 March 1978 | - |
| Madagascar | | 8 March 1978 | 9 January 1978 | - |
| Pakistan | | 5 January 1978 | 13 March 1978 | - |
| Panama | | 5 January 1978 | 5 July 1978 | 1 |
| Philippines | | 5 January 1978 | 25 January 1978 | - |
| Poland | | 5 January 1978 | 17 February 1978 | - |

Table 1 (continued)

| State party | Type of report | Date on which the report was due | Date on which the report was submitted | Number of reminders sent |
|--|-----------------------|----------------------------------|--|--------------------------|
| Spain | | 5 January 1978 | 5 May 1978 | 1 |
| Syrian Arab Republic | | 20 May 1978 | 2 June 1978 | - |
| Tunisia | | 5 January 1978 | 6 January 1978 | - |
| Ukrainian Soviet Socialist Republic | | 5 April 1978 | 5 July 1978 | - |
| Union of Soviet Socialist Republics | | 5 March 1978 | 14 April 1978 | - |
| United Kingdom of Great Britain and Northern Ireland | | 5 April 1978 | 5 April 1978 | - |
| Uruguay | | 5 January 1978 | 13 January 1978 | - |
| | Supplementary reports | | | |
| Egypt | | | 7 July 1978 | - |
| United Kingdom of Great Britain and Northern Ireland | | | 10 July 1978 | - |

a/ At the request of the Committee, the Government of the Lao People's Democratic Republic submitted its initial and second periodic reports in one consolidated document.

b/ At the request of the Committee, the Government of Fiji submitted its second and third periodic reports in one document.

c/ At the request of the Committee, the Governments of Brazil and Ghana submitted their fourth and fifth periodic reports in one consolidated document.

67. As the information in table 1 shows, only nine of the 53 reports received during the year were submitted on time or before the deadlines provided for under article 9, paragraph 1, of the Convention; the rest were submitted after some delay, ranging from a few days to 33 months. In the case of 19 of the reports received during the year, one to six reminders had been sent to the State party concerned before the report was submitted.

Reports not yet received by the Committee

63. By the closing date of the eighteenth session of the Committee, 45 reports expected from the States parties before that date had not yet been received: 4 initial reports, 8 second periodic reports, 8 third periodic reports, 11 fourth periodic reports, 12 fifth periodic reports and 2 supplementary reports requested by the Committee. Table 2 below provides the relevant information on these reports:

Table 2

Reports which were due before the closing date of the eighteenth session, but had not yet been received

| State party | Type of report | Date on which the report was due | Number of reminders sent |
|-----------------------------|----------------|----------------------------------|--------------------------|
| Togo | Initial | 1 October 1973 | 8 |
| | Second | 1 October 1975 | 4 |
| | Third | 1 October 1977 | - |
| Lebanon | Second | 12 December 1974 | 4 |
| | Third | 12 December 1976 | 2 |
| | Supplementary | 29 March 1976 | - |
| Zambia | Second | 5 March 1975 | 6 |
| | Third | 5 March 1977 | 2 |
| Costa Rica | Fourth | 5 January 1976 | 4 |
| | Fifth | 5 January 1978 | - |
| Sierra Leone | Fourth | 5 January 1976 | 4 |
| | Fifth | 5 January 1978 | - |
| | Supplementary | 31 March 1975 | - |
| Ivory Coast | Second | 4 February 1976 | 4 |
| | Third | 4 February 1978 | - |
| Swaziland | Fourth | 6 May 1976 | 4 |
| | Fifth | 6 May 1978 | - |
| Iraq | Fourth | 15 February 1977 | 2 |
| Mali | Second | 15 August 1977 | 2 |
| Upper Volta | Second | 18 August 1977 | 2 |
| Romania | Fourth | 14 October 1977 | 1 |
| Canada | Fourth | 12 November 1977 | - |
| Democratic Yemen | Third | 19 November 1977 | 1 |
| United Republic of Tanzania | Third | 26 November 1977 | 1 |

Table 2 (continued)

| State party | Type of report | Date on which the report was due | Number of reminders sent |
|------------------------------|----------------|----------------------------------|--------------------------|
| Liberia | Initial | 5 December 1977 | 1 |
| Barbados | Third | 10 December 1977 | 1 |
| Ecuador | Fifth | 5 January 1978 | 1 |
| India | Fifth | 5 January 1978 | 1 |
| Libyan Arab Jamahiriya | Fifth | 5 January 1978 | 1 |
| Niger | Fifth | 5 January 1978 | 1 |
| Nigeria | Fifth | 5 January 1978 | 1 |
| Venezuela | Fifth | 5 January 1978 | 1 |
| Yugoslavia | Fifth | 5 January 1978 | - |
| Haiti | Third | 18 January 1978 | 1 |
| Nepal | Fourth | 1 March 1978 | 1 |
| Guyana | Initial | 17 March 1978 | 1 |
| Central African Empire | Fourth | 14 April 1978 | - |
| Sudan | Initial | 20 April 1978 | - |
| Rwanda | Second | 16 May 1978 | - |
| Holy See | Fifth | 1 June 1978 | - |
| Germany, Federal Republic of | Fifth | 14 June 1978 | - |
| Malta | Fourth | 26 June 1978 | - |
| Jamaica | Fourth | 5 July 1978 | - |
| United Republic of Cameroon | Fourth | 24 July 1978 | - |
| Bahamas | Second | 5 August 1978 | - |

Action taken by the Committee to ensure submission by States parties of reports under article 9 of the Convention

69. At its seventeenth session, the Committee discussed in some detail the problem which it has encountered in recent years concerning the failure of a number of States parties to comply with their reporting obligations, voluntarily undertaken by them in accordance with article 9, paragraph 1, of the Convention,

"... to submit to the Secretary-General of the United Nations, for consideration by the Committee, a report on the legislative, judicial, administrative or other measures which they have adopted and which give effect to the provisions of this Convention: (a) within one year after the entry into force of the Convention for the State concerned; and (b) thereafter every two years and whenever the Committee so requests."

70. It was noted that, in general, the application of rule 66 of the provisional rules of procedure, under which the Committee normally authorized the Secretary-General to send reminders to the Governments of the States parties whose reports were overdue or its reporting to the General Assembly on each case of non-receipt of the report in accordance with the same rule, had produced a satisfactory result in most cases of mere tardiness and that there was no real problem until a second reminder had to be sent. In a limited number of cases, however, no replies had been received to the repeated reminders of the Committee. As a possible explanation for the non-submission of reports in such cases, some members of the Committee referred to the problem of shortage or lack of trained and qualified personnel which may exist at the national ministries of foreign affairs and justice in the developing countries, as well as to the proliferation of questionnaires and requests for information emanating from the various bodies and organs of the United Nations, in the field of human rights, which made it difficult for the limited staff of those ministries to cope with all of them. It was suggested that the advisory services programme of the Division of Human Rights could play a useful role in connexion with such problems; that the Division might consider adding the subject of "national machinery for the implementation of the Convention" to the topics of its fellowship programme; and might consider organizing an appropriate training course for officials from developing countries. The Committee agreed that a reference to these questions should be made in its annual report to the General Assembly, which was the appropriate forum for the consideration of these and other similar questions.

71. In the light of the discussion and upon a proposal by the Rapporteur, the Committee agreed to address, instead of a routine reminder under rule 66 of the provisional rules of procedure, a special communication to the Governments of seven States parties 10/ from which two or more reports were due by the closing date of the seventeenth session and had not been received despite repeated reminders, inviting them to send representatives to meet with the Committee on the opening date of its eighteenth session (24 July 1978) in order to discuss the difficulties which may have prevented their Governments from submitting their initial or periodic reports and to determine how the Committee might be able to assist the States parties concerned in overcoming those difficulties. In order to assure the Governments

10/ Costa Rica, Fiji, Ivory Coast, Lebanon, Sierra Leone, Togo and Zambia.

concerned of the confidentiality of the proposed discussions, the Committee offered to meet their representatives in private meetings, in accordance with its provisional rules of procedure, if the Governments so wished.

72. For the text of the communication addressed to the Governments of the seven States parties, see annex IV below.

73. At the opening of the eighteenth session, the representative of the Secretary-General informed the Committee, first, that the Government of Fiji had replied to the communication of the Committee and included in its reply information on the implementation of the Convention in its territory; secondly, that the Permanent Missions of Sierra Leone, Togo and Zambia to the United Nations had replied to inquiries by the Secretariat by stating that they were still awaiting instructions from their respective Governments; and thirdly, that the Permanent Missions of Lebanon, Costa Rica and the Ivory Coast had indicated that representatives of those Governments would attend the meeting of the Committee scheduled for 24 July 1978.

74. At the 385th meeting, held on 24 July 1978, the representatives of Costa Rica and the Ivory Coast informed the Committee that their respective Governments recognized their obligation to submit reports under article 9 of the Convention and assured it that their reports, long overdue, would soon be submitted.

75. At the same meeting, the Committee decided: (a) to consider the communication from the Government of Fiji a report under article 9 of the Convention and (b) to request the Secretary-General to remind the Permanent Missions of Lebanon, Sierra Leone, Togo and Zambia to the United Nations of the invitation of the Committee and to inform them that the Committee has rescheduled its meeting with the representatives of those Governments to the opening day (26 March 1979) of its nineteenth session.

76. In accordance with rule 66, paragraph 1, of its provisional rules of procedure, the Committee at its seventeenth session (March/April 1978) requested the Secretary-General to send appropriate reminders to 24 other States parties whose reports were due before the closing date of that session, but had not yet been received, requesting them to submit their reports by 15 June 1978.

77. At its 401st meeting (eighteenth session), held on 3 August 1978, the Committee - taking into account the number of previous reminders sent to each of the States parties concerned, the reports which were still due and the dates on which their next periodic reports should be submitted - decided that reminders should be sent by the Secretary-General to States parties concerned, in accordance with rule 66, paragraph 1, of the provisional rules of procedure, as follows:

(a) Fifth reminders to the Governments of Costa Rica and Swaziland, requesting them to submit their fourth and fifth periodic reports in one document by 31 December 1978;

(b) A fifth reminder to the Government of the Ivory Coast, requesting it to submit its second and third periodic reports, in one document, by 31 December 1978;

(c) A third reminder to the Government of Iraq, requesting it to submit its fourth and fifth periodic reports, in one document, by 15 February 1979, the date on which its fifth periodic report will be due;

(d) Third reminders to the Governments of Mali and Upper Volta, requesting them to submit their second periodic reports by 31 December 1978;

(e) Second reminders to the Governments of Guyana and Liberia, requesting them to submit their initial reports by 31 December 1978;

(f) Second reminders to the Governments of Barbados, Democratic Yemen, Haiti and the United Republic of Tanzania, requesting them to submit their third periodic reports by 31 December 1978;

(g) Second reminders to the Governments of Nepal and Romania, requesting them to submit their fourth periodic reports by 31 December 1978;

(h) Second reminders to the Governments of Ecuador, India, Libyan Arab Jamahiriya, Niger and Nigeria requesting them to submit their fifth periodic reports by 31 December 1978;

(i) A first reminder to the Government of Sudan, requesting it to submit its initial report by 31 December 1978;

(j) First reminders to the Governments of the Bahamas and Rwanda, requesting them to submit their second periodic reports by 31 December 1978;

(k) First reminders to the Governments of Canada, Central African Empire, Jamaica, Malta and the United Republic of Cameroon, requesting them to submit their fourth periodic reports by 31 December 1978; and

(l) First reminders to the Governments of the Federal Republic of Germany, the Holy See and Yugoslavia, requesting them to submit their fifth periodic reports by 31 December 1978.

The Committee also decided that no reminder should be sent to the Government of Venezuela, which informed the Committee through the Secretary-General that its fifth periodic report was under preparation and would be submitted shortly. It decided not to send reminders to the Governments of Lebanon, Sierra Leone, Togo and Zambia, to whom invitations would be sent in accordance with the decision mentioned in paragraph 75 above.

78. It will be recalled that rule 66 of the provisional rules of procedure of the Committee provides that:

"1. At each session, the Secretary-General shall notify the Committee of all cases of non-receipt of reports or additional information, as the case may be, provided for under article 9 of the Convention. The Committee, in such cases, may transmit to the State Party concerned, through the Secretary-General, a reminder concerning the submission of the report or additional information.

"2. If even after the reminder, referred to in paragraph 1 of this rule, the State Party does not submit the report or additional information required under article 9 of the Convention, the Committee shall include a reference to this effect in its annual report to the General Assembly." 11/

11/ See Official Records of the General Assembly, Twenty-fifth Session, Supplement No. 27 (A/8027), annex II.

In accordance with paragraph 2 of rule 66, the Committee wishes to draw the attention of the General Assembly to the relevant information contained in table 2 above and in the foregoing paragraphs.

79. In this connexion, the Committee wishes to repeat once again a statement which it made at its first session and which it has communicated to all States parties and to the General Assembly:

"The Committee attaches great importance to these reports. It is unanimously of the view that, being a principal source of information, these reports provide the Committee with an essential element for discharging one of its most important responsibilities, namely, reporting to the General Assembly of the United Nations under article 9, paragraph 2, of the Convention." 12/

The Committee still holds that view.

B. Consideration of reports

80. At its seventeenth and eighteenth sessions, the Committee examined the reports and additional information submitted by 35 States parties under article 9 of the Convention. A list of the 35 States parties, whose reports and additional information were examined by the Committee, together with an indication of the meetings at which they were considered, may be found in annex III below.

81. The Committee devoted 26 of the 44 meetings it held in 1978 to the discharge of its obligations under article 9 of the Convention.

82. In accordance with rule 64-A of its provisional rules of procedure, the Committee followed the practice, inaugurated at its sixth session, 13/ of requesting the Secretary-General to notify the States parties concerned of the dates on which their respective reports would be considered by the Committee. At the seventeenth and eighteenth sessions, 33 of the 35 States parties whose reports were considered by the Committee sent representatives to participate in the examination of their respective reports.

83. The following paragraphs, arranged on a country-by-country basis according to the sequence followed by the Committee at its seventeenth and eighteenth sessions in its consideration of the reports of States parties, contain a summary of the views expressed, observations made and questions asked by the members of the Committee on the reports of the States parties concerned, as well as the substance of the replies given by the representative of each State party present at the meetings.

Peru

84. Although the third periodic report of Peru was voluminous and very extensive,

12/ Ibid., annex III, sect. A.

13/ Ibid., Twenty-seventh Session, Supplement No. 18 (A/8718), para. 55.

the material it contained was not organized in accordance with the guidelines laid down by the Committee and much of it was not directly related to the Committee's competence and concerns. Some members viewed it as useful "background information", explaining the philosophy of the Government and describing the social and economic measures which had been - or were being - taken in order to eliminate the conditions which could give rise to racial discrimination; but it was felt that greater selectivity in the supply of information would have been preferable.

85. Some of the concerns expressed during the Committee's consideration of the second periodic report of Peru at the thirteenth session ^{14/} were voiced again in connexion with the examination of its third periodic report.

86. The arguments advanced in the report in explanation of the non-adoption of legislative measures to give effect to the provisions of the Convention - namely, that all Peruvian legislation was based on respect for the rights inherent in the human being, including the right to equality, and on the prohibition of any differentiation on grounds of race; and that in any case there was "no discrimination of any kind at all" in Peru - did not appear to be consistent with the mandatory and unconditional nature of the obligations laid down in article 4 of the Convention or with the undertaking, under article 2, paragraph 1 (d), to prohibit racial discrimination by persons or groups. The reporting State was urged to take the nature of those obligations into account. In his reply, the representative of Peru assured the Committee that the next periodic report "would reflect his Government's steadfast intention to eliminate any deficiency that might give rise to any manifestation of racial discrimination". He informed the Committee that "the forthcoming Constituent Assembly would, from June onwards, be drafting a new political Charter for the State which would incorporate all provisions designed to prevent any manifestation of racial discrimination" and that, "in that way, the Government of Peru expected to comply more rigorously" with the provisions of the Convention.

87. Information was lacking about compliance with the obligations under article 7 of the Convention which, as the Committee had already stated in general recommendation V, were "binding on all States Parties, including States which declare that racial discrimination is not practised on the territories under their jurisdiction", and "must be fulfilled by them".

88. Focusing, as it did, on legislative measures, the report provided no information on the implementation of those measures; and a wish was expressed that future reports from Peru would contain such information.

89. In connexion with their discussion of the position of the reporting State regarding the enactment of legislation in compliance with the requirements of the substantive articles of the Convention, some members of the Committee inquired whether the acceptance of international instruments by the Government was sufficient to ensure their automatic implementation, or whether further legislative action was needed. In his reply, the representative of Peru stated: "Just as the Universal Declaration of Human Rights was already part of the Constitution of Peru, other international covenants and agreements were to be incorporated into the new political Charter".

^{14/} Ibid., Thirty-first Session, Supplement No. 18 (A/31/18 and Corr.1), paras. 76-80.

90. Most of the questions asked by members of the Committee related to Legislative Decree No. 20653, which was designed to help the indigenous population: was that legislation to be viewed as falling within the purview of article 1, paragraph 4 and article 2, paragraph 2 of the Convention? What other measures had been taken to integrate the indigenous groups into the population of the country as a whole? And, apart from measures relating to the socio-economic status of those groups, were there other measures relating to such matters as schooling, legal processes and the use of the languages of the indigenous populations for official purposes? In particular, articles 8 and 13 of the Legislative Decree under consideration gave rise to several questions. What was the intent of the provision of article 8 that "a person who resides outside the Community Territory for more than 12 consecutive months shall forfeit Community-member status"? Did it not in effect force Community members to remain within the borders of their respective Territories for fear of losing their special socio-economic status? And what legislation guaranteed the legal status of any Community member who did choose to leave the Community Territory? With regard to the provision of article 13, that the State "shall give preference to local professionals and technicians in appointments to public office within the Communities", the question arose why that legislation was apparently limited to facilitating employment in the Community itself and not - as would be desirable - outside it as well. In his reply, the representative of Peru stated that the purpose of articles 8 and 13 of the Legislative Decree under consideration was "to strengthen the indigenous Community by discouraging unnecessary movement by Community members, promoting the over-all development of the regions of the country which were farthest away from industrial centres and preventing admission to the Community for the sole purpose of taking advantage of benefits conferred by Community-member status".

91. The representative of Peru expressed the hope that his Government's next report would avoid some of the problems of form and organization to which members of the Committee had referred and would furnish the information requested, particularly on the implementation of the legislation on racial discrimination.

Belgium

92. Several features of the initial report of Belgium were welcomed by the Committee: that it provided information relating to all the provisions of the substantive articles of the Convention as well as the additional information envisaged in general recommendations III and IV of the Committee; that that information was organized on the basis of the sequence of requirements followed in the Convention; and that the full texts of the relevant constitutional and legislative provisions were supplied.

93. It was observed that the language of article 6 of the Belgian Constitution of 1831, proclaiming that "there shall be no distinction of classes in the State", was much more restrictive than the reference to "race, colour, descent, or national or ethnic origin" appearing in article 1, paragraph 1 of the Convention. The representative of Belgium, in his reply, noted that "the Belgian Constitution had been drafted in a different age, when the primary concern of the drafters had been to ensure that the country did not revert to the ways of the previous régime. However, its meaning had been extended as conditions in the country changed, and it was now interpreted to cover all forms of racial discrimination". He referred to article 6 bis, which declared that "enjoyment of the rights and freedoms to which Belgians are entitled shall be secured without discrimination".

94. In connexion with article 2, paragraph 1 (e), of the Convention and the statement in the report that there were no racial minorities in Belgium in the strict sense of the word, reference was made to a case which had been submitted to the European Court of Human Rights and which raised the question of whether what was involved was merely a population of a single ethnic origin which because of historical circumstances spoke two different languages or whether the language problem had an ethnic background. The representative of Belgium asserted that the integration of the Flemish and Walloon populations of Belgium had been such that it could no longer be claimed that there were any indigenous ethnic minorities in the country, and that the only remaining distinction between Belgians was one of language.

95. With regard to the information on the status of migrant workers, which was supplied in connexion with the reporting State's application of article 2, paragraph 2, of the Convention, it was noted with gratification that foreign workers in Belgium enjoyed the same rights as Belgian workers as far as labour legislation was concerned. However, with respect to the additional statement - that that equality was not expressly written into the legislation but was due to the fact that the latter's field of application was not restricted by conditions relating to nationality - the hope was expressed that Belgian legislators would give some thought to the advisability of expressly recognizing the principles in question. The efforts made by the Government of the reporting State to give material and moral assistance to the new immigrants were noted with satisfaction; it was observed, however, that in addition to those measures, there might be need for some action affecting the attitude of the majority of the population with respect to immigrant workers.

96. The Committee took note of the information on pending legislative measures aimed at giving effect to the provisions of article 2, paragraph 1 (d) and article 4, subparagraphs (a) and (b), of the Convention. It was asked whether the contemplated penal reforms had become law since the submission of the report. The representative of Belgium stated that, subsequent to a prolonged ministerial crisis in his country, another draft was being prepared for submission by the new Government. He assured the Committee that "the points raised and comments made in the Committee would be transmitted to the Belgian administration for consideration during the formulation of the draft".

97. Several members of the Committee commented on the draft provisions of the proposed legislation, as contained in the report under consideration. The failure of those provisions to give effect to the provisions of article 4, subparagraph (b), of the Convention was noted with regret by all Committee members who participated in the discussion. In his reply, the representative of Belgium referred to the existence of "small groups likely to practise or advocate discriminatory practices" but asserted "that they were very few in number, and their activities were generally confined to holding meetings, distributing pamphlets and painting slogans on walls". While the Government could "prohibit such groups", it had "considered that it could take action as effectively against individual offenders as against the groups to which they belonged". He observed that "public opinion often feared measures which had the appearance of censorship for fear that those provisions might later be abused" and that, in any case, "Belgian law did provide for the possibility of prohibiting activities contrary to the public order".

98. It was noted with surprise that the Penal Code, in articles 327 and 329, provided for much severer penalties for incitement to violence for reasons other than racist ones than those provided in the proposed legislation, in draft article 2, for incitement to violence against groups by reason of the ethnic or national origin of their members.

99. With reference to the statement of interpretation deposited by Belgium at the time of its ratification of the Convention, it was observed that, in view of articles 29 and 30 of the Universal Declaration of Human Rights, it could not be asserted that freedom of expression and association could not be restricted in any way.

100. Reference was made to the provisions of article 5, subparagraph (e) (i) and (v), of the Convention. It was noted that the proposed legislation gave effect to the undertaking of States parties under article 5, subparagraph (f), but failed to prohibit discrimination in the hiring of workers, as was required by subparagraph (e) (i) of article 5. With regard to the requirements of article 5, subparagraph (e) (v), members of the Committee noted the statements in the report under consideration that "the system of selection prevailing in the schools penalizes the culturally most impoverished sections of the population, including many children of migrant workers" and that the reorganized teaching programmes would attempt to remedy that situation in all State educational institutions by 1978. It was asked whether the new programmes had in fact been put into effect and whether primary school education had come to be provided in the languages of the main groups of immigrants in accordance with the recommendations of UNESCO. The representative of Belgium stated that immigrant children were generally integrated with Belgian pupils in regular schools but could receive special tuition in their own language and culture.

101. Additional information on the application of article 6 of the Convention was requested. In particular, it was asked whether victims of discrimination could have recourse not only to the European Commission on Human Rights but also to national administrative jurisdiction; and whether, in the latter case, recourse could be had to the regular courts or to a constitutional court dealing with such cases. The representative of Belgium affirmed that there were internal remedies which could be invoked; indeed, petitions could be made to the European Court only after all internal remedies had been exhausted.

102. The detailed information on the implementation of article 7 of the Convention was welcomed by members of the Committee.

103. It was noted that the report provided no information on judicial measures taken to give effect to the provisions of the Convention; and information on such cases of racial discrimination as might have come before the courts was requested. The representative of Belgium stated that the existing statistics on the processes of Belgian law did not make it possible to determine how many cases involving discrimination were taken to court in any year; he hoped that such information could be provided in the next periodic report.

104. With reference to the statement that in Belgium the European Convention on Human Rights was directly applicable in internal law and was regarded as taking precedence over national legislation, it was asked whether that applied to all international agreements to which Belgium was a party. The representative of Belgium stated that "international instruments signed and ratified by the Belgian Government

were self-executing if such was the intention of those who drafted them and if they were so worded as to enable courts to refer to them directly without necessitating recourse to internal law for implementation".

105. The fact that information on the status of the relations of the reporting State with the racist régimes in southern Africa was furnished in the report was welcomed by all members of the Committee; however, the statements that that question was outside the purview of the Convention and that "the complete isolation of the South African régime might tend to strengthen it in its present racist policy", which were endorsed by some members of the Committee, were strongly disagreed with by several other members.

Nepal

106. Much of the information contained in the third periodic report of Nepal had already been supplied in earlier reports; some of it was not relevant to the provisions of the Convention; and in one instance information in the present report was at variance with information furnished previously: the text of article 10 of the Constitution of Nepal quoted in the third periodic report differed substantially from the text of the same article given in previous reports. Information on the implementation of articles 5, 6 and 7 of the Convention and on the ethnic composition of the population, lacking in earlier reports, was not given in the report under consideration.

107. The only new information in the third periodic report of Nepal concerned the Press and Publication Act, 1975, of which article 5 constituted only partial compliance with the provisions of article 4, subparagraph (a), of the Convention. There was no information on compliance with the requirements of paragraph (b) of article 4 of the Convention, nor on the penalties which were imposed for violation of article 5 of the Press and Publication Act, 1975.

108. The representative of Nepal assured the Committee that he would bring to the attention of his Government the comments made by members of the Committee.

India

109. The fourth periodic report of India dealt in considerable detail with the efforts being made to raise the economic and social status of the 119 million people - more than one fifth of the total population - belonging to the scheduled castes and scheduled tribes. Information on those efforts was welcomed by the Committee; however, previous requests for copies of the reports prepared by the Commissioner for Scheduled Castes and Scheduled Tribes were not met in the report under consideration.

110. A member of the Committee suggested that although the information on measures affecting the underprivileged part of the population corresponded to the provisions of article 1, paragraph 4, and article 2, paragraph 2, of the Convention, and was both important and relevant to the concerns of the Committee, the next report should also include information on measures affecting the entire population. A member of the Committee asked what the Government of India was doing to preserve the cultures and languages of various groups so that they did not lose their identity; another member thought that the powers of the President and Parliament under the Constitution to specify - by public notification or by law, respectively - the castes, races or tribes, or parts thereof which are to be deemed as scheduled castes

or scheduled tribes, appeared to give these groups some kind of official status, whereas in other countries there was a tendency towards prohibiting any identification by race or ethnic origin.

111. Information previously supplied by the Government of India had satisfied the Committee that the provisions of article 4, subparagraph (a), of the Convention had been complied with; information was requested, however, about the penalties provided in the Penal Code for the acts described in those provisions. The view, expressed in past sessions, that the information provided in past reports had not shown that the requirements of article 4, paragraph (b), of the Convention had been met was reaffirmed by members of the Committee at the seventeenth session, since no additional information on that subject was given in the report under consideration.

112. With regard to the application of article 5 of the Convention, it was observed that - in connexion with subparagraph (e) (v) of that article - that the information in the report showed that, under article 29 (2) of the Constitution, racial discrimination in admission to educational institutions was prohibited only in relation to those "maintained by the State or receiving aid out of State funds"; and it was asked whether any steps were being taken to prevent racial discrimination in admission to private educational institutions as well. The representative of India stated that "private education was governed by the same rule as State education" and that "the Constitution provided for the possibility of instituting legal action in the event of discrimination".

113. A member of the Committee thought that there might be a contradiction between the provisions of article 19 (5) of the Constitution of India, permitting the curtailment, in the interests of any scheduled tribe, of the general rights of all citizens to move freely, on the one hand and, on the other, the statement that the law in India makes no distinction between citizens, on racial or other grounds, in respect of their enjoyment inter alia of the right to leave and to return to their country. The representative of India denied that a contradiction existed - since the statement in the report referred to the right of all citizens, under the passport laws, to enter or leave the country freely, while article 19 (5) of the Constitution related to the imposition, in the interests of the scheduled tribes, of reasonable restrictions on the general rights of all citizens to move freely into certain tribal areas within the country.

114. In connexion with the information given in the report about existing safeguards - in constitutional and legal provisions and in the existence of an independent judiciary - against violations of the rights of individuals and minorities, it was asked whether any cases had actually been brought before the courts and, if so, what had been their outcome.

115. Several members of the Committee regretted the fact that little, if any, information was supplied in the report under consideration concerning the implementation of article 7 of the Convention.

116. Although information on relations with the racist régimes in southern Africa had been given orally by a representative of India to the Committee at its seventh session, 15/ some members of the Committee wished that confirmation of that information had been made by the Government of India in the report under

15/ Ibid., Twenty-eighth Session, Supplement No. 18 (A/9018), paras. 237 and 238.

consideration. The representative of India reaffirmed that her Government "had always condemned the gross and persistent violations by the apartheid régimes and had scrupulously complied with all United Nations resolutions".

117. The representative of India assured the Committee that she would convey to her Government the suggestions made by members of the Committee and the requests for more detailed information, particularly regarding the measures taken to implement articles 4 and 7 of the Convention, so that they could be borne in mind when the next report was being prepared.

Austria

118. The third periodic report of Austria consisted of four sections. The first section supplied information on a new legislative measure taken by the Government of the reporting State in order to give effect to the provisions of article 5, subparagraph (f), of the Convention. The second and third sections commented on observations made by members of the Committee during its consideration of Austria's second periodic report, relating to the special status of aliens under procedural law and to the discharge of Austria's obligations under article 4, paragraph (b), of the Convention, respectively. The fourth section related to the implementation of article 7 of the Convention.

119. In discussing the information provided in the first section of the report, members of the Committee expressed uncertainty about the nature of the provision quoted in the report - which was introduced by the words: "... The legislator has enacted a sanction reading as follows: ...". It was asked whether the measure in question was a regulation, an act, a decree or a simple administrative rule. The representative of Austria stated that the provision in question was a law enacted by both houses of the parliament and was therefore fully binding.

120. The text of the new law gave rise to some difficulties. It referred to anyone who "discriminates unjustly" against other persons; it referred to discrimination "exclusively" on the grounds of race, colour, national or ethnic origin or religion; it declared an act of discrimination falling within its scope an offence punishable by "administrative authorities"; and it did not specify the penalty to be imposed for such an offence. The representative of Austria explained that the word "unjustly" would perhaps have been better translated as "unjustifiably"; he agreed that the notion of unjustified treatment was inherent in the word "discriminates" in English, but that was not true of the verb used in the original German. He said that the use of the word "exclusively" was necessary "because the provision covered all kinds of discrimination, and not only racial discrimination". He explained that Austrian law made a distinction between criminal and other offences, the former being dealt with by the courts and the latter by administrative authorities; and that the right of appeal to a higher body existed in both cases. And he stated that the fact that some cases came before the administrative authorities did not mean that the penalties were less severe; for the offence in question, a fine of about 3,000 Austrian schillings would be imposed.

121. The information given in the second section of the report under consideration, concerning the special status of aliens under procedural law, did not give rise to any problems among those members of the Committee who held the views that the right of States to treat nationals and aliens differently, including the right not to treat all aliens alike, was a generally recognized principle, or that the requirement of reciprocity did not constitute discrimination. However, some other members of the

Committee held the view that the idea of reciprocity could seriously affect equality before the law if applied in cases concerning intellectual property or State liability. The representative of Austria, recalling that the principle of reciprocity was universally recognized in regard to the treatment of aliens, observed that acceptance of that principle was not incompatible with the purposes and norms of the Convention and that unequal treatment of aliens was in no way related to racial discrimination.

122. The situation concerning the implementation of article 4, subparagraph (b), of the Convention - as described in the third section of the report under consideration - was considered satisfactory by some members of the Committee; some other members, however, were of the view that the Austrian legal system fell short of the requirements of the Convention inasmuch as it did not "declare illegal" and "prohibit" racist organizations and organized activities. Some members inquired whether, during the period covered by the report, there had been occasion to make use of the legal means available to the Austrian authorities to punish organizations which promoted racial discrimination, and also whether any organization had been prohibited in pursuance of article 4, paragraph (b), of the Convention. A specific inquiry was made about the Kaerntner Heimatdienst organization, mentioned in an earlier report. ^{16/} The representative of Austria observed that his Government interpreted the provisions of article 4, subparagraph (b), of the Convention as meaning that the State should have the power to dissolve - or to prevent the formation of - an organization which promoted and incited racial discrimination, but that it was not possible to declare such organizations illegal before the fact.

123. The information given in the fourth section of the report, concerning the measures taken in the field of education to give effect to the provisions of article 7 of the Convention, was welcomed. However, the statement that "the freedom of the press, the freedom of expression and the freedom of information set limits to a Government's measures under article 7" was viewed by some members as an inaccurate interpretation of that article of the Convention which set no such limits to the scope of the obligations it created. The representative of Austria explained the statement under discussion to mean that "where freedom of the press existed, the State had no direct responsibility for the mass media and could not intervene".

124. The Committee discussed three other questions not covered in the report under consideration: the implementation of article 6 of the Convention, the situation of minorities, and the information envisaged in general recommendation III of the Committee.

125. Concerning article 6 of the Convention, and in the light of the Penal Code promulgated in 1975, a member of the Committee asked whether the initiative in seeking a remedy lay in all cases with the Public Attorney, whether the injured party was entitled to institute public proceedings and whether duly recognized associations and institutions which fought against racial discrimination had the capacity to institute such proceedings. The representative of Austria stated that, under the present legal system, it was possible for any person immediately affected by a law to lodge an appeal against that specific law; and that it had long been the case that every person who believed that he was the victim of an administrative decision affecting constitutionally guaranteed rights had the right of appeal to

^{16/} Ibid., Twenty-ninth Session, Supplement No. 18 (A/9618), para. 133.

the Constitutional Court. If the judgement went in favour of the complainant, then the law or administrative decree would be null and void. In that connexion, it was asked whether, during the period covered by the report, any legal remedy for racial discrimination had been sought in the Austrian courts and whether any complaint or appeal on grounds of racial discrimination had been lodged by Austrian citizens under the European Convention for the Protection of Fundamental Rights and Human Freedoms. The representative of Austria replied that, as far as he knew, since Austria had ratified the Convention, no cases of racial discrimination in Austria had come before either the Constitutional Court or the European Court of Human Rights.

126. Recalling discussions in previous sessions concerning the situation of the Slovene and Croatian minorities in Austria (A/9618, para. 135 and A/31/18 and Corr.1, para. 51), and referring to "recent reports from several public Austrian sources" about trials in Austrian courts involving active members of the Slovene minority, a member of the Committee expressed surprise that the report under consideration contained no information on the present situation of minorities in the reporting State: he therefore asked the representative of Austria to furnish the Committee with information on that subject. Reaffirming that the Croatian and Slovene minorities "formed a linguistic minority" in Austria but "were Austrian citizens on an equal footing with all other citizens", the representative of Austria stated that "those groups had never lodged a complaint against any Austrian law or administrative decree on the grounds of racial discrimination". He added that the replies to the other questions "were contained in the second periodic report and in the records of the discussions on that report". The member of the Committee who had raised the questions, however, could not understand "how it was possible to reply, during the consideration of the second Austrian report two years earlier, to questions concerning things which happened recently or were still happening".

127. Although the Government of Austria had indicated earlier that it considered apartheid to be a crime against humanity, it was thought by a member of the Committee that it was desirable that that Government should explain what its position was with regard to the measures directed by competent organs of the United Nations against the racist minority régimes in southern Africa.

Bolivia

128. The fourth periodic report of Bolivia was considered by the Committee together with the information given by the representative of the reporting State in his introductory statement.

129. It will be recalled that, when it considered Bolivia's initial report at its fourth session, the Committee decided to request that State to submit another report containing further information and organized along the guidelines established by the Committee. When the Committee considered at its tenth session the communication it had received in response to that request which stated: "We had not considered it necessary to send the report in question because there are no conflicts or problems of this nature in Bolivia", it decided to request once more the Government of Bolivia to submit a report in compliance with the requirements of article 9, paragraph 1, of the Convention (A/9618, paras. 178 and 179). At its eleventh session, the Committee found that the second periodic report of Bolivia lacked information on most of the substantive provisions of the Convention; and the Bolivian representative assured the Committee that her Government "would have no objection to submitting fuller information in subsequent reports". ^{17/} The third periodic report, consisting of the

^{17/} Ibid., Thirtieth Session, Supplement No. 18 (A/10018), paras. 83-85.

statement that "no provisions of any kind have been enacted, since no racial problems exist or ever existed, in Bolivia", was considered by the Committee at its thirteenth session; and the Committee again requested the Government of Bolivia to furnish it with information on the implementation of articles 2, 4, 5, 6 and 7 of the Convention as well as the information referred to in general recommendations III and IV. The representative of Bolivia told the Committee that "he accepted that his Government had not fulfilled all its obligations and must submit a more detailed report" and undertook "to recommend to his Government that an additional report should be prepared before" the fourteenth session (A/31/18 and Corr.1, paras. 32-39).

130. It was against this background that some members of the Committee expressed their regret that the fourth periodic report of Bolivia supplied no specific information and merely restated that "in Bolivia there is no legal provision concerning the elimination of racial discrimination" and asserted that, since "Bolivians receive equal treatment" and "this equality is embodied in the Political Constitution", and since "there is neither official nor unofficial discrimination", it had not "proved necessary to eradicate any practices or customs in this connexion".

131. The mandatory obligations of the Convention, including those which States parties had undertaken to implement regardless of whether or not racial discrimination was actually practised in their territories, were recalled by members of the Committee. It was observed that the alleged non-existence of certain criminal activities did not excuse a Government from enacting legislation to prohibit such activities. And it was reaffirmed that constitutional provisions relating to equality and other norms had no meaning unless there existed legislative measures to implement those norms.

132. Some members of the Committee noted with appreciation the information supplied by the Bolivian representative in his opening statement but hoped that the next periodic report of Bolivia would refer to, and expand, that information. It was observed, however, that the presentation of oral information through the representative of a State party was no substitute for a well-presented and correctly submitted report. And it was wondered why the Government of Bolivia had not included in its report the information given orally by its representative to the Committee.

133. The representative of Bolivia reaffirmed that his Government had passed no legislation against racial discrimination because there was no racial discrimination of any kind in Bolivia. Observing that some members of the Committee apparently wanted the Bolivian Government to supply a list of laws and provisions to deal with non-existent offences, he recalled that States were free to choose their own methods and systems to ensure respect for and compliance with the provisions of their fundamental laws. Finally, he stated that he would convey to his Government the views expressed in the Committee.

Guinea

134. The information contained in the initial report of Guinea (submitted well ahead of schedule) and supplemented by the representative of the reporting State in his introductory statement, concerning the philosophy, ideological principles and social conditions in the country, was noted by the Committee and commented on by some of its members.

135. As far as the application of the substantive provisions of the Convention was

concerned, it was noted that article 45 of Constitutional Law No. 4/AN/58 corresponded to some of the obligations contained in article 4, subparagraph (a), of the Convention; and that articles 39 to 44 of that Law corresponded to some of the provisions of article 5 of the Convention. Members of the Committee inquired whether there was any supplementary legislation defining the acts of propaganda and racial discrimination in question and specifying the penalties for those acts.

136. The brief information given in the report concerning the administration of justice - which related to the provisions of article 6 of the Convention - required more detailed elaboration. Some members commented on the statement that "there are both State-paid magistrates and people's courts" and expressed the hope that further information would be given in Guinea's next report on the difference between the two kinds of courts, and on the possibility of recourse to those courts when acts of racial discrimination are alleged to have been committed. A member of the Committee observed that people's courts elsewhere at times took decisions on the basis of the principle of equity and not according to legal norms, which gave rise to the possibility of their taking decisions praeter legem or contra legem.

137. It was pointed out that the report under consideration contained no information on the implementation of article 7 of the Convention and that the information envisaged in general recommendations III and IV of the Committee was not supplied.

138. Stating that his Government was already aware of the incompleteness of the information contained in its initial report, the representative of Guinea assured the Committee that account would be taken of the views expressed by its members "to the extent that they were consistent with the requirements of the country and with the overriding need for its organization and for the promotion of its development".

Lesotho

139. The detailed information contained in the third periodic report of Lesotho and its 15 annexes was considered by the Committee together with the supplementary information given by the representative of the reporting State.

140. The Committee noted that that information referred to all the substantive provisions of the Convention; and that it dealt not only with legislative measures but, where applicable, with administrative measures as well; that it was supplemented by the texts of all relevant laws; and that it was organized in accordance with the guidelines laid down by the Committee.

141. Members of the Committee recalled the unique position of Lesotho, noting that its territory was an enclave in South Africa and that most of its economically active population worked in that country. They therefore noted with appreciation that, notwithstanding that situation, Lesotho opposed apartheid and, despite economic pressures from South Africa, refused to recognize the Transkei; that it had taken special measures, such as the Deferred Pay Regulations of 1974, to stop indirect financial assistance to the apartheid régime; that it was attempting, with limited means, to counteract the pro-apartheid radio propaganda emanating from South Africa, to which its own population and other populations of the area were constantly exposed; and that it had halted all imports of goods from Rhodesia and prohibited the entry of vehicles from that country as well as the transit of its aircraft through Lesotho's airspace.

142. A member of the Committee drew attention to some interesting and original features of the anti-discrimination legislation of the reporting State, such as those provided for in articles 5, 7 (para. 3) and 8 of the Race Relations Order of 1971.

Finland

143. The information contained in the fourth periodic report of Finland was considered by the Committee together with the supplementary information given by the representative of the reporting State in his introductory statement. Both the report and the statement responded to the inquiries and requests for additional information made by the Committee during its consideration of the third periodic report of Finland (A/31/18 and Corr.1, paras. 43-46).

144. The detailed information concerning the conditions of, and the measures affecting, the Lapps and the Gipsies was noted.

145. While the statistical information concerning cases of racial discrimination brought before the courts was noted, a desire for receiving information on the nature of the complaints and the outcome of the proceedings was expressed. The representative of Finland, recalling that information on the first case had been given to the Committee in his Government's initial report, stated that information on the remaining cases would be submitted in the next report.

146. In connexion with the detailed information concerning relations with the racist régimes in southern Africa, the representative of Finland was asked why his Government was maintaining a chargé d'affaires in Pretoria and why economic and trade relations between private companies in Finland and South Africa had not been prohibited. He replied that a chargé d'affaires was maintained in South Africa mainly because there were Finns living there; he observed, however, that his Government did not use diplomatic recognition as a political means of expressing its opinion of a particular government, because it recognized States, not governments. With regard to the implementation of General Assembly recommendations on economic and trade relations, he stated that legal action by his Government would have to be based on mandatory decisions of the Security Council.

147. Further information on the implementation of article 7 of the Convention, supplementing the information contained in the report under consideration, was requested. The representative of Finland acknowledged that the information in question was brief and said that the next report would contain more information in that respect.

Botswana

148. In the Committee's consideration of Botswana's second periodic report and the introductory statement of the representative of the reporting State, due account was taken of the special geographical situation which made that country "in a way economically a hostage of South Africa", as one Committee member put it.

149. It was noted with regret that the report under consideration did not contain the information the Committee had requested when examining the initial report of Botswana (A/10018, paras. 182-184); and the requests for the information in question were reaffirmed.

150. Noting that the only new information given in Botswana's second periodic report consisted of the statement that "an average of 15 cases have been prosecuted successfully every year, since 1970", members of the Committee asked for information on these cases and on the outcome of the proceedings. The representative of Botswana, in his reply, stated that the persons who had been prosecuted for racial discrimination were not Botswana nationals, but nationals of the neighbouring countries under racist régimes: "Botswana was regrettably forced to maintain trade relations with South Africa and, inevitably, South African businessmen and others visited the country, bringing their racial prejudices with them".

151. Recalling that the European Convention for the Protection of Human Rights and Fundamental Freedoms had been extended to British colonies, a member of the Committee inquired whether any legislation to implement that Convention had been enacted prior to independence and, if so, whether it had been integrated into post-independence law or had been abrogated.

152. A member of the Committee asked for information on the steps that might have been taken to ensure equitable distribution of seats among the representatives of various ethnic groups. The representative of Botswana said that the population of that country was homogeneous, although there were 10 principal tribes with their own local chiefs; and that the attempt made after independence to strike a balance between the new political system and the country's authentic tribal traditions led to the setting up of a House of Chiefs in addition to the National Assembly. Legislation which dealt with traditional customs and practices had to be submitted to the chiefs for their consideration. While some parliamentary seats were reserved for specific groups, elections took place on the basis of universal suffrage, not ethnic origin. In that connexion, it was observed by a member of the Committee that it would be helpful to have details of the demographic composition of Botswana in the next report.

153. The representative of Botswana assured the Committee that he would transmit the comments and inquiries made by its members to his Government and would request the inclusion of further information in the third periodic report.

Zaire

154. The information supplied by Zaire in its initial report as well as in its representative's introductory statement was somewhat general in nature. The Committee hoped that, in preparing its second periodic report, the reporting State would take account of the guidelines drawn up by the Committee.

155. In connexion with the obligations of the reporting State under article 2 of the Convention, the report under consideration referred only to the provisions of article 10 of the amended Constitution of 1974. It was observed, however, that the provisions of that article of the Constitution did not fully meet the obligations of the reporting State under article 2 of the Convention; and it was asked whether article 10 of the Constitution had been supplemented by legislation penalizing violations of its provisions. The representative of Zaire assured the Committee that, in the second periodic report of Zaire, information would be given with regard to the particular sanctions imposed under the Penal Code for violation of the Convention.

156. It was observed that article 10 of the Constitution, which prohibited "regional propaganda", fell short of satisfying the requirements of article 4, subparagraph (a),

of the Convention. The representative of Zaire recalled that the prohibition of "regional propaganda" in article 10 of the Constitution was in addition to the prohibition, in the same article, of "all acts of racial, ethnic and religious discrimination".

157. It was observed also that the complete abolition of political parties - because "the majority of those political parties had been tribal in nature" - did not give effect to the provisions of article 4, subparagraph (b), of the Convention, notwithstanding the statement made in the report that that abolition constituted "the most concrete expression of the struggle against tribalism". In that connexion, the equation of tribalism with racism was questioned by some members of the Committee. The views were expressed that tribal society had many commendable features which enriched cultural life, and that it was only when tribalism became a form of exclusiveness and discrimination that it constituted an evil. Members of the Committee wondered whether a policy of combating tribalism was compatible with the existence of various ethnic groups and languages in Zaire; whether tribalism was entirely negative, or whether it had positive aspects conducive to integration; whether it was not nepotism, rather than tribalism, that had been responsible for some acts of discrimination against individuals, for example, in employment in public office; and how tribal groups could maintain their respective traditions in the face of a national policy of combating tribalism. The representative of Zaire, while agreeing that tribalism could not be entirely equated with racial discrimination, recalled that, in the early days of the country's independence, tribalism had included an element of racism. He declared that, "while Zaire was opposed to tribalism, it accepted the existence of tribes".

158. Members of the Committee thought that more information was needed on specific provisions in the Constitution and in the laws of Zaire relating to the Government's obligations under article 5 of the Convention. It was also observed that the section of the report dealing with that subject did not mention any restrictions on the fundamental rights and duties of the citizen safeguarded in articles 12, 15, 19, 20 and 21 of the Constitution; yet it could be inferred from some of the information given in other sections of the report that some restriction was imposed on the enjoyment of some of those rights.

159. It was noted that the report made no reference to any provisions designed to implement article 6 of the Convention.

160. Several members of the Committee observed that all the information given in the report with regard to the implementation of article 7 of the Convention related, in fact, to article 5, subparagraph (e) (v). It was regretted that no information had been submitted on the compliance by the reporting State with the mandatory obligations laid down in article 7, with respect to which the Committee had adopted general recommendation V.

161. Questions were raised about the status of foreigners in Zaire, particularly with regard to the acquisition of Zairian nationality in the case of a Zairian married to a national of another country. More generally, it was asked whether foreigners enjoyed equal rights and effective protection and remedies. The representative of Zaire stated that, subject to certain limitations relating to national interest, foreigners enjoyed the same rights as Zairians; that foreigners had access to government service in the context of technical assistance; that violations of the rights of foreigners were dealt with by the Zairian courts in the first instance and that, if no settlement was reached, efforts to arrive at one were

made bilaterally with the country concerned. As for the acquisition of Zairian nationality, the representative of Zaire stated that any foreign national who married a Zairian had the choice of retaining his nationality or becoming a Zairian; dual nationality was not permitted.

162. The representative of Zaire, agreeing that the report under consideration was incomplete, assured the Committee that every effort would be made to ensure that the second report would be much more comprehensive.

Morocco

163. The fourth periodic report of Morocco, like the introductory statement made by the representative of that country, constituted a summary and a reaffirmation of the information given in the preceding reports submitted by the Government of Morocco and in the statements made by its representatives at previous sessions of the Committee. (For consideration of the initial, second and third periodic reports of Morocco, see A/8718, paras. 75 to 78, A/9618, paras. 142 and 143, and A/32/18, paras. 140 to 148, respectively.)

164. Accordingly, it was not felt that a thorough discussion of the report under consideration was called for.

165. Some issues which had been considered during the examination of earlier reports were, however, discussed once more by two members of the Committee.

Qatar

166. The information contained in the initial report of Qatar was supplemented by information concerning the implementation of article 7 of the Convention and relations with racist régimes, supplied by the representative of Qatar in his introductory statement.

167. It was observed that the comments made by members of the Committee during the consideration of many other initial reports - as far as length, amount of detail, comprehensiveness and citation of texts of relevant legal provisions was concerned - also applied to the initial report of Qatar.

168. It was noted that article 9 of the Constitution, which enunciated the principle of equality and non-discrimination, was in accord with the terms of the Convention, although it referred to distinctions on grounds of "race" and did not make specific reference to distinctions on grounds of "colour, descent or national or ethnic origin", as provided for in article 1, paragraph 1, of the Convention.

169. Mindful of the provisions of article 1, paragraph 2, of the Convention, some members of the Committee noted with appreciation the information given in the report, to the effect that, in admission to schools and access to free medical services, no distinction was made between nationals and foreigners. The statement that "the laws of Qatar make no distinction between Qatar nationals and foreigners, all being equal before the law as to their civil obligations and criminal liability" gave rise to an inquiry about the scope of the civil obligations to which foreigners are subject. Similarly, the "equal public duties" spoken of in article 9 of the Constitution raised a question as to whether foreigners as well as nationals were liable for national military service, if such service was compulsory in Qatar. The representative of Qatar replied that foreigners enjoyed all the rights enjoyed by Qatar nationals except political rights, and were bound to respect the laws of the country.

170. It was felt that it would be very useful to have information on the demographic composition of Qatar in the next report, as envisaged in general recommendation IV of the Committee.

171. It was hoped that the second periodic report of Qatar would be more comprehensive, would provide information on the application of the provisions of the substantive articles of part I of the Convention as well as the information envisaged in the relevant general recommendations made by the Committee, and would be drawn up according to the guidelines circulated by the Committee to all States parties to the Convention.

Iran

172. The fifth periodic report of Iran and the introductory statement made by Iran's representative dealt with and provided the full text of the new penal bill, which had come into force on 6 August 1977, prohibiting - and specifying the penalties for - the propagation of ideas based on racial discrimination and hatred, incitement to racial discrimination by means of mass propaganda, the provision of any assistance to racial activities, including the financing thereof, and the creation or direction of - as well as membership in - an association with the intention of propagating racial discrimination or with the aim of disseminating hatred and enmity or in order to spread discord among races and ethnic groups.

173. Members of the Committee noted with appreciation that that bill, to which advance reference had been made in the fourth periodic report of Iran, had been prepared by the Iranian Government "on the recommendation of the Committee" and "in a spirit of co-operation and solidarity with the international community in its fight against racialism and racial discrimination throughout the world".

174. It was observed that article 1 of the new bill complied with all the requirements of subparagraph (a) of article 4 of the Convention, with the exception of the requirement to "declare an offence punishable by law all dissemination of ideas based on racial superiority or hatred". It was observed also that the words "mass propaganda" might give restricted application to the requirements of the Convention, although it was noted in that connexion that the note attached to the legislation under consideration gave those words wide interpretation commensurate with that envisaged in the Convention. The representative of Iran stated in reply that "when new legislation directed towards a specific objective was being drafted, care must be exercised to avoid the possibility of misinterpretation and to ensure that the protection of one aspect of human rights did not have adverse side effects in other areas". The reference to "mass propaganda" in article 1 of the new penal law, he added, should be considered in conjunction with article 2, which stressed the intentions of persons or groups. He further stated that: "It was only when means of mass propaganda were employed that those intentions could be ascertained. If other criteria were applied, there was a risk of direct violations of other human rights."

175. With regard to article 2 of the new penal law, which corresponds to subparagraph (b) of article 4 of the Convention, some Committee members were of the view that the new Iranian legislation - like the legislation of many other countries - provided for sanctions against the persons who establish, direct or join racist organizations but did not "declare illegal and prohibit" the organizations themselves, as required by the Convention. Other members, however, emphasized that the new penal law should be viewed in conjunction with other pre-existing penal

provisions. Referring to the established position of the Committee, as expressed in its decision 3 (VII), they argued that, if existing Iranian laws prohibited and declared illegal organizations which violated any provisions within the national legal system, then all that was needed to bring Iranian law into conformity with the Convention was the addition of the new penal law, thereby assuring the prohibition of organizations which engaged in the racist activities described in article 2 of the new penal bill. It was therefore hoped that the Government of Iran would provide, in its next periodic report, information on - and the texts of - the relevant provisions of its existing legislation on associations.

176. Recalling, in connexion with the requirement of article 9, paragraph 1, of the Convention, that States parties should include in their reports information on the relevant judicial measures adopted by them, a member of the Committee asked whether any cases had been brought before the courts under the new penal law of 6 August 1977.

177. The Committee took note of the statement of the representative of Iran, to the effect that "his Government would be submitting a separate and comprehensive report on Iran's implementation of the provisions of article 7 of the Convention".

178. A member of the Committee asked for information on Iran's relations with the racist régimes of southern Africa - which "appeared to have been omitted from the current report and from the earlier ones", in spite of general recommendation III and decision 2 (XI) of the Committee.

179. There was some discussion of the question of whether ethnic minorities existed in Iran, and in particular whether the Kurds constituted an ethnic minority. Views similar to those which had been expressed at the thirteenth session, when the fourth periodic report of Iran was considered (A/31/18 and Corr.1, paras. 87 and 89) were voiced at the seventeenth session in connexion with the examination of Iran's fifth periodic report.

Norway

180. The fourth periodic report of Norway was considered together with the statement made by the representative of the reporting State, which supplemented and brought up to date the information contained in the report.

181. Members of the Committee noted with appreciation the responsiveness of the report to the concerns expressed by the Committee in past sessions. They noted also the frankness with which problems relevant to the provisions of the Convention were discussed. The information on judicial measures, including the texts of relevant court decisions and the extracts from the decisions of the Council for Professional Ethics of the Norwegian Press Association, were noted with appreciation, as was also the information on administrative measures, including measures affecting the Lapps and the Gipsies, relations with the racist régimes in southern Africa, and foreign immigrants.

182. The implementation of existing penal legislation prohibiting some of the acts described in subparagraph (a) of article 4 of the Convention in two cases mentioned in the report was considered by the Committee. Some members expressed surprise at the suspension of the sentence in one of the two cases - that of a school-teacher found guilty of advocating racial discrimination in violation of paragraph 135 (a) of the Penal Code. The difference in treatment in the two cases under

consideration - the second of which related to a student convicted for violating the same provisions of the Penal Code and sentenced to unconditional imprisonment for 60 days - also caused surprise.

183. Several members commented on another aspect of the matter, stressing the importance of the principles reflected in the sentence imposed in the first case. In that case, the Supreme Court examined the apparent conflict between the right to freedom of opinion and speech, guaranteed in article 100 of the Constitution, and the prohibition of racist propaganda, in accordance with paragraph 135 (a) of the Penal Code. The Supreme Court decision stated: "In cases where the human right one of these provisions is designed to protect seems to collide with that which the other provision aims at protecting, the conflicting considerations must be balanced one against the other in order to decide which of these rights must be given precedence in a particular situation." In the case under consideration, the Court concluded that the provisions of article 100 of the Constitution should not bar the application of the provisions of paragraph 135 (a) of the Penal Code. A member of the Committee described that decision as "a very important precedent which could serve as an example in all circumstances in which there was competition between the provisions protecting freedom of speech and those punishing racism and racial discrimination". Another member commented that "freedom of speech could not be absolute and it was abused when it was used to promote racial prejudices". However, a member of the Committee, while applauding the interpretation rendered by the Court and expressing his confidence that, "as long as the courts retained their present membership, they would continue to act in the same spirit", expressed a reservation: "That depended on the fortuitous circumstances of the membership and thinking of the courts remaining unchanged." And another member expressed his concern at "the wide latitude which that approach left to the court"; he felt that, since ratification of the Convention did not make it automatically enforceable in Norway, "legislative action should be taken to limit freedom of speech when the latter might conflict with the provisions of the Convention".

184. In that connexion, another solution, adopted with a view to reconciling freedom of speech with prohibition of the defence of racial discrimination - namely, the application of an editorial ethics code by the Council for Professional Ethics of the Norwegian Press Association - was noted with special interest by more than one member of the Committee. It was observed that the Norwegian experience in that regard could be "of great importance for those countries where the press was free, but should not be given the liberty to satisfy the less avowable appetites of the public" and that "the success of such a Council could expand the horizons as to what could be achieved, going beyond the sphere of repression, in the area of arbitration and conciliation". Members of the Committee asked whether that Council was a state organ or a private one, established by the information media themselves. Questions were raised also about its composition and powers, particularly if it was capable of imposing penalties or applying a specific policy. The representative of Norway replied that the professional code of ethics of the Norwegian press was a written document and that the Council consisted of representatives of the authorities and the press. However, it was not an official body and its decisions did not call for the application of any penalty, although the full text of the decision would be reproduced in the publication in question, as well as in the rest of the Norwegian press.

185. With regard to the application of article 4, subparagraph (b), of the Convention, it was observed that, according to the report under consideration, the measures taken in Norway were directed not against the existence of certain

organizations but against certain offences. While one member of the Committee thought that that situation was satisfactory, other members were of the view that the Convention required States parties to prohibit associations which promoted racial discrimination. A member of the Committee suggested that if Norway incorporated such a prohibition in its positive law, the course reflected in the decision of the Supreme Court to resolve the conflict of rights could be applied also to the right of association. The representative of Norway assured the Committee that he would inform his Government of the views expressed by its members and would stress the importance accorded to the question by the Committee.

186. With regard to the implementation of article 7 of the Convention, it was observed that the report gave no information on the measures taken to reach the population and disseminate the principles of the Convention among the general public or on how the communication media were used in that connexion. In his reply, the representative of Norway stated that his Government could not exercise any control over the information media since, although they were state enterprises, they were independent and reacted strongly against any attempt at government interference. That did not prevent material designed to combat racial prejudice and promote understanding and tolerance from being published, but it was published on a strictly voluntary basis.

187. The information given by the Norwegian representative in his introductory statement, concerning joint action by the Nordic countries designed to increase international pressures against the régimes in southern Africa, was welcomed by members of the Committee. However, it was asked why Norway had not imposed a general prohibition on economic ties of any kind with the racist régimes concerned, whether any sanctions were applied against private Norwegian companies active in South Africa, whether Norway had diplomatic relations with South Africa, and, if so, at what level. The Norwegian representative stated that his Government had considered the possibility of applying stricter unilateral measures, in addition to complying fully with the compulsory arms embargo prescribed by the Security Council. At present Norway only had commercial ties with South Africa since all economic relations at the government level had been discontinued, and diplomatic relations were confined to the maintenance of a Consul General. The representative of Norway said that it would be very hard to do away with trade ties altogether because there was no state commerce in Norway, and it would be unconstitutional to interfere in the activities of private enterprises unless a binding decision was taken by the Security Council. Nevertheless, his Government would continue to consider further courses of action.

188. Two aspects of the special measures taken with respect to racial minorities were favourably viewed by members of the Committee: that the Government was trying to protect the culture of the Gipsies and, at the same time, giving them an opportunity to be integrated into society if they so wished; and that the Sami People Education Council was endeavouring "to provide non-Sami with more information and teaching about the Sami people and their occupations and culture".

189. With regard to the measures taken on behalf of foreign immigrants working in Norway, the efforts of the Government to raise their level of living and place them on a footing of equality with the rest of the population were welcomed. It was asked if the Norwegian ombudsman dealt with matters relating to the Convention and affecting foreigners and whether the advisory body on immigration questions had on any occasion reported that any public authorities had violated the Norwegian immigration policy and regulations. The representative of Norway stated that

foreigners had full freedom of recourse to the ombudsman and received the same treatment as Norwegian nationals, although he noted that the ombudsman was not a court but an official who dealt with relations between individuals and government institutions.

Jamaica

190. Members of the Committee noted that the third periodic report of Jamaica was more comprehensive than the earlier reports, that it was organized on the basis of the guidelines laid down by the Committee, and that it took account of, and commented on, the observations made during the Committee's consideration of Jamaica's initial and second periodic reports and responded to some of the requests made by Committee members on those occasions.

191. As at earlier sessions (A/9618, para. 83, and A/31/18 and Corr.1, para. 60), much of the discussion of the Jamaican report at the Committee's eighteenth session revolved around the reservation entered by Jamaica at the time of ratification of the Convention - in particular the final sentence, which declared: "Ratification of the Convention by Jamaica does not imply the acceptance of obligations going beyond the constitutional limits nor the acceptance of any obligation to introduce judicial processes beyond those prescribed under the Constitution." It was noted that, according to the interpretation of that reservation given in the introduction to the report under consideration, the Government of Jamaica, in ratifying the Convention, had not accepted any obligation to grant any rights or to introduce any judicial processes beyond those already provided for in sections 13 to 26 of the Jamaican Constitution, and in particular sections 24 and 25 thereof. Nevertheless, it was noted that the interpretation given in the report included the statements that, "in stressing the paramountcy of the Constitution as the supreme law of the land, the reservation is certainly not designed to weaken the Convention" and that "the Government of Jamaica has taken a number of appropriate measures in furtherance of the spirit and objectives of the Convention". Opinions voiced in the Committee ranged from the view that, inasmuch as the reservation "was not designed to weaken the Convention", it was not a "reservation" at all, to the view that the reservation was so far-reaching in its implications as to be incompatible with the objectives of the Convention and inhibitive of its implementation.

192. Members of the Committee asked whether the Government of Jamaica considered that the Convention granted rights which were not granted by, or inconsistent with, the Jamaican Constitution and whether the Convention required any judicial processes not provided for in that Constitution. If so, the rights or processes in question should be clearly identified; if not, it would be difficult to understand why the reservation was made at all. It was also asked whether, in ratifying the other international instruments to which it was a party, the Government of Jamaica had made a similar reservation.

193. The representative of Jamaica stressed that the fundamental obligation imposed by the Convention on States parties was the elimination of all forms of racial discrimination. If attention was focused on that basic obligation, it would be easy to understand Jamaica's position: the reservation did not prevent the Government of Jamaica from complying with the basic obligation laid down in the Convention and, therefore, did not weaken the Convention. However, inasmuch as legal documents were often subject to more than one interpretation it was possible for some to assert that the Convention required a State party to enact express legislation to prohibit incitement to acts of racial discrimination, under article 4, or to accord all the

rights enumerated in article 5. In accordance with the former interpretation, the purported obligations of the Convention might be considered incompatible with the provisions of section 22 of the Constitution, guaranteeing freedom of expression, while the latter interpretation might require that certain rights not guaranteed by the Constitution should be guaranteed - such as the rights mentioned in subparagraph (e) (i) of article 5 of the Convention.

194. The basic anti-discrimination provisions of the Jamaican Constitution, contained in sections 13 and 24, gave rise to several questions and some concern.

195. With reference to subsection 3 of section 24 - which defined the expression "discrimination" as "affording different treatment to different persons attributed wholly or mainly to their respective descriptions by race, place of origin, political opinions, colour or creed" - a member of the Committee observed that the words "wholly or mainly" suggested that discrimination based to a limited extent on race was permitted, and other members noted that the definition under examination - unlike that contained in article 1, paragraph 1, of the Convention - mentioned "race" and "colour" but made no mention of "descent" or "national or ethnic origin". The representative of Jamaica stated that the words "wholly or mainly" meant that "the term 'discrimination' covered any acts of differential treatment, whether entirely attributable to racial motives or not. The fact that such differential treatment was attributable to considerations other than racial did not make it any less discriminatory". He stated also that "the concept of ethnic origin was included in the concept of race, and it was therefore unnecessary for the Constitution to make specific provision with respect to ethnic origin".

196. The exceptions contained in subsections 4, 5 and 7 of section 24 of the Jamaican Constitution, limiting the provisions of subsection 1 (which constituted the basic anti-discrimination clause of the Constitution), which had already been discussed by the Committee at previous sessions (A/9618, para. 84, and A/31/18 and Corr.1, para. 60), were discussed again at the eighteenth session. Recalling that, in the absence of any specific legislation making the provisions of the Convention applicable to Jamaica, the Committee had to rely on the constitutional provisions applicable to cases of racial discrimination and that, in accordance with a well-established rule of legal interpretation, the specific provisions of a text prevailed over its general provisions, a member of the Committee concluded that that rule should be applied to subsections 4, 5 and 7 of section 24 of the Jamaican Constitution, which set out possible exceptions to the general prohibition of discriminatory treatment. Those exceptions included such important areas as marriage, the devolution of property on death, other matters of personal law, and employment in public service. Those provisions - which caused concern and gave rise to doubts that they were really in keeping with the requirements of the Convention - required further explanation. Another member of the Committee thought that "the wording of subsection 4 was so all-embracing that it tended to vitiate the constitutional guarantees of equal treatment" and that "that problem might be overcome by including in subsection 4 a provision to the effect that differential treatment was permissible only if it was not based solely on consideration of race, etc." That the exceptions provided for in the subsections of section 4 under consideration "were not intended to ensure the adequate development and protection of certain racial groups", in accordance with article 2, paragraph 2, of the Convention, made it all the more imperative that an explanation of how the provisions of those subsections were intended to be applied be given to the Committee. Several other members of the Committee also emphasized that the exceptions under examination were extremely significant and could give rise to discrimination.

197. The representative of Jamaica gave a detailed analysis of subsections 4 (a-d), 5 and 7 of section 24 of the Jamaican Constitution. He recalled that section 24 prohibited not only racial discrimination but also discrimination based on place of origin or creed, and argued that the exceptions provided for in the subsections under reference pertained to situations in which differential treatment might be required on the basis of place of origin. That the subsections in question should give rise to the enactment of laws or the adoption of measures which were discriminatory on the ground of race was hardly likely, he asserted; but he conceded that they might result in laws or measures entailing differential treatment on the basis of place of origin.

198. It was noted that section 24 of the Jamaican Constitution prohibited discrimination by the State itself, through laws or through the actions of public authorities or officials, but did not prohibit "racial discrimination by any persons, group or organization", as was required by article 2, paragraph 1 (d), of the Convention. The report commented on that situation and explained it on two grounds: that racial discrimination did not exist in Jamaica and that, in the unlikely event that there should arise a practice of racial discrimination by individuals, groups or organizations, the Government would immediately take steps to eradicate it and guard against its recurrence. It was observed by members of the Committee, however, that the absence of practices of racial discrimination did not remove the need for preventive action, through prohibition and other measures; and that for the Government to wait until acts of racial discrimination did occur before proceeding to enact appropriate penal legislation would mean that in the meantime acts of racial discrimination would go unpunished, and the victims of those acts would be denied effective protection and remedies. Members of the Committee therefore urged the Government of Jamaica to adopt the necessary provisions.

199. In connexion with that discussion, it was observed that the content of the report under examination raised the question of whether States parties were free to select the means of attaining the objectives set out in the Convention or whether they were obliged to use the means prescribed by the Convention itself. Thus, the report stated that the Government of Jamaica had taken a number of appropriate measures in furtherance of the spirit and objectives of the Convention but did not consider it necessary to enact legislation to implement certain of its provisions. Replying, the representative of Jamaica called attention to the language of article 2, paragraph 1 (d), which required that States parties should bring to an end racial discrimination by persons, groups or organizations "by all appropriate means, including legislation as required by circumstances". In his opinion, the phrase "by all appropriate means" made it clear that the Convention did not prescribe any particular means but left each sovereign State free to determine the suitability of the measures to be adopted; furthermore, the words "as required by circumstances" meant that laws should be enacted only when the circumstances so required, that is, when racial discrimination was actually practised. Some members of the Committee, however, observed that that might be the case with regard to the obligation to "bring to an end" existing practices of racial discrimination - but not with regard to the other obligation, to "prohibit" racial discrimination.

200. It was observed that the reliance of the Government of the reporting State on the common law as a means of prohibiting and eliminating racial discrimination did not seem to be well founded, since racial discrimination had occurred in Jamaica during the colonial period, when the same common law had applied. Moreover, it was remarked that common law did not provide sufficient guarantee since it could be

vague and imprecise. It was concluded that it was necessary for the Government of Jamaica to adopt express legislation to ensure that racial discrimination would not occur. The representative of Jamaica asserted that protection under common law was absolute and complete and that the provisions of common law were quite specific and concrete.

201. The discussion summarized in the foregoing paragraphs had relevance not only to the implementation of the provisions of article 2, paragraph 1 (d), of the Convention, but also to the application of article 4.

202. With regard to the provisions of subparagraph (a) of article 4, the report noted that, notwithstanding the absence of specific legislation, the common law prohibited incitement to violence against any race or groups of persons and that, in some cases, the activities proscribed by the Convention "could be caught by the common law offence of sedition". Members of the Committee emphasized that protection was better than cure; they wondered whether sedition - which generally applied to acts or statements against the State and the Constitution - was so defined in Jamaican domestic law as to apply also to acts or statements against various categories of persons or racial groups; and they requested that the relevant provisions of Jamaican penal law be made available to the Committee. The representative of Jamaica referred in that connexion to the reservation made by his Government at the time of the ratification of the Convention and observed that the enactment of express legislation prohibiting incitement to racial discrimination might be contrary to section 22 of the Jamaican Constitution, which guaranteed freedom of expression. In his opinion, despite the absence of such legislation, there were sufficient legal provisions affording the protection called for in article 4, subparagraph (a), of the Convention. He said that sedition was clearly defined in the Constitution and the common law. In reply to the representative of Jamaica, it was recalled that the provisions of subsection 2 of section 22 of the Jamaican Constitution clearly stated that laws which limited freedom of expression in the interests of "public order" or "public morality" or for the purpose of "protecting the reputations" and "rights" of other persons would not be held to be inconsistent with or in contravention of section 22; and it was observed that legislation prohibiting the acts described in article 4, subparagraph (a), of the Convention, far from being inconsistent with the guarantees of freedom of expression provided for in section 22 of the Jamaican Constitution, appeared to be countenanced under the provisions of subsection 2 of that section.

203. According to the report under consideration, there was no legislation in Jamaica giving effect to the provisions of article 4, subparagraph (b), of the Convention. To members of the Committee the arguments advanced in the report in that regard were not convincing: the fact that the acts described in article 4, subparagraph (b), of the Convention were unknown in Jamaica did not justify the failure to take the preventive measures enjoined by the Convention and to enact legislation; and several members voiced their scepticism about the statement that "should any organization indulge in racial discrimination, the governmental and public outcry would be such as to bring such a practice immediately to an end".

204. Members of the Committee therefore urged the Government of Jamaica to reconsider its position with regard to the implementation of the mandatory requirements of article 4 of the Convention. The representative of Jamaica assured the Committee that its concern, and the views expressed by its members, would be conveyed to his Government.

205. It was noted that, with respect to the application of article 6 of the Convention, the report under consideration referred to section 25 of the Jamaican Constitution, which provides that an application for redress may be made by any person to the Supreme Court and, in the event that the applicant is dissatisfied, an appeal may be made to the Court of Appeal. It was observed that, although the basic constitutional guarantee of the fundamental rights and freedoms of the individual was contained in section 13 of the Constitution, the remedies referred to in section 25 were specifically made applicable to contraventions of sections 14 to 24 inclusive - that is, not to section 13. It was asked what the precise legal significance of that fact was. It was noted also that section 25 of the Constitution did not specify what kind of redress could be obtained by the persons whose rights were infringed. It was not clear, moreover, whether only civil suits could be brought against persons guilty of racial discrimination or whether criminal suits were also possible. The representative of Jamaica was asked whether he could supply some examples of judgements handed down by the courts on the basis of section 25. Finally, it was observed that "the very existence of section 25 of the Jamaican Constitution cast doubt on the assertion that no specific legislation was necessary to prohibit" racial discrimination.

206. In reply to the foregoing questions and comments, the representative of Jamaica stated that section 25 of the Constitution did not refer to section 13 but only to sections 14 to 24 because section 13 was merely a preamble to chapter III. As to redress in connexion with the provisions of sections 14 to 24 of the Constitution, section 25 provided in subsection 2 that the Supreme Court could "determine" any application made by any person under that section and "make such orders, issue such writs and give such directions as it may consider appropriate". That included the granting of compensation for damage. As there existed civil provisions, there was no need for other measures of a penal nature.

207. Concerning the implementation of article 7 of the Convention, the information given in the report was noted with appreciation. A member of the Committee expressed an interest in receiving more detailed information on the content of the Ministry of Education's curricula relating to racism and racial discrimination. Another member referred to the statement that those curricula included "studies of the culture of other countries, particularly those in this hemisphere and those from which Jamaica's population find their antecedents" and said that he would be interested in learning what attention was paid to Africa in that context. The representative of Jamaica stated that his country was "extremely proud of its African ancestors and heritage" and that that "was reflected in the educational system and specific educational measures".

208. While noting that the third periodic report of Jamaica supplied the information envisaged in general recommendation III (concerning relations with racist régimes), the Committee regretted that the report did not furnish the information on the demographic composition of Jamaica envisaged in general recommendation IV.

Tunisia

209. The fifth periodic report of Tunisia was considered by the Committee without the participation of a representative of the reporting State.

210. The Committee noted with regret that, for the most part, the report under consideration repeated the information provided by the Government of Tunisia in its earlier reports and that many of the questions asked by members of the Committee

during its consideration of previous reports had remained unanswered. In that connexion, it was observed that the Committee was faced with the situation of a State party which was obviously fulfilling its responsibilities, both domestic and international, with regard to the elimination of racial discrimination but which had done less than justice to itself in fulfilling its reporting obligations under article 9 of the Convention.

211. It was noted that Act No. 57-32 of 28 April 1975, promulgating the "Press Code", provided for severe penalties for any person who incited to racial hatred. It was asked whether that act superseded the decree of 9 February 1956 on abuses of the freedom of written expression, which had been mentioned in the third and fourth periodic reports of Tunisia.

212. It was hoped that the observations made at previous sessions by Committee members, and the questions raised by them (A/9018, paras. 128-133, and A/31/10 and Corr.1, paras. 90-92), would be taken into account when the sixth periodic report of Tunisia was prepared.

Uruguay

213. The fifth periodic report of Uruguay was considered together with the introductory statement made by the representative of the reporting State.

214. It was noted with regret that, according to the report under consideration, the intention to reform the Penal Code in such a way as to give effect to the provisions of article 4 of the Convention - of which the Committee had been informed in the previous report (A/32/10, para. 121) - had since been abandoned. It was observed that article 6 (j) of Legislative Decree No. 10279 of 19 November 1942, which the Government of Uruguay had recently decided to "maintain ... in its present form", did not give effect to the provisions of subparagraph (a) of article 4 of the Convention but only to some of the requirements of subparagraph (b) of that article. Notwithstanding the information contained in the report under consideration, however, the representative of Uruguay assured the Committee that her Government "intended to include in the amended Code provisions embodying the principles laid down in article 4 (a) and (b) of the Convention".

215. Additional information on the measures taken by the Government of Uruguay to implement article 6 of the Convention was requested.

216. With regard to the implementation of article 7 of the Convention, it was noted with regret that a request made at the sixteenth session for information about the relevant measures taken in the field of information (A/32/10, para. 123) had not been met in the report under consideration. Committee members asked once more about the extent to which the mass media were used for the dissemination of information concerning problems of racial discrimination.

217. The Committee took note of some of the administrative measures mentioned in the report under consideration. Reference was made to the notices published by the Ministry of Foreign Affairs in 1975 and 1977, inviting applications for vacant posts in the Uruguayan Foreign Service. Some Committee members wondered whether those notices indicated that there had been some evidence of unequal treatment on racial grounds and asked whether any penalties were prescribed by law for those guilty of such practices of racial discrimination. The decree of 9 March 1931, designed to stop discriminatory practices in the recruiting of police officers, gave rise to the

following questions: How extensive had those practices been? How long had they existed? Who had been affected by them? And had the practices ended as a result of the decree? A member of the Committee felt bound to ask why the Uruguayan Government took such a piecemeal approach to discrimination and why, for instance, there was no general provision prohibiting racial discrimination throughout the civil service. The representative of Uruguay stated that the decree of 1931 had been provided merely by way of example in order to show that, almost 50 years earlier when an isolated discriminatory practice had been brought to the Government's attention, the Government had taken appropriate action. The decree had been complied with ever since. The reference to the notices published by the Ministry of Foreign Affairs had been included in the report to show that the Government was still vigilant in racial discrimination matters, and did not imply that discrimination existed in Uruguay. She stated that she would advise her Government to annex to its next report the public service statutes of Uruguay, so that the Committee could consider the legal basis upon which the administration of the country was run.

218. It was noted that the requests made at an earlier session for information on the situation of the indigenous population (A/32/18, para. 127) had not been met in the report under consideration. The representative of Uruguay explained that that information had not been provided because there did not exist in that country an indigenous population as such; rather, that population had become completely integrated in the general population of Uruguay.

219. Recalling that, in the fourth periodic report of Uruguay, it had been stated that an amended version of the Constitution was being prepared and that the requirements of the Convention were being borne in mind in the preparation of that version, members of the Committee asked what the present status of the amended version of the Constitution was. They also asked whether the reform of the Penal Code had been completed. The representative of Uruguay stated that article 8 of the 1830 Constitution, which had been incorporated into the Constitution of 1967, was still in force and that the reform of the Penal Code had not yet been adopted.

Iceland

220. Inasmuch as no new relevant measures had been taken during the period covered by the fifth periodic report of Iceland, that report was devoted to commenting on the questions raised by members of the Committee during the consideration of the fourth periodic report and to responding to general recommendation V of the Committee.

221. The information on the proposals for the establishment of an ombudsman and an "ombuds-committee" was of great interest to the Committee; and the hope was expressed that, when either proposal was adopted, detailed information - including the texts of the relevant provisions - would be given to the Committee.

222. The measures adopted in implementation of article 7 of the Convention were also welcomed by the Committee. It was observed, however, that it should be understood that developing countries did not only raise problems but also could make important cultural contributions, and it was suggested that information on the contribution of the Government of Iceland to the isolation of the racist régimes of southern Africa should be disseminated to the people. It was suggested that the programmes adopted by the Government in implementation of article 7 of the Convention be transmitted to the Committee, as they could serve as a useful example for other countries.

223. The representative of Iceland expressed hope that the next periodic report of his Government would provide new information on the proposals regarding the ombudsman and the "ombuds-committee". He assured the Committee that the suggestions made by its members would be conveyed to his Government.

Madagascar

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

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

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

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

United Arab Emirates

228. The second periodic report of the United Arab Emirates was considered together with the introductory statement made by the representative of the reporting State.

229. The Committee noted that the report under consideration contained considerable additional information, including information given in response to wishes expressed by members of the Committee during the consideration of the initial report of the United Arab Emirates, and that, in conformity with the request made by the Committee, the texts of the relevant articles of the Constitution and legal provisions were furnished. It was regretted, however, that the report was not organized in accordance with the guidelines laid down by the Committee.

230. Noting that great stress had been placed on the Constitution and far too little on legislation, some members observed that it would be of interest to the Committee to receive information on how the principles of the Constitution were translated

into practice through legislation and administrative decisions, which were of key importance to the application of those principles. In that connexion, it was observed that the report gave insufficient attention to the adoption of specific measures to implement the Convention. It was stated that, in view of article 7 of the Constitution - which stated that "Islam is the official religion of the Union and the Shari'a is a principal source of legislation" - the Government of the reporting State appeared to have considered itself absolved from the obligation to enact express legislation prohibiting and providing penalties for acts of racial discrimination in implementation of the mandatory provisions of the Convention. In his reply, the representative of the United Arab Emirates called attention to the fact that the Shari'a "integrated the observance of the law and of religion": he said that those two concepts "were intertwined in the Qur'an, and the connexion between them, established by Mohammad, had been observed throughout the centuries. Thus the establishment of law in the United Arab Emirates was tantamount to interpreting the provisions of the Qur'an". He expounded the interplay of Ijma' (consensus) and Ijtihad (interpretation) which, jointly, helped to fill any lacunae in Islamic law.

231. It was noted that information was lacking with respect to the manner in which the reporting State was fulfilling its obligations under article 4 of the Convention. In that connexion, the provisions of the Committee's general recommendation I and decision 3 (VII) were recalled.

232. It was stated that equality in the exercise of most of the rights set forth in article 5 of the Convention was guaranteed in articles 25 to 38 of the Constitution. It was asked, however, whether the bill to regulate labour relations, the provisions of which were cited in detail in the report under consideration, had already become law. The representative of the United Arab Emirates confirmed that, since the preparation of the report, that legislation had been adopted. With reference to that law, a member of the Committee wished to receive clarification with regard to the right of an employee to compensation if he was dismissed as a result of a complaint against his employer.

233. It was observed that, under article 41 of the Constitution, the United Arab Emirates had complied with its obligations with respect to article 6 of the Convention. However, further information on the legislative provisions which laid down guarantees of compensation for persons who considered that their rights had been violated was requested.

234. The information concerning the implementation of article 7 of the Convention was deemed insufficient, notwithstanding the information on religious instruction as a means of preventing racial discrimination. Members of the Committee drew attention to general recommendation V in that regard.

235. Several members of the Committee commented on the liberal system which was applied to aliens in the United Arab Emirates. A member of the Committee asked what system was applied in order to accord to aliens rights and obligations which were not governed by international agreements and whether, in the absence of such agreements, aliens were governed by the same system as nationals under article 25 of the Constitution. The application of the system of free education and free medical care to aliens and nationals alike drew favourable comments. A member of the Committee noted the statement made in the report, to the effect that free health care was not confined to citizens but covered all residents in the territory of the State, and observed that that went beyond the provisions of article 19 of the Constitution, which guaranteed health care for citizens; he asked for further

information on the legislation or administrative regulations which made that extension possible. Information on the number of aliens and their places of origin was requested. The representative of the reporting State recalled the provisions of article 1, paragraph 2, of the Convention and stated that, notwithstanding those provisions, "the treatment of aliens in the United Arab Emirates was as good as could be found anywhere in the world". He drew attention to the sections of the report in which examples were given of rights and privileges extended to all persons living in the country.

Lao People's Democratic Republic

236. The initial and second periodic reports of the Lao People's Democratic Republic, which had been submitted in one document at the request of the Committee (A/32/18, para. 60 (b)), opened with the statement: "Two years after its foundation, the Lao People's Democratic Republic has not yet promulgated any legislative measures. The country's Constitution, too, is still in the process of preparation. Accordingly, guided by its own national and democratic liberation struggle, it bases its practice on revolutionary ideology and the universally recognized principles of human rights". A member of the Committee observed that the report should be viewed as an expression of the reporting Government's earnest desire to fulfil its responsibilities under the Convention rather than as an account of specific measures adopted to that end.

237. With regard to the opening statement of the report, a member of the Committee asked whether it meant that the Government had not yet promulgated legislative measures of any kind or only that legislative measures to apply the provisions of the Convention had not been taken. Another member wished to know whether the Constitution and laws that had existed prior to the revolution had been discarded, and if so, what rules had been established to assist tribunals in the settlement of disputes. Members of the Committee, while sympathetic with regard to the special circumstances facing the reporting State, voiced their hope that detailed information on such legislative, judicial, administrative and other measures as might be adopted before the submission of the next periodic report - including the texts of all relevant legislative measures - would be furnished in that report.

238. Although the report stated that no specific measures to implement the provisions of the Convention had been adopted, it did contain a number of relevant statements regarding the Government's attitude and policies. Interest in receiving more detailed explanations of those statements was expressed.

239. The reference in the report to "the existence of 68 ethnic groups totalling 1 million inhabitants out of a total population of 3,400,000" gave rise to the following questions: Were the remaining 2,400,000 inhabitants members of a single majority group or of several groups distinct from the 68 ethnic groups mentioned separately? Did the various groups have the right to education in their own language? What opportunities did each group have to maintain and express its own culture? Were they all equally eligible for party membership? How easy was it for them to obtain employment in the public service and the administration? And did they all have access to the courts?

240. The report referred to the establishment within the Government of a Nationalities Committee "with the rank of a Ministry", and stated that its main role was "to represent the various ethnic groups, defend the legitimate interests of each

of them and work to strengthen national unity". Members of the Committee wished to know whether the establishment of that Committee implied that there was official recognition of all ethnic groups; how that Committee protected the fundamental rights of those groups; whether the representatives of the ethnic groups on the Nationalities Committee were elected by the groups themselves or appointed by the central government; whether there were regional or local bodies in addition to the Nationalities Committee and, if so, whether the various ethnic groups were represented in them; and whether the Nationalities Committee had the power to take decisions affecting the rights of the ethnic groups or simply served as a conciliation body.

241. It was asked whether any measures had been taken in furtherance of the purposes laid down in article 7 of the Convention.

242. The reporting State was requested to supply in its next report the information envisaged in general recommendation III and decision 2 (XI) of the Committee, regarding relations with the racist régimes in southern Africa.

243. The representative of the reporting State assured the Committee that he would inform his Government of the comments, inquiries and requests made during the discussion.

Argentina

244. The fifth periodic report of Argentina was considered by the Committee together with the introductory statement made by the representative of the reporting State, which supplemented and brought up to date the information given in the report.

245. Article 31 of the Argentine Constitution gave rise to the question whether a treaty, upon entering into force, automatically superseded laws which were not compatible with it or whether special legislation had to be promulgated to that effect.

246. The information regarding the "aboriginal" population and the measures taken by the Government with respect to them received much of the Committee's attention during its consideration of the report. The doubts expressed by some members about the appropriateness of the word "aboriginal" were not shared by other members. Requests were made for the texts of the directives related to the development of the "aboriginal" communities, and for additional information on their implementation. It was emphasized that the policy of "voluntary integration" must be gradually implemented in order to ensure that "aboriginal" communities retained their cultural identity, and that the purpose of that policy should be to secure the economic and social development of the ethnic groups concerned while at the same time enabling them to preserve their cultural characteristics. The following questions were put to the representative of Argentina: Were the characteristics of "aboriginal" persons enumerated in the report considered to be essential prerequisites for the enjoyment of the benefits of special measures adopted in their favour? What were the institutions responsible for applying those measures, and what were the sources of their financing? And did ignorance of the Spanish language prevent an "aboriginal" person from voting and participating in the local public administration of regions in which his dialect was spoken?

247. The representative of Argentina assured the Committee that, in its next periodic report, her Government would supply additional information and the

requisite clarifications concerning the laws and regulations in force. She affirmed that great efforts were being made to preserve the culture of the indigenous inhabitants, including their crafts. There were official bodies, such as the National Arts Fund, and provincial and private bodies which were seeking to preserve that culture. At the same time, the Government was attempting to raise the levels of living of the "aboriginal" communities, despite the difficulties of reaching those groups, which were often nomadic and "were not composed exclusively of indigenous persons". The competent body was the Secretariat of State for Social Development and Welfare, which was not concerned exclusively with the "aboriginal" communities but with the rest of the population as well, especially the most underprivileged groups. She observed that lack of knowledge of Spanish was a serious problem, for the indigenous languages existed only in oral and not in written form, so that when the "aboriginal" inhabitants learned to read and write they could not apply that knowledge in their own language. The right to vote was granted universally and without exception; but in order to be a public official it was necessary to know how to read and write.

248. The Committee took note of the information, given by the representative of Argentina in her introductory statement, that a commission, presided over by a former member of the Committee on the Elimination of Racial Discrimination, had been established to prepare a reform of the Criminal Code and that that commission was considering a text based on article 4 of the Convention, which it was hoped would be completed in time for inclusion in the next Argentine report. A member of the Committee referred to article 80 of the Argentine Criminal Code and observed that it seemed to provide only for the case of homicide and did not include acts of violence or to incitement to such acts against a group of persons, as stipulated in article 4 of the Convention. Another member asked for an interpretation of the phrase "to form associations for useful purposes", contained in article 14 of the Constitution. The representative of Argentina said that that phrase meant that persons could form associations for any purposes that were not unlawful and, in addition, not detrimental to others; the Argentine Civil Code stated that the law did not protect the abuse of rights.

249. Referring to the information on measures adopted by the Government in the field of education to implement article 7 of the Convention, a member of the Committee asked for information on the use of radio and television programmes. The representative of Argentina confirmed that there were official measures to ensure that the press reflected official anti-racist attitudes. Thus, official communiqués were issued on special occasions and were widely disseminated by the press.

250. A member of the Committee requested additional information on the rights of migrant workers, and in particular their rights with regard to trade unions, housing and social benefits; and he asked whether any legislation had been enacted in that field.

251. A member of the Committee requested that the information contained in the report in response to general recommendation III and decision 2 (XI) of the Committee be expanded in the next report.

Pakistan

252. The Committee considered the fifth periodic report of Pakistan together with the introductory statement of Pakistan's representative, who supplemented the

information given in the report and commented on the observations and inquiries made during the consideration of Pakistan's fourth periodic report.

253. Several members of the Committee commented on the opening paragraph of the report under consideration, which stated: "The people of Pakistan, being composed of a relatively homogenic racial group and following the precepts of Islam, which is a universal religion advocating tolerance for people belonging to every race, have not faced the problem of racial discrimination. It has, therefore, not been necessary to enact any new laws or administrative measures to deal specifically with racial discrimination other than those already existing in the country." Referring to that statement, a member of the Committee noted that "legislative bases for the implementation of the Convention already existed in Pakistan", while another member observed that "Pakistan's recognition of the need to take additional measures struck a positive note". Another Committee member commented that "if all States parties to the Convention adopted the same criterion to decide whether it was necessary to enact new laws or measures designed to prevent racial discrimination, they would be practically exempt from discharging their obligations under the Convention," since "almost all the religions of the world preached equality and tolerance"; he added, however, that "Pakistan's report itself described a series of legislative and administrative provisions which had been adopted" and observed that that "to some extent disproved the statement made in paragraph 1" of the report. In the same vein, a fourth member of the Committee pointed out that the report under consideration gave the impression that the Government of Pakistan "was making great efforts to comply to an even greater degree with the obligations it had assumed under the Convention", notwithstanding the statement contained in the opening paragraph of that report. In her reply, the representative of Pakistan emphasized that "the function attributed to the precepts of Islam in paragraph 1 of the report was fully justified since in Pakistan society religion was the basis of culture and the system of values, and Islam was totally incompatible with any type of racial discrimination".

254. It was noted that, although the information contained in the report concerning articles 25 (1) and 199 (1) (c) of the Constitution appeared to guarantee the protection of everyone against racial discrimination, whether practised by public authorities or by private persons or groups, most of the information given in the report dealt only with the prohibition of discrimination by public servants; and it was asked whether any legislative provisions existed in Pakistan to give effect to the provisions of the Constitution and of article 2, paragraph 1 (d), of the Convention, relating to "racial discrimination by any persons, group or organization". The representative of Pakistan asserted that "any person, whether an individual or a public servant, was subject to judicial proceedings, if he engaged in discriminatory activities".

255. Although at its previous sessions the Committee had found that the Constitution of 1973 and Act VI of the same year, amending the Penal Code, fulfilled the requirements of article 4 of the Convention (A/9618, para. 156 and A/32/18, para. 97) members of the Committee raised, during the eighteenth session, some specific questions about the provision of the legislation in question. These questions referred to: (a) the explanation attached to section 505 of the Penal Code, to the effect that when a person has reasonable grounds for believing that a statement, rumour or report is true, and makes, publishes or circulates it in good faith and without any such intent as is described in that section, his act does not amount to an offence within the meaning of that section; (b) the provisions of that section

which make an act described therein an offence not only when it is done with "intent" to produce certain results but also when it is "likely to" produce those results; (c) the provisions of that section, as well as of section 99-A of the Code of Criminal Procedure, which apply to incitement to violence against, or hatred of, any "class" of citizens; and (d) the disparity between the penalties for the same acts provided in sections 153-A (A) and 505 (2) of the Penal Code. Concerning the first two questions, the representative of Pakistan stated that "intent was the determining factor"; accordingly, if through ignorance or unawareness a person committed acts without any intent to promote interracial discord, such acts were not punishable by law. With reference to the third question, the representative of Pakistan said that, in interpreting the provisions under consideration, the Pakistan authorities gave them a breadth and scope which fully accorded with the provisions of the Convention. With regard to the fourth question, she stated that the next report would include data to clarify the discrepancies concerned.

256. A request was made, in connexion with the provisions of article 4, subparagraph (a), of the Convention, for the text of the relevant provisions of the Security of Pakistan Act of 1952, which the report described as providing grounds for the prohibition and punishment of the "dissemination of ideas which encourage racial discrimination". The representative of Pakistan assured the Committee that the text of the Act in question would be included in her Government's next report.

257. It was observed that - although the report referred to the Political Parties Act 1962 in connexion with the requirements of article 4, subparagraph (b), of the Convention, and asserted that, under that Act, the "formation of a party which propagates superiority of one race over another, or which tries to ensure domination of one race by another" would be prohibited as "contrary to Islamic ideology" - the extracts from that Act annexed to the report appeared to have no direct relevance to racial discrimination.

258. It was recalled that, during the consideration of the third and fourth periodic reports of Pakistan, the Committee had found the information given in those reports regarding the implementation of article 7 of the Convention insufficient, and that the representatives of Pakistan had assured the Committee that more detailed information would be provided in the next reports (A/9618, paras. 156 and 157 and A/32/18, paras. 98 and 102). The information on that subject given in the fifth periodic report of Pakistan was again found to be insufficient, and more detailed information was requested, particularly with regard to measures taken in the field of teaching, education and culture. The representative of Pakistan pointed out that "such measures were unnecessary since the curricula used in Pakistan had always instilled in pupils the principle of the absolute equality of all persons and condemned any difference in treatment on racial grounds".

259. Information, already requested by the Committee but not yet provided by the reporting State, on the demographic composition of Pakistan, was asked for once more. The representative of Pakistan informed the Committee that "the censuses taken in Pakistan did not classify the population on the basis of race or ethnic origin".

Hungary

260. The fifth periodic report of Hungary was considered together with the introductory statement made by the representative of the reporting State.

261. It was noted with appreciation that the report under consideration contained replies to most of the questions raised during the Committee's consideration of the fourth periodic report of Hungary (A/31/18 and Corr.1, paras. 105 and 106) and that, in response to the requests made by the Committee, the Constitution of Hungary and Act V of 1976 on Public Education were circulated to the Committee as supplements to the fifth periodic report. It was noted, however, that the question concerning the provisions of section 103 of Act I of 1968 on Petty Offences, which was raised at the thirteenth session (A/31/18 and Corr.1, para. 105 (c)), had remained unanswered; and it was therefore repeated at the eighteenth session.

262. With regard to the fundamental obligation to prohibit and punish acts of racial discrimination, in accordance with article 2, paragraph 1, of the Convention, it was observed that article 138 of the Penal Code, which made it a crime for any person to cause "serious bodily or mental injury" to members of a national, ethnic or racial group on account of belonging to such a group did not satisfy all the relevant requirements of the Convention; and the qualification of "bodily or mental injury" by the adjective "serious" caused some concern to some members of the Committee. However, a member of the Committee thought that article 138 of the Penal Code was intended to put into effect the provisions of article II (b) of the Convention on the Prevention and Punishment of the Crime of Genocide (General Assembly resolution 260 A (III), annex).

263. The information given in the report, in response to the request made by the Committee at its thirteenth session (A/31/18 and Corr.1, para. 105 (a)), on the measures taken by the reporting State with regard to the Gypsies - in furtherance of the objectives of article 2, paragraph 2, of the Convention - was welcomed. Some members of the Committee, noting that increasing numbers of Gypsies were being employed and settled, expressed the hope that the Gypsies would be able to preserve the essence of their own distinctive cultural characteristics while enjoying better living conditions and making their contribution to the country's economic life. With regard to the housing of the Gypsy population, it was asked whether it had been possible to do away with the segregated settlements of Gypsies in the countryside and in villages and whether the population of the rural areas had accepted the resettling of Gypsies in places other than those which they had inhabited earlier. And a question was asked about the opportunities which Gypsies had to participate in the Government and in political activities.

264. With reference to the right of equality before the law, provided for in article 5 of the Convention, members of the Committee noted that article 61 (1) of the Hungarian Constitution guaranteed equality before the law and in the enjoyment of rights to the "citizens" of the Hungarian People's Republic. Clarification of the precise meaning of the term "legal capacity", used in article 8, paragraph 2, of Act IV of 1959 on the Civil Code, was requested; and it was asked whether the provisions of that article applied to aliens as well as nationals. Information on the rights of aliens in general was requested. Recalling that, under article 5, subparagraph (d) (v) of the Convention, States parties are under the obligation to guarantee to every one without discrimination equality before the law in the enjoyment of the right to own property, including intellectual property, a member of the Committee noted that the legislation in force in Hungary protected that right and requested the reporting State to furnish the Committee with the text of its relevant legislation.

265. With regard to the implementation of the provisions of article 6 of the

Convention, it was asked whether a person who suffered discrimination could institute proceedings to obtain just reparation or whether an action could be brought exclusively on the initiative of the public prosecutor's office as appeared to be prescribed by article 51 of the Constitution. Information on how the courts had applied the provisions of the Civil Code and the Penal Code which reflected the principles of the Convention was requested. The representative of Hungary said that, under existing legislation, any citizen could institute legal proceedings if his rights were violated.

266. It was hoped that the information given in the fifth periodic report on the implementation of article 7 of the Convention would be expanded in the next report.

267. A request was made for the up-dating of the demographic information supplied in the third periodic report, which reflected the situation in 1970.

268. The provisions of article 61, paragraph 3, of the Hungarian Constitution - which guaranteed the equality of rights to all nationalities living in the territory of the reporting State, the use of their mother tongue, education in their mother tongue, and the preservation and cultivation of their own culture - were noted. A member of the Committee observed that the use of "nationalities" instead of "ethnic groups" was important, for it reflected the way in which - in accordance with the Marxist view - the problem of nationalities should be treated: it was essential to advance from the concept of an ethnic group, which was in need of protection, to the concept of the full integration of the members of such groups in all aspects of social, political and economic life, while preserving and respecting their ethnic, linguistic and cultural characteristics.

Trinidad and Tobago

269. The Committee considered the second periodic report of Trinidad and Tobago together with the introductory statement made by the representative of the reporting State, in which extensive supplementary information was given as well as replies to questions raised by members of the Committee during the consideration of the initial report at the twelfth session.

270. In accordance with the Committee's request at the twelfth session (A/10018, para. 167), the texts of sections 3, 4 and 5 of the Constitution were provided. As for information on cases which might have been brought before the courts in connexion with section 4 of the Sedition (Amendment) Act, (ibid.) the representative of the reporting State said that no cases connected with racial discrimination had come before the courts of his country.

271. The doubts expressed at the twelfth session, concerning the existence, within the legal system of Trinidad and Tobago, of provisions which satisfied requirements of article 4, subparagraph (b), of the Convention (ibid., para. 168), were not dispelled by the information given at the eighteenth session by the representative of the reporting State. It was suggested that the matter should continue to receive attention by the competent authorities in Trinidad and Tobago and be discussed in the next report. The representative of Trinidad and Tobago assured the Committee that he would transmit its views in that regard to his Government.

272. The information given in the report about the constitutional guarantees of redress for the infringement of any of the rights recognized and declared by the

Constitution was relevant to the provisions of article 6 of the Convention, as was also the information on the creation of the office of ombudsman. In connexion with the latter, it was noted that the new institution appeared to have strictly administrative functions and was not authorized to receive complaints from individuals. It was asked whether consideration had been given to the possibility of empowering the ombudsman to receive such complaints. It was also asked whether the ombudsman could draw to the attention of the Parliament or of the Cabinet cases of systematic violations of rights. In his reply, the representative of the reporting State recalled that, because the institution was new, it was difficult to give an exact interpretation of the ombudsman's responsibilities. He added that the present ombudsman of Trinidad and Tobago - a former appeals judge - exercised a supervisory function and was required to make an annual report to the Parliament on his activities.

Tonga

273. The Committee took note of the statement, in the third periodic report of Tonga, that "Tonga regrets that it is not possible for a representative to attend before the Committee".

274. The Committee noted with appreciation that the report under consideration contained comments on the views expressed during the consideration of the second periodic report of Tonga at the thirteenth session (A/31/18 and Corr.1, paras. 81-83) as well as information on the present population of the country and on the relevant amendments to the Constitution by Act 3 of 1976.

275. The Committee took note of the following statement in the report: "Tonga's reservations relating to article 5 (c) so far as it relates to elections and the reservations made to articles 2, 3 and 5 (e) (v) so far as they relate to education and training have been withdrawn". Members of the Committee welcomed that information.

276. The statement in the report that a Committee which is considering law reform generally in Tonga would be invited to give consideration to a proposal to amend the Criminal Offences Act by inserting a provision "naming racial prejudice as a criminal offence" was noted; and members of the Committee stated that they would welcome information on that subject.

277. It was noted that information on the implementation of article 7 of the Convention was not supplied in the report; and it was suggested that general recommendation V of the Committee be brought once again to the notice of the reporting State.

Poland

278. The fifth periodic report of Poland was considered together with the introductory statement made by the representative of the reporting State.

279. The question whether the legal system of Poland contained provisions which gave effect to article 4, subparagraph (b), of the Convention - which had been discussed at the Committee's tenth and fourteenth sessions, in connexion with the examination of the third and fourth periodic reports of Poland respectively (A/9618, para. 246 and A/31/18 and Corr.1, para. 181) - was discussed again at the eighteenth session.

A member of the Committee was of the view that existing Polish law prohibited and punished the participation of individuals in racist organizations but did not prohibit and declare illegal such organizations. On the other hand, several members were of the view that, according to the information given in the report under consideration, the establishment of organizations which promoted and incited racial discrimination was regarded as prejudicial to security, peace or public order, within the meaning of Polish law, and that therefore Polish legislation was entirely in accordance with the requirements of article 4, subparagraph (b), of the Convention. Some members suggested that any uncertainty in that regard would be readily resolved if the Government of Poland furnished the Committee - as it had been requested to do in the past - with all the relevant legislation, including the Polish law on societies (the Decree of the President dated 27 October 1932, Dz.U. No. 94).

280. The information provided on the implementation of article 5 was, in the words of a member of the Committee, "as complete as any the Committee had received".

281. Some members regretted that the information received from Poland thus far did not contain any information on the right to legal protection and remedies, guaranteed under article 6 of the Convention. However, some other members of the Committee referred to article 86 of the Polish Constitution, of which paragraph 2 provided that "citizens shall have the right to approach all organs of the State with appeals, complaints and grievances", and observed that "all organs of the State" included the courts; they suggested, however, that the Government of Poland might provide in its next periodic report the text of the laws it had adopted in pursuance of those constitutional provisions.

282. In his reply, the representative of Poland said that "any individual could join in legal proceedings instituted by the public prosecutor and so become a party to the proceedings, and if no proceedings were pending, he could submit a complaint on his own behalf. The same remedy could be used when the offender was the State or some public institution. Criminal proceedings could only be instituted against the official concerned, whereas civil proceedings could be directed against both the official and the institution which he represented."

283. Several members of the Committee welcomed the detailed and specific information given in the report regarding the implementation of article 7 of the Convention. In that connexion, some members expressed the hope that educational programmes would draw attention not only to the current difficulties experienced in Africa and Asia but also to art, culture and history of those continents, with a view to inspiring respect for other cultures and peoples. It was noted also that, while the list of relevant books published in Poland was impressive and contained many foreign works, including books by African authors, most of the books were political rather than artistic or literary.

284. The information given in the report concerning relations with racist régimes, in response to general recommendation III and decision 2 (XI) of the Committee, was welcomed.

285. The demographic information, given in accordance with general recommendation IV of the Committee, gave rise to some questions. The report referred at one time to "inhabitants from other national groups altogether accounting for 1.3 per cent of the whole population" and, at another time, to "non-Polish citizens"; and it was not clear whether some members of the "other national groups" in question were not

regarded as Polish citizens. Moreover, the detailed information on the social-cultural organizations of the national groups under discussion included information on a German Social and Cultural Association, whereas the list of national groups in Poland did not include Germans. Furthermore, that list included Jews; and some members asked whether Jews were regarded as a national, ethnic or cultural minority or as a religious community. Other questions were asked about the information given in the report with regard to the conditions of some of those groups. For example, referring to the German Social and Cultural Association, the report stated that "its activities are conducted on a limited scale due to the old age of most of its members, lack of newer members and no greater interest from the German community", and it was wondered why that community was not renewing itself. And, with reference to the statement in the report that "Ukrainian youth gets education in two primary and two secondary schools in its native language", it was asked whether the youth in question received their education in separate schools or in integrated schools with special classes.

286. In his reply, the representative of Poland referred to the question of the Jews and said that in his country "citizens were not asked what their religion was and no differences were made by reason of religion". With regard to the reason why Germans were not listed among the national groups with respect to which statistical information was given in the report, he drew attention to the fact that the status of Germans in Poland had been settled by international agreements, especially by the 1970 Treaty between Poland and the Federal Republic of Germany; and he stated that, at the moment, "Poland had on its territory only a few hundred people who considered themselves German nationals". With regard to the question of education in indigenous languages, he said that no uniform practice was followed, and that two arrangements were used: special schools using the indigenous language in places where it was spoken by a sufficient number of persons, and special classes in ordinary schools. "The choice depended largely on the wishes of the ethnic community concerned."

287. Favourable comments were made on the measures taken by the Polish Government with respect to the national groups under consideration - including financial support of the cultural activities of the national groups in the country, education in minority languages, and encouragement of contact and cultural links between the minorities and their countries of origin. It was asked whether there were any specific legal provisions guaranteeing tuition in minority languages and use of those languages in Polish courts and administration.

288. It was noted that neither the Constitution nor any of the periodic reports of Poland referred to the situation of aliens in that country, and information on that subject was requested.

Egypt

289. The fifth periodic report of Egypt and the supplement thereto were considered jointly, together with the introductory statement made by the representative of Egypt, in which he commented on some of the observations made by members of the Committee during the consideration of Egypt's fourth periodic report (A/32/18, paras. 271-278). The Committee took note of some corrections made by the representative of Egypt to the translation of the reports under consideration from the original Arabic into the working languages of the Committee.

290. Referring to Act No. 40 of 1977, Committee members asked what penal measures were available for application - in accordance with the requirements of article 4, subparagraph (b), of the Convention - in the event of a social or cultural organization having a racist basis being established, in view of the fact that penal legislation could not be applied by analogy or extension and the banning of such an organization would accordingly not be covered by Act No. 40, which related solely to political parties. The representative of Egypt, in his reply, referred to Act No. 37 of 1972 which "dealt with the possibility that cultural or social organizations based on racial ideas or beliefs might be founded"; he also stated that "the future penal code would give extensive coverage to that question".

291. Noting that the Egyptian Constitution, which "covered very satisfactorily almost all the provisions of article 5 of the Convention", failed to mention the right to form and join trade unions, provided for in article 5, subparagraph (e) (ii) of the Convention, a member of the Committee inquired about the laws in Egypt which governed the exercise of that right. The representative of Egypt replied that article 56 of the Constitution permitted the establishment of trade unions and federations on a democratic basis and provided that those trade unions and federations should have legal personality.

292. Referring to the procurator, whose task was to monitor the conduct of public officials and to penalize illegal acts by public officials, a member of the Committee asked whether the duties of the procurator included the task of examining the enforcement of provisions relating to racial discrimination, and requested that the legislation or administrative rules governing the activities of the procurator be provided. And, referring to Act No. 37 of 1972, which imposed a criminal penalty on any public official who imposed upon a convicted person a penalty more severe than that laid down by the law, or a penalty not provided for by the law, a member of the Committee asked whether the term "public official" included judges.

293. The detailed information, contained in the supplementary report, concerning the implementation of article 7 of the Convention was welcomed by the Committee.

294. The Committee welcomed the statement that, in the new Criminal Code under preparation, the competent authorities of the reporting State "will ensure the proscription of all acts of racial discrimination" in accordance with the Convention. The statement that those authorities had "already requested that they be provided with the legislation enacted by other States signatories to the Convention in this regard, in order to facilitate the necessary comparative studies and take it into account in the elaboration of the Egyptian draft Code" was described by a member of the Committee as indicative of an "attitude of frank and open international co-operation".

295. A member of the Committee asked for more information concerning Egypt's stand vis-à-vis the racist régime of southern Africa and concerning the contributions which Egypt had made to the struggle to eliminate racism.

296. The reference to the situation in the occupied territories, made in the supplementary report of Egypt, and the information on that situation furnished by the representative of Egypt in his introductory statement were noted with concern.

Brazil

297. The fourth and fifth reports of Brazil, submitted in one document in accordance with previous requests made by the Committee (A/31/18 and Corr.1, para. 23 and A/32/18, para. 60 (n)), were considered together with the introductory statement made by the representative of the reporting State.

298. The Committee noted with regret that the document under consideration contained scant information; that some questions raised at the third, fourth, seventh and ninth sessions of the Committee, in connexion with its examination of the initial, supplementary, second and third periodic reports of Brazil, had remained unanswered; and that the legal texts requested at those sessions had not been provided. (For consideration of the initial and supplementary reports, see A/9018, para. 121; for consideration of the second periodic report, *ibid.*, paras. 122-127; and, for consideration of the third periodic report, see A/9618, paras. 162-164.)

299. Members of the Committee reiterated inquiries and requests made at earlier sessions, in particular the requests for information on the implementation of subparagraph (b) of article 4, articles 5 and 7 of the Convention and the information envisaged in general recommendation III of the Committee. The text of Law No. 898, requested earlier, as well as the text of article 39, VI, of the Law of National Security, cited in the report under consideration, and of articles 153 and 156 of the Constitution, to which the representative of Brazil referred in his introductory statement, were also requested. In his reply, the representative of Brazil stated - with reference to the subject of general recommendation III of the Committee - that Brazil "had supported all measures taken by the United Nations in relation to South Africa and was complying with Security Council resolution 418 (1977)".

300. Observing that "there existed in Brazil a foundation to protect pure-bred Indians", a member of the Committee asked whether, "in the colossal undertaking to integrate the Amazonas region, steps had been taken to prevent the arrival of modern civilization from disrupting the life of the Indians and exposing them to epidemics and diseases". In reply, the representative of Brazil stated that "there was a government institution whose task was to protect the indigenous minorities in the contacts which the latter would inevitably have to establish with modern civilization owing to the various activities that had been undertaken for the development of the Amazon region". He asserted that "the policy of the Brazilian Government in that respect was to try to gather the indigenous groups into certain areas of the country in which they could live in conformity with their traditions and their culture or, if they so desired, strengthen their contacts with civilization".

301. Noting that part of the population of Brazil of African origin had to a large extent preserved its cultural identity intact, a member of the Committee requested information concerning the situation of that sector of the population.

302. The Committee decided to request the Government of Brazil to submit, by 1 March 1979, a supplementary report which would include the information and supply the legal texts requested during the examination of previous reports as well as those requested during the current discussion.

Czechoslovakia

303. The fifth periodic report of Czechoslovakia was considered together with the introductory statement made by the representative of that country. Members of the Committee noted with appreciation that the report contained explanations and detailed information concerning all the inquiries made during the Committee's consideration of the fourth periodic report of Czechoslovakia, and supplied the texts requested then (A/32/18, paras. 112-119). That responsiveness was viewed as demonstrating the determination of the reporting State to pursue and enlarge its dialogue with the Committee.

304. It was noted that the information on the application of article 6 of the Convention did not show that all the requirements of that article had been met; and further information on the question of access to tribunals in connexion with acts of racial discrimination was requested. It was observed that the information at hand appeared to indicate that, under Czechoslovak law, the decision to prosecute was the responsibility of state authorities, which could choose not to pursue a case regardless of the wishes of the complainant. Inquiries were made about the procedure applied when the alleged perpetrator of an act of racial discrimination was a public servant, and about the penalties imposed on public servants in such circumstances.

305. The information on the implementation of article 7 of the Convention, supplementing the detailed information given in previous reports, was noted. Observing that that information suggested that Czechoslovakia "ascribed racial discrimination exclusively to the effects of colonialism and the conflicts under the capitalist system", a member of the Committee expressed the view that "fear, a sense of personal insecurity and many other factors could give rise to racial ill-feeling" and that therefore attempts should be made to remove all such causes.

306. The Committee took note of the information contained in the report, to the effect that "the Czechoslovak Socialist Republic is a State of two equal, fraternal nations"; that "there are also certain national minorities living in Czechoslovakia"; and that "in addition to general guarantees of equality of people irrespective of their race, nationality, religion, etc., the legislation specifically provides for an equal status of the members of nations and nationalities which constitute the population". The text of the relevant legislation - Constitutional Act No. 144 of 27 October 1968, annexed to the report - was noted. It was observed that that legislation was in accord with the provisions of paragraph 4 of article 1, paragraph 2 of article 2 and article 5 of the Convention and that it showed a realization that "it was not enough to provide merely for formal equality but that it was also necessary to adopt specific measures to afford ethnic groups every possible opportunity for their development".

307. It was noted that, in Constitutional Act No. 144, the expression "ethnic group" was used, whereas in the text of the report the expressions used were "nationality" and "national minority"; and an explanation was sought for that inconsistency in terminology. It was noted also that, in the preamble of Constitutional Act No. 144, it was stated that "people of Hungarian, German, Polish and Ukrainian/Ruthenian national origin constitute together with the Czech and Slovak nations" the people of Czechoslovakia, and that the table given in the report, showing the composition of the population "according to nationalities",

listed the same categories of population as well as a category described as "Other and not declared" - numbering 50,000 and constituting 0.3 per cent of the total population. It was asked whether this category included Gipsies, about which the report gave detailed information, and Jews. In that connexion, it was noted that the first paragraph of article 4 of the Act in question provides that "every citizen shall choose freely, according to his own conviction, his own national origin"; and it was asked: On what occasions are individuals asked to declare their national origin?

308. Referring to article 3 of Constitutional Act No. 144 - which provides that "citizens of Hungarian, German, Polish and Ukrainian/Ruthenian national origin shall be guaranteed to the extent appropriate to the interests of their ethnic development and under conditions specified by law" certain rights relating to language, education, culture, association and expression; and stipulates that "the extent and the conditions" of those rights "shall be determined by law" - some members of the Committee asked who was responsible for determining the extent to which the grant of a right was appropriate, how such a determination was made, and what laws had been enacted to determine the extent and conditions of the rights specified in that article. Inquiries were also made about the implementation of the provisions of that article; information on ethnic schools and newspapers in Czechoslovakia was requested; and it was asked whether education in the language of an ethnic group was provided in separate schools or in ordinary schools. Information concerning co-operation between ethnic organizations in Czechoslovakia and organizations in the mother nations of the various groups was requested.

309. Inquiries were made concerning the application of articles 2 and 5 of Constitutional Act No. 144, particularly with respect to laws enacted in accordance with the first paragraph of article 5 of that Act and organs established to oversee the realization of the rights of the ethnic groups, in accordance with the second paragraph of that article.

310. In considering the information on the measures taken with respect to the Gipsies, members of the Committee asked whether Constitutional Act No. 144 applied to the Gipsies also or only to the groups expressly mentioned in the preamble and articles 1 and 3 of the Act, which do not include the Gipsies. Information on the size of the Gipsy population was requested, as were the texts of Act No. 74/1958 and Government Decree No. 279/1970 and No. 231/1972. Additional information on the functions of the Commissions and citizens' committees set up to deal with the Gipsy problem was also requested.

311. A member of the Committee inquired what fraction of the whole Gipsy population had been satisfactorily settled; whether the Gipsies were segregated in specially designated areas; whether they, too, could receive instruction in their mother tongue; and how successful they were in obtaining employment.

312. It was asked whether the policy of the reporting State aimed at the integration of the Gipsies into the population or whether it intended to help preserve Gipsy customs and traditions. A member of the Committee agreed with the statement in the report that "the problem is to solve the contradiction between the historical backwardness of Gipsies on the one hand, and the level achieved by the rest of society and the needs of its social development on the other hand"; another member, however, observed that "a nomadic lifestyle was not in itself a sign of backwardness" and that "the picturesque lifestyle of Gipsies could even be regarded as enriching a country's cultural heritage".

313. The Committee took note of the information on foreign workers given in the report. Members of the Committee asked about the rights of the dependants of foreign workers, and in particular the right of their children to be educated in their own language; measures concerning the cultural life of foreign workers; and the rights of foreign workers employed in the construction industry - which traditionally had seasonal periods of unemployment - to unemployment benefits during such periods.

314. The representative of Czechoslovakia assured the Committee that complete answers to the questions raised by its members would be given in the sixth periodic report of his Government.

Kuwait

315. The Committee took note of the statements, made in the fifth periodic report of Kuwait, that some of the provisions of the Constitution had been suspended in August 1976; that none of the suspended provisions had any bearing on, or in any way affected, the constitutional safeguards against racial discrimination, including articles 2, 7, 8 and 29 of the Constitution; and that all those safeguards "are still in force and binding". In reply to a request for fuller information on that subject, the representative of Kuwait reaffirmed that none of the suspended provisions had anything to do with the questions dealt with by the Convention.

316. Referring to article 1, paragraph 1, of the Convention and article 29 of the Constitution of Kuwait, a member of the Committee asked whether the expressions "race" and "origin" used in the Constitution were considered coextensive with the words "race, colour, descent, or national or ethnic origin", used in the Convention.

317. In connexion with the provisions of article 1, paragraph 2, of the Convention, some members of the Committee, noting that aliens constituted 52.5 per cent of the population of Kuwait, commended the policy followed by the Government in providing free educational, medical and other services to all residents of the country.

318. In connexion with the provisions of article 1, paragraph 3, of the Convention, a member of the Committee inquired about the criteria applied in granting citizenship. The representative of Kuwait, in his reply, referred to a recent amendment to the Naturalization Act allowing students to acquire Kuwaiti nationality immediately.

319. Concerning the obligations of States parties under article 2, paragraph 1, of the Convention, some members of the Committee stated that the adoption of explicit measures prohibiting and prescribing penalties for, acts of racial discrimination was mandatory under the Convention. The representative of Kuwait referred to the egalitarian principles of the Islamic Shari'a - which, in accordance with article 2 of the Constitution, was "a main source of legislation" - and asserted that, since the Shari'a prohibited discrimination based on race or colour, the adoption of further provisions to that effect was unnecessary.

320. The question of the degree to which existing legislation in the reporting State satisfied the mandatory requirements of article 4, subparagraphs (a) and (b), of the Convention - which had been discussed at previous sessions of the Committee (A/9618, para. 151 and A/31/18 and Corr.1, para. 94) - was discussed again at the eighteenth session. A member of the Committee noted that, if an organization run on racial lines was established, its dissolution could be ordered under article 29 of the Constitution; he asked, however, under what legal norms the members of such an organization would be punished. Another member observed that, although it appeared that the provisions of article 4 of the Convention were "covered, at least indirectly, by Kuwaiti law", the reporting State "should enact specific legal provisions in order to acquit itself of its obligations" under that article.

321. Noting that the rights enumerated in article 5, subparagraph (e) (iv) and (v), of the Convention were enjoyed by aliens and nationals alike, a member of the Committee asked for further information on the enjoyment by aliens of the rights mentioned in subparagraphs (i), (ii) and (vi).

322. Questions were raised about the implementation of article 6 of the Convention, as the information given by the Government of Kuwait in its successive reports was not considered sufficient to explain how the law guaranteed the right of everyone within its jurisdiction to institute proceedings and seek remedies - including just and adequate reparation or satisfaction for damage - if he felt that a discriminatory act had been committed against him. In that connexion, the powers of the Constitutional Court were discussed. A member of the Committee concluded from the information supplied by the reporting State that that Court, which could meet at the request of the National Assembly, the Council of Ministers or a court, could not meet at the request of an individual, in order to determine the constitutionality of a law; and that, therefore, the Constitutional Court could not be considered as a means of recourse for the purposes of article 6 of the Convention. Another member was of the opinion that an individual also could ask the Constitutional Court to declare a law unconstitutional; however, he asked for confirmation of that opinion, as well as for clarification of whether the Court could - in addition to determining the constitutionality of a law - exercise any powers with regard to particular cases of racial discrimination.

323. Information requested in past sessions about the implementation of article 7 of the Convention (A/31/18 and Corr.1, para. 97) was requested again at the eighteenth session.

324. Bearing in mind the information received and considered by the Committee at its previous sessions (A/9018, para. 97; A/9618, para. 152; and A/31/18 and Corr.1, para. 93) and reaffirmed in the report under consideration, with regard to the absence of any relations with racist régimes, a member of the Committee asked if Kuwait contributed to United Nations activities against racism and apartheid and, especially, whether it made contributions to the various funds

set up to support those activities. In his reply, the representative of Kuwait gave information on the role of Kuwait in that regard as a member of the Security Council and on the financial contributions made by Kuwait not only to the funds connected with the struggle against racism and apartheid established within the framework of the United Nations but also to those established by the Organization of African Unity.

325. The Committee took note of the statistical information given in the report in response to general recommendation IV of the Committee, including information on the number of Kuwaiti nationals, and the number of nationals of other countries residing in Kuwait, in 1965, 1970 and 1975.

Ghana

326. The fourth and fifth periodic reports of Ghana, submitted in one document as requested by the Committee (A/32/18, para. 60 (g)), were considered together with the introductory statement made by the representative of the reporting State. The Committee noted with appreciation that the report contained comments on the observations and inquiries made by its members during the consideration of the second and third periodic reports at the ninth and tenth sessions respectively (A/9618, paras. 86-89 and 180-183).

327. The question of the extent to which the legislation of Ghana satisfied the requirements of article 4, subparagraphs (a) and (b), of the Convention - which had been discussed at earlier sessions (ibid., paras. 87 and 181) - was discussed again at the eighteenth session. It was noted that the report conceded that the Avoidance of Discrimination Act of 1957 (No. 38) did not deal specifically with racial discrimination and that there was no legislation in Ghana dealing with dissemination of racist ideas or with incitement to racial discrimination. Nevertheless, the report asserted that "the law as it stands at present can cope with any racial problem" - through application of sections 182 A and 183 of the Criminal Code and "depending on what interpretation is given to the expression 'public good'". It argued that "what is 'public interest' depends largely on the policy of the Government", and that "it can be safely surmised that the Government will prohibit the dissemination of racial ideas". Members of the Committee observed that the concept of "public interest" was too vague to be useful in a juridical context and that the legal situation was not enough to ensure compliance with the requirements of the Convention for explicit prohibition of racial discrimination; and they urged the Government of Ghana to remedy the situation and to include in its contemplated new Constitution more precise provisions relating specifically to racial discrimination. The Committee was of the view that the provisions of the Criminal Code mentioned in the reports of Ghana did not fully meet the requirements of article 4 of the Convention, compliance with which is mandatory.

328. It was noted that past requests for more information on the application of article 6 of the Convention (A/9618, paras. 87 and 182) had not been satisfied in the document under consideration, and the hope was again expressed that the Government of Ghana would supply the relevant information in its next report.

329. While welcoming again the information given in the report about the National Committee Against Apartheid, one of whose aims was to give effect to the provisions of article 7 of the Convention, members of the Committee expressed the hope that more information on the programmes and activities of that body would be supplied.

330. The activities through which solidarity with the liberation movements was manifested were commended.

331. The representative of Ghana assured the Committee that the comments and inquiries made by its members would be conveyed to his Government so that it could take them into account when preparing its next periodic report.

United Kingdom of Great Britain and Northern Ireland

332. The fifth periodic report of the United Kingdom and the voluminous documentation appended to it were considered by the Committee together with the introductory statement of the representative of the reporting State.

333. Much of the discussion revolved around the new Race Relations Act, which came into force on 13 June 1977. While the definition of racial discrimination under that Act was considered to be in conformity with the Convention, the exceptions provided for in the Act caused concern for several members of the Committee. It was noted that some of those exceptions were permitted under article 1, paragraph 4, of the Convention, and that some others were based on objective criteria other than "race, colour, descent, or national or ethnic origin"; but there were some exceptions which were considered by members of the Committee to be incompatible with the provisions of the Convention. The representative of the United Kingdom, in his reply, explained the rationale for most of the exceptions in question. He referred to some of them as having been prompted by "common sense" and said that some had been prompted by the desire to protect privacy, while others referred to distinctions based on citizenship and not race. He assured the Committee that if it was found that some of the exceptions - such as those which related to clubs having less than 25 members - served to foment racial discrimination, the law would be changed.

334. Some members of the Committee, observing that it was unusual for national legislation not to apply to a State's entire territory, inquired why the Act did not apply to Northern Ireland. The representative of the United Kingdom recalled that the various territories making up the United Kingdom often had separate legislation of their own. He added that, owing to the United Kingdom's immigration procedures, the problem of racial discrimination did not exist in Northern Ireland; and that the legislation applied there was aimed at solving problems of a political, cultural and religious nature, which were the problems troubling Northern Ireland.

335. The powers and composition of the Commission for Racial Equality were discussed. The statement in the report that that Commission was an independent body was questioned by a member of the Committee, who recalled that members of the Commission were appointed by the Secretary of State, that therefore there was a clear link between the Commission and the Government, and that the Commission could not address itself to Parliament or submit draft legislation independently of the Government. The representative of the United Kingdom stated, in reply, that the Commission was totally independent of the authorities in carrying out its activities and that that independence was guaranteed by legislative provisions and constitutional safeguards as well as by the traditions of British society. He gave the Committee information on the present composition of the Commission. Members of the Committee requested that the annual reports of the Commission be provided as appendices to future reports.

336. A member of the Committee asked about the composition of the Advisory Council on Race Relations, and in particular how the 14 members of the ethnic minorities were elected or appointed. The representative of the United Kingdom stated that those members were appointed after consultations with representatives and leaders of ethnic groups.

337. It was observed that, inasmuch as the Race Relations Act of 1976 had been in force for only a short time, the Committee would be in a better position to judge the effectiveness of the Act when information on its implementation became available.

338. Some members asked for information on the proposed changes in immigration law and hoped that the next periodic report of the United Kingdom would contain details of the Government's plans in that regard. The representative of the United Kingdom stated that his Government had announced that it would not take action on the report of the Committee on Race Relations of the House of Commons and did not intend to change its current immigration policy.

339. The question of compliance by the reporting State with the mandatory requirements of article 4 of the Convention - which had been discussed at previous sessions (A/9018, para. 292; A/10018, para. 144; and A/32/18, para. 304) - was discussed again at the eighteenth session in the light of the new legislative situation brought about by the enactment of the new Race Relations Act. Members of the Committee welcomed the fact - intimated in the fourth periodic report 18/ and in paragraph 126 of the White Paper appended thereto - that under the new legislation it was no longer necessary to prove a subjective intention to stir up racial hatred. However, it was regretted that - notwithstanding the statement in paragraph 127 of the White Paper indicating that the Government had not closed the door to possible reconsideration of its position with respect to the question of prohibiting the dissemination of ideas based on racial superiority, as required under article 4, subparagraph (a), of the Convention - the new legislation did not reflect any change in the position of the United Kingdom Government in that regard. It was also noted with regret that section 70 of the Race Relations Act of 1976 on "incitement to racial hatred", stipulated, first, that in order for a statement which is likely to stir up hatred against any racial group to be an offence, it should also be "threatening, abusive or insulting" and, secondly that, in any proceedings for the offence of publication or distribution of written material under that section, "it shall be a defence for the accused to prove that he was not aware of the content of the written matter in question and neither suspected nor had reason to suspect it of being threatening, abusive or insulting".

340. In his reply, the representative of the United Kingdom drew attention to the "reservation" formulated by his Government when signing the Convention, saying that it was "a reservation which had been accepted and which should therefore be taken into account when judging the attitude of the United Kingdom in relation to that article". In that connexion, some members of the Committee pointed out that the declaration regarding article 4 of the Convention, which was made by the United Kingdom at the time of signature and confirmed at the time of ratification, was a "statement of interpretation" and not a "reservation" under article 20 of the Convention, and did not have the legal effect ascribed to it by the United Kingdom representative.

18/ CERD/C/R.90/Add.30.

341. The representative of the United Kingdom proceeded to note that the problem of striking a fair balance between freedom of expression and the activities of certain groups and organizations had always been a subject of discussion in the United Kingdom. He informed the Committee that his Government "intended to keep that question under study with a view to adopting new provisions in the future". With regard to the exceptions made in the case of those who unwittingly published or distributed written matter likely to stir up racial hatred, he said that, because of the enormous quantity of written matter disseminated in that country it was impossible to insist that every publisher and every distributor must read carefully everything he published; and therefore the law allowed any person to show that in handling such material he had not been aware of its content.

342. Several members of the Committee referred to neo-Nazi organizations and movements in the United Kingdom and said that, in accordance with the mandatory obligations of States parties under article 4, subparagraph (b), of the Convention, those organizations should be banned. The representative of the United Kingdom said, in reply, that despite the wide publicity which certain groups having racist tendencies had been receiving recently, it was clear that those movements were not gaining ground: "their views had not found a response in the population and the reaction of British society to them had been one of unequivocal opposition".

343. With regard to the provisions of article 6 of the Convention, it was noted that, under the procedure instituted by the Race Relations Act of 1976, individuals could take complaints of racial discrimination direct to the courts or, where appropriate, to industrial tribunals. However, in the case of those educational bodies in respect of which the Education Ministers have powers of direction, complaints have to go first to the Education Ministers. In reply to a question from a member of the Committee as to whether the Education Ministers were required to take action within a specified time period, the representative of the United Kingdom stated that the Ministers were allowed two months in which to reply to a complaint before the complaint could be submitted to the courts.

344. Several members of the Committee referred to the statement made in the report, that "a prosecution for an offence of incitement to racial hatred in England and Wales requires the consent of the Attorney-General" and asked why that limitation was put on the guarantee required by article 6 of the Convention. The representative of the United Kingdom said that the authorization of the Attorney-General was needed in cases of public incitement to racial hatred because such incitement affected a group of persons; he denied that that procedure was in contradiction with free access of individuals to the courts.

345. With regard to the implementation of article 7 of the Convention, it was noted that the information envisaged in general recommendation V of the Committee was not provided in the report. A member of the Committee, however, stressed the importance accorded by the reporting State to conciliation - a practice which was commendable, since "penal measures by themselves could not turn a racist into an opponent of racism".

346. It was noted with regret that the report under consideration did not provide the information envisaged in general recommendation III of the Committee, regarding relations with the racist régimes in southern Africa. The representative of the United Kingdom reaffirmed his Government's position in that regard: that "article 9 of the Convention did not impose an obligation to report on relations

with the régimes of the countries of southern Africa, or of any other country, and that such information was not relevant to the implementation of the Convention". The Chairman said that the Committee would continue to invite States parties to provide such information, and urged the Government of the United Kingdom to reconsider its position and provide information on that subject in its next report.

Cyprus

347. The fifth periodic report of Cyprus was considered together with the introductory statement made by the representative of Cyprus.

348. The report consisted of five sections, the first four of which successively dealt with the implementation of articles 5, 6 and 7 of the Convention and provided the information envisaged in general recommendation III of the Committee; the fifth section, which dealt with the current situation in Cyprus which prevented the Government of that State party from exercising its responsibilities under the Convention on a part of its national territory not under its effective control, was supplemented by information given orally by the representative of Cyprus in his introductory statement. In considering that report, the Committee bore in mind, with respect to the first four sections, the discussions of earlier reports from Cyprus at the Committee's third, fourth and seventh sessions (A/9018, paras. 152-156); and, in considering the fifth section of the report and the introductory statement of the representative of Cyprus, the Committee had in mind its discussions, as well as the decisions it had adopted, at its eleventh, twelfth, thirteenth, fourteenth and fifteenth sessions (A/10018, paras. 87-90; A/31/18 and Corr.1, paras. 63-68; and A/32/18, paras. 322 and 323).

349. With regard to the implementation of article 5 of the Convention, it was recalled that, by virtue of the ratification of that international instrument by the Government of Cyprus, its provisions had become part of municipal law. It was observed by some members that the information given in the report showed that the legal system in Cyprus fully met the requirements of article 5 of the Convention; some other members, however, were of the view that information on the implementation of the provisions of subparagraph (e) (v) and (vi), as well as of subparagraph (f), of article 5 was lacking. Some members of the Committee asked whether any civil or penal laws had been enacted with a view to guaranteeing the equal enjoyment of all the rights and liberties provided for in the Constitution of Cyprus, thus ensuring compliance with the principle of equality declared in article 28 of that Constitution and article 5 of the Convention. Some members of the Committee referred to the exception provided in article 28, paragraph 2, of the Constitution, qualifying the words "every person shall enjoy all the rights and liberties provided for in this Constitution without any direct or indirect discrimination against any person on the ground of his community, race, ..." by the words "unless there is express provision to the contrary in this Constitution"; and they asked for an interpretation of that qualification, as well as for information on any exceptions made in pursuance of it in other articles of the Constitution. The representative of Cyprus said that the qualifying phrase in question referred to persons who were not citizens of Cyprus.

350. With regard to the implementation of article 6 of the Convention, some members of the Committee expressed the view that articles 146 and 172 of the Constitution appeared to comply fully with those provisions. The special importance of article 172 was emphasized, inasmuch as it declared the State itself liable for

wrongful acts or omissions causing damage committed in the exercise or purported exercise of the duties of officers or authorities of the State; and it was asked whether the law regulating such liability, provided for in the second paragraph of that article, had been enacted. The representative of Cyprus stated that that law had not yet been enacted. A member of the Committee asked whether any cases related to racial discrimination had been brought before Cypriot tribunals.

351. In considering the information on the implementation of article 7 of the Convention, members of the Committee commended the co-operation of the reporting State with UNESCO towards that end and the important role played by private clubs and associations in that regard. Some members asked whether the revision of school syllabuses referred to in the report had been undertaken.

352. A member of the Committee asked for information on the demographic composition of Cyprus. In connexion with the provisions of paragraph 2 of article 2, subparagraph (e) of article 5 and article 7 of the Convention, he requested additional information on the educational opportunities open to members of ethnic minorities and wished to know in particular whether education was provided in Greek only or in both Greek and Turkish.

353. The Committee took note of the information given in the report in response to general recommendation III of the Committee.

354. In considering the information given in the fifth section of the report and supplemented by the introductory statement of the representative of Cyprus, members of the Committee expressed their concern, and affirmed that the Committee itself should not fail to express its concern at the fact that racial discrimination continued to be practised on a large scale. They noted that those practices were interrelated with the political situation in the country and could not be brought to an end unless a political settlement was reached. They emphasized, however, that the causes and roots of the political situation, the procedures for reaching a political settlement, and the modality of such a settlement, were all outside the purview of the Convention and the competence of the Committee. They all agreed that, in any decision it reached, the Committee should ensure that it remained fully within the scope of its own competence and the purview of the Convention.

355. At the 400th meeting, held on 3 August 1978, a drafting group of four members was set up in order to draft the text of a decision reflecting the consensus of the Committee.

356. The draft prepared by the drafting group was considered by the Committee at its 401st meeting, held on 3 August 1978. A revision of the second paragraph of the preamble was proposed by the Rapporteur in the light of the views expressed by some members of the Committee, and it was accepted by the three other members of the drafting group.

357. A proposal to add a third operative paragraph, similar to paragraph 4 of decision 3 (XVI) of the Committee, was opposed by some other members. It was stated by some opponents of that proposal that such a paragraph would be superfluous, since in any case the Committee always was ready to receive additional information submitted by States parties at their own initiative. It was also stated that paragraph 4 of decision 3 (XVI) of the Committee remained in effect, since no time-limit was attached to it. The Chairman declared that "there was no

need to indicate that the Committee was prepared to receive new information from the Government of Cyprus, since any State party could submit information when it chose".

358. At the 401st meeting, held on 3 August 1978, the Committee adopted the revised draft decision by consensus.

359. The text of the decision adopted by the Committee appears below in chapter X, section B, decision 1 (XVIII).

V. CONSIDERATION OF COPIES OF PETITIONS, COPIES OF REPORTS AND OTHER INFORMATION RELATING TO TRUST AND NON-SELF-GOVERNING TERRITORIES AND TO ALL OTHER TERRITORIES TO WHICH GENERAL ASSEMBLY RESOLUTION 1514 (XV) APPLIES, IN CONFORMITY WITH ARTICLE 15 OF THE CONVENTION

360. The Committee considered this item at its 378th meeting (seventeenth session) on 31 March 1978 and at its 403rd meeting (eighteenth session), on 7 August 1978.

361. The action taken by the Trusteeship Council at its forty-fourth session in 1977 and by the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples at its 1976 session, in conformity with article 15 of the Convention and General Assembly resolution 2106 B (XX) of 21 December 1965, was discussed in the eighth annual report of the Committee on the Elimination of Racial Discrimination submitted to the General Assembly at its thirty-second session (A/32/18, paras. 334-343). The opinions and recommendations of the Committee based on its consideration of copies of petitions, copies of reports and other information submitted to it by the Trusteeship Council and the Special Committee in 1977 were contained in paragraph 343 of its report to the General Assembly.

362. In its resolution 32/13 of 7 November 1977, the General Assembly, *inter alia*, took note with appreciation of the report of the Committee; took note also of the part of the report relating to Trust and Non-Self-Governing Territories and to all other Territories to which General Assembly resolution 1514 (XV) of 14 December 1960 applies; drew the attention of the relevant United Nations bodies to the opinions and recommendations of the Committee relating to those Territories; and stressed the necessity of providing the Committee with sufficient information in order to enable it to discharge fully its responsibilities under article 15 of the International Convention on the Elimination of All Forms of Racial Discrimination.

363. At its seventeenth session (March/April 1978), the Committee was informed by the Secretary-General of the action taken by the Special Committee in 1977 in connexion with article 15 of the Convention. At its 1089th meeting held on 4 August 1977, the Special Committee, having regard to the information requested of it under article 15 of the Convention, decided to authorize its Chairman to transmit, in accordance with established practice, all pertinent information to the Committee on the Elimination of Racial Discrimination. ^{19/} Subsequently, the Chairman of the Special Committee, in a note dated 24 January 1978 addressed to the Chairman of the Committee, informed him that during 1977 the Special Committee had received no petitions falling under the terms of article 15 of the Convention and requested that the foregoing be brought to the attention of the Committee on the Elimination of Racial Discrimination.

^{19/} See A/32/23 (Part I), chap. I, sect. J, paras. 78-81.

364. At its eighteenth session, the Committee was informed by the Secretary-General of the action taken by the Trusteeship Council at its forty-fifth (1978) session in connexion with article 15 of the Convention. The Trusteeship Council, at its 1479th meeting, held on 30 May 1978, considered the item on its agenda entitled "Co-operation with the Committee on the Elimination of Racial Discrimination" together with the item concerning "Decade for Action to Combat Racism and Racial Discrimination". At the same meeting, the Council decided merely to take note of the statements made by two of its members on these items. No further action concerning the opinions and recommendations of the Committee referred to above was taken by the Trusteeship Council.

365. However, as a result of earlier decisions of the Trusteeship Council and the Special Committee, the Secretary-General transmitted to the Committee at its seventeenth and eighteenth sessions the documents listed in annex VII below.

366. At its seventeenth session, the Committee appointed the members of its three working groups to examine the documentation submitted to it under article 15 of the Convention and to report to the Committee on their findings as well as their opinions and recommendations for consideration by the Committee at its eighteenth session. The working groups consist of the following members of the Committee:

(a) African Territories

Mr. Brin Martínez, Mr. Dechezelles, Mr. Devetak, Mr. Shahi, with Mr. Hollist as Convener;

(b) Pacific and Indian Ocean Territories

Mr. Bahnev, Mr. Ghoneim, Mr. Nettel, Mr. Ténékidès, with Mr. Valencia Rodríguez as Convener;

(c) Atlantic Ocean and Caribbean Territories, including Gibraltar

Mr. Goundiam, Mr. Nabavi, Mr. Nasinovsky, Mr. Videla Escalada, with Mr. Partsch as Convener.

The Committee also agreed that Mr. Dayal would continue to serve as Chairman of the Conveners of the three working groups.

367. In accordance with the established practice, the Committee agreed, at its eighteenth session, that the final text of its opinions and recommendations under article 15 of the Convention should be prefaced by the following observations: (a) that the Committee was submitting, in lieu of a "summary of the petitions and reports it has received from United Nations bodies", as required by article 15, paragraph 3, of the Convention, a list of those documents which may be found in annex VII below; and (b) that the "expressions of opinion and recommendations" which the Committee was required to submit to different United Nations bodies relating to the petitions and reports that it had received from them, in accordance with paragraphs 2 (a) and 2 (b) of article 15 of the Convention, were prepared not in separate texts, but in one integrated text, which is submitted to the General Assembly in accordance with article 15, paragraph 3, of the Convention and also to the United Nations bodies concerned.

368. The reports of the three working groups mentioned above were considered by the Committee at its 403rd meeting, on 7 August 1978, and were adopted paragraph by paragraph, with some amendments.

369. The opinions and recommendations of the Committee, based on its consideration of copies of reports and other information submitted to it in 1978 under article 15 of the Convention, as adopted by the Committee at its 403rd meeting, on 7 August 1978, are as follows:

The Committee on the Elimination of Racial Discrimination,

Having examined the information contained in the documents relating to Trust and Non-Self-Governing Territories and to all other Territories to which General Assembly resolution 1514 (XV) applies, transmitted to it by the Trusteeship Council and the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples in accordance with the provisions of paragraph 2 of article 15 of the International Convention on the Elimination of All Forms of Racial Discrimination,

Wishes to draw the attention of the General Assembly, the Trusteeship Council and the Special Committee to the following opinions and recommendations in conformity with its obligations under article 15 of the Convention:

General

The Committee wishes to draw attention once again to the fact that it has frequently requested the Special Committee to obtain and to convey to it fuller information relating to racial discrimination in its reports on Trust and Non-Self-Governing Territories. It had, furthermore, requested a special chapter in the working papers on the subject. The view of the Special Committee, however, was that, in the light of General Assembly resolution 3481 (XXX), "the total elimination of racial discrimination, apartheid and violations of the basic human rights of the peoples of colonial Territories will be achieved with the greatest speed by the faithful and complete implementation of the Declaration". The material received by the Committee therefore continues to contain little information directly relevant to its functions under article 15 of the Convention. In view of its specific responsibilities in this regard, the Committee would reiterate its request to the Special Committee to obtain the desired information and to transmit it to the Committee.

A. African Territories 20/

1. Southern Rhodesia

(1) The Committee had before it the working papers prepared by the Secretariat for the Special Committee (A/AC.109/L.1214 and Corr.1 and Add.1 and 2 and A/AC.109/L.1233).

(2) The Committee viewed with great concern the continuing wave of violence and practices of racial discrimination in the territory causing much hardship and misery to the population as a result of the failure to arrive at an over-all political settlement in co-operation with all African political parties and national liberation movements and in implementation of the principle of self-determination.

2. Namibia

(1) The Committee has examined the working papers prepared by the Secretariat for the Special Committee (A/AC.109/L.1209 and Add.1, A/AC.109/L.1222 and Corr.1 and A/AC.109/L.1238).

(2) The Committee expresses serious concern with the continuing practice of apartheid and racial discrimination in the Territory. Pending the attainment of independence by Namibia, the Committee urges that all practices of racial discrimination and repressive actions by the Government of South Africa against the Namibian people be prevented by all possible means. The Committee looks forward to the advent in the near future of Namibia to the community of nations as a sovereign independent State.

(3) The Committee takes particular note of the recent decisions of the Security Council contained in its resolutions 431 (1978) and 432 (1978) read with 385 (1976) which open up hopeful prospects for the realization of the sovereign independence of the Territory in 1978. The Committee expresses the hope that the Government of South Africa will pay full heed to the decisions of the Security Council and cease its defiance of world public opinion by complying scrupulously with those decisions. The Committee hopes that all the necessary conditions, in particular, the reduction of the armed forces of the Government of South Africa to the figure decided upon by the Security Council and the location of the residuary forces in specified areas will be created to enable free and fair elections, without

20/ Adopted at the 403rd meeting, on 7 August 1978. As regards these Territories, the following documents were submitted to the Committee:

A/AC.109/L.1209 and Add.1 (Namibia);
A/AC.109/L.1214 and Corr.1 and Add.1 and 2 (Southern Rhodesia);
A/AC.109/L.1222 and Corr.1 (Activities of foreign economic and other interests in Namibia);
A/AC.109/L.1233 (Activities of foreign economic and other interests in Southern Rhodesia);
A/AC.109/L.1238 (Military activities in Namibia).

any interference or intimidation, to be held in the current year under the auspices of the United Nations, to ascertain the will of all sections of the people of Namibia in the exercise of their right to self-determination. The Committee is convinced that the independence of Namibia will not be complete nor will its viability be assured, unless Walvis Bay is fully reintegrated with it. The Committee further hopes that all necessary measures will be taken by the competent Powers and authorities to frustrate any manoeuvres aimed at preventing the early realization by the people of Namibia of their aspiration to full independence.

B. Pacific and Indian Ocean Territories 21/

The Committee once again expressed its regret that none of the reports contained adequate information on the civil, political, social, economic and cultural rights of the inhabitants of the Territories which would enable it to consider the application of the principles of the Convention to the specific situations prevailing in the Territories, and expresses the wish that such information be provided in the future.

1. East Timor

The Committee considered document A/32/23/Add.3 and expressed the wish to receive detailed information about the economic and social situation in the territory, with particular reference to the question of respect for human rights and fundamental freedoms without racial discrimination.

2. Tokelau

The Committee noted with regret that the points raised in its last report concerning Tokelau Islands were not touched upon in document A/AC.109/L.1212 and reiterated its request to be informed about the contents

21/ Adopted at the 403rd meeting, on 7 August 1978. As regards these Territories, the following documents were submitted to the Committee:

A/32/23/Add.3, chap. X (East Timor);
A/AC.109/L.1207 (Pitcairn);
A/AC.109/L.1212 (Tokelau);
A/AC.109/L.1213 (Tuvalu);
A/AC.109/L.1215 (Solomon Islands);
A/AC.109/L.1219 (American Samoa);
A/AC.109/L.1230 (Guam);
A/AC.109/L.1231 (Gilbert Islands);
A/AC.109/L.1232 (New Hebrides);
A/AC.109/L.1236 (Military activities and arrangements in Guam);
A/AC.109/L.1251 (Brunei);
A/AC.109/L.1252 (Trust Territory of the Pacific Islands);
A/AC.109/L.1253 (Cocos (Keeling) Islands);
T/L.1208 and Add.1 and 2 (Outline of conditions in the Trust Territory of the Pacific Islands).

of the Tokelau Islands Departure Regulations 1952 which seemed to be connected to the right of freedom of movement. The Committee took note with satisfaction of the positive developments in the field of employment in public services and local administration.

3. Solomon Islands

The Committee considered document A/AC.109/L.1215 and would appreciate further information on the status of Gilbert Islanders in the territory.

4. American Samoa

The Committee considered document A/AC.109/L.1219 and once again reiterated its hope that due regard will be paid to the rights of the indigenous population without any racial discrimination once the people of the Territory are able to exercise their right to self-determination.

5. Guam

The Committee in its report to the thirty-second session once again requested further information as to the consequences of the changes in the demographic composition of the population of Guam and information concerning the standard of living of the population; since document A/AC.109/L.1230 does not contain any information on these points, it once again reiterates these requests. The Committee would also appreciate information on the legal status, in particular concerning the right of Guamanians who are resident in Guam to vote in national elections, and also detailed information about the powers and functions of the ombudsmen appointed in November 1977, with particular reference to the provisions of the Convention on the Elimination of All Forms of Racial Discrimination.

6. Gilbert Islands

In its report to the thirty-second session, the Committee made observations concerning the ratio of civil servants belonging to the indigenous population and other civil servants and asked for information in the field of education. Since document A/AC.109/L.1231 does not contain any remarks on these problems it reiterates its previous observations and request.

7. Trust Territory of the Pacific Islands

The Committee considered documents A/AC.109/L.1252, T/L.1208 and Add.1 and 2 and T/1786. It would appreciate further information on the constitutional developments and progress towards self-determination with special attention to the possible maintenance of the unity of the Territory taking due account of the wishes of the population concerned.

8. Cocos (Keeling) Islands

The Committee considered document A/AC.109/L.1253 and taking note of the information that although Australian legislation does not apply to the Territory unless specifically indicated, currently some 100 Australian Acts

apply to the Cocos (Keeling) Islands. It would appreciate information as to whether the Australian Government considers providing further information on the application of the Convention in the Territory.

C. Atlantic Ocean and Caribbean Territories, including Gibraltar 22/

Some of the questions put to the Government of the United Kingdom regarding different Caribbean Territories, Belize and St. Helena (A/32/18, para. 343, part C) were answered in the addendum to its fifth periodic report (CERD/C/20/Add.26), submitted under article 9 of the Convention.

With respect to some Territories the Committee wishes to make the following observations:

1. British Virgin Islands

The Committee takes note that some progress was achieved in training local personnel for the civil service and for service in tourist establishments. The Committee expresses its satisfaction that the Islands have also managed to find their own financial resources in order to obviate the need for grants in aid from the Administering Power thus providing themselves with the necessary prerequisites for political independence.

2. Bermuda

The material laid before the Committee concerning the serious racial disturbances which occurred in December 1977 does not fully disclose the reasons and background of those events. It is essential for the Committee to receive full information regarding this matter and in particular the

22/ Adopted at the 403rd meeting, on 7 August 1978. As regards these Territories, the following documents were submitted to the Committee:

A/32/23/Add.3, chap. XI (Gibraltar);
A/32/23/Add.7, chap. XXVIII (Falkland Islands (Malvinas));
A/32/23/Add.7, chap. XXIX (Belize);
A/32/23/Add.7, chap. XXX (Antigua, Dominica, St. Kitts-Nevis-Anguilla, St. Lucia and St. Vincent);
A/AC.109/L.1206 (British Virgin Islands);
A/AC.109/L.1208 (Turks and Caicos Islands);
A/AC.109/L.1210 (Bermuda);
A/AC.109/L.1211 (Cayman Islands);
A/AC.109/L.1216 (Montserrat);
A/AC.109/L.1220 (Activities of foreign economic and other interests in Turks and Caicos Islands);
A/AC.109/L.1221 (Activities of foreign economic and other interests in the Cayman Islands);
A/AC.109/L.1226 (St. Helena);
A/AC.109/L.1234 (United States Virgin Islands);
A/AC.109/L.1249 (Gibraltar).

full text of the recent report of the Royal Commission under the Chairmanship of Lord Pitt of Hampstead (see the report of the United Kingdom, CERD/C/20/Add.26, annex II, p. 2).

3. United States Virgin Islands

The Committee expresses the hope that the provisions regarding constitutional guarantees for civil, political, social and cultural rights in the projected constitution (see A/AC.109/L.1234, paras. 32 and 33) will be drafted in the spirit of the International Convention on the Elimination of All Forms of Racial Discrimination and shall exclude any limitations based on racial discrimination, in the enjoyment of those rights.

VI. RESERVATIONS, DECLARATIONS AND STATEMENTS OF INTERPRETATION MADE BY STATES PARTIES TO THE CONVENTION 23/

370. This item was considered during the seventeenth session of the Committee at the 383rd meeting, held on 5 April 1978.

371. It will be recalled that difficulties relating to the legal effects of reservations, declarations and statements of interpretation made by States parties to the Convention at the time of signature, ratification or accession had arisen on several occasions during the preceding years, in the course of the Committee's examination of reports submitted by States parties in accordance with article 9, paragraph 1, of the Convention. Among these were the reports from the United Kingdom of Great Britain and Northern Ireland (A/9018, para. 292 and A/10018, para. 144), Jamaica (A/9618, paras. 83 and 85 and A/31/18 and Corrigendum, paras. 60 and 62), Barbados (A/9618, para. 195 and A/31/18 and Corr.1, para. 49), Tonga (A/31/18 and Corr.1, para. 82) and the Bahamas (A/32/18, para. 310).

372. It was because of those difficulties that the Committee decided, at its thirteenth session, to devote some time to a discussion of a general nature of the question of the legal effects of reservations, declarations and statements of interpretation. A number of pertinent questions were put by members of the Committee to the representative of the Secretary-General, who subsequently read out to the Committee replies prepared in consultation with the United Nations Office of Legal Affairs. The Committee requested that the text of those replies be made available to it in written form. In response to that request, the Secretary-General circulated to the Committee at its fourteenth session a document containing the questions raised by the members of the Committee and the corresponding replies.

373. During the discussion of this item at the seventeenth session, Mr. Hollist, Mr. Nabavi, Mr. Nasinovsky, Mr. Sayegh and Mr. Videla Escalada agreed that the Committee's sole purpose in considering this item was to enable itself to carry out its work under article 9 of the Convention responsibly and effectively.

374. Members of the Committee took special note of, and agreed with, the following clarifications made in the document:

(a) The Committee must take the reservations made by States parties at the time of ratification or accession into account: it has no authority to do otherwise. A decision - even a unanimous decision - by the Committee that a reservation is unacceptable could not have any legal effect;

23/ This item was included in the agenda of the fourteenth session of the Committee in pursuance of a decision adopted at the preceding session; its consideration, however, was deferred at the fourteenth, fifteenth and sixteenth sessions owing to lack of time (see A/31/18 and Corr.1, para. 10, foot-note 6; A/32/18, para. 9, foot-note 1 and para. 10, foot-note 2).

(b) A reservation made at the time of signature has to be confirmed at the time of ratification, otherwise it is considered as not having been maintained; and

(c) Declarations other than reservations have no legal effect at all on the obligations of the declaring State under the Convention - precisely because if this were not the case such declarations would have to be considered as reservations.

375. Not all members of the Committee, however, agreed with the statement that the Committee "should take account of" statements of interpretation - which, as the authors of the document admit, do not constitute reservations and cannot in any event have the effect of modifying the legal status of the Convention.

376. In the course of the discussion of the item at the seventeenth session, Mr. Sayegh drew attention to the fact that few of the reservations made by the States parties at the time of ratification or accession were relevant to the implementation of the anti-discrimination provisions of the Convention (contained in articles 2 to 7) or to the work of the Committee under article 9. Of the reservations made by 30 States parties, 24 related to article 22 of the Convention, in relation to the application of which the Committee has no responsibilities of any kind; only five (made by the Bahamas, Barbados, Fiji, Jamaica and Tonga) referred to the anti-discrimination articles of the Convention, notably articles 5 and 6.

377. The Committee decided to conclude its consideration of the item under discussion, on the understanding that it might be taken up again at a future session.

VII. DECADE FOR ACTION TO COMBAT RACISM AND
RACIAL DISCRIMINATION

378. It will be recalled that, at its ninth session, the Committee decided to keep this item on its agenda throughout the Decade and requested the Secretary-General to keep it informed of the relevant activities undertaken under the Programme for the Decade (A/9618, para. 38).

379. In the year under review, the Committee considered this item during its seventeenth session (at the 373rd to 377th meetings, held from 28 to 30 March, and at a private meeting held on 29 March 1978) and its eighteenth session (at the 402nd and 403rd meetings held on 7 August 1978).

380. At its seventeenth session, the Committee had before it document CERD/C/L.1, containing a note verbale dated 6 March 1978 from the Secretary-General addressed to the Chairman of the Committee, inviting the Committee - in accordance with General Assembly resolution 32/129 of 16 December 1977 - to participate as an observer in the World Conference to Combat Racism and Racial Discrimination and asking that the names of the members of the Committee who will represent it at the Conference be communicated to the Secretary-General of the Conference as soon as possible. The note verbale also informed the Committee of General Assembly resolution 32/10 and provided it with the text of General Assembly resolution 32/129 and the agenda of the World Conference.

381. At the eighteenth session, the Secretary-General made available to the Committee copies of the reports submitted by him to the Economic and Social Council under paragraphs 18 (e) and 18 (f) of the Programme for the Decade (E/1978/24 and Add.1 and Add.2 and E/1978/25 and Add.1), the report of the Secretary-General to the Economic and Social Council on the activities undertaken by the Secretariat in preparation for the World Conference (E/1978/26), and the texts of Economic and Social Council resolutions 1978/3 and 1978/7.

382. At its seventeenth and eighteenth sessions, the Committee confined its consideration of the present item to one aspect thereof, namely, contributions of the Committee to the World Conference.

A. Representation of the Committee at the World Conference

383. At its 376th meeting, held on 30 March 1978, the Committee approved a proposal made by Mr. Ghoneim, and unanimously designated its Chairman and its Rapporteur to represent it at the World Conference.

B. Study on the work of the Committee and progress towards the achievement of the objectives of the Convention

384. It will be recalled that the Committee had decided, at its sixteenth session, that the draft of a study on the work of the Committee and on progress towards the achievement of the objectives of the Convention should be prepared by the Secretariat, either directly or through a special consultant, and submitted to the Committee at its seventeenth session (A/32/18, paras. 364 and 365).

385. At the seventeenth session, the Secretary-General submitted to the Committee the draft study which the Secretary-General had commissioned Mr. Fayez A. Sayegh, the Committee's Rapporteur, in his personal capacity, to prepare.

386. After a general debate on the draft study, the Committee proceeded to consider it paragraph by paragraph. The main revisions and amendments adopted during the discussion were as follows:

(a) One sentence in paragraph 72 of the study in its present form, one paragraph originally placed between present paragraphs 117 and 118, and another paragraph originally placed between present paragraphs 194 and 195 were deleted. (Proposals to delete present paragraphs 53 to 58 and 205 (c) were defeated by votes of the Committee.) One annex was also deleted;

(b) The first two sentences in paragraph 110 and the last three sentences in paragraph 206 were added to the draft by the Rapporteur in response to suggestions made by Mr. Ténékidès and Mr. Bahnev, respectively;

(c) Paragraphs 186 to 191, drafted by Mr. Dayal, and 200 to 203, drafted by Mr. Dayal, Mr. Partsch and Mr. Sayegh, were added to the original text;

(d) Annexes I and IV were added to the study, as proposed by Mr. Nasinovsky and Mr. Devetak, respectively;

(e) Foot-notes 1, 2 and 7 were added to the text, as proposed by Mr. Devetak, Mr. Sayegh and Mr. Dayal, respectively.

387. The draft study, as revised and amended, was approved by the Committee at its 377th meeting, held on 30 March 1978.

388. At that meeting, the Committee was informed by its Chairman that, in addition to its circulation as a pre-session document of the World Conference, the study would also be published as a separate pamphlet, together with an annex containing the text of the Convention.

389. At its eighteenth session, the representative of the Secretary-General informed the Committee that the study had already appeared as a pre-session document of the World Conference (A/CONF.92/8), and that copies of that document had been distributed to members of the Human Rights Committee. The Committee requested the Secretary-General to make copies of the study available also to representatives of Member States at the Third Committee of the General Assembly, in connexion with the Third Committee's consideration of the present annual report at the thirty-third session of the General Assembly.

C. Pamphlet on the Convention

390. In accordance with the decision of the Committee at its sixteenth session (A/32/18, para. 364), a draft of a pamphlet explaining in simple terms the provisions of the Convention - prepared by the Office of Public Information of the United Nations Secretariat - was submitted to the Committee at its seventeenth session.

391. At a private meeting, held on 29 March 1978, the Committee considered the draft before it. Members of the Committee made observations on the draft.

392. A revised version of the draft has been published by the Secretariat under the title "Towards a world without racism" (OPI/613).

D. Statement of the Committee at the World Conference

393. At the 376th meeting (seventeenth session), held on 30 March 1978, the Committee requested its Rapporteur to prepare a draft of the statement to be delivered by the Chairman of the Committee at the World Conference, and to submit it to the Committee at its eighteenth session for consideration and approval.

394. At the 402nd and 403rd meetings (eighteenth session), held on 7 August 1978, the Committee considered the draft statement prepared by the Rapporteur and, with some amendments, approved it by consensus.

395. The text of the statement of the Committee at the World Conference, as adopted, appears in annex V below.

VIII. REVISION OF RULES 34 AND 62 OF THE PROVISIONAL RULES
OF PROCEDURE OF THE COMMITTEE

396. It will be recalled that, during its sixteenth session, the Committee had adopted decision 2 (XVI), concerning the classification and distribution of reports submitted by States parties and other documents of the Committee (A/32/18, paras. 331-333). In paragraph 4 of that decision, the Committee requested the Secretary-General to prepare draft texts for the revision of rules 34 and 62 of the provisional rules of procedure, for consideration by the Committee at its seventeenth session.

397. The draft revised rules submitted by the Secretary-General, contained in document CERD/C/14, were considered by the Committee during its seventeenth session at the 364th meeting, held on 21 March 1978.

398. With regard to draft revised rule 34, Mr. Ghoneim expressed his concern that participants who attended only part of a private meeting would receive the entire record of the meeting, which was more than they were entitled to. Mr. Hollist shared that concern. The Secretary of the Committee said that in such cases only the relevant portion of the summary record would be given by the Secretariat to the participant.

399. With regard to draft revised rule 62, Mr. Bahnev was of the view that the proposed wording unnecessarily broadened the existing rule, as a result of the deletion (at the end of para. 2 of the proposed text) of the word "directly" which preceded the word "concerned" at the end of the existing rule. He therefore proposed that the word "directly" be reinserted. Mr. Nasinovsky supported Mr. Bahnev's amendment, which was opposed by Messrs. Brin Martínez, Dayal, Dechezelles, Devetak, Goundiam, Nettel, Partsch, Valencia Rodríguez and Videla Escalada. Opponents of the amendment argued that the reinsertion of the word "directly" might lead to lengthy controversy over who was in fact "directly concerned"; or unduly limit the decision-making power of the Committee with regard to the distribution of certain documents; or introduce too arbitrary a criterion; or exclude parties which, although not "directly concerned" with a given case, might nevertheless have a legitimate interest in it; or generally militate against the objective of the Committee - supported by the General Assembly - to give its work as much publicity as possible. Mr. Nabavi expressed the opinion that the reinsertion of the word "directly" would make no substantial difference: the Committee had always been free to exercise its discretion in deciding to whom it wanted to distribute documents, and so far no problems had arisen.

400. The Committee adopted the proposed texts of rules 34 and 62, as contained in document CERD/C/14, without a vote.

401. The texts, as adopted, appear in chapter X, section A, decisions 1 (XVII) and 2 (XVII) below.

IX. MEETINGS OF THE COMMITTEE IN 1979 AND 1980

A. Dates and venue of the Committee's sessions in 1979 and 1980

402. The Committee considered this item of the agenda at its 378th meeting (seventeenth session), held on 31 March 1978, and at its 403rd meeting (eighteenth session), held on 7 August 1978.

403. In connexion with the nineteenth session of the Committee to be held in the spring of 1979, it may be recalled (A/32/18, para. 368) that in a letter dated 14 June 1977 addressed to the Chairman of the Committee, the Government of Panama had extended an invitation to the Committee to hold that session in Panama City and had requested from the Secretariat information relating to the administrative services required for the meetings in question. At its seventeenth session, the Committee was informed by the representative of the Secretary-General that the requested information, including the administrative and financial implications of the proposed session, had been communicated to the Government of Panama.

404. At the eighteenth session, the representative of the Secretary-General informed the Committee that in a letter dated 23 May 1978 the Government of Panama had informed the Secretariat that in spite of the cordial invitation it extended to the Committee, the Republic of Panama was unable to host the session of the Committee on the Elimination of Racial Discrimination in March 1979; that the Government of Panama was currently in the process of building a conference centre at which the meetings of the Committee were to have been held; and that since the process of building this conference centre would extend beyond the date indicated, namely, March 1979, the Republic of Panama would like to request postponement of the invitation until another suitable date. The letter also stated that "when the Government of Panama has completed and duly equipped this conference centre it will not fail to renew its invitation to the Committee".

405. At its seventeenth session, the Committee was informed by the representative of UNESCO of the intention of that organization to invite the Committee to hold its nineteenth session at the headquarters of UNESCO in Paris. At the eighteenth session of the Committee, a formal invitation to that effect was extended by the representative of UNESCO, on behalf of the Director General of that Organization. 24/

406. Taking into account the above-mentioned information, the following decisions were taken by the Committee at its seventeenth and eighteenth sessions, as appropriate, in connexion with the dates and venue of its sessions to be held in 1979 and 1980:

24/ See also chapter III, paras. 43 and 45 above.

Nineteenth session

To be held from 26 March to 13 April 1979 at UNESCO headquarters, in Paris. (This decision was subject to confirmation by the Secretary-General, to be communicated to members of the Committee as soon as possible, after discussions between the Secretariats of the United Nations and UNESCO had been completed and agreement reached. If such agreement was not reached, the Committee would meet at United Nations Headquarters, New York, on the same dates as had previously been decided.)

Twentieth session

To be held at United Nations Headquarters, New York, from 30 July to 17 August 1979.

Twenty-first session

To be held either at United Nations Office at Geneva or at United Nations Headquarters, New York, from 24 March to 11 April 1980, subject to reconsideration of the venue of that session at a later date.

Twenty-second session

To be held at United Nations Headquarters, New York, from 4 to 22 August 1980.

B. Departure from the practice of issuing members of the Committee first-class tickets for attending meetings of the Committee

407. This item, which was inscribed on the agenda of the seventeenth session by a decision of the Committee at the 363rd meeting, held on 20 March 1978, was considered at that meeting and at the 379th and 381st meetings, held on 31 March and 3 April 1978.

408. For the first time since the establishment of the Committee in 1970, some members of the Committee were issued economy-class tickets for travel to New York to attend the seventeenth session. In a preliminary discussion of that matter at the 363rd meeting, members of the Committee observed that the new practice had been initiated by the Secretary-General without prior notification or consultation with the Committee and that that practice gave unequal treatment to different members solely on the basis of the length or duration of their travel to United Nations Headquarters. Members of the Committee inquired about the reasons for which the established practice had been abandoned. The representative of the Secretary-General referred to General Assembly resolution 32/198 as the authority for the Secretary-General's action.

409. At the 379th meeting, the Committee took note of a financial statement circulated to it by the Secretariat, at the Committee's request, showing that the total savings realized under the new procedure would amount to \$2,500 per session (\$5,000 per year). Members of the Committee noted also that General Assembly resolution 32/198 applied only to travel paid by the United Nations and therefore did not apply to the travel of members of the Committee which - in

accordance with article 8, paragraph 6, of the Convention - is paid by the States parties. The Committee therefore agreed that corrective action should be taken. It requested the Rapporteur to draft a communication reflecting the unanimous opinion of the Committee on the matter, which would be considered and adopted by the Committee and transmitted by its Chairman to the Secretary-General.

410. The draft communication prepared by the Rapporteur was considered by the Committee at its 381st meeting and was adopted without a vote, with some amendments (the text of the communication sent by the Chairman to the Secretary-General of the United Nations appears in annex VI below).

411. On 28 June 1978, the Chairman circulated to the other members of the Committee a letter referring to the communication sent by him on behalf of the Committee to the Secretary-General and informing them that, in reply to that communication, the Assistant Secretary-General (Controller) of the United Nations Office of Financial Services had advised him that the views expressed by the Committee had been confirmed by the United Nations Legal Counsel and that, as a result, the Secretary-General would comply with the request of the Committee; that is to say, that first-class tickets would be issued for all members of the Committee, regardless of the length or duration of their travel, to attend future sessions of the Committee, unless the States parties to the Convention decide otherwise.

X. DECISIONS ADOPTED BY THE COMMITTEE AT ITS SEVENTEENTH AND EIGHTEENTH SESSIONS

A. Seventeenth session

1 (XVII). Revised rule 34 of the provisional rules of procedure of the Committee 25/

1. The summary records of public meetings in their final form shall be documents for general distribution.

2. The summary records of private meetings shall be distributed to the members of the Committee and to other participants in the meetings. They may be made available to others upon decision of the Committee at such time and under such conditions as the Committee may decide.

2 (XVII). Revised rule 62 of the provisional rules of procedure of the Committee 26/

1. Without prejudice to the provisions of rule 34 of these rules of procedure and subject to paragraphs 2 and 3 of the present rule, reports, formal decisions and all other official documents of the Committee and its subsidiary bodies shall be documents for general distribution, unless the Committee decides otherwise.

2. Reports, formal decisions and other official documents of the Committee and its subsidiary bodies relating to articles 11, 12 and 13 and article 14 of the Convention shall be distributed by the Secretariat to all members of the Committee, to the States Parties concerned and, as may be decided by the Committee, to members of its subsidiary bodies and to others concerned.

3. Reports and additional information submitted by States Parties under article 9 of the Convention shall be documents for general distribution, unless the State Party concerned requests otherwise.

B. Eighteenth session

1 (XVIII). Information supplied by Cyprus relating to conditions in Cyprus 27/

The Committee on the Elimination of Racial Discrimination,

Having expressed, in its decision 3 (XVI) of 9 August 1977, its grave concern at the fact that Cyprus, a State Party to the International Convention on

25/ See chap. VIII, paras. 396 to 398 and 400 above.

26/ Ibid., paras. 396, 397, 399 and 400 above.

27/ See chap. IV, section B, paras. 347-359 above.

the Elimination of All Forms of Racial Discrimination, was being prevented from fulfilling its obligations under that Convention in a part of its territory,

Taking note, on the basis of the fifth periodic report of Cyprus, that the hopes expressed on that occasion that a speedy normalization of conditions in Cyprus will be effected, and that refugees and other persons in Cyprus will be enabled to enjoy fully their fundamental human rights without discrimination, have not been fulfilled,

Alarmed by the fact that changes in the demographic composition of the population, which exclude a considerable part of the population from the enjoyment of their legitimate rights, have been brought about and are continuing,

Bearing in mind the fact that the competence and concern of the Committee are determined exclusively by the provisions of the Convention,

1. Reiterates its expectation and hope that the Government of Cyprus will soon be enabled to exercise its full responsibility for the implementation of all its obligations under the Convention on its whole national territory and that the unacceptable state of affairs in Cyprus will soon be brought to an end;

2. Expresses once again its concern and its hope that the General Assembly and other competent organs of the United Nations will take immediate and appropriate measures with a view to putting an end to the conditions referred to in the foregoing paragraphs.

ANNEX I

States Parties to the International Convention on the
Elimination of All Forms of Racial Discrimination as
at 11 August 1978

| <u>State</u> | <u>Date of receipt of the instrument of ratification or accession</u> | <u>Entry into force</u> |
|---|---|---------------------------|
| Algeria | 14 February 1972 | 15 March 1972 |
| Argentina | 2 October 1968 | 4 January 1969 |
| Australia | 30 September 1975 | 30 October 1975 |
| Austria | 9 May 1972 | 8 June 1972 |
| Bahamas | 5 August 1975 <u>b/</u> | 5 August 1975 <u>b/</u> |
| Barbados | 8 November 1972 <u>a/</u> | 8 December 1972 |
| Belgium | 7 August 1975 | 6 September 1975 |
| Bolivia | 22 September 1970 | 22 October 1970 |
| Botswana | 20 February 1974 <u>a/</u> | 22 March 1974 |
| Brazil | 27 March 1968 | 4 January 1969 |
| Bulgaria | 8 August 1966 | 4 January 1969 |
| Burundi | 27 October 1977 | 26 November 1977 |
| Byelorussian Soviet Socialist Republic | 8 April 1969 | 8 May 1969 |
| Canada | 14 October 1970 | 13 November 1970 |
| Central African Empire | 16 March 1971 | 15 April 1971 |
| Chad | 17 August 1977 <u>a/</u> | 16 September 1977 |
| Chile | 20 October 1971 | 19 November 1971 |
| Costa Rica <u>c/</u> | 16 January 1967 | 4 January 1969 |
| Cuba | 15 February 1972 | 16 March 1972 |
| Cyprus | 21 April 1967 | 4 January 1969 |
| Czechoslovakia | 29 December 1966 | 4 January 1969 |
| Democratic Yemen | 18 October 1972 <u>a/</u> | 17 November 1972 |
| Denmark | 9 December 1971 | 8 January 1972 |
| Ecuador <u>c/</u> | 22 September 1966 <u>a/</u> | 4 January 1969 |
| Egypt | 1 May 1967 | 4 January 1969 |
| Ethiopia | 23 June 1976 <u>a/</u> | 23 July 1976 |
| Fiji | 11 January 1973 <u>b/</u> | 11 January 1973 <u>b/</u> |
| Finland | 14 July 1970 | 13 August 1970 |
| France | 28 July 1971 <u>a/</u> | 27 August 1971 |
| German Democratic Republic | 27 March 1973 <u>a/</u> | 26 April 1973 |

Date of receipt of the
instrument of ratification
or accession

| <u>State</u> | <u>Date of receipt of the instrument of ratification or accession</u> | <u>Entry into force</u> |
|-------------------------------------|---|-------------------------|
| Germany, Federal Republic of | 16 May 1969 | 15 June 1969 |
| Ghana | 8 September 1966 | 4 January 1969 |
| Greece | 18 June 1970 | 18 July 1970 |
| Guinea | 14 March 1977 | 13 April 1977 |
| Guyana | 15 February 1977 | 17 March 1977 |
| Haiti | 19 December 1972 | 18 January 1973 |
| Holy See | 1 May 1969 | 31 May 1969 |
| Hungary | 4 May 1967 | 4 January 1969 |
| Iceland | 13 March 1967 | 4 January 1969 |
| India | 3 December 1968 | 4 January 1969 |
| Iran | 29 August 1968 | 4 January 1969 |
| Iraq | 14 January 1970 | 13 February 1970 |
| Italy <u>c/</u> | 5 January 1976 | 4 February 1976 |
| Ivory Coast | 4 January 1973 <u>a/</u> | 3 February 1973 |
| Jamaica | 4 June 1971 | 4 July 1971 |
| Jordan | 30 May 1974 <u>a/</u> | 29 June 1974 |
| Kuwait | 15 October 1968 <u>a/</u> | 4 January 1969 |
| Lao People's Democratic Republic | 22 February 1974 <u>a/</u> | 24 March 1974 |
| Lebanon | 12 November 1971 <u>a/</u> | 12 December 1971 |
| Lesotho | 4 November 1971 <u>a/</u> | 4 December 1971 |
| Liberia | 5 November 1976 <u>a/</u> | 5 December 1976 |
| Libyan Arab Jamahiriya | 3 July 1968 <u>a/</u> | 4 January 1969 |
| Luxembourg | 1 May 1978 | 31 May 1978 |
| Madagascar | 7 February 1969 | 9 March 1969 |
| Mali | 16 July 1974 <u>a/</u> | 15 August 1974 |
| Malta | 27 May 1971 | 26 June 1971 |
| Mauritius | 30 May 1972 <u>a/</u> | 29 June 1972 |
| Mexico | 20 February 1975 | 22 March 1975 |
| Mongolia | 6 August 1969 | 5 September 1969 |
| Morocco | 18 December 1970 | 17 January 1971 |
| Nepal | 30 January 1971 <u>a/</u> | 1 March 1971 |
| Netherlands <u>c/</u> | 10 December 1971 | 9 January 1972 |
| New Zealand | 22 November 1972 | 22 December 1972 |
| Nicaragua | 15 February 1978 <u>a/</u> | 17 March 1978 |
| Niger | 27 April 1967 | 4 January 1969 |
| Nigeria | 16 October 1967 <u>a/</u> | 4 January 1969 |
| Norway <u>c/</u> | 6 August 1970 | 5 September 1970 |
| Pakistan | 21 September 1966 | 4 January 1969 |
| Panama | 16 August 1967 | 4 January 1969 |
| Peru | 29 September 1971 | 29 October 1971 |

| <u>State</u> | <u>Date of receipt of the instrument of ratification or accession</u> | <u>Entry into force</u> |
|--|---|-------------------------|
| Philippines | 15 September 1967 | 4 January 1969 |
| Poland | 5 December 1968 | 4 January 1969 |
| Qatar | 22 July 1976 <u>a/</u> | 21 August 1976 |
| Romania | 15 September 1970 <u>a/</u> | 15 October 1970 |
| Rwanda | 16 April 1975 <u>a/</u> | 16 May 1975 |
| Senegal | 19 April 1972 | 19 May 1972 |
| Seychelles | 7 March 1978 <u>a/</u> | 6 April 1978 |
| Sierra Leone | 2 August 1967 | 4 January 1969 |
| Somalia | 26 August 1975 | 25 September 1975 |
| Spain | 13 September 1968 <u>a/</u> | 4 January 1969 |
| Sudan | 21 March 1977 <u>a/</u> | 20 April 1977 |
| Swaziland | 7 April 1969 <u>a/</u> | 7 May 1969 |
| Sweden <u>c/</u> | 6 December 1971 | 5 January 1972 |
| Syrian Arab Republic | 21 April 1969 <u>a/</u> | 21 May 1969 |
| Togo | 1 September 1972 <u>a/</u> | 1 October 1972 |
| Tonga | 16 February 1972 <u>a/</u> | 17 March 1972 |
| Trinidad and Tobago | 4 October 1973 | 3 November 1973 |
| Tunisia | 13 January 1967 | 4 January 1969 |
| Ukrainian Soviet Socialist Republic | 7 March 1969 | 6 April 1969 |
| Union of Soviet Socialist Republics | 4 February 1969 | 6 March 1969 |
| United Arab Emirates | 20 June 1974 <u>a/</u> | 20 July 1974 |
| United Kingdom of Great Britain and Northern Ireland | 7 March 1969 | 6 April 1969 |
| United Republic of Cameroon | 24 June 1971 | 24 July 1971 |
| United Republic of Tanzania | 27 October 1972 <u>a/</u> | 26 November 1972 |
| Upper Volta | 18 July 1974 <u>a/</u> | 17 August 1974 |
| Uruguay <u>c/</u> | 30 August 1968 | 4 January 1969 |
| Venezuela | 10 October 1967 | 4 January 1969 |
| Yugoslavia | 2 October 1967 | 4 January 1969 |
| Zaire | 21 April 1976 <u>a/</u> | 21 May 1976 |
| Zambia | 4 February 1972 | 5 March 1972 |

a/ Accession.

b/ Date of receipt of notification of succession.

c/ Made the declaration under article 14, para. 1, of the Convention.

ANNEX II

Submission of reports and additional information by States
parties under article 9 of the Convention during the year
under review

(19 August 1977 to 11 August 1978)

| <u>State party</u> | <u>Date due</u> | <u>Date of submission</u> | <u>Date of reminder(s) sent, if any</u> |
|--|-------------------|---------------------------|--|
| <u>A. Initial reports</u> | | | |
| Chad | 16 September 1978 | 18 July 1978 | - |
| Ethiopia | 25 July 1977 | 4 April 1978 | (1) 26 August 1977 |
| Guinea | 13 April 1978 | 25 August 1977 | - |
| Guyana | 17 March 1978 | NOT YET RECEIVED | (1) 21 April 1978 |
| Lao People's Democratic Republic | 24 March 1975 | 9 January 1978 | (1) 18 April 1975 (2) 1 October 1975 (3) 30 April 1976 (4) 27 August 1976 (5) 27 April 1977 (6) 26 September 1977 |
| Liberia | 5 December 1977 | NOT YET RECEIVED | (1) 21 April 1978 |
| Qatar | 22 August 1977 | 26 October 1977 | - |
| Somalia | 27 September 1976 | 20 June 1978 | (1) 27 April 1977 (2) 26 August 1977 (3) 21 April 1978 |
| Sudan | 20 April 1978 | NOT YET RECEIVED | - |
| Togo | 1 October 1973 | NOT YET RECEIVED | (1) 30 April 1974 (2) 20 September 1974 (3) 20 May 1975 (4) 1 October 1975 (5) 30 April 1976 (6) 27 August 1976 (7) 27 April 1977 (8) 26 September 1977 |
| Zaire | 21 May 1977 | 7 October 1977 | (1) 26 September 1977 |

| <u>State party</u> | <u>Date due</u> | <u>Date of submission</u> | <u>Date of reminder(s) sent, if any</u> |
|--|------------------|---------------------------|---|
| B. <u>Second periodic reports</u> | | | |
| Bahamas | 5 August 1978 | NOT YET RECEIVED | |
| Botswana | 22 March 1977 | 26 September 1977 | (1) 27 April 1977 (2) 26 August 1977 |
| Fiji | 11 January 1976 | 13 July 1978 | (1) 30 April 1976 (2) 27 August 1976 (3) 27 April 1977 (4) 26 August 1977 |
| Ivory Coast | 4 February 1976 | NOT YET RECEIVED | (1) 30 April 1976 (2) 1 October 1976 (3) 27 April 1977 (4) 26 September 1977 |
| Lao People's Democratic Republic | 24 March 1977 | 9 January 1978 | (1) 27 April 1977 (2) 26 September 1977 |
| Lebanon | 12 December 1974 | NOT YET RECEIVED | (1) 1 October 1975 (2) 30 April 1976 (3) 27 April 1977 (4) 26 September 1977 |
| Mali | 15 August 1977 | NOT YET RECEIVED | (1) 26 September 1977 (2) 21 April 1978 |
| Mexico | 22 March 1978 | 24 April 1978 | - |
| Rwanda | 16 May 1978 | NOT YET RECEIVED | - |
| Togo | 1 October 1975 | NOT YET RECEIVED | (1) 30 April 1976 (2) 27 August 1976 (3) 27 April 1977 (4) 26 September 1977 |
| Trinidad and Tobago | 4 November 1976 | 15 February 1978 | (1) 27 April 1977 (2) 26 August 1977 |
| United Arab Emirates | 21 July 1977 | 16 January 1978 | (1) 26 August 1977 |
| Upper Volta | 18 August 1977 | NOT YET RECEIVED | (1) 26 September 1977 (2) 21 April 1978 |
| Zambia | 5 March 1975 | NOT YET RECEIVED | (1) 20 May 1975 (2) 1 October 1975 (3) 30 April 1976 (4) 27 August 1976 (5) 27 April 1977 (6) 26 August 1977 |

| <u>State party</u> | <u>Date due</u> | <u>Date of submission</u> | <u>Date of reminder(s) sent, if any</u> |
|----------------------------------|------------------|---------------------------|---|
| <u>C. Third periodic reports</u> | | | |
| Barbados | 10 December 1977 | NOT YET RECEIVED | (1) 21 April 1978 |
| Democratic Yemen | 19 November 1977 | NOT YET RECEIVED | (1) 21 April 1978 |
| Fiji | 11 January 1978 | 13 July 1978 | - |
| German Democratic Republic | 26 April 1978 | 25 May 1978 | - |
| Haiti | 18 January 1978 | NOT YET RECEIVED | (1) 21 April 1978 |
| Ivory Coast | 4 February 1978 | NOT YET RECEIVED | - |
| Jamaica | 5 July 1976 | 29 December 1977 | (1) 27 August 1976 (2) 27 April 1977 (3) 26 August 1977 |
| Lebanon | 12 December 1976 | NOT YET RECEIVED | (1) 27 April 1977 (2) 26 September 1977 |
| Lesotho | 4 December 1976 | 26 August 1977 | (1) 27 April 1977 (2) 26 August 1977 |
| Mauritius | 29 June 1977 | 10 May 1978 | (1) 26 August 1977 |
| New Zealand | 22 December 1977 | 10 May 1978 | - |
| Senegal | 18 May 1977 | 11 July 1978 | (1) 26 September 1977 (2) 21 April 1978 |
| Togo | 1 October 1977 | NOT YET RECEIVED | - |
| Tonga | 17 March 1977 | 21 February 1978 | (1) 27 April 1977 (2) 26 August 1977 |
| United Republic of Tanzania | 26 November 1977 | NOT YET RECEIVED | (1) 21 April 1978 |
| Zambia | 5 March 1977 | NOT YET RECEIVED | (1) 27 April 1977 (2) 26 August 1977 |

D. Fourth periodic reports

| | | | |
|------------------------|------------------|------------------|---|
| Bolivia | 21 October 1977 | 24 August 1977 | - |
| Brazil | 5 January 1976 | 10 March 1978 | (1) 27 April 1977 |
| Canada | 12 November 1977 | NOT YET RECEIVED | - |
| Central African Empire | 14 April 1978 | NOT YET RECEIVED | - |
| Costa Rica | 5 January 1976 | NOT YET RECEIVED | (1) 30 April 1976 (2) 1 October 1976 (3) 27 April 1977 (4) 26 September 1977 |
| Finland | 16 August 1977 | 30 August 1977 | - |

| <u>State party</u> | <u>Date due</u> | <u>Date of submission</u> | <u>Date of reminder(s) sent, if any</u> |
|---|------------------|---------------------------|--|
| D. <u>Fourth periodic reports</u> (continued) | | | |
| Ghana | 5 January 1976 | 20 March 1978 | (1) 30 April 1976 (2) 27 August 1976 (3) 27 April 1977 (4) 26 August 1977 |
| Greece | 19 July 1977 | 21 July 1978 | - |
| Iraq | 15 February 1977 | NOT YET RECEIVED | (1) 27 April 1977 (2) 21 April 1978 |
| Jamaica | 5 July 1978 | NOT YET RECEIVED | - |
| Malta | 26 June 1978 | NOT YET RECEIVED | - |
| Mongolia | 4 September 1976 | 5 May 1978 | (1) 27 April 1977 (2) 26 August 1977 (3) 21 April 1978 |
| Morocco | 17 January 1978 | 7 October 1977 | - |
| Nepal | 1 March 1978 | NOT YET RECEIVED | (1) 21 April 1978 |
| Norway | 6 September 1977 | 25 November 1977 | - |
| Romania | 14 October 1977 | NOT YET RECEIVED | (1) 21 April 1978 |
| Sierra Leone | 5 January 1976 | NOT YET RECEIVED | (1) 30 April 1976 (2) 27 August 1976 (3) 27 April 1977 (4) 26 August 1977 |
| Swaziland | 6 May 1976 | NOT YET RECEIVED | (1) 27 August 1976 (2) 27 April 1977 (3) 26 August 1977 (4) 21 April 1978 |
| United Republic of Cameroon | 24 July 1978 | NOT YET RECEIVED | - |

E. Fifth periodic reports

| | | | |
|--|----------------|------------------|-------------------|
| Argentina | 5 January 1978 | 23 January 1978 | - |
| Brazil | 5 January 1978 | 10 March 1978 | - |
| Bulgaria | 5 January 1978 | 26 April 1978 | (1) 21 April 1978 |
| Byelorussian Soviet Socialist Republic | 7 May 1978 | 9 June 1978 | - |
| Costa Rica | 5 January 1978 | NOT YET RECEIVED | - |
| Cyprus | 5 January 1978 | 16 January 1978 | - |
| Czechoslovakia | 5 January 1978 | 9 March 1978 | - |

| <u>State party</u> | <u>Date due</u> | <u>Date of submission</u> | <u>Date of reminder(s) sent, if any</u> |
|--|---------------------------------|---------------------------------|---|
| E. <u>Fifth periodic reports</u> (continued) | | | |
| Ecuador | 5 January 1978 | NOT YET RECEIVED | (1) 21 April 1978 |
| Egypt | 5 January 1978 Supplementary | 27 February 1978 7 July 1978 | - |
| Germany, Federal Republic of | 14 June 1978 | NOT YET RECEIVED | - |
| Ghana | 5 January 1978 | 20 March 1978 | - |
| Holy See | 1 June 1978 | NOT YET RECEIVED | - |
| Hungary | 5 January 1978 | 26 January 1978 | - |
| Iceland | 5 January 1978 | 5 January 1978 | - |
| India | 5 January 1978 | NOT YET RECEIVED | (1) 21 April 1978 |
| Iran | 5 January 1978 | 27 October 1977 | - |
| Kuwait | 5 January 1978 | 8 March 1978 | - |
| Libyan Arab Jamahiriya | 5 January 1978 | NOT YET RECEIVED | (1) 21 April 1978 |
| Madagascar | 8 March 1978 | 9 January 1978 | - |
| Niger | 5 January 1978 | NOT YET RECEIVED | (1) 21 April 1978 |
| Nigeria | 5 January 1978 | NOT YET RECEIVED | (1) 21 April 1978 |
| Pakistan | 5 January 1978 | 13 March 1978 | - |
| Panama | 5 January 1978 | 5 July 1978 | (1) 21 April 1978 |
| Philippines | 5 January 1978 | 25 January 1978 | - |
| Poland | 5 January 1978 | 17 February 1978 | - |
| Sierra Leone | 5 January 1978 | NOT YET RECEIVED | - |
| Spain | 5 January 1978 | 5 May 1978 | (1) 21 April 1978 |
| Swaziland | 6 May 1978 | NOT YET RECEIVED | - |
| Syrian Arab Republic | 20 May 1978 | 2 June 1978 | - |
| Tunisia | 5 January 1978 | 6 January 1978 | - |
| Ukrainian Soviet Socialist Republic | 5 April 1978 | 5 July 1978 | - |
| Union of Soviet Socialist Republics | 5 March 1978 | 14 April 1978 | - |

| <u>State party</u> | <u>Date due</u> | <u>Date of submission</u> | <u>Date of reminder(s) sent, if any</u> |
|--|-------------------------------|------------------------------|---|
| E. <u>Fifth periodic reports (continued)</u> | | | |
| United Kingdom of of Great Britain and Northern Ireland | 5 April 1978 Supplementary | 5 April 1978 10 July 1978 | - - |
| Uruguay | 5 January 1978 | 13 January 1978 | - |
| Venezuela | 5 January 1978 | NOT YET RECEIVED | (1) 21 April 1978 |
| Yugoslavia | 5 January 1978 | NOT YET RECEIVED | - |

F. Additional information requested by the Committee

| <u>States parties which were requested to submit additional information</u> | <u>Requested by the Committee at its:</u> | <u>Date of submission</u> |
|---|---|---------------------------|
| Sierra Leone | Tenth session | NOT YET RECEIVED |
| Lebanon | Twelfth session | NOT YET RECEIVED |
| Bolivia | Thirteenth session | 24 August 1977 |
| Jamaica | Thirteenth session | 29 December 1977 |

ANNEX III

Consideration by the Committee at its seventeenth and eighteenth sessions
of the reports submitted by States parties under article 9 of the
Convention

| State party | Type of report | | | | | Meetings at which considered | Date of meetings |
|-------------------------------------|----------------|--------|-------|--------|-------|------------------------------------|------------------|
| | Initial | Second | Third | Fourth | Fifth | | |
| Peru | | | x | | | 364-365 | 21 March 1978 |
| Belgium | x | | | | | 365-366 | 21-22 March 1978 |
| Nepal | | | x | | | 366 | 22 March 1978 |
| India | | | | x | | 366-367 | 22 March 1978 |
| Austria | | | x | | | 367-368 | 22-23 March 1978 |
| Bolivia | | | | x | | 368 | 23 March 1978 |
| Guinea | x | | | | | 369 | 23 March 1978 |
| Lesotho | | | x | | | 369 | 23 March 1978 |
| Finland | | | | x | | 369-370 | 23-24 March 1978 |
| Botswana | | x | | | | 370 | 24 March 1978 |
| Zaire | x | | | | | 370 | 24 March 1978 |
| Morocco | | | | x | | 370 | 24 March 1978 |
| Qatar | x | | | | | 371 | 27 March 1978 |
| Iran | | | | | x | 371 | 27 March 1978 |
| Norway | | | | x | | 372 | 27 March 1978 |
| Jamaica | | | x | | | 386-387 | 25 July 1978 |
| Tunisia | | | | | x | 388 | 26 July 1978 |
| Uruguay | | | | | x | 388 | 26 July 1978 |
| Iceland | | | | | x | 389 | 26 July 1978 |
| Madagascar | | | | | x | 389 | 26 July 1978 |
| United Arab Emirates | | x | | | | 389-390 | 26-27 July 1978 |
| Lao People's Democratic Republic | x | x | | | | 390 | 27 July 1978 |
| Argentina | | | | | x | 390-391 | 27 July 1978 |

| State party | Type of report | | | | | Meetings at which considered | Date of meetings |
|--|----------------|--------|-------|--------|-------|------------------------------|------------------|
| | Initial | Second | Third | Fourth | Fifth | | |
| Pakistan | | | | | x | 391 | 27 July 1978 |
| Hungary | | | | | x | 392 | 28 July 1978 |
| Trinidad and Tobago | | x | | | | 393 | 28 July 1978 |
| Tonga | | | x | | | 393 | 28 July 1978 |
| Poland | | | | | x | 394-395 | 31 July 1978 |
| Egypt | | | | | x | 395 | 31 July 1978 |
| Brazil | | | | x | x | 395 | 31 July 1978 |
| Czechoslovakia | | | | | x | 396 | 1 August 1978 |
| Kuwait | | | | | x | 396-397 | 1 August 1978 |
| Ghana | | | | x | x | 397 | 1 August 1978 |
| United Kingdom of Great Britain and Northern Ireland | | | | | x | 398-399 | 2 August 1978 |
| Cyprus | | | | | x | 400-401 | 3 August 1978 |

ANNEX IV

Communication of the Committee on the Elimination of Racial Discrimination addressed to the seven States parties from which two or more reports under article 9 of the Convention were due by the closing date of the seventeenth session, but had not yet been received a/

The Committee on the Elimination of Racial Discrimination wishes to refer to the undertaking of the Government of _____, as a State party to the International Convention on the Elimination of All Forms of Racial Discrimination, to submit initial and subsequent biennial reports on the legislative, judicial, administrative or other measures which it has adopted and which give effect to the provisions of that Convention. This obligation, which is legally binding on all States parties to the Convention, is not contingent upon the existence of problems of racial discrimination in the territory of a State party.

According to the records of the Committee, the _____ reports of the Government of _____, which were due on _____, respectively, have not yet been received.

On the basis of decisions adopted by the Committee at previous sessions in accordance with rule 66 of its provisional rules of procedure, _____ reminders have been sent to the Government of _____ by the Secretary-General in connexion with those reports; and references to those reminders and to the non-receipt of the reports in question have been made in past annual reports of the Committee to the General Assembly.

The Committee, which has again considered this situation at its seventeenth session, held from 20 March to 5 April 1978, and which recognizes that the Government of _____ attaches great importance to its international commitments, is of the opinion that the failure of the Government of _____ to send its reports and to respond to the repeated reminders of the Committee must be attributed to some difficulties, of the nature of which the Committee has not been made aware.

Desirous of offering any assistance which it may be in a position to give to the Government of _____ in order to surmount those difficulties, the Committee wishes to extend an invitation to the Government of _____ to send a representative to meet with the Committee at its eighteenth session, in order to discuss those difficulties and the means of overcoming them. If the Government of _____ so desires, the Committee is prepared to hold those discussions in a private meeting.

The Committee earnestly hopes that this form of co-operation now proposed by the Committee will be acceptable to the Government of _____ and that a representative thereof will be able to attend a meeting of the Committee at United Nations Headquarters on 24 July 1978 for the purposes stated above.

a/ Adopted by the Committee at its 382nd meeting, on 4 April 1978. See chap. IV, paras. 69 to 72.

ANNEX V

Text of statement of the Committee on the Elimination of
Racial Discrimination at the World Conference to Combat
Racism and Racial Discrimination a/

Participation in the World Conference to Combat Racism and Racial Discrimination by an unprecedentedly large number of States, international organizations, United Nations organs and related bodies, as well as liberation movements and non-governmental organizations, eloquently attests to the universality of the will to combat the abomination of racism. It also testifies to the survival of that inhuman and dehumanizing evil in the contemporary world, and to its persistence, elusiveness and resilience. It is the actuality of racism - vestigial and recrudescing - that activates the common determination of the world community to eradicate it.

The universality of that determination on the part of all believers in the equal dignity of human beings, and the universality of the underlying revulsion against the doctrines of racism and the practices of racial discrimination alike, are the principal source of hope that the struggle - efficiently co-ordinated and imaginatively intensified through such means as the World Conference - shall not be in vain.

* * *

In the nine-year experience of the Committee on the Elimination of Racial Discrimination, one aspect of the universality of the abhorrence of racism has manifested itself with remarkable constancy, and it has had an exhilarating effect upon the Committee. In the reports which they regularly submit for consideration by the Committee in accordance with the requirements of the International Convention on the Elimination of All Forms of Racial Discrimination, States parties to that Convention have in large numbers declared that racism and racial discrimination are inconsistent with the most basic persuasions which animate their respective societies and social systems - notwithstanding the diversity of the traditions of those societies.

This experience has demonstrated to the Committee that the general principles of the world-wide anti-racism campaign, and in particular the principles of the Convention which the Committee serves, are truly a common denominator of the diverse cultural and social traditions of all nations, a common ground on which all can meet and work in unison. Amidst limitless variety, nations, including those which otherwise pursue divergent aims, can find - and have found - in their common commitment to the goal of eliminating racial discrimination a rare occasion for unanimity.

The challenge to harness a determination which is at once firm and universal,

a/ Approved by the Committee at its 403rd meeting, on 7 August 1978.

and to transform it into prompt, purposeful and effective action through national measures as well as regional and world-wide programmes, is the supreme challenge facing the World Conference.

* * *

The Committee believes that the international community already has at its disposal a significant tool, admirably suited for - and equal to - the task. It is the International Convention on the Elimination of All Forms of Racial Discrimination, unanimously adopted by the General Assembly of the United Nations on 21 December 1965 and acceded to or ratified, so far, by 100 States.

In fact, for the past 13 years, this Convention has been - and it remains today - the international community's only tool for combating racial discrimination which is at one and the same time universal in reach, comprehensive in scope, legally binding in character, and equipped with built-in measures of implementation, including an international machinery - a pioneer in the field - responsible for monitoring the actual implementation of their obligations by the contracting sovereign States.

It is submitted in all candour that the search for other international instruments, serving the same purposes, is needless and that, if pursued, that search will in all likelihood prove to be at best futile and at worst duplicative.

What is needed, instead, is a search for ways and means through which the existing, adequate tool might be sharpened and rendered more effective.

Pursuant to that firm conviction, unanimously held by all its members, the Committee wishes to invite the attention of the Conference to the adequacy of the Convention for the task at hand, and to make some suggestions relevant to the question of the enhancement of its effectiveness.

* * *

In accordance with the Convention, the primary obligation of every State party is to adopt, and to put into effect without delay, a comprehensive national policy for the elimination of racial discrimination in all its forms, utilizing for that purpose all appropriate means.

The Convention also provides clear guidelines, with which States parties undertake to comply in the development and application of their respective national policies. Those policies must have as their aim the elimination of racial discrimination in all its forms - whether practised by public authorities, institutions or officials or by private individuals, groups or organizations. Moreover, they must aim not only at combating racial discrimination but also at promoting interracial understanding, tolerance and friendship. Towards these ends, States must be prepared to use both coercion and persuasion - utilizing the power of the law, to prohibit and punish, as well as the power of education and information, to enlighten and persuade. Far from being concerned solely with combating acts of racial discrimination after they have been perpetrated, the national policies of the States parties must also provide for preventive programmes, which seek to remove the sources from which those acts might spring - be they subjective prejudices or objective socio-economic conditions. Finally, when the circumstances of a State so warrant, its national policy must aim at ensuring the

adequate development and protection of certain racial groups, and must provide for the adoption of special measures for the purpose of guaranteeing those groups the full and equal enjoyment of human rights and fundamental freedoms.

Within the framework of such a national policy, every State party undertakes to fulfil a number of obligations, carefully laid down in the Convention.

Quite appropriately, the first of the specific obligations enumerated in the Convention involves the regulation of the behaviour of the State itself, as manifested in the actions of public authorities, institutions and officials, whether national or local. Accordingly, a State party must ensure that all public authorities act in conformity with the State's undertaking to engage in no act or practice of racial discrimination. It must also ensure that none of its laws or regulations has the effect of creating or perpetuating racial discrimination.

Furthermore, the national policy of every State party must entail the prohibition and the termination, by all appropriate means, of acts of racial discrimination perpetrated by any person or group against another.

Both of these obligations aim at guaranteeing the right of everyone to equality before the law in the enjoyment of fundamental human rights, without distinction as to race, colour, descent or national or ethnic origin, and at ensuring that that equality is actually enjoyed in practice.

For that purpose, every State party is under an obligation to assure to everyone within its jurisdiction effective protection and remedies, including reparation or satisfaction for any damage suffered as a result of racial discrimination, through the competent national tribunals or other State institutions.

Moreover, the Convention requires that, in addition to the elimination of actual racial discrimination, the national policy of every State party must aim at prevention as well. In the two relevant articles - namely, articles 4 and 7, to the application of which the Committee has attached special importance - the Convention enjoins that all States parties should fulfil this preventive task, regardless of whether or not racial discrimination is actually practised on their respective territories. Thus, on the one hand, they should prevent dissemination of racist ideas and incitement to racial discrimination or violence, whether by individuals or by organizations. (Accordingly, they should have within their national legal systems adequate legislation enabling them to perform that preventive task; in particular, provisions expressly declaring acts of dissemination of racist ideas and incitement to racial discrimination or violence "offences punishable by law", as well as provisions expressly "declaring illegal and prohibiting" organizations which promote and incite racial discrimination.) And, on the other hand, States parties should adopt, in the fields of education and information and in other related fields, immediate and effective measures for combating racial prejudices and promoting interracial harmony.

The final requisite for an adequate national policy to combat and eliminate racial discrimination is largely implicit in the Convention. It pertains to the foreign relations of a State party. The Committee is convinced that, as far as policies and actions aimed at the elimination of racial discrimination are concerned, measures adopted on the national level are interrelated with those taken on the international level. A State's concern for human equality and dignity cannot terminate abruptly at its national borders. Nor can a State's condemnation of

racial discrimination and its formal undertaking to eliminate it within its own frontiers be compatible with its indifference to the practice of racial discrimination outside those frontiers - much less with policies which have the effect of giving encouragement or support to those abroad who openly practise racial discrimination and propagate racism. The unequivocal affirmation, contained in the Convention's preamble, that States parties are "resolved ... to build an international community free from all forms of racial segregation and racial discrimination" cannot be viewed as empty rhetoric: it is a solemn statement defining one of the objectives of the Convention.

This belief is reinforced by the language of some of the substantive provisions of the Convention. The obligation to "condemn" racial segregation and apartheid, by which all States parties are bound pursuant to article 3, is not subject to the territorial limitations which affect the obligations laid down in the remainder of that article. Moreover, in accordance with article 7, State parties have accepted an obligation to promote understanding, tolerance and friendship not only among racial or ethnic groups within the nation but "among nations" as well. And, pursuant to article 2, which is described as the article which lays down the "fundamental obligations" of the Convention, each State party undertakes "not to sponsor, defend or support racial discrimination by any persons or organizations", without any qualification or limitation.

* * *

It is the Committee's hope that the foregoing synopsis of the substantive, anti-discrimination provisions contained in part I of the Convention, together with the detailed analysis of the "measures of implementation" provided for in part II of the Convention (which has been circulated to Conference participants in document A/CONF.92/8) will show the adequacy of the Convention as an international tool for the global struggle against racism and racial discrimination.

The effectiveness of this tool can, and must, be significantly enhanced, however. And the World Conference is an appropriate forum for considering the means through which that goal can be achieved.

The effectiveness of the Convention is decisively affected by two factors: the extent to which it gains acceptance and receives adherence by States, and the degree to which the contracting States actually comply with its provisions.

* * *

In a universal struggle, no tool - however potentially adequate it may be - can be fully effective so long as its application is less than universal. One hundred States have so far become parties to the Convention; scores of other States, however, have not yet agreed to be bound by it. The United Nations General Assembly has repeatedly urged all States which have not yet done so to accede to, or to ratify, the Convention. It is the Committee's earnest hope that the rededication to the cause of combating racism and racial discrimination which the convening of the World Conference symbolizes and inspires will bring the goal of universal adherence to the Convention closer to realization; and that, pending their early accession or ratification, States which have not yet become parties to that international instrument will independently begin to give effect to its substantive provisions.

* * *

A greater determination to fulfil the obligations which States parties have assumed under the Convention is the other prerequisite for increasing its effectiveness.

The Committee is not unaware that, for some States parties, compliance with some of the obligations laid down in the Convention has given rise to some difficulties. The dialogue it periodically conducts with States parties aims inter alia at joint consideration of those difficulties. While it is happy to report that in many instances the difficulties have been overcome, the Committee would be less than candid if it failed to state that, in other instances, problems which do not lend themselves to easy resolution have persisted.

One difficulty is encountered by States parties in which, happily, interracial harmony prevails. Such States have often explained to the Committee, in their reports or through their representatives, that, in the absence of pressing problems of race relations, they find it difficult - indeed, they deem it potentially counterproductive - to proceed to prohibit by express legislation, as the Convention requires, what they describe as non-existent offences. However, the Committee has no power to alter - nor to relax, suspend or rescind - any obligation laid down in the Convention. The authority to request the revision of the Convention is conferred by it solely upon the States parties; and no such request has been made by any State. Furthermore, those provisions of the Convention which lay down mandatory and unconditional obligations - that is, obligations, the fulfilment of which is not contingent upon the existence of certain circumstances, such as the actual practice of racial discrimination - are precisely the provisions which have principally a preventive function; and, by definition, preventive measures have a validity for the future which is not necessarily related to actual, present need.

Other difficulties which have, not infrequently, arisen pertain to the apparent conflict between some requirements of the Convention and some principles enshrined in national constitutions or traditions. Thus, it has been stated that compliance with the obligation to "declare an offence punishable by law all dissemination of ideas based on racial superiority or hatred" would place unacceptable restrictions upon the enjoyment of the cherished right to freedom of opinion or expression. Similarly, it has been stated that fulfilment of the obligation to "declare illegal and prohibit" racist organizations would jeopardize the exercise of the constitutionally guaranteed right to freedom of peaceful assembly and association. And it has been argued that implementation of the obligation to adopt certain measures in the field of information might be beyond the power of the State in countries where the mass media are privately owned and operated and freedom of the press is guaranteed by the national constitution.

The Committee is fully aware that the Convention - in laying down the obligations of States parties with regard to the prohibition of the dissemination of racist ideas, incitement to racial discrimination or violence, and racist organizations - allows for the fulfilment of those obligations to be accomplished "with due regard" to the fundamental human rights to freedom of opinion, expression and association. However, it could not have been the intention of the drafters of the Convention to enable States parties to construe the phrase safeguarding the human rights in question as cancelling the obligations relating to the prohibition of the racist activities concerned. Otherwise, there would have been no purpose whatsoever for the inclusion in the Convention of the articles laying down those obligations.

This conflict of interpretation and divergencies in implementation of an article of the Convention which the Committee regards as mandatory and of fundamental importance in furthering the purposes and principles of the Convention, merits the serious consideration of the World Conference.

Given equal respect for both, fundamental human rights and freedoms and the determination to eliminate racial discrimination would appear to be not irreconcilable. In fact, on the basis of information given by some States parties in their periodic reports, the Committee is able to state that the difficulties under consideration have proved to be not insurmountable in certain countries whose commitment to safeguarding the freedoms of opinion, expression and association is as complete as their commitment to the elimination of racial discrimination.

Other difficulties have arisen with respect to some States parties which have interpreted the Convention's not expressly mentioning this question, as allowing them to divorce their foreign policy - including their relations with countries whose social system is an embodiment of the principle of racism - from the national anti-discrimination policies required under the Convention, and have contended that their relations with other States do not fall within the purview of the Convention.

The Committee, on the other hand, believes that the purposes and objectives of the Convention will not be fully attained so long as the relations of some State parties with racist régimes continue to be conducted without regard to the provisions of that international instrument.

The Committee is gratified with the support which its own understanding of the Convention in that regard has received from the vast majority of States parties to the Convention as well as the overwhelming majority of States Members of the United Nations.

It sincerely hopes that the States parties concerned will reconsider their position.

* * *

For the Convention to become truly effective as an international weapon in the global struggle against racial discrimination, and for its practical impact to be commensurate with the intrinsic adequacy of its own provisions, a greater degree of compliance with those provisions by a larger number of States parties is required.

If the discussions at the World Conference give rise to agreement on the means by which real progress can be made towards the twin goals of universality and fuller implementation of the Convention, the Conference will have succeeded in making an intrinsically adequate tool more effective in practice.

The international community will have thereby served notice on the proponents of racism and the perpetrators of racial discrimination - whether insidious or overt, vestigial or renascent - that, in the contemporary, post-colonial world, built upon the foundations of the United Nations Charter, there is no place for, and there shall be neither acquiescence in nor complacency towards, the abomination of racism and racial discrimination. And the common determination of mankind to destroy that evil will have been made invincible.

ANNEX VI

Letter dated 4 April 1978 from the Chairman of the Committee on the Elimination of Racial Discrimination addressed to the Secretary-General of the United Nations

At its seventeenth session, the Committee on the Elimination of Racial Discrimination considered an item entitled "Departure from the practice of issuing members of the Committee first-class tickets for attending meetings of the Committee", and unanimously adopted the present communication which I have the honour to bring to your attention.

The Committee notes that General Assembly resolution 32/198 of 21 December 1977 - the purported basis for initiating the new practice in connexion with the current session of the Committee - does not in fact apply to the travel of members of the Committee; paragraph 2 (b) of that resolution refers to persons whose travel is "paid by the United Nations", whereas the travel of members of the Committee is paid by the States Parties to the International Convention on the Elimination of All Forms of Racial Discrimination, in accordance with article 8, paragraph 6, of that Convention.

The Committee wishes to observe that the decision to change the practice followed in connexion with its past 16 sessions can be taken only by the States Parties to the Convention. No decision to that effect has been taken by them.

It will be recalled that the Fourth Meeting of States Parties, held on 10 January 1974, "examined ways and means of reducing the expenses incurred by the Committee on the Elimination of Racial Discrimination and for this purpose considered the advisability of ... the use of economy class for the travel of members of the Committee" (CERD/SP/6); that, at its ninth session, held in the spring of 1974, the Committee considered these questions and decided "that members should continue to travel by first class" (A/9618, para. 274); and that subsequent meetings of States Parties did not take any decision to the contrary.

It will be also recalled that the Sixth Meeting of States Parties, held on 12 January 1978, did not decide to authorize the Secretary-General to apply the provisions of paragraph 2 (b) of General Assembly resolution 32/198 to members of the Committee. The Meeting had before it a report from the Secretary-General (CERD/SP/R.22), which had been prepared before the adoption of that resolution. Although a staff member of the Office of Financial Services made a statement referring to that resolution, and indicated - inaccurately - that, under paragraph 2 (b), "a number of members of the Committee would not be entitled to first-class travel at United Nations expense" (CERD/SP/SR.11, para. 25), the Meeting neither considered nor took a decision on that statement; the only action it took regarding the item under consideration was to "take note of the Secretary-General's report and request him to continue to submit to the Meeting of States Parties biennial reports on the expenses of members of the Committee, as he had done in the past" (*ibid.*, para. 26).

Inasmuch as the States Parties have not decided otherwise, the practice followed in connexion with travel of the members to attend the first 16 sessions of the Committee should continue to be followed.

Accordingly, the Committee requests the Secretary-General to issue first-class tickets to all members of the Committee in connexion with their travel to attend the forthcoming eighteenth session, and to continue to do so for all subsequent sessions unless the States Parties decide otherwise.

The Committee also requests the Secretary-General - if he decides to inscribe an item on this question on the provisional agenda of the Seventh Meeting of States Parties, or to seek by some other procedure to ascertain the views of the majority of States Parties - to afford the Committee an opportunity to present its views on the subject to the States Parties.

The Committee wishes to inform the Secretary-General that, should such an opportunity arise, it would invite the attention of the States Parties, inter alia, to the following facts:

(1) According to the information received by the Committee from the Secretary-General at the present session, the total savings realized by the States Parties under the procedure followed in connexion with the present session amount to \$2,500 per session - which is the equivalent of less than 3.8 per cent of the total cost of travel and subsistence of members of the Committee per session, and amounts to an average saving of approximately \$25 per session (or \$50 per year) for individual States Parties; and

(2) Members of the Committee, who serve in their personal capacities, are as such unpaid volunteers; they are employees neither of the United Nations nor of the States Parties; and they receive no remuneration, emoluments or honoraria in connexion with their service on the Committee from any source. In that respect, they are unlike members of most other bodies, within the United Nations system, who serve in a personal capacity.

ANNEX VII

Documents received by the Committee on the Elimination of Racial Discrimination at its seventeenth and eighteenth sessions pursuant to decisions of the Trusteeship Council and the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, in conformity with article 15 of the Convention a/

A. Documents submitted pursuant to the decision of the Trusteeship Council

1. Report of the Administering Authority relating to the Trust Territory of the Pacific Islands

Trust Territory of the Pacific Islands (T/1786)
(United States of America) For the period ending 1 September 1977

2. Report of the Trusteeship Council to the Security Council, incorporating the working paper prepared by the Secretariat ("Outline of conditions in the Trust Territory of the Pacific Islands" (T/L.1208 and Add.1 and Add.2))

Official Records of the Security Council, Thirty-third Year, Special Supplement No. 1

B. Documents submitted pursuant to decisions of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

1. The Special Committee did not submit copies of petitions in 1977-1978, falling under the terms of article 15 of the Convention.
2. Copies of reports and working papers submitted by the Special Committee:

| | |
|---|-----------------------------|
| East Timor | A/32/23/Add.3, chap. X |
| Gibraltar | A/32/23/Add.3, chap. XI |
| Falkland Islands (Malvinas) | A/32/23/Add.7, chap. XXVIII |
| Belize | A/32/23/Add.7, chap. XXIX |
| Antigua, Dominica St. Kitts-Nevis-Anguilla, St. Lucia and St. Vincent | A/32/23/Add.7, chap. XXX |
| British Virgin Islands | A/AC.109/L.1206 |
| Pitcairn | A/AC.109/L.1207 |
| Turks and Caicos Islands | A/AC.109/L.1208 |

a/ See chap. V, para. 365 above.

| | |
|--|---|
| Activities of foreign economic and other interests in Turks and Caicos Islands | A/AC.109/L.1220 |
| Namibia | A/AC.109/L.1209 and Add.1 |
| Bermuda | A/AC.109/L.1210 |
| Cayman Islands | A/AC.109/L.1211 |
| Activities of foreign economic and other interests in Cayman Islands | A/AC.109/L.1221 |
| Tokelau | A/AC.109/L.1212 |
| Tuvalu | A/AC.109/L.1213 |
| Southern Rhodesia | A/AC.109/L.1214 and Corr.1 and Add.1 and Add.2 |
| Solomon Islands | A/AC.109/L.1215 |
| Montserrat | A/AC.109/L.1216 |
| American Samoa | A/AC.109/L.1219 |
| Activities of foreign economic and other interests in Namibia | A/AC.109/L.1222 and Corr.1 |
| St. Helena | A/AC.109/L.1226 |
| Guam | A/AC.109/L.1230 |
| Gilbert Islands | A/AC.109/L.1231 |
| New Hebrides | A/AC.109/L.1232 |
| Activities of foreign economic and other interests in Southern Rhodesia | A/AC.109/L.1233 |
| United States Virgin Islands | A/AC.109/L.1234 |
| Military activities and arrangements in Guam | A/AC.109/L.1236 |
| Military activities in Namibia | A/AC.109/L.1238 |
| Gibraltar | A/AC.109/L.1249 |
| Brunei | A/AC.109/L.1251 |
| Trust Territory of the Pacific Islands | A/AC.109/L.1252 |
| Cocos (Keeling) Islands | A/AC.109/L.1253 |

ANNEX VIII

List of documents issued for the seventeenth and eighteenth sessions
of the Committee on the Elimination of Racial Discrimination

A. Seventeenth session

Documents issued in the general series

| | |
|-----------------|--|
| CERD/C/10 | Provisional agenda of the seventeenth session of the Committee: note by the Secretary-General |
| CERD/C/11 | Action by the General Assembly at its thirty-second session on the annual report submitted by the Committee on the Elimination of Racial Discrimination under article 9, paragraph 2, of the Convention: note by the Secretary-General |
| CERD/C/12 | Consideration of copies of petitions, copies of reports and other information relating to trust and non-self-governing territories and to all other territories to which General Assembly resolution 1514 (XV) applies, in conformity with article 15 of the Convention: note by the Secretary-General |
| CERD/C/13 | Implementation of article 7 of the Convention: note by the Secretary-General |
| CERD/C/14 | Revision of rules 34 and 62 of the provisional rules of procedure of the Committee: note by the Secretary-General |
| CERD/C/15 | Initial reports of States Parties due in 1978: note by the Secretary-General |
| CERD/C/15/Add.1 | Initial report of Guinea |
| CERD/C/16 | Second periodic reports of States Parties due in 1978: note by the Secretary-General |
| CERD/C/17 | Third periodic reports of States Parties due in 1978: note by the Secretary-General |
| CERD/C/18 | Fourth periodic reports of States Parties due in 1978: note by the Secretary-General |
| CERD/C/18/Add.1 | Fourth periodic report of Morocco |
| CERD/C/19 | Third periodic report of Austria |

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| CERD/C/20 | Fifth periodic reports of States Parties due in 1978: note by the Secretary-General |
| CERD/C/20/Add.1 | Fifth periodic report of Iran |
| CERD/C/20/Add.2 | Fifth periodic report of Iceland |
| CERD/C/20/Add.3 | Fifth periodic report of Tunisia |
| CERD/C/20/Add.4 | Fifth periodic report of Uruguay |
| CERD/C/20/Add.5 | Fifth periodic report of Madagascar |
| CERD/C/20/Add.6 | Fifth periodic report of Cyprus |
| CERD/C/20/Add.7 and Corr.1 | Fifth periodic report of Argentina |
| CERD/C/20/Add.8 | Fifth periodic report of Hungary |
| CERD/C/20/Add.9 | Fifth periodic report of the Philippines |
| CERD/C/20/Add.10 | Fifth periodic report of Poland |
| CERD/C/20/Add.11 | Fifth periodic report of Egypt |
| CERD/C/20/Add.12 | Fifth periodic report of Czechoslovakia |
| CERD/C/20/Add.13 and Corr.1 | Fifth periodic report of Kuwait |
| CERD/C/20/Add.14 | Fifth periodic report of Brazil |
| CERD/C/20/Add.15 | Fifth periodic report of Pakistan |
| CERD/C/20/Add.16 | Fourth and fifth periodic reports of Ghana |
| CERD/C/21 | Fourth periodic report of Finland |
| CERD/C/22 | Fourth periodic report of Norway |
| CERD/C/23 | Third periodic report of Jamaica |
| CERD/C/24 | Consideration of reports submitted by States parties under article 9 of the Convention: note by the Secretary-General |
| CERD/C/25 | Initial report of Zaire |
| CERD/C/26 | Initial report of Qatar |
| CERD/C/27 | Second periodic report of the United Arab Emirates |

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| CERD/C/28 | Initial report of the Lao People's Democratic Republic |
| CERD/C/29 | Second periodic report of Trinidad and Tobago |
| CERD/C/30 | Third periodic report of Tonga |
| CERD/C/SR.363 to 383 | Summary records of the seventeenth session of the Committee |

Documents issued in the limited series

| | |
|------------|--|
| CERD/C/L.1 | World Conference to Combat Racism and Racial Discrimination: note verbale dated 6 March 1978 from the Secretary-General addressed to the Chairman of the Committee |
|------------|--|

B. Eighteenth session

Documents issued in the general series

| | |
|------------------|--|
| CERD/C/15/Add.2 | Initial report of Chad |
| CERD/C/16/Add.1 | Second periodic report of Mexico |
| CERD/C/17/Add.1 | Third periodic report of the German Democratic Republic |
| CERD/C/17/Add.2 | Third periodic report of Fiji |
| CERD/C/20/Add.17 | Fifth periodic report of the United Kingdom |
| CERD/C/20/Add.18 | Fifth periodic report of the Union of Soviet Socialist Republics |
| CERD/C/20/Add.19 | Fifth periodic report of Bulgaria |
| CERD/C/20/Add.20 | Fifth periodic report of Spain |
| CERD/C/20/Add.21 | Fifth periodic report of the Syrian Arab Republic |
| CERD/C/20/Add.22 | Fifth periodic report of the Byelorussian Soviet Socialist Republic |
| CERD/C/20/Add.23 | Fifth periodic report of the Ukrainian Soviet Socialist Republic |
| CERD/C/20/Add.24 | Supplement to the fifth periodic report of Egypt contained in CERD/C/20/Add.11 |
| CERD/C/20/Add.25 | Fifth periodic report of Panama |

| | |
|-------------------|--|
| CERD/C/20/Add.26 | Supplement to the fifth periodic report of the United Kingdom contained in CERD/C/20/Add.17 |
| CERD/C/31 | Initial report of Ethiopia |
| CERD/C/32 | Provisional agenda of the eighteenth session of the Committee |
| CERD/C/33 | Consideration of copies of petitions, copies of reports and other information relating to trust and non-self-governing territories and to all other territories to which General Assembly resolution 1514 (XV) applies, in conformity with article 15 of the Convention: note by the Secretary-General |
| CERD/C/34 | Fourth periodic report of Mongolia |
| CERD/C/35 | Provisional rules of procedure of the Committee on the Elimination of Racial Discrimination |
| CERD/C/36 | Communications, general recommendations and requests for information adopted by the Committee on the Elimination of Racial Discrimination |
| CERD/C/37 | Third periodic report of New Zealand |
| CERD/C/38 | Third periodic report of Mauritius |
| CERD/C/39 | Initial report of Somalia |
| CERD/C/40 | Third periodic report of Senegal |
| CERD/C/SR.384-406 | Summary records of the eighteenth session of the Committee |

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