

COMMI TTEE ON THE ELI MI NATION OF RACI AL DI SCRI M NATION

Fortieth session

SUMMARY RECORD OF THE 917th MEETING

Held at the Palais des Nations, Geneva,  
on Wednesday, 7 August 1991, at 10 a.m.

Chairman: Mr. SHAHI

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The meeting was called to order at 10.10 a.m.

CONSI DERATION OF REPORTS, COMMENTS AND INFORMATION SUBMI TTED BY STATES PARTIES UNDER ARTI CLE 9 OF THE CONVENTI ON (agenda item 3) (continued)

Sixth, seventh and eighth periodic reports of Australia (CERD/ C/ 146/ Add. 3 and CERD/ C/ 194/ Add. 2) (continued)

At the invitation of the Chairman, Mr. Tickner, Mr. Walker, Mr. Gray, Mr. Barker, Mr. Chapman, Mr. Thomson, Ms. Blair, Ms. Schmi der and Mr. Milner (Australia) took places at the Committee table.

1. Mr. FERRERO COSTA said he failed to see in what way the exceptions to the prohibition of discrimination set out in paragraph 78 of the eighth report were, as the Australian delegation had asserted the previous day, consistent with the provisions of article 1, paragraphs 3 and 4, of the Convention, and requested clarification of that point.

2. Referring to the need to harmonize anti-discrimination legislation, he pointed out that in the event of inconsistency, the Convention took precedence over federal laws and the latter over the laws of States.

3. In that connection, he was surprised that the Equal Opportunity Act (paras. 74 and 75 of the eighth report) adopted by Western Australia had not been repealed or amended, since it gave a far more restrictive definition of racial discrimination than that contained in the Convention and in the federal Act of 1975.

4. He further considered it abnormal that political or other considerations should play an important part in any decision by the federal Government to invalidate, or otherwise, a State law that was inconsistent with a federal law (para. 11). In his view, if a law was inconsistent, it should be repealed regardless of any other consideration.

5. Mr. WALKER (Australia), replying to a question by Mr. Wolfrum on immigration, said that he had at his disposal detailed statistical tables covering recent years and including figures on immigrants of Asian origin.

6. As to the recent amendments to the legislative provisions concerning immigration, they were mainly of a procedural nature, one of their purposes being to prevent illegal immigrants from unduly postponing their departure by means of procedural tactics. In any case, the amendments had nothing to do with racial discrimination.

7. In reply to a question by Mr. Vidas on the declaration provided for in article 14 of the Convention, he explained that the federal Government had been considering making the declaration for several years, but first wished to secure the agreement of all States. The federal Government could, of course, proceed without the States' endorsement, but that would involve a number of practical and political difficulties which it would rather avoid. In any case, the federal Government would be reconsidering the question, especially now that it had ratified the first Optional Protocol to the International Covenant on Civil and Political Rights.

8. He pointed out that the exceptions referred to in paragraph 78 of the report were not contrary to the Convention, since they came under the scope of article 1, paragraph 4.

9. His reply to Mr. Ferrero Costa's suggestion that the political considerations referred to in paragraph 11 might prevent the federal Government from complying fully with its obligations under the Convention was, categorically, that they did not. Paragraph 11 explained why the federal Government preferred to achieve its ends by securing the support of the various States rather than by imposing federal legislation, as the Constitution authorized it to do.

10. In any event, the Racial Discrimination Act 1975 applied to the whole of Australian territory, irrespective of similar laws that might be enacted by the various States.

11. When the law of a State was inconsistent with a federal law, the State law was invalid to the extent of the inconsistency and it was for the courts and not for the federal Government to give a ruling.

12. Returning to the question of the exceptions referred to in paragraph 78, he was sorry he could not say whether the exceptions had been invoked in the courts or what the federal Government's view was on the subject. In any event, however, it was the federal Act of 1975 which took precedence over State laws to the extent that they were inconsistent with the provisions of the Convention.

13. The CHAIRMAN thanked the Australian delegation for the high quality of its report and expressed appreciation of its constructive dialogue with the Committee.

Mr. Tickner, Mr. Walker, Mr. Gray, Mr. Barker, Mr. Chapman, Mr. Thompson, Ms. Blair, Ms. Schmitter and Mr. Milner (Australia) withdrew.

14. Mr. WOLFRUM conveyed to the Committee his general observations on the reports submitted by Australia. The reports reflected the efforts made by the

federal Government to establish a multicultural society. That policy, which was endorsed by the majority population, might improve the overall situation of all ethnic groups, including that of the Aboriginal and Torres Strait Islander people.

15. However, it was evident from the reports and the oral introduction that further affirmative action should be taken to improve the situation of the Aboriginal and Torres Strait Islander people, especially in the areas of education, employment, housing, land rights and health services.

16. Efforts already made by the Australian Government in that regard were fully consistent with the spirit and objectives of the Convention and showed that significant progress had been made since the submission of earlier reports.

17. The Committee expected the Australian Government to pursue that policy in all the States and territories of the Commonwealth of Australia.

18. The Committee had been very impressed by the Australian delegation's concern to provide it with detailed information, especially about recent developments, and hoped that the very constructive dialogue that had developed would continue in the future.

19. Mr. BANTON said that the Committee was particularly appreciative of the fact that Mr. Tickner, Minister for Aboriginal Affairs, had attended the session at the head of the Australian delegation.

20. Mr. RESHETOV paid a tribute to the Australian Government for the high quality of its reports which reflected the progress made in the implementation of the Convention.

21. After recalling that international instruments ratified by a State took precedence, in the event of inconsistency, over the laws of that State, he pointed out that whenever the Committee had examined the report of a federal State it had been confronted with the problems raised by the delimitation of the respective powers of the federal State and the national States.

22. He therefore hoped that the Committee would adopt a clear-cut position in regard to a federal State's obligation to ensure the implementation of the provisions of the international instruments it had ratified.

23. Mr. VIDAS suggested that Mr. Wölftrum should add to the text he had proposed a sentence reflecting the idea expressed by Mr. Reshetov, namely that federal authorities had an obligation to ensure the implementation of the provisions of the Convention throughout the territory.

24. He would also like the Committee to adopt a general recommendation on that same question at its current session.

25. The CHAIRMAN said that, in the particular case of Australia, the country's representative had recognized that it was for the federal Government to see to the implementation of the provisions of the Convention in all the States of Australia. As to the general, recurrent question of the implementation of international treaties in federal States, it might be useful to request the Secretariat to prepare an information note describing, inter alia, how the Third Committee of the General Assembly had approached the issue.

26. Mr. VIDAS said he shared the Chairman's views, but proposed that, in the final version of his text, Mr. Wölftrum should nevertheless give some attention to that important aspect of the implementation of the Convention in federal States. The Committee might also consider the possibility of adopting a

general recommendation on the question.

27. Mr. ABOUL-NASR said that the discussion might be broadened to include a study of the implementation of the Convention in occupied and non-self-governing territories.

28. Referring to the comments by Committee members on the reports submitted by Australia, he did not agree that Australian society should be described as a "multicultural" society. It was in fact a multiracial society. The Committee had dwelt on the question of the Aboriginal people, but it should not be forgotten that Australia was host to a growing number of immigrants from different regions of the world.

29. With regard to the concept of positive discrimination, he refuted the distinction drawn between positive and negative discrimination, quoting the example of South Africa, which invoked the principle of positive discrimination to justify apartheid, a policy that was supposed to ensure the separate development of different racial groups.

30. Mr. FERRERO COSTA, supporting Mr. Vidas' proposal, suggested that the text of the observations on Australia's reports should include a passage in which Mr. Wölfrum would specify that it was the federal Government's responsibility to ensure that national laws were consistent with federal laws, which reflected the State's international commitments.

31. It would also be useful to draft a general recommendation on the particular case of federal States, an issue which so often came up in the Committee. The question of the implementation of the Convention in occupied or non-self-governing territories could be dealt with in due course.

32. Mr. RESHETOV said that States all too often invoked national legislation to evade their obligations under international law. On 5 July 1991, the Supreme Soviet had taken the decision to recognize the competence of the Human Rights Committee under article 41 of the International Covenant on Civil and Political Rights, and that of the Committee on the Elimination of Racial Discrimination under article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination, as well as the three procedures provided for under articles 20, 21 and 22 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. If the authorities had consulted all the Union republics, such an undertaking would have taken 10 to 15 years longer.

33. Mr. de GOUTTES said he fully endorsed the idea put forward by Mr. Reshetov, which had prompted a proposal by Mr. Vidas and a text drafted by Mr. Wölfrum. The fact was that the structure of States might entail disparities in the implementation of the Convention. He also sympathized with Mr. Aboul-Nasr's argument and recognized that States which had separate territories must undertake to implement, in those territories, the international treaties to which they were parties. There was, however, another problem that had often been raised - that of the responsibility of States with a "dualistic" system, in other words States in which the application of an international treaty required the prior enactment of a domestic law. There again, there was a difference between those States and States with a monistic system, in other words those in which international treaties applied directly.

34. In any event, he would be in favour of a proposal confined, for the time being, to the particular case of federal States.

35. Mr. LAMPTEY said he did not see the point of making recommendations whose content was self-evident. No State party had so far disputed the principle that it was for States which had ratified the Convention to ensure

its implementation throughout their territory. The political structure of States did not fall within the Committee's competence.

36. With regard to the views expressed by Mr. Aboul-Nasr, he considered that the principle of positive discrimination was implicitly recognized in article 1, paragraph 4, of the Convention.

37. The CHAIRMAN proposed that Mr. Wolfrum and Mr. Aboul-Nasr and other interested members of the Committee should hold informal consultations about the wording of that point in the Committee's observations on the reports submitted by Australia.

Ninth and tenth periodic reports of Iraq (CERD/ C/ 159/ Add. 2 and CERD/ C/ 185/ Add. 2)

At the invitation of the Chairman, Mr. Al-Douri, Mr. Al-Kadhi and Mr. Mhammed (Iraq) took places at the Committee table.

38. Mr. AL-DOURI (Iraq) expressed regret that, for reasons known to all members of the Committee, Iraq had had to submit the two reports together. The Iraqi Government was prepared to fulfil its responsibilities under the International Convention on the Elimination of All Forms of Racial Discrimination and to cooperate with the Committee with a view to establishing a constructive dialogue.

39. Despite the disasters it had suffered and the centuries of foreign occupation it had undergone, Iraq, with its rich history and civilization, had contributed a great deal to the heritage of mankind. The Iraqi people constituted a mosaic of social and religious groups united in a climate of understanding, fellowship and interaction.

40. Iraq's latest two reports on the implementation of the Convention were divided into two parts, the first describing legislative developments in the implementation of the Convention since the submission of the eighth report, and the second dealing with new developments concerning autonomy in the Region of Kurdistan during the same period.

41. Iraq wished to reaffirm the following principles: (a) Iraqi legislation prohibited the practice of all forms of discrimination on grounds of sex, race, religion or belief. That prohibition applied equally to individuals, institutions and public authorities; (b) Iraq had acceded to the International Convention on the Suppression and Punishment of the Crime of Apartheid, the provisions of which were regarded as forming part of Iraqi legislation; (c) Iraq considered that apartheid was a crime against humanity; (d) Iraqi legislation guaranteed to all citizens, without any discrimination, the right to equality and to security; similarly, all political rights were guaranteed without any discrimination on grounds of origin; (e) all the legislative enactments designed to promote the exercise of economic, social and cultural rights remained in force; (f) as had been indicated in previous reports, Iraq's educational and cultural policy applied to all citizens, without any discrimination, within the framework of Iraqi national unity, while preserving their linguistic and cultural characteristics.

42. Summing up, he reaffirmed that the provisions of article 5 of the Convention applied in Iraq to all citizens, who enjoyed the rights set out in that article without any discrimination on grounds of origin.

43. Mr. WOLFRUM said that the information given in the ninth and tenth reports of Iraq, covering the period up to 1989, was out of date. He had expected the oral introduction to supplement that information but, to his great disappointment, no further information had been provided to corroborate Iraq's undertaking to enter into a constructive dialogue with the Committee.

However, the periodic report which Iraq had just submitted to the Human Rights Committee (CCPR/C/64/Add.6) did to some extent supplement the reports under consideration.

44. With regard to Iraq's ethnic composition, paragraph 4 of the ninth report stated that "general population census operations are conducted on the basis of Iraqi citizenship, without regard for any ethnic, religious or denominational distinctions". Meanwhile, according to the third report submitted to the Human Rights Committee, not only did Iraq not deny persons belonging to minorities the right to enjoy their own culture, to profess and practise their own religion, or to use their own language but also pursued positive measures in order to enable minorities to exercise their rights without discrimination (CCPR/C/64/Add.6, para. 76). He found it difficult to see how the Government could pursue such a policy without knowing the groups which made up its population.

45. With regard to article 2 of the Convention, the ninth and tenth reports stated, as the representative of Iraq had repeated orally, that Iraqi law strictly prohibited the practice of any form of racial discrimination. That prohibition was said to apply equally to individuals, institutions and public authorities. It should be emphasized that legal provisions were not enough in themselves to guarantee the rights protected under the Convention. Neither the reports nor the oral introduction provided the information required under article 9 of the Convention. He therefore asked the following questions: how many Kurds had fled the country during the war between Iraq and Iran and during the most recent war? What measures had been taken by the Iraqi Government to guarantee the security of the life, property and health of the Kurds? Since both reports covered the year 1987, could the representative of Iraq give details about the serious incidents that had taken place in the Kurdistan region in that year? Similarly, could the representative of Iraq comment on the massive use of force against the Kurdish minority?

46. Were the Shiite Muslims still being bombed and had they been prevented from receiving food aid? Finally, he asked whether it was true that sulphuric acid had been sprayed on Shiite Muslims, including women and children, and, if so, whether those who had committed such acts or similar acts or had given orders to that effect were to be tried and sentenced.

47. Since the Government of Iraq had emphasized that racial discrimination was prohibited by Iraqi law, he asked whether the legislative provisions referred to had remained in force during the recent period in which martial law had been imposed in the country.

48. In its third periodic report to the Human Rights Committee, the Iraqi Government had referred to amnesty orders decreed by the Revolutionary Command Council. Decision No. 103, extended by decision No. 109, seemed to cover all Iraqis in north, south or central Iraq and granted pardon for all acts committed "during the riots or disloyalty", except for certain crimes such as murder (CCPR/C/64/Add.6, para. 42). Did that amnesty order apply to acts committed against the Kurds, the Shiites and the population of Kuwait during the occupation of Kuwait by the Iraqi armed forces? He recalled in that connection that international conventions applied also to all territories administered by the State party, including those which had been occupied or, as in the case of Kuwait, annexed. He would not, therefore, be satisfied with a reply to the effect that the latter question was outside the Committee's sphere of competence. It was the Committee's duty to monitor the implementation of the Convention and it was the State party's responsibility to fulfil its obligations under the Convention, regardless of any resolutions adopted by the Security Council. He also wished to know what regulations had governed the population of Kuwait while it had been occupied as the nineteenth province of Iraq, and why the latter had made no real effort during that period to protect the rights of the population in accordance with

article 5 of the Convention. In addition, was it true that Iraq had attempted to change the demographic composition of Kuwait by deporting or executing Kuwaitis, and what measures had been taken to protect women, children and civilians against such acts?

49. With reference to article 2, paragraph 2, of the Convention, paragraph 5 et seq. of the annex to the tenth periodic report of Iraq dealt with the elections to the Legislative Council of the Autonomous Region of Iraqi Kurdistan, held on 10 September 1989, stating that 50 members had been chosen from a total of 174 candidates standing for election in 211 constituencies. Could the representative of Iraq explain the Iraqi electoral system, since it seemed unusual for there to be fewer candidates than constituencies? It would also be useful to know the demographic composition of the Legislative Council of the Autonomous Region and to receive additional information on the status and functions of the Legislative Council and on the relationship between that institution and the National Assembly.

50. Since paragraph 9 of the same document referred to elections of representatives to the National Assembly in April 1989, he would like to know the demographic composition of the Assembly and of the Executive Council. It was further stated in paragraphs 11, 16 and 21 that several towns and villages had been established in the Governorates of Sulaimaniya, Arbil and Dohuk. Did that mean that the Kurds had been forced to leave their traditional mountain dwellings and to settle in those new towns and villages?

51. He asked to what extent the Kurdish language was used at the political and administrative levels within and outside the Autonomous Region, whether it was used in the courts and whether interpretation was provided free of charge to those concerned.

52. He also asked the representative of Iraq to specify all the positive measures taken by Iraq to enable minorities to exercise their rights without discrimination (CCPR/ C/ 64/ Add. 6, para. 76). Were other minorities (Shiite, Assyrian or Turkoman) represented in the National Assembly?

53. The reports stated that education was provided in the Turkoman and Kurdish languages. What languages were used at Salahuddin University?

54. Finally, he asked what changes would be made to the status of the Autonomous Region of Kurdistan following the talks taking place in Baghdad.

55. Mr. de GOUTTES said that, like Mr. Wolfrum, he had expected a great deal from the oral statement by the representative of Iraq, especially since the latter had substantial responsibilities and academic authority in his country. Unfortunately, the statement had not provided any clear answers. That was undeniably a matter for regret, since the ninth and tenth periodic reports of Iraq (CERD/ C/ 159/ Add. 2 and CERD/ C/ 185/ Add. 2) were out of date; besides, even allowing for the time-lapse, they presented the information in a theoretical, formal manner, with few references to the actual situation.

56. The Human Rights Committee, for its part, after examining the third periodic report submitted to it by Iraq, had deplored in its observations the fact that the Iraqi delegation had sought to justify the unjustifiable; the oral introduction by that delegation had not been conducive to a dialogue, and most of the questions had remained unanswered, especially those concerning the persecution of the Kurds and the Shiites. The Human Rights Committee had reproached Iraq for evading its responsibilities by arguing that the human rights violations committed on its territory could be ascribed to a war waged against it. That Committee had also rejected the delegation's assertion that the questions asked by its members were a matter for the Security Council. The Human Rights Committee had decided to pursue its consideration of the report of Iraq at its next session, requesting the delegation to change its

attitude.

57. The question whether the Iraqi delegation was prepared to change its attitude and reply to questions applied to the Committee on the Elimination of Racial Discrimination as well. In that context, it should explain, for instance, how Iraq implemented article 5, paragraphs (b) and (d), of the Convention (which in fact guaranteed the major civil liberties), particularly in respect of the Kurds and the Shiites. The Committee was of course aware that Iraq was in a difficult situation and must bear that in mind, but it could expect from that country convincing explanations on alarming situations, particularly that of the Kurds, which had led the Security Council, in its resolution 688 (1991), to unprecedented recognition of the right of intervention on humanitarian grounds. The Iraqi delegation must also give convincing explanations on the massive bombardments of the civilian population, on the fate inflicted on the inhabitants of Kuwait when that country had become the nineteenth province of Iraq, on the destruction of the Shiite holy places, on the flight of hundreds of thousands of Kurds, Shiites and other persons and on the attempt to repatriate them by force, on the obstacles to movement by the Shiites (Amnesty International had spoken of the use of mines), on the treatment of opposition parties, etc. The representative of Iraq had said that his country was prepared to implement the Convention and enter into a dialogue with the Committee; explanations on all the points he had just listed should therefore be given orally at the current session or in the next written report.

58. Mr. ABOUL-NASR acknowledged that in its present difficult situation subsequent to its attempted annexation of Kuwait, Iraq found it hard to reply to the Committee's questions. It was in fact a situation from which the entire region to which he himself belonged had suffered. Iraq was now suffering a great deal; in particular, large numbers of children, irrespective of race, lacked food and medicines.

59. With regard to the treatment of the Kurds, he pointed out that they had been entitled to certain rights which they did not enjoy in the neighbouring countries in which there was also a Kurdish population. In Turkey, for example, the Kurds were not even authorized to speak their own language. It was disappointing, however, that the rights which the Kurds were recognized as having in Iraq had not been exercised, and the reason for that should be known. He further questioned the statement by the representative of Iraq that article 5 of the Convention was fully implemented in his country. In fact, that article was fully implemented nowhere in the world, although it should be noted that an effort was being made to that effect in Iraq.

60. The delegation attending the Committee's meeting might not have any precise information about the latest negotiations between the Iraqi Government and the Kurds, but it might at least inform the Committee of what it knew. In his view, the fact that Kurds were negotiating at that very time in Baghdad and seemed to be making statements openly about the way in which the negotiations were proceeding was a step forward. Generally speaking, it was to be hoped that Iraq would embark on the future with a fresh will to implement the Convention; it was also to be hoped that the Committee might be informed at the current session of any plans to that effect.

61. Mr. VIDAS said that, after what had just been said, the best solution was for the Committee to apply article 9 of the Convention, under which it might "request further information from the States parties", the point being that the information contained in the two reports now before the Committee did not provide a valid basis for consideration. The further information requested might be considered at the next session, and he hoped that there would be evidence of constructive cooperation at that time.

62. Mr. FERRERO COSTA shared the views expressed by his colleagues on the



ninth and tenth periodic reports of Iraq. He did not think, however, that it was necessary to await further information, as Mr. Vidas was proposing. Since an Iraqi delegation was present and it included the Dean of the Baghdad Law Faculty, an attempt should be made to enter into a dialogue. The delegation should reply to the questions listed by Mr. Wölfrum and Mr. de Gouttes and other members of the Committee.

63. Mr. GARVALOV said that the Committee should adopt the same approach to all reports by States parties. The information given in the ninth and tenth periodic reports of Iraq must of course be updated, but the Committee should take advantage of the presence of a delegation from that country to obtain answers to its questions.

64. If Iraq was currently in a difficult situation, it should be remembered that Iraq itself was the cause of it. Even before its act of aggression of 2 August 1990, it had not been implementing the Convention satisfactorily, and that had not escaped the Committee's attention; the Iraqi Constitution recognized the ethnic, linguistic and religious diversity of the country, and yet it was known that harsh persecution had been inflicted on the Kurds, including the use of chemical weapons against them. He was also interested in the fate of the Jews in Iraq and would be glad if the delegation could give an answer on that subject.

65. When a country crushed the right to self-determination of another country, as Iraq had done, anything could be expected in terms of human rights violations. The International Convention on the Elimination of All Forms of Racial Discrimination did not deal with self-determination, but Iraq's practices against the Kuwaitis had involved an issue of racial discrimination which came within the purview of that instrument. The restrictions imposed at the time on foreigners living in Iraq - who, among other things, had been prohibited from leaving the country - had also raised a problem of discrimination. He would also like an explanation of how the rights of the Turkomans and Syriac-speaking peoples were respected. As to the Kurds, they were not a minority, but indeed a nation of over 10 million people - some said 16 million; they must therefore have the right to exist as a nation. He expected replies to those questions and to other questions asked by his colleagues and hoped that the Iraqi delegation would prove willing to establish a dialogue.

66. Mr. YUTZIS said that he was gratified that a delegation had come from Baghdad. He pointed out that the Committee was not a tribunal, but a body responsible for monitoring the implementation of the Convention in all the countries that had ratified it; hence the importance of hearing the Iraqi delegation's replies to the questions asked and of establishing a constructive dialogue with the representatives of Iraq in order to obtain a clear idea of the situation in that country. If the Iraqi delegation needed time to study the questions and answer them, he proposed, the agenda permitting, that the Committee should revert at a later stage to its consideration of the implementation of the provisions of the Convention in Iraq.

67. Mr. RESHETOV rejected the proposal that the dialogue with the Iraqi delegation should be suspended. He acknowledged that Iraq was in a difficult situation, but pointed out that the cause of it was the Iraqi regime itself. What had to be considered was not the political situation in the country, but the human rights situation. It was absolutely necessary to have full information on the subject, and he was therefore in favour of pursuing the dialogue with the representatives of Iraq.

68. The CHAIRMAN said that it would be useful to hear the comments of the representative of Iraq before considering Mr. Vidas' proposal.

69. Mr. VIDAS said that he was not opposed to pursuing the dialogue with the

Iraqi delegation, but simply believed that it should be given time to provide the information requested, especially on the current negotiations between the Iraqi Government and the Kurdish representatives. That being said, if the members of the Committee wished to continue consideration of the situation in Iraq on the basis of the reports submitted and if the Iraqi delegation could give replies that day to all the questions asked, he had no objection.

70. The CHAIRMAN acknowledged that some statements in the reports submitted needed to be updated. For example, it was stated in paragraph 3 (c) of the annex to the tenth report (CERD/C/185/Add.2) that only "the traitor Jalal al-Talebani is excluded from the amnesty proclaimed in this Decree", whereas it was apparent that Mr. Talebani was taking part in the current negotiations in Baghdad with Mr. Al-Barzani. It would therefore be interesting to have updated information about the prevailing situation in Iraq.

71. Mr. AL-DOURI (Iraq) first thanked the members of the Committee for their interest in Iraq, in the implementation of the Convention in that country, and in the two reports that had been submitted. He acknowledged that both reports covered a period prior to the events which had occurred since 2 August 1990. Needless to say, the situation in Iraq had changed radically and had become highly complex. That situation had already been discussed in the Commission on Human Rights, the Sub-Commission on Prevention of Discrimination and Protection of Minorities, the Security Council and other bodies. He did not think he was required to speak on the implementation of the Convention since 2 August 1990. Moreover, most of the questions asked were of a purely political character, whereas the role of the Committee was to concern itself with discrimination based on ethnic origin, and not with political issues.

72. He noted that Committee members had reproached the Iraqi delegation for failing to provide information about the present situation. Had the delegation been apprised of those questions earlier, through the Permanent Mission of Iraq to the United Nations, it would have been able to reply to them. Iraq was always ready to cooperate with the Committee.

73. He regretted having heard it said that Iraq was the cause of the difficulties encountered. It must not be forgotten that the Iraqi people was suffering immensely. Children were dying of hunger and endemic disease and the future looked even more difficult. The question of the responsibility of the Iraqi Government had already been raised in the Security Council. What the Iraqi people needed today was assistance. He was not trying to elude the questions, but observed that some of them reflected a misunderstanding of the information contained in the first reports submitted to the Committee.

74. He could not reply to the question about the talks taking place between the Iraqi Government and the Kurds, for they were private, secret negotiations. He merely hoped that they would come to a successful conclusion.

75. The Iraqi delegation needed time to reply to the many technical questions asked.

76. Finally, with regard to the clause of Decree No. 730 to which reference had been made, he explained that the fact that Jalal al-Talebani was at present negotiating with the Iraqi Government was the result of political developments.

77. The CHAIRMAN thanked the representative of Iraq and proposed that the Committee should allow the Iraqi delegation sufficient time to reply to the many fundamental questions it had been asked.

78. Mr. SHERIFIS agreed with that proposal and reserved the right to speak

when the Iraqi delegation provided the information requested.

79. The CHAIRMAN specified to the Iraqi delegation that there was no question whatsoever of entering into a political discussion.

Mr. Al-Douri, Mr. Al-Kadhi and Mr. Mhammed (Iraq) withdrew.

Sixth, seventh and eighth periodic reports of Australia (CERD/ C/ 146/ Add. 3 and CERD/ C/ 194/ Add. 2) (concluded)

80. Mr. WOLFRUM proposed that, in the concluding observations on the reports of Australia, a sentence reading: "The Committee took note of the affirmative response of the Australian representative." should be inserted after the sentence: "It may be reiterated in this context that it is the international responsibility of the federal Australian Government to ensure compliance with the obligations entered into under the Convention at all national Australian levels".

81. Mr. ABOUL-NASR thought that the addition might be made to the Committee's observations but should not take the form of a general recommendation.

82. The CHAIRMAN said that the question came under the general observations on the reports of Australia. There was no question for the time being of dealing with the matter of general recommendations.

83. Mr. FERRERO COSTA agreed with Mr. Wolfrum's proposal.

84. Mr. GARVALOV noted that the Committee had dealt mainly with the problem of Aboriginal Australians, whereas Australia was a multiracial country and other minorities would have warranted its attention. Furthermore, by confining itself to the question of the Aboriginal people, the Committee was in danger of misconstruing the situation.

85. With regard to judicial procedures, he noted that the Aboriginal people did not have direct access to the courts. They had to apply to the Commissioner who, if he deemed it necessary, referred the matter to the Human Rights and Equal Opportunity Commission which, in turn, could recommend that the complainant should be heard by a federal court. He wondered whether the other peoples living in Australia had direct access to the courts and, if so, why that was not the case of the Aborigines.

86. The CHAIRMAN recognized that the members of the Committee had concentrated on the situation of the Aborigines. It was too late, however, to go back on the subject. He was not sure how the comments that had just been made could be reflected in the records of the discussions.

87. Mr. WOLFRUM proposed that the matter should be raised when the Committee considered the draft proposal submitted by Mrs. Sadiq Ali.

88. Mr. GARVALOV said that he would be satisfied if his comments were included in the summary records of the meeting.

89. The CHAIRMAN said that that would be done and proposed that the consideration of the reports of Australia should thus be concluded.

It was so decided.

The meeting rose at 12.55 p.m.