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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fortieth session

SUMMARY RECORD OF THE 920th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 8 August 1991, at 3 p.m.

Chairman: Mr. SHAHI

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under article 9 of the Convention (continued)

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The meeting was called to order at 3.15 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION (agenda item 3) (continued)

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

At the invitation of the Chairman, Mr. Al-Douri, Mr. Al-Kadhi and

Mr. Mohammed (Iraq) took places at the Committee table.

1. Mr. AL-DOURI (Iraq), responding to questions raised by members of the Committee at the previous meeting, pointed out that the two reports under consideration had been transmitted to the United Nations before the recent events in the Gulf. Questions relating to a later period should, therefore, properly be considered in connection with the eleventh report. He would none the less try to answer members' questions.

2. He would first give a general outline of the background to the situation of the Shiites and of the Kurds. With regard to the Shiites, he explained that they considered their imams should be drawn from the descendants of Ali ibn Abi Talib, the cousin of the Prophet, in contrast to the Sunnis, who believed in elected imams in accordance with the views of Ali ibn Abi Talib's three predecessors. Subsequently, Ali's son, Hussein, had sought support from both the Sunnis and the Shiites in his bid to establish his family's dynasty, but had failed to get it from the Sunnis. In the ensuing battle Hussein had been killed and the anniversary of that event raised difficulties between the two groups. But it was in no sense a racial conflict, because the two groups otherwise had a common religion, history and culture. The recent events in southern Iraq had been an aberration. Following the withdrawal of the Iraqi army, the economic blockade and food shortages throughout Iraq, some countries - particularly Iran, but also some members of the Alliance - had sought to dominate southern Iraq, encouraging the local Shiites to set up interim governments in various towns of the region. In those circumstances the Iraqi army had clearly had to regain control of the region and the process had led to loss of life and the destruction of such hospitals, factories, etc. as had survived the bombardment during the Gulf war. It was a complex situation, which might have affected some people negatively. But there was no conflict or persecution based simply on a person's sect. Whether a person was Shiite or Sunni was not germane in Iraqi public life and indeed was often not known. He therefore found it strange to hear the question discussed at the international level as a racial problem.

3. As far as the Kurds were concerned, he did not dispute that there was a Kurdish problem, which was due to the artificial formation of Iraq after the First World War. But he denied that the Kurds had ever been treated as a separate people in a negative, discriminatory sense. Many Kurds were and had been prominent in public life, although he did not know the percentage, since

* Resumed from the 917th meeting,

he had always regarded them simply as fellow Iraqis. In the Autonomous Region of Kurdistan, however, all public offices were held by Kurds. He conceded that there had at times been Kurdish opposition to the Government, particularly when there had been rifts between Iraq and other countries, and those countries had tried to exploit any existing dissatisfaction among the Kurds as a bargaining chip. Such a situation had inevitably had a negative effect on human rights, particularly during the Gulf war. During the Iraq-Iran war, hundreds of thousands of Kurds had fled to Iran and Turkey with the intention of bringing pressure to bear on Iraq. History had recently been repeated on a larger scale. Three big cities - Sulaimaniya, Arbil and Dohuk - had been occupied, civil servants murdered, hospitals and schools looted, as if a foreign country was involved. It had therefore been necessary for the Iraqi army to reoccupy those cities and the rebels had fled to Iran or Turkey, most of them, in his view, because of a propaganda campaign alleging that those who remained would be victims of massacres. The so-called Kurdish problem originated with some elements of the Kurdish leadership, because most Kurds were peace loving.

4. Turning to specific questions, he said that with regard to the composition of the Iraqi population, there were three main ethnic groups -

Arabs, Kurds and Turkomans. Some members of the population were Shia or Sunni Muslims, others Catholic, Protestant or Eastern Orthodox Christians, while there were also adherents of the Yazidi faith in the north. With regard to the number of Kurds who had fled during the Iran and Gulf wars, he could only say that the number was very large, but many had also returned, since the borders of the country were too long to be properly controlled. He drew the Committee's attention to the report of the United Nations High Commissioner for Refugees, according to which 477,611 Kurds had returned to Iraq, mostly to their own regions, following the memorandum of understanding which Iraq had signed with the United Nations in April 1991. Both the memorandum and internal Iraqi resolutions and decrees were intended to ensure that Kurds could return home safely. Medical assistance and food had been provided.

5. The situation in southern Iraq was returning to normal, and there were no abuses of human rights: force had been used in order to restore public order, but numerous amnesties had been declared, and any repression was directed solely against persons guilty of murder or rape. Some of the population of southern Iraq was still in Iranian territory, but it could be assumed that they would return as soon as they were permitted to do so by the Iranian authorities.

6. In general, conditions in Iraq had stabilized, but serious problems continued to arise because of sanctions, which effectively prevented the country from utilizing its wealth to feed its people. His Government would make every effort to ensure that food supplies reached those in need, particularly in the south. Ration cards had been issued, but the international assistance provided was insufficient for a population of 18 million, and destruction of the infrastructure had led to a shortfall in agricultural production.

7. In reply to a question raised by Mr. Wolfrum, he said that the emergency laws had long since been suspended.

8. On the relationship between the Legislative Council of the Autonomous Region of Kurdistan and the National Assembly, he said that the former body, which handled Kurdish affairs, was fully independent, and that its responsibilities were entrusted to 50 elected members. There had been 174 candidates in the elections for those posts, and more than 780,000 people had participated in the voting. There were 250 elected representatives from all regions in the National Assembly, but he was unable to provide details of their ethnic or religious affiliation.

9. During the Iran-Iraq war the border region had effectively been a battlefield, which the Iraqi authorities had subsequently tried to establish as a buffer zone. It was to be hoped that, with the cessation of hostilities in the Gulf war and the new status of the Autonomous Region of Kurdistan, the area could be developed.

10. Since the founding of the Iraqi State, the Kurdish language had been officially recognized as an official language of the State. It was widely used and legally recognized. However, although newspapers were published in Kurdish, the language was not standardized, and Kurdish students themselves sometimes opted for instruction in Arabic. In that connection, it should be pointed out that other minorities, including Syrians, Turkomans and Assyrians, also enjoyed access to publications in their own languages.

11. On the question of relations between his delegation and the Committee on Civil and Political Rights, discussions on four articles of the Convention on Civil and Political Rights had been held and would resume in September or October 1991; relations could thus not be regarded as unfruitful. His delegation would also maintain a continuing dialogue with the Committee on the Elimination of Racial Discrimination.

12. Reference had been made to repression directed against opposition parties. It should be pointed out that some of those parties had been engaged in armed opposition to the Iraqi Government with the encouragement of neighbouring States. Opposition was led by the Da'wa party, a well-known extremist religious party whose headquarters was currently in Iran and which sought to impose fundamentalist religious tendencies similar to those prevailing in Iran. However, negotiations were now under way with representatives of the opposition parties, and his delegation looked forward to the establishment of a multi-party system.

13. Referring to the concerns expressed by Mr. Aboul-Nasr, he said that specific measures had been taken in Iraq in the aftermath of the Gulf war to repeal laws originally enacted in response to exceptional circumstances. The revolutionary courts had been abolished in May 1991; restrictions on foreign correspondents had been lifted, and no one was prevented from travelling abroad. A Council of Ministers independent of the President had been established, and a new press law was about to be introduced. A law providing that all Iraqis could belong to a political party of their choice had already been promulgated.

14. In connection with legal safeguards, one important measure provided that no one could be arrested without observance of proper legal procedures, which included the mandatory presence of a mukhtar, or elder. A Court of Administrative Justice had been established to deal with citizens' complaints against the State or the Administration. If so requested, his delegation could provide details of the relevant legal and administrative measures recently adopted.

15. On the Kurdish question, he wished to point out that, while there were undoubtedly practical difficulties, there was no "Kurdish problem" as such, and that the Kurdish populations in Turkey and the USSR, for example, did not enjoy full autonomy. The "problem" was in any case exacerbated by the interference of neighbouring States attempting to destabilize the situation in Iraq in order to diminish the country's enormous potential for development.

16. Referring in conclusion to a question raised by Mr. Garvalov, he said he did not have any details regarding the situation of Jews in Iraq and would welcome any information Mr. Garvalov himself might be able to provide.

17. Mr. WOLFRUM said that, while it could be acknowledged that the extremely difficult political and economic situation in Iraq must entail some hardship and curtailment of human rights, the Iraqi representative had been unable to allay the misgivings voiced by members of the Committee in that regard. In particular, he had failed to explain the reasons for the current repression of the Shiites. It was clear that force had been used on a massive scale in southern Iraq against the civilian population, and that the Iraqi authorities had abrogated their duty to guarantee its safety.

18. He was fully aware that the Kurdish question was not restricted to Iraq, but the Committee was discussing the report of Iraq, and not that of any other country. The Iraqi delegation had not addressed the disappearances in 1988 or the bombings of fleeing civilians, including women and children. The explanation given that the Kurdish issue was being used to destabilize Iraq was no justification for the operations of the Iraqi armed forces, which had not been provoked from the outside and for which the Government of Iraq bore responsibility.

19. As long as Iraq had regarded Kuwait as its nineteenth province and had exercised control over that country, it had been responsible for protecting the life, security and property of the Kuwaiti population. Yet the Iraqi delegation had failed to deal with the issue. The Committee had not raised any political questions; as the monitoring body of the Convention, its mandate

was to ensure that human rights were protected, and it therefore sought an assurance that the human rights of Kurds and other groups in Iraq were being safeguarded, not only in law but in practice. Information on the Iraqi legal system was not enough, and the next report should focus on the actual implementation of Iraqi measures to guarantee the human rights of its citizens.

20. Mr. de GOUTTES said it was significant that Iraq had sent a delegation to introduce its reports.

21. The Committee agreed on three points: the situation of the population of Iraq was critical as a result of the Gulf war; the Committee could not help but address the suffering involved; and the problem of the Kurds was also posed in other countries.

22. The Iraqi delegation had provided detailed information on the causes of the division between the Shiites and the Sunnis and on the urgency of the Kurdish problem and its international character, as well as rudimentary information on the ethnic composition of the Iraqi population and the structure of the National Assembly. But that could not be regarded as an adequate response to the question whether it was complying with the Convention.

23. Speaking recently in the Human Rights Committee, the Iraqi delegation had countered allegations of human rights violations with references to the destruction, chaos and revolts that had followed the Gulf war and had maintained that those violations fell within the competence not of the Human Rights Committee, but of the Security Council. Speaking in the present Committee, the Iraqi delegation had asserted that the Shiite and Kurdish issues had not involved racial discrimination, but were political problems that had been exacerbated by the Iran/Iraq war and the Gulf war, that Iraq was being treated as a scapegoat and that other countries should be equally condemned. Although the approach was different, the aim was the same: to avoid responding to allegations of human rights violations or answering the questions put by members of the Committee. That attitude was all the more unacceptable, because the Committee's goal was to combat racial and ethnic discrimination, and the discrimination of which the Kurds had been the victims clearly fell within its sphere of competence. In that connection, he drew attention to article 5, paragraphs (b) and (d), of the Convention. In his view, the Committee should state clearly that it was not satisfied with the replies of Iraq, which should be asked to provide a complete written report in accordance with its obligations under article 9 of the Convention. The Committee might then also consider raising the question in the Human Rights Committee later in the year with a view to obtaining fuller information on a number of questions that had been raised, in particular, with regard to the persecution of Kurds and Shiites, the plight of the Kurdish population, and the disappearances of members of that ethnic group. It was essential for the present discussion to be followed up.

24. Mr. ABOUL-NASR said that the problem of the Kurds clearly fell within the competence of the Committee, but the question of the Shiites, which was a religious issue, did not. It was equally clear that serious human rights violations had taken place in Iraq before and during the armed conflict there. But it should also be noted that efforts had been made to improve the situation, for example, through the negotiations in progress between the Kurds and the Iraqi Government and the new legislation that would soon come into force. He looked forward to details in the next Iraqi report on questions not yet answered and on the steps being taken by Iraq to improve the situation and implement all human rights instruments.

25. Mr. GARVALOV acknowledged the significance of the presence of an Iraqi delegation despite the difficulties Iraq was currently experiencing. But

there was no one to blame for the plight of the Iraqi people except the Government itself.

26. He was still under the impression that there was racial discrimination with regard to the small Jewish minority. He would also like to know whether the refusal to allow foreigners living and working in Iraq to leave the country during the Gulf war had been necessary for security reasons or whether it had been a discriminatory measure.

27. It was the established practice in the Committee for country reports to be updated by representatives of the country concerned. The Iraqi delegation had, however, failed to do so.

28. He was fully aware of the political aspect of the Kurdish problem and of the presence of Kurds in other countries. In his view, it would be more appropriate to speak of a Kurdish nation than of a Kurdish minority. But the problem was not purely political; it also had implications for human rights and, in particular, racial discrimination, and that was of concern to the Committee. He sympathized with the Iraqi statement that the Kurds had been manipulated by foreign Powers, and not only in their best interest, but everyone was aware that that was not the sole cause of the problem.

29. It should be recalled that the Charter of the United Nations explicitly provided that resolutions adopted by the Security Council - and that included Security Council resolution 688 (1991) - were mandatory, whereas those adopted by the General Assembly had the character of recommendations.

30. Mr. FERRERO COSTA said that the Committee was clearly dissatisfied with the answers of the Iraqi delegation. There had been no response to its questions concerning the Iraqi Government's treatment of the Kuwaiti population during the occupation of Kuwait. Iraq was responsible for its behaviour there, and the Committee was certainly competent to deal with the question.

31. The Committee was likewise competent to deal with the Kurdish problem, because racial discrimination was indisputably involved. The Shiite question was somewhat different, and that fact was reflected in the difference of opinion in the Committee.

32. Closer monitoring of the situation of the Kurds in Iraq was needed. It was not sufficient to wait until the next periodic report; measures should be taken forthwith to obtain fuller information on the current situation of the Kurdish population and in that context he agreed with the comments made by Mr. de Gouttes. He proposed that the Government of Iraq, in conformity with article 9, paragraph 1, of the Convention, should be requested to report to the Committee at its next session on the situation of the Kurdish population in Iraq and on the measures it was taking to comply with the provisions of the Convention.

33. Mr. YUTZIS said that there were two ways of sabotaging any discussion of the human rights situation in a given country. One was to claim that the whole matter was political, while the other was to maintain that no political issues were involved. In either case, the goal was to evade a serious discussion of the issue. With regard to the situation of the Kurdish population in Iraq, to explain the suffering of that population by reference to political factors was to skirt the issue and ignore the plight of women and children. Iraq was responsible for the situation of the Kurdish population, for protecting civilians and for guaranteeing their human rights, and notwithstanding any political factors that might be involved, the analysis of the situation provided by the Iraqi delegation was inadequate.

34. He would approve a decision by the Committee to arrange for a follow up

of its consideration of racial discrimination in Iraq. In view of the gravity of the question, it must be examined again without further delay.

35. Mr. ABOUL-NASR said that although he was critical of Iraq's record in the war and considered the Iraqi Government responsible for starting the conflict, he could not condone the effort to treat Iraq differently from other States or to pass judgement on it. The Committee had abandoned its earlier unfruitful practice of referring to reports as "satisfactory" or "unsatisfactory", and it was unacceptable to revive that practice solely in the case of Iraq. He also disagreed on the need for Iraq to present an urgent report. Its next report was due in 1991, and the Committee could examine it at its next session.

36. Mr. RESHETOV said that although Iraq had shown a readiness to engage in a dialogue, its reports and the oral presentation had not been satisfactory. Despite the questions raised by the Committee, no information had been forthcoming on the situation of the Kurds. References to the Kurdish problem in other countries did not constitute the right approach to a situation affecting part of Iraq's own population.

37. In his opinion the Shiite question fell within the competence of the Committee, which often enough had been called upon in the past to consider situations in which it had been difficult to say whether ethnic or religious questions were involved, for example the whole subject of discrimination against Jews.

38. The Iraqi delegation had given some information on changes in legislation which it believed indicated an improvement of the human rights situation in Iraq. He therefore took the view that the Committee should continue its dialogue with the Government of Iraq, and in that context, he agreed with Mr. Aboul-Nasr that it should not pass judgement on the human rights situation in Iraq, because it did not do so in the case of other countries. He saw no point in requesting Iraq to supply further information without delay, as its next periodic report was due shortly. The Government of Iraq might, however, provide additional information in that report in order to clarify certain points.

39. The CHAIRMAN said that a way of reconciling the diverging views in the Committee on the proposal to request Iraq to submit additional information under article 9, paragraph 1, of the Convention, while avoiding recourse to any special procedure, would be to ask the Iraqi Government to submit its eleventh report, which was already overdue, in time for it to be considered by the Committee at its forty-first session, and to include in it the Government's response to the comments and questions raised by the Committee at the current session.

40. Speaking in his personal capacity, he observed that, although Iraq was responsible for the invasion of Kuwait and for the reaction it had invited from the world community, the suffering of the people of Iraq was not entirely due to that act of aggression, and the punishment inflicted had been disproportionate to the act committed.

41. Mr. de GOUTTES said that there remained the question of coordination with the Human Rights Committee, to which Iraq was due to submit a report at its forthcoming session. He trusted that the Committee on the Elimination of Racial Discrimination would be informed of the debate on that report, including Iraq's replies, before it met in the spring of 1992.

42. The CHAIRMAN agreed that the Committee might take into account Iraq's reports and replies to the Human Rights Committee when it considered that country's eleventh periodic report.

43. Mr. ABOUL-NASR said he had no objection to that suggestion, provided it applied to all States parties to the Convention.

44. Mr. AL-DOURI (Iraq) thanked the Chairman and members of the Committee for their cooperation and for their comments and questions, which would be conducive to a common understanding of the issues raised. Those questions must, however, be restricted to the Committee's mandate. The Iraqi Government would cooperate fully with the Committee in providing clarification and giving a comprehensive picture of the situation.

45. In speaking about other countries with a Kurdish population, he had on no account meant to justify events in Iraq, but had merely been answering a question about the areas in which Kurds lived and why there were problems in Iraq. What had happened in the north of Iraq had nothing to do with racial discrimination or with the Kurds as members of a specific ethnic group. Indeed, they enjoyed the same rights as other Iraqi citizens. The events in question had occurred for reasons totally beyond the control of Iraq, which faced huge, complex problems related primarily to security.

46. The CHAIRMAN said that it was preferable not to re-open discussion on whether the Kurds constituted an ethnic group and requested the representatives of Iraq to bear in mind the Committee's comments in drafting the eleventh report.

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

ORGANIZATION OF WORK (continued)

47. The CHAIRMAN, reporting on his meeting with the Chairman of the Sub-Commission on Prevention of Discrimination and Protection of Minorities in view of the forthcoming joint meeting between the Sub-Commission and the Committee on the Elimination of Racial Discrimination, said that, for reasons of time, there would be just one, 3-hour joint meeting and that it would be an open meeting.

48. The suggested agenda would cover an exchange of information and views on the respective mandate and methods of work of each body and their members' assessment and interpretation of their work. At his own suggestion, the meeting would also discuss new challenges and problems raised by massive and systematic human rights violations. Thirdly, it would discuss the question of conflicting rights, on which both bodies would be presenting a paper.

49. He invited comments on questions such as the possibility of a time-limit on statements, statements by members on behalf of their regional group and other organizational matters.

50. After an exchange of views in which Mr. GARVALOV, Mr. BANTON, Mr. ABOUL-NASR, Mr. YUTZIS, Mr. LAMPTEY, Mr. FERRERO COSTA, Mr. VIDAS, Mr. de GOUTTES and The CHAIRMAN took part, The CHAIRMAN said he took it that the Committee agreed that the meeting's agenda would cover the topics to which he had referred in order to focus the debate, with due flexibility to allow for an open discussion. Statements should be restricted to 10 minutes. The meeting would begin with a brief introduction by the two Chairmen, including the presentation of the first topic, which covered the exchange of information and coordination between the two bodies. Mr. Wolfrum, Mr. Ferrero Costa and Mr. Yutzis would speak on the topics they had been designated to prepare - conflicting rights, coordination and new challenges, respectively - without prejudice to a free exchange of views.

It was so agreed.

51. Mr. TIKHONOV (Secretary of the Committee) read out a note verbale from

the Permanent Mission of Zaire, requesting that consideration of its second periodic report should be postponed, since, for technical reasons, the Government would be unable to send a representative to present the report as scheduled.

52. Mr. BANTON, speaking as rapporteur entrusted with the preliminary examination of the report of Zaire, suggested that, since no satisfactory reason had been given for the Government's failure to send a representative and no alternative date had been proposed, the Committee should proceed with its consideration of the report in the absence of a government representative, as it would be doing with the reports of Togo and Guinea.

53. Mr. GARVALOV said that the failure to send government representatives was a disturbing trend, and he agreed with Mr. Banton's proposal.

54. The CHAIRMAN said he took it that the Committee wished to proceed with its consideration of the report of Zaire in the absence of a government representative.

It was so agreed.

The meeting rose at 6 p.m.