

CERD/C/SR.921
25 October 1991

ENGLISH
Original: FRENCH

COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fortieth session

SUMMARY RECORD OF THE 921st MEETING

Held at the Palais des Nations, Geneva,
on Friday, 9 August 1991, at 10 a.m.

Chairman: Mr. SHAHI

CONTENTS

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (continued)

Ninth and tenth periodic reports of Iraq (continued)

Reconsideration of reports of States parties that are overdue

Organization of work (concluded)

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (continued)

Ninth and tenth periodic reports of Iraq (continued)

The meeting was called to order at 10.05 a.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, CERD/C/185/Add.2) (continued)

1. Mr. WOLFRUM read out the following text of the concluding observations he was proposing to the Committee upon completion of its consideration of the reports of Iraq:

"The Committee appreciates that the Government of Iraq has undertaken to enter into a dialogue with the Committee and hopes that such positive attitude will prevail. The Committee acknowledges that Iraq faces economic and political problems as the consequence of the recent armed conflict and that first steps have been initiated by it with a view to improving the human rights situation in general and, in particular, the situation of ethnic groups in Iraq, including that of the Kurds. However, the Committee has not yet received the information which would enable it to assess the human rights situation in Iraq. The failure to address the treatment of ethnic groups in Iraq, particularly the treatment of the citizens of Kuwait, subsequent to 2 August 1990 is, since Iraq is under an obligation to respect and to ensure to all individuals under its jurisdiction or control the rights recognized in the Convention, a matter of grave concern to the Committee. The Committee calls upon the Government of Iraq to include the requested information in its eleventh report, due in 1991, and to submit the eleventh report in sufficient time for the Committee to be able to discuss it at its next session."

2. Mr. RESHETOV said that he endorsed the text proposed by Mr. Wolfrum, but thought that, in the second sentence, it was not enough to refer to "the recent armed conflict"; the very sad events which had occurred after the conflict and which had had grave consequences for the population of Iraq should also be taken into account.

3. Mr. WOLFRUM proposed that, to meet the point raised by Mr. Reshetov, the words "the recent armed conflict" in the second sentence should be replaced by the words "the recent events". In addition, the words "and, in particular," towards the end of the same sentence should be replaced by the words "and especially".

4. The CHAIRMAN, noting that there were no other comments, said he would take it that the amendments proposed by Mr. Wolfrum were adopted by the Committee.

It was so decided.

5. The CHAIRMAN drew the Committee's attention to the question of States parties whose reports had been overdue for a number of years and which had not sent representatives to the Committee. Special Rapporteurs had been appointed to deal with that situation.

Reconsideration of reports of States parties that are overdue

Second and third periodic reports of Sierra Leone (CERD/C/R.30/Add.43 and 46, CERD/C/R.70/Add.22)

6. Mr. LAMPTEY, Country Rapporteur, recalled that the Committee's consideration of the second periodic report of Sierra Leone (CERD/C/R.30/Add.43) at its 153rd, 159th and 161st meetings in August 1973 had revealed some shortcomings. The representative of the reporting State had requested that further consideration should be postponed until the Committee's ninth session. At its 204th and 215th meetings on 14 and 22 August 1974, the Committee had had before it an addendum to the second periodic report (CERD/C/R.30/Add.46), as well as a third periodic report (CERD/C/R.70/Add.22). Those reports taken together had, however, been considered deficient by the Committee. There had also been a divergence of views on a provision of the Sierra Leone Constitution which some members had considered incompatible with

article 1, paragraph 3, of the Convention. At the end of its deliberations, the Committee had approved a communication to the Government of Sierra Leone requesting various clarifications and further information and stressing the need to follow the existing reporting guidelines. That communication had been transmitted by the Secretary-General to the Government of Sierra Leone in 1974. The State party had not submitted the required reports and had thus failed for more than 15 years to fulfil its obligations under article 9 of the Convention.

7. At the Committee's 159th meeting on 15 August 1973, the representative of the State party had questioned the Committee's objectivity on the subject of his country's report and had objected to some of the comments made by members. It would be unjustified if that episode had motivated Sierra Leone's failure to submit reports since that date. The members of the Committee had made clear at the time that no bias against Sierra Leone was implied, their aim being simply to understand the situation in the State party and to help it fulfil its obligations.

8. Since 1974, many changes had taken place in Sierra Leone and, even now, the country was in the process of establishing a new constitutional framework. Reopening the discussion on the previous reports would not serve any useful purpose. What needed to be done was to address another communication to the State party emphasizing that it must fulfil its reporting obligations and stressing the value of the re-establishment of a dialogue between the Committee and the State party. The communication should be accompanied by the text of the new reporting guidelines and the summary record of the present meeting, as well as of previous meetings at which reports of Sierra Leone had been considered, and should also express the Committee's interest in receiving information concerning the constitutional and other developments now taking place in the State party. The State party should be informed that any new report would be regarded as incorporating all overdue reports and gaining in quality if it were accompanied by constitutional and related legal and administrative texts.

9. Mr. ABOUL-NASR said that he agreed with the procedure proposed by Mr. Lamptey. He wondered whether Sierra Leone was not, in a sense, "boycotting" the Committee. It might also be useful to know where that country stood with regard to the payment of its contributions towards the financing of the Committee's expenses.

10. The CHAIRMAN recalled that a table showing the assessments outstanding was reproduced in annex IV of the Committee's latest report to the General Assembly (A/44/18). The table showed that, in 1989, the amounts owed by Sierra Leone had totalled \$US 7,311.

11. Mr. SHERIFIS said that he also endorsed Mr. Lamptey's proposals. In his view, the Committee should check the fulfilment of financial obligations by States parties when considering all reports.

12. The CHAIRMAN recalled that, in accordance with a decision adopted by the Committee at its previous session, a letter had been sent to all countries whose reports were long overdue. Sierra Leone had not replied; only one answer from Côte d'Ivoire, had been received. Guinea, Togo and Zaire had requested a postponement.

13. Mr. WOLFRUM said that he also supported Mr. Lamptey's proposals. He asked for information about the new Constitution, which, so far as he knew, should have been voted upon in June.

14. Mr. LAMPTEY confirmed that Parliament was meeting to consider the text of the Constitution, which should be adopted very shortly.

15. The CHAIRMAN, noting that there were no other comments, said he took it that the Committee decided to address a communication to Sierra Leone along the lines suggested by Mr. Lamptey.

It was so decided.

Second and third periodic reports of Swaziland (CERD/C/R.30/Add.40, CERD/C/R.70/Add.18)

16. Mr. VIDAS, Country Rapporteur, said that the Swazi Government had not responded to a letter from the Centre or to his own efforts to obtain information concerning the situation in the country. He was therefore reporting on the basis of documentation dating back to the Committee's tenth session, held in 1974, when the third periodic report of Swaziland had been considered. The Committee had concluded at the time that the report of Swaziland contained useful information on the country's general policy in combating racial discrimination and that the Government had taken the Committee's recommendations seriously; the Committee had, however, not received the additional information it had requested concerning the revision of the Constitution, the retention of economic power in the hands of a minority and the persistence of racial discrimination in that respect.

17. Seventeen years after the submission of the third periodic report of Swaziland, it was interesting to note that the Government of that country had drawn attention to the possible impact of its example on the elimination of racism in South Africa. The report had stated that Swaziland was a country of 17,500 km² and 700,000 inhabitants, of whom 90 per cent were Swazis, 8 per cent Zulus and Tongas, and 2 per cent Europeans. Sixty per cent of the population was Christian and the remaining 40 per cent belonged to traditional African religions.

18. Available information from various sources confirmed the continuation of political instability in the country, but there was no way of knowing whether the policies being implemented were in conformity with the Convention. He had learned from United Nations Headquarters in New York that Swaziland had contributed \$760 to the Trust Fund for the Programme for the Decade for Action to Combat Racism and Racial Discrimination.

19. In its report to the General Assembly, the Committee should reiterate its request for information from Swaziland so that it might determine whether that State was complying with its obligations under the Convention. The Centre for Human Rights should address a request along those lines directly to the Government of Swaziland.

20. Mr. WOLFRUM said he endorsed that proposal, but noted that the communication sent to the State party should be accompanied by the summary record of the current discussion. According to information at his disposal, Swaziland's Nationality Act provided that nationality was conferred only upon children of Swazi fathers, the mother not being taken into account. Such legislation had the effect of increasing the number of stateless persons in the country.

21. Mr. de GOUTTES said that the Committee should request information, in particular, on two questions of current interest, first, discrimination between ethnic groups to the advantage of Swazis and, secondly, arrests which had, according to certain sources, been carried out in May or June 1991 among students and trade unionists, as well as among supporters of the banned Popular Democratic Movement. If the information was correct, it meant that there were prisoners of opinion in Swaziland.

22. Mr. FERRERO COSTA said he also thought that the summary record of the discussion should be attached to the letter addressed to the Government of

Swaziland. In addition, the Government should be requested, in its next report, to comply with the Committee's guidelines by providing information on the ethnic composition of the population and the way in which the Convention was being implemented.

23. Mrs. SADIO ALI said that the recommendation by Mr. Vidas was excellent. She pointed out that Swaziland also had a Shangan minority and recalled that the democratic system had been abolished in March 1977, with a new Constitution reportedly entering into force in 1978. If that Constitution was still valid, the relevant parts should be communicated to the Committee.

24. Mr. LAMPTEY said that, in his view, the questions raised in connection with Swaziland's Nationality Act and with recent arrests in that country did not come within the scope of the Committee's mandate, but were rather, within that of the Human Rights Committee.

25. Mr. ABOUL-NASR said that sending a letter accompanied by a summary record was not enough; efforts had to be made to establish a dialogue with a country which had, in violation of article 9 of the Convention, failed for so long to send a representative or submit reports. The Committee's letter should not challenge the State party, but should clearly remind it of its obligations. It should point out that the previous reports of Swaziland had not been in conformity with the Committee's guidelines and explain what had to be done to remedy that situation. The Committee should, moreover, draw the attention of the General Assembly to the case of States which failed to submit their reports and were behind in the payment of their contributions.

26. Mr. SONG Shuhua said that he agreed with Mr. Vidas' comments concerning Swaziland. With regard to the Constitution, he thought it would be useful to obtain the text of any provisions relating to the ethnic problem. Lastly, he agreed with Mr. Lamptey that it was inappropriate for the members of the Committee to judge the political situation in countries whose reports they were considering.

27. The CHAIRMAN said that the Committee was not exceeding its powers by requesting information on the composition of a country's population and the extent to which various ethnic groups were represented in political institutions.

28. Mr. SHERIFIS said that he endorsed the proposal to send a letter to the Swazi Government and thought that the Centre should send similar letters to all countries which did not submit reports.

29. Mr. VIDAS said that, in his view, the report of the Committee to the General Assembly should reproduce its concluding observations on Swaziland's implementation of the Convention and reiterate its questions to the Swazi Government, in particular concerning the constitutional review and the retention of economic power in the hands of a minority, so that the Swazi representative at the General Assembly might take cognizance of those comments. The Centre for Human Rights, in its turn, could perhaps send a letter to the Swazi Government informing it of all the questions raised by the Committee.

30. The CHAIRMAN explained that the Committee would formulate observation concerning all States whose situation had been considered in the absence of any representative.

31. Mr. YUTZIS pointed out that certain countries found it difficult to prepare and submit reports because they lacked the necessary qualified staff. It might therefore be useful to remind them that the United Nations had advisory services which could help them draft their reports.

32. The CHAIRMAN proposed that the letter sent to the Swazi Government should state that the Centre for Human Rights would be willing to provide it with technical assistance in the preparation of its reports.

33. Mr. GARVALOV suggested that it might help solve the problem of cooperation by States parties if a representative of the Committee attended the regular session of the General Assembly, the first two and a half weeks of which were devoted to a general debate. That representative could thus meet the delegations of States which had failed to submit reports and transmit the Committee's observations and requests directly to them. He hoped that the members of the Committee would consider his proposal with a view to arriving at a solution, if possible before the end of the current session.

34. Mr. ABOUL-NASR said that, when he had made his earlier comments, he had been unaware that Swaziland had no permanent mission in Geneva. He did not think that Swaziland should bear all of the blame and recalled that the Committee was also partly responsible in that it was not holding its sessions in New York, as provided in the Convention. Instead of sending a representative to the regular session of the General Assembly, the Committee should meet in New York at least once a year.

35. Mr. WOLFRUM said that he agreed with Mr. Aboul-Nasr's comments, but noted that the Committee had already considered the possibility of holding a session in Africa, two cities having been mentioned in that connection.

36. Mrs. KLEIN-BIDMON (Representative of the Secretary-General) recalled that, during the United Nations financial crisis, the States parties to the Convention had agreed that the Committee should meet only in Geneva. The Committee might eventually revert to holding its March session in New York and the August session in Geneva if the financial situation permitted and if the States parties so decided.

37. She understood that a proposal had been made that the secretariat should address a letter to the States whose reports had been considered in the absence of their representatives. The secretariat saw no objection to informing States that their report had been considered and transmitting to them the relevant summary records. However, if the Committee wished to address recommendations to the countries in question, it would be for the Chairman to send a letter to the Ministers for Foreign Affairs of the countries concerned, since it was he who had originally requested them to prepare a report and to send representatives.

38. Mr. LAMPTEY said that he agreed with Mr. Aboul-Nasr's proposal and thought that the Committee ought to take a decision at the present session. He therefore proposed that a recommendation should be formulated to the effect that the Committee should hold its March session in New York. He also agreed that it was not for the secretariat, but, rather, for the Chairman to send States which failed to fulfil their reporting obligations a letter informing them of the Committee's observations and requests.

39. Mr. VIDAS said that he agreed with Mr. Lamptey.

40. Mr. de GOUTTES said he agreed with Mr. Aboul-Nasr that Swaziland was less to blame because it did not have a permanent representative in Geneva. That was, however, also true of other States. That mitigating circumstance should therefore be taken into consideration and mentioned in the Committee's concluding observations on the consideration of the reports of all States whose situation was the same as Swaziland's.

41. Mr. FERRERO COSTA said that he associated himself with the comments by Mr. de Gouttes and also endorsed the proposals to recommend to States parties that the Committee's March session should be held in New York and to send a

letter signed by the Chairman to States which failed to fulfil their obligation to submit reports. If the Centre for Human Rights had no objection, the letter should also indicate that States could ask the Centre for assistance in drafting their reports.

42. Mr. SHERIFIS said that, before taking up the question of the place where its sessions would be held, the Committee should conclude the consideration of the report of Swaziland. He therefore proposed that the question of the Committee's sessions should be reverted to at a later stage under the appropriate agenda item.

43. The CHAIRMAN said that, if there was no objection, a decision concerning the place of the Committee's sessions would be taken later under the appropriate agenda item.

It was so decided.

44. The CHAIRMAN said that he would ex officio address a letter to Swaziland and the other States which had not submitted reports, informing of the Committee's observations and conclusions. In reply to the comment made by Mr. de Gouttes, he said that Sierra Leone, Togo and Guinea had no permanent representative in Geneva.

45. The proposal concerning technical assistance by the Centre for Human Rights would have to remain in abeyance pending a reply from the Centre concerning financial implications.

46. Lastly, on the subject of arrears, he reported that contributions had recently been received from Fiji and the Bahamas.

Initial report of Guinea (CERD/C/15/Add.1)

47. Mr. LAMPTEY, Country Rapporteur, said he regretted that Guinea had not continued the dialogue it had started with the Committee when it had submitted its initial report in 1978 and that no further report had been submitted since that date.

48. In December 1980, Guinea had submitted a report to the Human Rights Committee (CCPR/C/6/Add.5) in which it had indicated that it had ratified the International Convention on the Elimination of All Forms of Racial Discrimination. However, that report had not provided any detailed information on that question.

49. While the second report submitted to the Human Rights Committee in 1987 was of interest to the Committee on the Elimination of Racial Discrimination in that it referred to the enjoyment, on an equal footing, of the rights listed in article 5 of the Convention, it did not deal in detail with the question of racial discrimination as defined in article 1 of the Convention.

50. The people of Guinea had recently adopted a new Constitution that was fundamentally different from the preceding one. Furthermore, the Guinean Government had requested the Committee to postpone consideration of its report, which, for technical reasons, it had been unable to submit at the present session. In that connection, he said that the letter to be sent to the Guinean Government should indicate that the Centre for Human Rights was willing to assist it in solving those problems.

51. The reason the Committee had nevertheless decided to reconsider the initial report of Guinea was that it wanted that State party to realize that the obligation incumbent upon it by virtue of the Convention to submit periodic reports on the racial situation in the country was not to be taken lightly.

52. The Committee might therefore invite Guinea to undertake to submit its next report by a specific date. The report should be drafted in the light of the revised general guidelines and the consolidated guidelines prepared by the Committee, as well as the human rights reporting manual.

53. Mr. WOLFRUM said that article 1 of the new Guinean Constitution was entirely in keeping with article 1 of the Convention, since it provided that all citizens should be treated on an equal footing without any discrimination on the grounds of race, origin, ethnic origin, sex, religion or opinion.

54. The recent adoption of the new Constitution and the resulting changes made the initial report completely irrelevant; it was therefore more appropriate than ever that Guinea should submit a new report to the Committee.

55. Mr. de GOUTTES said that he, too, would like to have more information on the new Guinean Constitution, as well as further details about the ethnic composition of the population.

56. In connection with article 5 (b) of the Convention, he wished to be informed about the fate of the Guinean and Liberian populations which had crossed the border to escape from the conflict in Liberia. Was it true that some of those persons had been detained for several months because they had been suspected of supporting the Liberian rebel chief, Mr. Charles Taylor (see Amnesty International report for 1991)?

57. How many Guineans who had left their country when Mr. Sékou Touré had been in power had returned since?

58. Was it true that most of the power was in the hands of the "Soussou" ethnic group and that another ethnic group, the Malinké, was deeply entrenched in the police force?

59. The CHAIRMAN proposed that, as suggested by Mr. Lamptey, he would send a letter to the Governments of Sierra Leone, Swaziland and Guinea, together with the summary records of the relevant Committee meetings, in order to inform them of the views expressed by the Committee.

It was so decided.

Second periodic report of Zaire (CERD/C/46/Add.4)

60. Mr. BANTON, Country Rapporteur, said that the absence of any member of the Permanent Mission of Zaire was all the more regrettable as he knew from a reliable source that the Mission had some days previously received a list of the questions he was about to ask.

61. He recalled that, according to the United Nations Demographic Yearbook for 1988, Zaire had had a population of 33,450,000, with 40 per cent in centres of 2,000 or more persons. According to the Statesman's Yearbook for 1990-1991, there were currently about 320,000 refugees in Zaire, including 300,000 from Angola. There were at least 200 distinct ethnic groups in Zaire speaking four main languages: Kiswahili, Tshiluba, Kikongo and Lingala. There were minorities of Sudanese in the north, Nilotes in the north-east and Pygmies and Hamites in the east.

62. Although a new Constitution had been adopted in 1978 and amended in 1980, the questions he was about to ask were based on the legislation in force at the time of the submission of Zaire's second periodic report. If a further report became available by August 1991, the questions might need to be revised.

63. Article 10 of the 1974 Constitution of Zaire provided that all acts of racial, ethnic and religious discrimination and all regional propaganda liable to jeopardize the internal security of the State or the territorial integrity of the Republic were prohibited.

64. Was that provision part of the new Constitution? If so, of which article? Were all such acts prohibited or only those which were liable to jeopardize the security of the State? Did the word "acts" include restrictions and preferences as referred to in article 1, paragraph 2, of the Convention? Did the grounds of unlawful discrimination include colour and national origin? Were persons of partly African and partly non-African origin protected by the article? Was any one Government department, such as the Department of Citizens' Rights and Civil Freedoms responsible for coordinating Zaire's policy for eliminating racial discrimination as described in the second periodic report?

65. In connection with article 2, he asked what steps were being taken to ensure that all public authorities complied with the laws for the prevention of racism, tribalism and racial, ethnic, tribal or regional discrimination, as mentioned in section II (a) of the second report. Was there any check to see whether the proportion of persons of a particular ethnic origin employed in a particular authority corresponded to their proportion in the region where that authority was situated? The report did not contain any information on measures to encourage integrationist multiracial organizations and movements and other means of eliminating barriers between races (art. 2 (e)), apart from a reference to Zaire's "open" policy with respect to the entry of foreigners.

66. As the second periodic report did not refer to any special measures to ensure the adequate development of certain racial groups, should it be assumed that there were no racial or ethnic groups in need of such measures in Zaire?

67. With regard to article 3 of the Convention, the second report stated that the decree of 13 June 1960 prohibited racial segregation in Zaire. It provided no information, however, on the status of Zaire's diplomatic and economic relations with the Republic of South Africa, apart from stating that the headquarters of the anti-apartheid movement was located in Kinshasa.

68. Was it true that the South African army had trained units of the Zairian army in Zaire in early 1991 and that Zaire was a major importer of South African goods and had been one of the first African States to authorize aircraft of South African airlines to land in its territory? What was the status of diplomatic relations between the two countries?

69. As to article 4, the second report stated that Ordinance-laws 60/131 of 25 March 1960 and 66/342 of 7 June 1966 prohibited incitement to racial hatred, racist propaganda and the financing of groups or organizations advocating racist theories. As those laws had been enacted before Zaire's accession to the Convention, he recalled that, according to article 4, such laws had to be enforced with due regard to the principles embodied in the Universal Declaration of Human Rights and the rights set forth in article 5 of the Convention.

70. In that connection, he asked whether any statistics were kept on the number of cases alleging breaches of prohibitions on racial discrimination by public authorities or of the prohibitions on incitement to racial hatred. If there were no statistics, could any estimate be made of the number of prosecutions, verdicts, etc.? If any cases had gone to appeal, copies of court judgements would be of interest to the Committee.

71. With reference to the prohibition of tribalism, had Zaire experienced difficulty in implementing articles 2 and 4 of the Convention without impairing the right to freedom of association referred to in

article 5 (d) (ix)? Had there been any prosecutions under article 6 of Ordinance-law 66/342, which provided for up to 15 days' imprisonment for the non-reporting of the existence of prohibited racial or tribal associations?

72. How was the right to equal treatment before tribunals (art. 5 (a) of the Convention) guaranteed in Zaire and how was the enjoyment of that right free from racial discrimination protected?

73. The right to security of person (art. 5 (b) of the Convention) was recognized in article 13 of the Constitution.

74. The right to vote (art. 5 (c)) was protected from discrimination by article 12, paragraph 2, of the Constitution of 15 February 1978.

75. Civil rights on which information was lacking were the following: the right to leave any country, including one's own, and to return to one's country (art. 5 (d) (ii)); the right to nationality (art. 5 (d) (iii)); the right to marriage and choice of spouse (art. 5 (d) (iv)); the right to own property (art. 5 (d) (v)), which might be protected by Ordinance-law 67/241 of 2 June 1967 (art. 2) or the Ordinance-law of 20 July 1973; the right to inherit (art. 5 (d) (vi)); and right to freedom of association (art. 5 (d) (ix)). However, there was no reason to believe that those rights were not recognized or that their enjoyment free from discrimination was not protected.

76. The right to freedom of movement was guaranteed by articles 25, 56 et seq. of the Civil Code. The right to freedom of thought was guaranteed by article 17 of the Code and the right to freedom of opinion by article 18 of the Code and possibly by article 19 of the Constitution. However, since, under article 6 of the Convention, States parties undertook to assure effective protection and remedies to everyone within their jurisdiction, it was appropriate to know what views about the effectiveness of the above-mentioned laws in Zaire were held, for example, by lawyers, newspaper editors and Government officials. The Committee would also like to know what remedies were available to victims of discrimination.

77. With regard to article 5 (e) of the Convention dealing with economic, social and cultural rights, article 1 of the Labour Code (Ordinance-law 67/310 of 9 August 1967) stipulated that the provisions of the Code applied without distinction as to nationality or sex. How were those rights protected against racial discrimination?

78. Nothing was said in the second report about the recognition of the right to form and join trade unions. Was it possible that persons of particular ethnic groups specialized in particular occupations and that some trade unions therefore had an ethnic character?

79. Information was lacking on the rights to housing and public health (art. 5 (e) (iv)).

80. The right to education (art. 5 (e) (v)) appeared to be protected by article 21 of the Constitution. It should be noted, however, that, under article 1, paragraph 1, of the Convention, racial discrimination included acts or omissions which had the effect of impairing certain rights. Thus, if fewer schools were available in an area inhabited by a particular ethnic group, that constituted discrimination even in the absence of discriminatory intent.

81. In 1980, Mr. Balanda, the representative of Zaire, had told the Committee that some provinces, such as Shaba Province, were disadvantaged in terms of education (CERD/C/SR.487, para. 10) and that a system of favoured treatment for the purpose of university entry had therefore been instituted. It would be interesting to know the results of that policy.

82. In connection with article 6 of the Convention, could any instances be cited of cases where a court had ordered reparation for individuals in recognition of damage suffered as a result of racial discrimination?

83. With regard to article 7, the Committee wished to know what sort of "prejudices which lead to racial discrimination" were most troublesome in Zaire. What measures for combating such prejudices had been found more effective than others?

84. In countries where several ethnic groups lived side by side, political opinion was often a matter of belonging to a particular ethnic group. Thus, in many countries, an all-powerful President would grant favours and privileges to persons belonging to the same ethnic group or coming from the same region as himself. While discrimination based on ethnic origin did not seem to be a problem in Zaire, he would nevertheless like to receive further information about the tragic events which had occurred at the University of Lubumbashi in May 1990. It seemed that a group of policemen belonging to the special presidential division, composed essentially of persons from the same province as the President, namely, Equateur Province, had burst into the campus at night and had beaten to death a large number of students. It seemed that students who came from Equateur Province had been spared and that the policemen had refrained from using firearms in order to lend credibility to the first official version, according to which the deaths had been due to fighting among rival groups of students.

85. He also wished to know whether the Union for Democracy and Social Progress (UDPS), the largest opposition party, recruited its members in a particular ethnic group and whether there was an ethnic dimension to the political conflicts in Zaire.

86. In conclusion, he proposed that, as in the case of the Gambia, Swaziland and Sierra Leone, a letter accompanied by the summary records of the relevant Committee meetings should be sent to the Government of Zaire.

87. Mrs. SADIO ALI pointed out that, in April 1990, the one-party regime had been abandoned in Zaire and that an electoral code had been drawn up.

88. Mr. BANTON said that he was aware of the recent political events in Zaire, but had refrained from mentioning them because he did not know whether they had an ethnic dimension.

89. Mr. de GOUTTES said it would be interesting to have information about the new Constitution, the abolition of the one-party system and the possibilities of founding new parties and independent trade unions.

90. He agreed with Mr. Banton that, in Zaire, as in other countries, political allegiance often went hand in hand with ethnic origin. The Committee could therefore hardly be blamed for asking questions of a political nature inasmuch as it was extremely difficult to draw a distinction between "political" facts and facts relating to racial discrimination.

91. Mr. SHERIFIS recalled that Zaire had ratified a dozen or so major international instruments and expressed surprise that so large a country should have failed to submit a report for 11 years, even though it had the necessary human resources, as well as a permanent mission in Geneva.

92. Mr. FERRERO COSTA asked about the situation of refugees, particularly Angolan refugees, in Zaire. He also expressed the hope that the next report would contain detailed information on the ethnic composition of the Zairean population and about the position under the Constitution of international agreements in relation to national laws.

93. Mr. SONG Shuhua asked whether the communication sent to States parties following consideration of their reports included the text of the Committee's conclusions.

94. The CHAIRMAN said that the letter sent to States parties was accompanied by the summary records of the discussion devoted to the consideration of their reports. Countries were asked, in particular, whether they wished to receive technical assistance in preparing their reports. The Committee also requested them to undertake to submit their next reports as early as possible and asked them whether they intended to be represented before the Committee.

Initial report of Gambia (CERD/C/61/Add.3)

95. Mr. LAMPTEY, Country Rapporteur, said that, at its 550th meeting on 2 March 1982, the Committee had considered the initial report of Gambia and found that it suffered from some inadequacies. The Committee had requested clarification on some provisions of the Gambian Constitution which appeared to conflict with articles of the Convention. Some members of the Committee had, moreover, suggested that the Criminal Code should be reviewed in the light of article 4 of the Convention, which had mandatory force. Information had also been requested on the ethnic composition of the Gambian population and the impact of particular tribes on the country's political parties. Bearing in mind that, at the time, Gambia had still been under a state of emergency following the bloody attempt to overthrow the Government in 1981, the Committee had sought information on the effect those events had had on the human rights situation in the country. Particular interest had focused on Section 25 of the Constitution and several requests for clarification of various subsections had been made. Furthermore, the report did not refer to the right to seek reparation for any damage suffered as a result of racial discrimination. Lastly, the Committee had asked for the relevant texts of the Constitution and the Criminal Code.

96. At the time, the Committee had had the benefit of the presence of a Gambian representative, who had given preliminary replies to the points raised, and the hope had been expressed that Gambia's next report would furnish the information requested by the members of the Committee and thus respect the obligations deriving from the Convention. Unfortunately, Gambia had failed to submit the second periodic report due in 1982, as well as the subsequent periodic reports. However, in 1983 and 1984, it had submitted an initial report to the Human Rights Committee pursuant to article 40 of the International Covenant on Civil and Political Rights (CCPR/C/10/Add.7 and Add.12). That report gave more detailed information on the 1970 Constitution, the Criminal Code Act and the Criminal Procedure Code Act. Naturally, however, it did not respond to questions asked in the Committee on the Elimination of Racial Discrimination.

97. Since Gambia was in the forefront of the promotion of human rights in Africa, its failure to honour its most basic obligation under the International Convention on the Elimination of All Forms of Racial Discrimination was incomprehensible. The Committee therefore had a duty to call on it to fulfil its reporting obligation. Like all other countries in the same category, Gambia should be provided with all relevant documentation that would enable it to submit a report which met the concerns of the Committee.

98. The CHAIRMAN noted that the members of the Committee associated themselves with the comments made by Mr. Lamptey.

The meeting was suspended at 12.05 p.m. and resumed at 12.40 p.m.

ORGANIZATION OF WORK (concluded)

99. The CHAIRMAN informed the Committee of the changes in the programme of work for the following week.

The programme of work of the Committee, as amended, was adopted.

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, CERD/C/185/Add.2) (continued)

100. Mr. WOLFRUM read out the concluding observations of the Committee concerning the consideration of the ninth and tenth periodic reports of Iraq, as amended at the beginning of the meeting.

101. Mr. de GOUTTES, recalling that the Committee had decided not to make value judgements on reports of States, said that he would prefer the word "positive" not to be used in the first sentence.

102. Mr. GARVALOV, raising a similar point, expressed surprise that the Committee should find it appropriate to "appreciate" that the Government of Iraq had undertaken to enter into a dialogue with the Committee, but abstain from deploring the fact that Iraq had not provided it with the necessary information.

103. Mr. LAMPTEY reminded the members of the Committee that Iraq had furnished the information it had been required to provide at the time of the submission of its report and that it was under no obligation to furnish additional information. Delegations were free to reply to questions or to refer them to their Governments. Iraq, for its part, had provided the necessary information concerning the period covered by the report. It now had to provide the additional information that had been requested concerning the period during which the events in question had taken place.

104. Mr. SHERIFIS proposed that the laudatory word "appreciates" in the first sentence of the text should be replaced by a more neutral one.

105. The CHAIRMAN suggested that Mr. Wolfrum should consult informally with Mr. Aboul-Nasr, Mr. Lamptey, Mr. Ferrero Costa, Mr. de Gouttes and Mr. Vidas on that point before the Committee's next meeting.

106. Mr. VIDAS said he agreed with Mr. Lamptey that Iraq had submitted the required information for the period under consideration. However, the reason the Committee had deferred the consideration of the reports was that the State party had requested it to do so. Since then, events had occurred in the country which made the information furnished inadequate.

107. Mr. WOLFRUM said he was surprised at the suggestion that further consultations should be held on a text which he had already read out three times. Replying to the comments made by Mr. Lamptey, he said that he did not contest the fact that the report of Iraq covered the period under review. However, he had requested some additional information from the Iraqi delegation and the representative of Iraq had responded by advancing such arguments as that the Shi'ites were not a minority or that the question of Kuwait was within the competence of the Security Council. He therefore did not think that the discussion of that issue should be reopened.

108. The CHAIRMAN said that he would like informal consultations to be held on that point before the Committee's next meeting.

It was so decided.

The meeting rose at 1 p.m.