

**UNITED  
NATIONS****General Assembly****Report of the Committee on the  
Elimination of Racial Discrimination**  
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ORIGINAL: ENGLISH

Committee on the Elimination  
of Racial Discrimination**III. CONSIDERATION OF REPORTS SUBMITTED BY STATES  
PARTIES UNDER ARTICLE 9 OF THE COVENANT**

37. At its forty-eighth and forty-ninth sessions, the Committee considered reports, comments and information from 32 States Parties under article 9 of Convention.<sup>7</sup> Country rapporteurs are listed in annex VII.

**COLOMBIA**

38. The Committee considered the sixth and seventh periodic reports of Colombia (CERD/C/257/Add.1) at its 1135th and 1136th meetings (CERD/C/SR.1135-1136), held on 29 February and 1 March 1996, and adopted at its 1149th meeting, held on 11 March 1996, the following concluding observations.

**A. Introduction**

39. The Committee expresses appreciation for the opportunity to continue the dialogue with the State Party on the basis of its sixth and seventh periodic reports. It regrets, however, that the report did not provide concrete information on the implementation of the Convention in practice and therefore did not fully comply with the State Party's obligations under article 9 of the Convention. The Committee also noted that many

concerns and recommendations expressed during previous dialogues between the State Party and the Committee remained unaddressed.

40. It is noted that the State Party has not made the declaration provided for in article 14 of the Convention, and some members of the Committee requested that the possibility of such declaration be considered.

## **B. Factors and difficulties impeding the implementation of the Convention**

41. It is recognized that the climate of generalized violence linked to the guerilla war, the narco-trafficking and the existence of paramilitary armed groups impedes the full implementation of the Convention.

## **C. Positive aspects**

42. The recent legislative and institutional measures adopted by the Government of Colombia to bring the national legislation into closer conformity with the Convention and to enhance the protection of the human rights of indigenous and Afro-Colombians are welcomed. In that connection, note is taken of the adoption in 1991 of the new Constitution and in 1993 of Law No. 70, and of the creation of the Directorate of Black Community Affairs within the Ministry of Home Affairs.

## **D. Principal subjects of concern**

43. The lack of reliable statistical and qualitative data on the demographic composition of the Colombian population and on the enjoyment of political, economic, social and cultural rights by the indigenous and the Afro-Colombian people makes it difficult to evaluate the results of different measures and policies.
44. It is also noted that the report did not provide information on indicators and other mechanisms aimed at evaluating the governmental policies for the protection of the rights of indigenous and Afro-Colombian communities, including the land use and ownership policies.
45. Particular concern is expressed at the lack of effective implementation of policies aiming at guaranteeing to indigenous and Afro-Colombian communities control of the quality of their environment and the exploitation of their territories.

46. Concern is expressed once again that the State Party has not implemented the provisions contained in article 4 of the Convention, which call for the enactment of specific penal legislation. It is stressed that the State Party's obligation under article 4 of the Convention is mandatory and should be fully implemented.
47. Particular concern is expressed over reports that the rights of indigenous persons have been violated by men in uniform.
48. Serious concern is expressed at the lack of implementation of article 5 of the Convention. It is noted that various corroborating sources of information indicate the persistence in Colombian society of structural discriminatory attitudes towards the indigenous and Afro-Colombian communities, appearing at various levels of the political, economic and social life of the country. Those discriminatory attitudes relate to, among other things, the right to life and security of persons, political participation, educational and occupational opportunities, access to basic public services, the right to health, the right to adequate housing, the application of the law, and land ownership and use.
49. With regard to implementation of article 6 of the Convention, the Committee expresses its concern that the information provided concerning cases of judicial remedy for acts of racial discrimination did not allow it to undertake a proper evaluation.

### **E. Suggestions and recommendations**

50. The Committee requests the Government of Colombia to provide in its next report detailed and accurate information addressing the concerns expressed by the Committee.
51. The Committee recommends that efficient mechanisms be created immediately by the Government to coordinate and evaluate the various policies of protection of the rights of indigenous and Afro-Colombian communities, including their institutional aspects. Such mechanisms should promote full enjoyment of all human rights by the members of these communities and guarantee their life and security, as well as real and adequate participation by representatives of these communities in public life.
52. The Committee reaffirms that the provisions of article 4 are mandatory, as stated in its General Recommendation VII (32). The Committee stresses

that Colombia should fulfil all its obligations under the mandatory provisions of the Convention. In doing so, the Government should also take into account General Recommendation XV (42) of the Committee.

53. The Committee expects the State Party to continue and to strengthen its efforts to improve the effectiveness of measures and programmes aimed at guaranteeing to all groups of the population the full enjoyment of their political, economic, social and cultural rights. The Committee also recommends that the State Party give the necessary attention to the migration processes, including by undertaking large-scale awareness-raising programmes oriented towards human rights and tolerance, in order to avoid social and racial prejudice and discrimination.
54. The Committee recommends that particular attention be paid to the problem of unlawful orders in the military, police and law enforcement agencies. Instances of unlawful orders being issued and carried out should be investigated and those found to have committed illegal actions should be punished. Impunity should be eliminated. These matters should also be covered in the training programmes of the agencies mentioned.
55. The Committee also recommends a stronger commitment on the part of the Government of Colombia to defending the basic rights of indigenous and Afro-Colombian communities as far as the use and ownership of their land is concerned.
56. The Committee further recommends that the next periodic report of Colombia contain detailed information on cases of judicial remedy for acts of racial discrimination.
57. The Committee suggests that the State Party intensify its cooperation with the technical assistance programme of the United Nations Centre for Human Rights, including for the training of those involved in activities related to human rights and for the education of the younger generation.
58. The Committee recommends that the State Party ratify the amendments to article 8, paragraph 6, of the Convention, adopted by the 14th meeting of States Parties.
59. The Committee recommends that the State Party's next periodic report, due on 2 October 1996, be an updating report and that it address all the points raised in the present observations.

## DENMARK

60. The Committee considered the tenth, eleventh and twelfth periodic reports of Denmark (CERD/C/280/Add.1) at its 1137th and 1138th meetings on 1 and 4 March 1996 (see CERD/C/SR.1137-1138) and at its 1149th meeting, on 11 March 1996, adopted the following concluding observations.

**A. Introduction**

61. The Committee welcomes the detailed report submitted by the Government of Denmark, which contains relevant information about changes and developments that have occurred since the consideration of the previous periodic report. The Committee also welcomes the detailed answers to questions raised and concerns expressed during the consideration of the report. It expresses its appreciation for the frank dialogue with a competent delegation and for the comprehensive and thorough answers given orally to the wide range of questions asked by members.

62. Noting the judgement of the European Court of Human Rights in the case of Jersile-v-Denmark (36/1993/431/510), the Committee affirms that the “due regard” clause of article 4 of the Convention requires due balancing of the right to protection from racial discrimination against the right to freedom of expression. The Committee recalls its General Recommendation XV on this point.

**B. Factors and difficulties impeding the implementation of the Convention**

63. The growth of racism and intolerance against foreigners, particularly asylum-seekers and migrant workers, is noted. The high level of unemployment makes it even more important to counter the influence of groups propagating ideas of racial superiority and attempting to justify practices of racial discrimination.

**C. Positive aspects**

64. The high standards of Denmark regarding the protection of human rights and its affirmed commitment to implementing the provisions of the Convention are noted with appreciation. Denmark is one of the

few States Parties to have made the declaration under article 14 of the Convention and to have accepted the amendment to article 8, paragraph 6, of the Convention.

65. The recent steps to bring Danish law and practice into line with the Convention's requirements are welcomed. They include the amendment of section 266 (b) of the Penal Code to make a sentence of imprisonment mandatory when the offence amounts to propaganda. The establishment of the Board for Ethnic Equality is an important step forward. Inter-ministerial discussions hold out the prospect of an explicit and comprehensive policy for eliminating racial discrimination. The introduction of a bill on the prohibition of unequal treatment in the labour market is of outstanding importance. The growth in the number of non-governmental organizations and their activities is also notable.
66. Appreciation is expressed for efforts to improve the representation of ethnic minorities in the police force.

#### **D. Principal subjects of concern**

67. Although noteworthy steps have been taken in the period under review towards the elimination of racial discrimination in Denmark, the comments of the Board for Ethnic Equality and other reports suggest that some governmental institutions are insufficiently sensitive to the issue.
68. While the Committee understands the reasons which have led to the establishment of special reception classes for non-Danish speaking schoolchildren, it affirms that the "bussing" of schoolchildren should never be discriminatory in effect.
69. Similarly, the Committee is anxious that the attempts of municipalities to prevent undue concentrations of ethnic minority families in "socially-burdened" urban neighbourhoods should not be discriminatory in effect.
70. It is noted with concern that only three convictions have been registered in the past six years against members of neo-Nazi groups, although new instructions have been issued to prosecutors. The recent granting of licences to such groups to operate a radio station and a telephone number to which people allegedly can call to hear a recorded message about why migrants and refugees should be deported is also noted with special concern.

71. It is noted with concern that officers of the Danish police have treated persons with a non-Danish background in an unacceptable manner, also that these persons with non-Danish backgrounds face difficulties in the enjoyment of their economic and social rights, particularly in respect of access to the labour market and equality in the exercise of their rights to housing and to health.
72. Concern is expressed over the delay in compensating members of the indigenous population in Greenland who were relocated to permit the establishment of an air force base in the early 1950s.

### **E. Suggestions and recommendations**

73. The Committee recommends that in its next periodic report the Government of Denmark supply comprehensive information about the implementation in practice and the impact of proposed dispersal policies by the Byudvalget (Municipalities Committee) so that the Committee can assure itself that they conform with the requirements of the Convention.
74. The Committee recommends the reinforcement of measures for the full implementation of article 4 of the Convention and calls attention to its General Recommendation XV. If the allegations in paragraph 70 above are correct, then the licences should be withdrawn and prosecutions initiated to comply with article 4 of the Convention.
75. The Committee recommends further action to protect the right of everyone to enjoy, without discrimination, the civil and political rights listed in article 5 of the Convention, notably the rights to equal treatment within the criminal justice system and to security of person.
76. The Committee recommends that equal attention be paid to the economic, social and cultural rights listed in article 5, notably the rights to work, housing, health, education, training and access to services for the general public, including hotels, restaurants, cafés and places of entertainment such as discotheques.
77. In connection with article 7 of the Convention, the Committee would welcome information on the effectiveness of teaching and public campaigns intended to prevent any spread of racial interpretations of social and political problems.

78. The Committee suggests that further action be taken to ensure that the provisions of the Convention are more widely disseminated, particularly among minority groups, government officials, employers and trade unions. The public should be better informed about the remedy available under article 14 of the Convention.
79. The Committee wishes to receive information on the implementation of the Convention in Greenland, particularly in relation to the rights of indigenous people and their compensation for relocation.
80. The Committee recommends that the State Party's next periodic report, due on 8 January 1997, be updated in character and that it address all the points raised in these concluding observations.

## ZIMBABWE

81. The Committee considered the initial report of Zimbabwe (CERD/C/217/Add.1) at its 1131st and 1132nd meetings (CERD/C/SR.1131-1132), held on 27 and 28 February 1996, and at its 1149th meeting, held on 11 March 1996, adopted the following concluding observations.

### A. Introduction

82. The Committee commends the State Party on the quality of its initial report, prepared in accordance with the Committee's guidelines for the preparation of State Party reports. The Committee notes with appreciation the high-level representation sent to discuss the report, which serves as an indication of the importance attached by the Government of Zimbabwe to its obligations under the Convention, and for the open, comprehensive and constructive approach which characterized the dialogue with the delegation. The Committee also expresses its appreciation to the State Party's delegation for the additional information that it provided to the Committee orally and in writing. The Committee also notes with satisfaction the submission by Zimbabwe of the core document (HRI/CORE/1/Add.55).
83. It is noted that the State Party has not made the declaration provided for in article 14 of the Convention; some members of the Committee requested that the possibility of making such declaration be considered.



## **B. Factors and difficulties impeding the implementation of the Convention**

84. It is noted that Zimbabwe was ruled prior to 1980 by a non-recognized and non-democratic Government. Under that regime, racist laws and policies were adopted and implemented by the authorities for the benefit of the ethnic white minority. Most of the population lived for a long period under a regime of racial segregation and discrimination. During the same period, Rhodesia (now Zimbabwe) faced economic and diplomatic sanctions, imposed by the international community. The State Party's full compliance with the principles and provisions of the Convention has therefore to be seen as a process of progressive implementation.

## **C. Positive aspects**

85. The record of the Governments in power since the independence of Zimbabwe (18 April 1980) in progressively building up democracy, justice, security, tolerance and stability in the country is noted with great appreciation. In the same spirit, it is observed that the Government's policy of national conciliation has been in great part successful.

86. The fact that, through its policies and in the framework of its Constitution, the Government is actively fighting intolerance and any form of racial discrimination is also welcomed.

87. Satisfaction is expressed concerning the land resettlement programmes undertaken by the authorities, *inter alia*, to provide land to the landless and displaced persons and to support and promote emergent black large-scale commercial farming and a more balanced racial composition of the large-scale commercial sector.

88. The establishment in 1994 of the Inter-Ministerial Committee on Human Rights and Humanitarian Law is welcomed. Note is taken that this Committee will be responsible for both the dissemination of the State Party report and the Committee's concluding observations, as well as the follow-up to the Committee's recommendations.

89. The establishment of the Office of Ombudsman in 1982 was a positive move. The recent proposal that the Parliament should broaden the mandate of the Ombudsman by giving him the authority to investigate alleged human rights violations by members of the army, the police and other law enforcement agencies is welcomed.

**D. Principal subjects of concern**

90. Concern is expressed at the absence of specific legislation to prevent and combat all forms of racial discrimination, in compliance with article 4 of the Convention.
91. Concern is expressed that parallel systems of private schools for pupils whose parents who can afford them and public schools for others results in a racially segregated school system.
92. It is a matter of concern that not all the minority languages are used in the existing education programmes.
93. The persisting existence of a dual legal system regulating, *inter alia*, the areas of marriage and inheritance is a serious concern. This situation, in some cases, can lead to unequal treatment between Blacks and Whites. For example, the descendants of Blacks who die intestate inherit according to customary law while Whites inherit according to general law.
94. Concern is expressed about the lack of information on the educational attainments of ethnic groups at the primary, secondary and university levels. More information is also needed on land distribution by ethnicity, and the registration of complaints and court cases related to racial discrimination.
95. With regard to article 7 of the Convention, the Committee is concerned about the absence of educational programmes for the prevention of racial discrimination.

**E. Suggestions and recommendations**

96. The Committee emphasizes that the State Party must comply with its obligations under article 4 of the Convention and recommends strongly that it adopt appropriate legislation in order to give effect to the provisions of that article.
97. The Committee recommends that steps be taken, by the Government and by the schools themselves, to reduce the deleterious consequences of the racial segregation created by the parallel systems of public and private schools.
98. With regard to the protection and promotion of the rights of ethnic

minorities, the Committee encourages the State Party to take all necessary measures to provide mother-tongue teaching in the areas where minorities live in substantial numbers.

99. The Committee recommends that the dual legal system regulating marriage and inheritance be revised in an appropriate manner, and if necessary unified, to avoid potential areas of unequal treatment between the races.
100. The Committee suggests that the State Party consider incorporating teaching about human rights in the school curricula, with a view to promoting the prevention of racial discrimination.
101. More quantitative information is requested in the next report concerning the programmes of land distribution and on the number of complaints and court cases relating to racial discrimination that have been registered recently by the State Party.
102. The Committee also recommends that the next periodic report contain complete information on complaints concerning sentences imposed for racial or ethnic discrimination.
103. The Committee recommends that the State Party ratify the amendments to article 8, paragraph 6, of the Convention, adopted at the 14th meeting of States Parties.
104. The Committee suggests that the State Party ensure, through its Inter-Ministerial Committee on Human Rights and Humanitarian Law, the dissemination of the initial report, the summary records of the discussion and the concluding observations adopted thereon.
105. The Committee recommends that the State Party's next periodic report be comprehensive in character and that it address all the points raised in these concluding observations.

## HUNGARY

106. The Committee considered the eleventh, twelfth and thirteenth period reports of Hungary (CERD/C/263/Add.6) at its 1143rd and 1144th meetings (see CERD/C/SR.1143-1144), held on 6 and 7 March 1996 and, at its 1150th meeting, held on 12 March 1996, adopted the following concluding observations.

## **A. Introduction**

107. The Committee thanks the State Party for the submission of its periodic report and welcomes the resumed dialogue with the Government of Hungary. The Committee appreciates the frankness and the comprehensiveness of the report, which contains detailed information on the implementation of the Convention. It regrets, however, that the report was overdue.

## **B. Factors and difficulties impeding the implementation of the Convention**

108. It is recognized that the active policy of tolerance and openness towards minorities is still relatively new and is to be implemented in a context of profound political, social and economic change. It is further recognized that some social attitudes still prevalent and partly tolerated in the country are not conducive to the full implementation of the Convention.

## **C. Positive aspects**

109. The fact that Hungary has made the declaration under article 14 of the Convention and has withdrawn its reservation previously made in relation to article 22 of the Convention is welcomed.

110. The many recent developments in Hungary that represent substantial steps in the transition towards democracy and pluralism are welcomed. The provisions of the new Constitution, the firm legal basis it provides for a democratic order, the thorough legal reform and the establishment of democratic institutions, some of which are particularly progressive, are noted with much appreciation.

111. The State Party is commended for its new policy regarding minorities, based on the principles of preservation of their self-identity, special preference treatment and cultural autonomy.

112. The large and conscientiously prepared consultation to reach a political consensus on the question of minorities, which led to the adoption on 7 July 1993 of the Act on the Rights of National and Ethnic Minorities, is welcomed. The Act permits a review of the former process for assimilating national and ethnic minorities so that they may regain their linguistic and cultural identity.

113. The creation in 1990 of the Office for National and Ethnic Minorities as an independent administrative body and of the post of Ombudsman (Parliamentary Commissioner) for National and Ethnic Minority Rights, effective since mid-1995, is also welcomed.
114. The signing of agreements with neighbouring countries in connection with minority rights issues, in line with paragraph 7 of the Preamble to the Convention, is another subject of satisfaction.
115. The development of activities carried out in relation to article 7 of the Convention, including the wide diffusion of the text of the Convention and the encouragement of public debate on its contents, is also noted with satisfaction.

#### **D. Principal subjects of concern**

116. Grave concern is expressed at the persistence of expressions of racial hatred and acts of violence, particularly those by neo-Nazi skinheads and others, towards persons belonging to minorities, especially Gypsies, Jews and people of African or Asian origin. Alarm is expressed that the Government has not been sufficiently active in effectively countering incidents of racial violence against members of minority groups. In this regard, concern is expressed at information from various credible sources indicating that the number of charges and convictions, including against neo-Nazi skinheads and others, is low relative to the number of abuses reported.
117. Alarm is also expressed at apparent harassment and use of excessive force by the police against Gypsies and foreigners.
118. Concern is expressed that so far the State Party has not fully implemented the provisions contained in article 4 (a) and (b) of the Convention, as partly recognized in the report, and attention is drawn to the Committee's General Recommendation XV.
119. The persistent marginalization of the large Gypsy population, in spite of continuing efforts by the Government, is a matter of serious concern. It is noted that the de facto discrimination Gypsies face in the enjoyment of their economic, social and cultural rights increases their vulnerability in a context of economic crisis. Concern is expressed that three quarters of Gypsies are unemployed, with almost no prospect of entering the labour market.

120. Concern is expressed that, according to the Act of 1993, for an ethnic group to be recognized as a minority, it must have lived on Hungarian soil for at least a century; this seems to be very restrictive.
121. The absence of demographic data on the minorities in different districts of the country makes any evaluation of activities intended for their benefit difficult. Equally, the lack of data on the representation of minorities in the local authorities and the lack of recent data on the situation of minorities in the fields of education, culture, the media and employment is regretted.
122. Concern is also expressed about the lack of clarity concerning the status of the Convention in Hungarian law.

### **E. Suggestions and recommendations**

123. The Committee urges the Government of Hungary to take more active steps to prevent and counter attitudes and acts of racial violence against individuals. It recommends extreme vigilance towards the neo-Nazi skinheads and others and a stronger commitment to ensuring that there is no element of racism in law enforcement.
124. The Committee also expects the State Party to clarify the relationship between the Convention and the Hungarian Constitution and laws.
125. The Committee recommends that the State Party comply fully with its obligations under article 4 of the Convention and take all necessary steps to amend the Penal Code in that respect. Due account should be taken of the Committee's General Recommendation XV.
126. The Committee recommends increased attention to the protection of the Gypsies' civil, political, economic, social and cultural rights. The efforts to implement measures of affirmative action in that respect should be strengthened. Adequate indicators and other means of monitoring the economic and social conditions of this group should be developed. The Committee requests the State Party to provide detailed information on such measures in its next report.
127. The Committee recommends that the State Party provide, in its next report, statistical data on the minorities in different districts, on their representation in the local authorities, as well as recent data on their situation in the fields of education, culture, the media and employment.

128. The Committee recommends that the next report contain detailed information regarding allegations and prosecutions in the case of acts of racial discrimination.
129. The Committee suggests that the Government continue its action taken to publicize the provisions of the Convention. The public should also be better informed of the remedy available under article 14 of the Convention. In addition, the State Party should ensure the wide dissemination of its report and of the concluding observations of the Committee.
130. The Committee recommends that the State Party ratify the amendments to article 8, paragraph 6, of the Convention, adopted at the 14th meeting of States Parties.
131. The Committee recommends that the State Party's next periodic report be an updating report and address all the concerns expressed by the Committee.

## RUSSIAN FEDERATION

132. The Committee considered the twelfth and thirteenth periodic reports of the Russian Federation (CERD/C/263/Add.9) at its 1133rd and 1134th meetings (see CERD/C/SR.1133-1134), held on 28 and 29 February 1996, and at its 1150th meeting, held on 12 March 1996, adopted the following concluding observations.

### A. Introduction

133. The Committee notes with appreciation the State Party's willingness to continue the dialogue with the Committee by sending a high-level delegation to present the reports, which indicates the importance attached by the Government of the Russian Federation to its obligations under the Convention. However, the Committee regrets that the reports were not submitted on time, that they did not fully comply with the reporting guidelines, did not contain adequate information on the implementation of the Convention in the Republics and that, in particular, the information on Chechnya requested at the forty-sixth session of the Committee was not included, but only supplied orally by the delegation.

## **B. Positive aspects**

134. The establishment in 1993 of a special commission on human rights is welcomed. It is also noted with satisfaction that a parliamentary group has been mandated to investigate human rights and international humanitarian law violations in the Chechen conflict. In addition, the recent establishment of a special authority to implement a State programme on social and economic life in the Northern Territories is appreciated.
135. The entry of the Russian Federation into the Council of Europe, which became official in February 1996, is noted. It is hoped that the Russian Federation will soon ratify the Council of Europe's Convention for the Protection of Human Rights and Fundamental Freedoms and will accept its procedure for receiving individual petitions. The recent drafting of two regional human rights conventions, including one on the rights of minorities, in the framework of the Commonwealth of Independent States is also a positive initiative.

## **C. Factors and difficulties impeding the implementation of the Convention**

136. The difficulties facing the Russian Federation in the present period of transition and in a climate of social change and deep economic crisis are taken into account. It is also noted that the Russian Federation is a large multi-ethnic and multicultural society. The factual situation of minorities has also to be taken into account; some of them possess their own statehood and are represented by entities of the Federation whereas others are dispersed all over the country. In respect of members of the latter groups the full implementation of the Convention may require particular efforts. Finally, it is understood that the establishment and practical application of a new democratic and non-discriminatory political, economic and social framework is a difficult and lengthy process.

## **D. Principal subjects of concern**

137. Concern is raised about the current shortcomings in the general national legal framework for protecting all persons against discriminatory practices. Article 19 of the Constitution of the Russian Federation, which provides for equality of rights regardless of "race, nationality, language, origin or other circumstances", is not broad enough to be regard-



ed as a full implementation of the prohibition of racial discrimination required by the Convention. It is further noted with concern that the legislation necessary for the implementation of article 19 of the Constitution and other constitutional provisions designed to protect the rights of minorities have not yet been fully adopted or effectively implemented.

138. Several minority and indigenous groups have no access to education in their own language. When they deal with administrative and judicial matters, they are frequently precluded from using their own language.
139. The absence of effective measures for the protection and preservation of the traditional ways of life and the right to land use of the people of the Northern Territories is also a cause for concern, although the need for improvement of their economic, social and cultural situation has been recognized.
140. The concrete implementation of the principles and provisions of the Convention remains weak, especially at the regional and local levels. In particular, concern is raised regarding the implementation of articles 2 and 4 of the Convention.
141. The report contains very limited information on the right to security of person (art. 5 (b) of the Convention), the right to freedom of movement (art. 5 (d) (i)) and non-discrimination with regard to the enjoyment of economic, social and cultural rights, referred to in article 5 (e) of the Convention.
142. The increase in racist positions associated with nationalist movements such as the National Republican Party is of grave concern. Equally, the increase in racist attitudes among the population or of local authorities directed against Caucasians, especially Chechens, also gives cause for concern, as do indications of anti-Semitism among part of the population.
143. The use of excessive and disproportionate force in suppressing the attempted secession in Chechnya, resulting in unnecessary civilian casualties, is a matter of very grave concern. The reports of arbitrary arrests, ill-treatment of detainees, excessive destruction of civilian property and pillage in Chechnya also give rise to concern.
144. In particular the reports concerning the situation in the so-called filtration camps give rise to grave concern. It is to be deplored that representatives

of humanitarian organizations, such as the International Committee of the Red Cross, have not been permitted to visit such camps.

145. The situation in Ingushetia and North Ossetia is a further matter of deep concern. Large numbers of Ingush exiles are being denied by the North Ossetian authorities the right to return freely to their regions of origin, in particular the Prigoradnyi district, in spite of the Law on Rehabilitation of Repressed Peoples. The Ingush population has also suffered directly and indirectly from the Chechen conflict.

### **E. Suggestions and recommendations**

146. The Committee strongly recommends that the National Parliament urgently complete and adopt all announced acts and laws concerning human rights, especially the draft law on national and cultural autonomy. The laws on the use of minority languages should be completed at the various legislative levels and fully implemented. The Committee also suggests that the State Party consider ratifying ILO Convention No. 169.

147. The State Party should take all appropriate measures to ensure the promotion of minority and indigenous people's languages. The Committee recommends that education programmes be provided in the appropriate languages.

148. The Committee recommends that special attention be paid to the minority and indigenous groups living in the Northern Territories by taking appropriate and effective measures to promote and protect their rights, especially the rights to use and exploit the land where they are living and to live in their own cultural environment.

149. The Committee recommends that, where appropriate, the State Party take special and concrete measures to ensure the adequate development and protection of less developed groups within the Federation, in accordance with article 2, paragraph 2, of the Convention.

150. The Committee strongly recommends that the Government take concrete and appropriate measures to outlaw and combat all organizations and political groups and their respective activities that promote racist ideas or objectives, as referred to in article 4 of the Convention.

151. The Committee also strongly recommends that the State Party carry out the decision of the Constitutional Court to abolish the permit system effectively.

152. The Committee recommends that the State Party enhance effectively protection against any acts of racial discrimination through the competent national courts, in accordance with article 6 of the Convention, by strengthening the court system, the independence of the judiciary and the confidence of the population therein. The Committee further recommends the training of judges, lawyers and magistrates in human rights. This type of training should also be provided to law enforcement personnel and the military, in line with General Recommendation XIII of the Committee.
153. The Committee strongly recommends that the State Party urgently take all measures to restore peace in Chechnya and to ensure full protection of human rights in the region. It further strongly recommends that the Government take all steps to ensure the full respect of fundamental human rights in the region, without discrimination. The Committee reaffirms that persons responsible for massive, gross and systematic human rights violations and gross violations of international humanitarian law should be held responsible and prosecuted.
154. The Committee recommends that the State Party guarantee the rights of all victims, especially refugees, of the conflict in Ingushetia and North Ossetia and provide in its next report information on the human rights situation in Chechnya, Ingushetia and North Ossetia.
155. The Committee invites the State Party to provide, in its next report, further information on the breakdown by percentage of all ethnic groups of the population.
156. More information is also requested in the next report on the number of complaints and court cases related to racial discrimination that have been registered recently by the State Party, on the respective decisions and judgements taken, and on the implementation of article 7 of the Convention.
157. The Committee recommends that the State Party ratify the amendments to article 8, paragraph 6, of the Convention adopted at the 14th meeting of States Parties.
158. The Committee suggests that the State Party ensure the dissemination of its periodic report and of the concluding observations adopted by the Committee. The accepted procedure of individual communications under article 14 of the Convention should be made widely known in the country.

159. The Committee recommends that the State Party's next periodic report, due on 5 March 1996, be a comprehensive one and that the State Party address all the concerns expressed in these observations.

## MADAGASCAR

160. The Committee examined the implementation of the Convention by the Government of Madagascar at its 1150th meeting, held on 11 March 1996 (see CERD/C/SR.1150), based on the previous periodic report of the State Party (CERD/C/149/Add.19) and the summary record of the consideration thereof by the Committee (CERD/C/SR.835), and at its 1154th meeting, held on 14 March 1996, adopted the following concluding observations.

### A. Introduction

161. The Committee notes that no new report has been received since 1989 and that no reply has been given by the Government to the Committee's list of principal concerns, addressed to it in August 1995, with regard to the implementation of the Convention in Madagascar. The Committee had also recommended, during its forty-seventh session, that the Government request technical assistance from the Centre for Human Rights, which it has not done.

### B. Factors and difficulties impeding the implementation of the Convention and principal subjects of concern

162. Grave concern is expressed at the continuing deterioration of the social, cultural and economic conditions prevailing in the State Party. The general impoverishment of the country, the dysfunctioning of social services and social security and the existence of tensions between various groups of the population, which all lead to phenomena of racial or ethnic discrimination, are a matter of anxiety for the Committee.

### C. Suggestions and recommendations

163. The Committee requests the Government of Madagascar to submit without delay a comprehensive report in compliance with the Committee's guidelines for the preparation of State Party reports.

164. The general part of the updated report should contain information relating to the composition of the State Party's population and to its ethnic characteristics, as well as to the recent evolution of the political, social and economic situation prevailing in the country. Issues such as the inter-ethnic tensions, discrimination against the Indo-Pakistani community, the increasing impoverishment of the rural population, the acute lack of social services and health services, and the alarming situation of education, which intensify discrimination between ethnic groups within the population, and the social impact of structural adjustment programmes implemented under the auspices of the International Monetary Fund should be addressed.
165. The second part of the report should contain detailed information on the implementation of articles 2 to 7 of the Convention. This part should describe the existing penal legislation implementing article 4 of the Convention, as well as the available remedies against any acts of racial discrimination, implementing article 6 of the Convention, and provide examples of complaints and statistics about such remedies. The role and achievements of the Mediator, as far as protection against racial discrimination is concerned, should also be spelled out. The report should further indicate what measures have been taken by the Government to alleviate the effects of the economic crisis on the most disadvantaged groups of the population. Existing measures adopted in the field of education and awareness-raising to counter racial or ethnic discrimination, to promote tolerance and to make the principles of the Convention better known should also be described.
166. The Committee recommends that the State Party ratify the amendments to article 8, paragraph 6, of the Convention, adopted at the fourteenth meeting of States Parties.

## FINLAND

167. The Committee considered the eleventh and twelfth periodic reports of Finland (CERD/C/240/Add.2) at its 1141st and 1142nd meetings (see CERD/C/SR.1141-1142), held on 5 and 6 March 1996, and at its 1154th meeting, held on 14 March 1996, adopted the following concluding observations.

## **A. Introduction**

168. The Committee notes with appreciation the State Party's readiness to continue a dialogue with the Committee. It regrets that the eleventh and twelfth reports were not submitted on time. The Committee also expresses its appreciation to the State Party's delegation for the additional information that it provided during its oral presentation.

## **B. Factors and difficulties impeding the implementation of the Convention**

169. Since the mid-1980s, Finland has been facing important demographic changes. It is noted that the number of foreigners has more than tripled over the past few years. It is also noted that Finland is facing difficulties in the current period of structural change and economic recession. As observed by the Government, implementation of the Convention may also be made more difficult in some areas by decentralization policies, severe unemployment and budgetary cuts.

## **C. Positive aspects**

170. It is noted that the Government of Finland has taken, especially since the beginning of the 1990s, several positive measures to combat various forms of racial discrimination. The establishment of the Advisory Board for Refugee and Migrant Affairs, the ratification of the European Charter for Regional Minority Languages (1994) and the creation of a working group to draw up a programme of action against racism and discrimination (1996) are just a few of the proactive steps that Finland has taken.

171. Recent legal reforms of the Constitutional framework and Penal Code, on matters related directly to racial discrimination, are welcomed.

172. The Government's initiative in establishing a dialogue with the non-governmental sector is appreciated. It is noted that this dialogue resulted in the cooperative drafting of the eleventh and twelfth periodic reports of Finland. The efforts undertaken by the Government to promote public debate on questions and problems relating to racial discrimination are welcome initiatives.

173. It is noted with satisfaction that the State Party has made a declaration

under article 14, paragraph 1, of the Convention, recognizing the competence of the Committee to receive communications from individuals. The fact that Finland has ratified the amendments to article 8, paragraph 6, of the Convention is welcomed.

#### **D. Principal subjects of concern**

174. Concern is expressed that article 4 of the Convention has not yet been fully implemented.
175. The recent, significant increase in racially motivated acts and violence is a matter of deep concern. The persistence of publications, organizations and political parties which promote racist and xenophobic ideas is a further serious worry. It is regretted that there is no law which prohibits or punishes racist organizations for activities which promote and incite racial discrimination. Proposed reforms of the Constitution and of the Penal Code seem not to comply fully with the spirit and provisions of articles 2 and 4 of the Convention.
176. It is noted that victims of racial discrimination must overcome significant obstacles in order to obtain adequate judicial remedies.
177. As regards the land rights of the Sami people, concern is expressed over the mining and other economic interests of national and international companies which may be threatening the way of life of Samis.
178. Concern is also expressed over the Sami people's participation in the Sami parliament in their mother tongue.
179. The difficulties which the Romany minority continues to experience in exercising its rights is a matter of concern. The high rate at which Romany children drop out from school is also cause for concern.
180. It is noted with concern that educational programmes contain insufficient information on human rights issues, especially on minority rights issues.
181. There is no wide distribution of the text of the Convention in Finland. This practice differs from the Government's policy of distributing the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women in the Finnish language.

182. The current refugee policies do not fully take into account all of the provisions of the Convention. In some cases, decisions to repatriate asylum-seekers have been taken without proper respect for international human rights standards and the norms of refugee law. Concern is likewise expressed over the criteria employed in granting residence permits to foreigners.
183. Also a matter of concern is the discrimination against ethnic minorities and foreigners which occurs within the labour market.
184. Concern is expressed about the training of law enforcement officials in the protection of human rights in the light of the Committee's General Recommendation XIII.
185. Another matter of concern is the denial of access to public places for some persons, on the basis of ethnic or national origins.

#### **E. Suggestions and recommendations**

186. In order to combat racist and xenophobic attitudes and violence, the Committee recommends that the State Party take all appropriate measures to implement fully articles 2 and 4 of the Convention. It also recommends that Finland adopt legislation which clearly prohibits and punishes acts of racial discrimination and organizations that promote and incite such racial discrimination.
187. The Committee recommends that the constitutional and penal reforms in Finland, to the extent to which they concern racial discrimination, more fully reflect the provisions of the Convention.
188. The Committee also recommends that the Government ensure thorough investigation of cases involving alleged mistreatment of persons belonging to ethnic minorities and foreign persons by the police. Detailed information on complaints and sentences regarding acts of racial or ethnic discrimination would be useful.
189. The Committee suggests that the Government draft and implement a clear policy on Sami land rights in order better to protect and preserve the way of life of this minority group. The Committee also recommends that the Government ratify ILO Convention No. 169.
190. The Committee recommends that the State Party do all in its power to enable Sami children to pursue their studies at the primary and secondary levels in their mother tongue.



191. The Committee also suggests that special measures be taken on behalf of the Romany people to ensure their full and equal enjoyment of human rights, especially in the field of education.
192. In order to fight discrimination more efficiently, the Committee recommends that special attention be paid in schools to human rights issues and especially to minority issues.
193. The Committee strongly recommends that the Government take the Convention fully into account when considering policies and/or decisions on asylum-seekers and refugees.
194. The Committee recommends that appropriate action be taken to ensure that access to places or services intended for use by the general public is not denied on grounds of national or ethnic origin, contrary to article 5 (f) of the Convention.
195. The Committee further suggests that the State Party ensure the wide dissemination of the text of the Convention, as well as of the report, the summary records and the concluding observations adopted thereon. The accepted individual communications procedure under article 14 of the Convention should be widely publicized throughout Finland for the benefit of the general public.
196. The Committee recommends that the State Party's next periodic report, due in August 1995, be an updating report, and that it address the matters raised in these concluding observations.

## SPAIN

197. The Committee considered the thirteenth periodic report of Spain (CERD/C/263/Add.5) at its 1145th and 1146th meetings, on 7 and 8 March 1996 (see CERD/C/SR.1145-1146) and, at its 1154th meeting, on 14 March 1996, adopted the following concluding observations.

### A. Introduction

198. The Committee welcomes the opportunity to continue its dialogue with the Government of Spain. It expresses its appreciation for the prompt submission of the thirteenth periodic report, less than one year after the consideration of the previous report by the Committee, which demonstrates the commitment of the Government to the elimination

of racial discrimination and to the fulfilment of its obligations under the Convention. The Committee notes with satisfaction that, though the report does not follow the guidelines for the preparation of periodic reports, it answers the questions raised during the consideration of the twelfth periodic report that were not responded to at that time. The Committee also expresses its appreciation for the additional information provided orally by the delegation.

## **B. Factors and difficulties impeding the implementation of the Convention**

199. It is noted that the increase in acts of racial discrimination against foreigners, asylum-seekers and members of the Gypsy community constitutes an impediment to the full implementation of the Convention in Spain. At the same time, the lack of official socio-economic data on the Gypsy population may impair the effectiveness of the policies to improve their situation.

## **C. Positive aspects**

200. The commitment expressed by the delegation on behalf of the Government to make the declaration under article 14 of the Convention, to withdraw the reservation to article 22 of the Convention and to consider the ratification of the amendments to article 8, paragraph 6, of the Convention adopted at the 14th meeting of States Parties is welcomed.

201. It is noted with satisfaction that measures have recently been adopted by the Spanish authorities to intensify the fight against racial discrimination and xenophobia and to bring Spanish law more into line with the requirements of the Convention. For example, Organic Laws 4/95 and 10/95 introduce into the Criminal Code the crime of genocide, and define a racist or anti-Semitic motivation for the commission of a crime as an aggravating circumstance.

202. The provisions of the new Law on the Regulation of the Right to Asylum 9/1994 and of Royal Decree 203/1995, providing, *inter alia*, that an asylum-seeker whose request for asylum has been refused may still be given a residence permit in Spain for humanitarian reasons, and that asylum-seekers are granted health care and the assistance of a legal counsellor and of an interpreter to help them during the procedure, are also welcomed.

203. The Gypsy Development Programme set up to improve the situation of the Gypsies, in particular in the field of education, promotion of the Gypsy culture, housing and employment, and conducted in collaboration with Gypsy associations, is noted with satisfaction. The Self-Regulating Agreement between the Ministry of Social Affairs and the mass media, concluded in order to promote a positive and non-discriminatory image of the Gypsy community, is viewed by the Committee as an original and positive measure.
204. The various campaigns initiated by the Ministry of Social Affairs or by the European Union, for example, the "Democracy is equality" and "Youth against intolerance" campaigns, and the "Youth campaign against racism, xenophobia, anti-Semitism and intolerance", are welcomed.

#### **D. Principal subjects of concern**

205. Concern is expressed over the increasing manifestation of racism, xenophobia and discrimination against foreigners, asylum-seekers and members of the Gypsy community. It is noted with serious concern that evidence of racist attitudes on the part of members of the police and the Civil Guard seems to be increasing, and that the number of convictions resulting from such incidents does not seem to increase proportionately.
206. It is regretted that no precise information was provided with regard to the socio-economic situation of the Gypsy community. Similarly, not enough precise information was provided to the Committee with regard to the status of the Muslims residing in Cueta and Melilla; in particular, it was not made clear whether the members of this community were full Spanish citizens.
207. It is noted that neither the report nor the additional oral information provided the Committee with enough information on the training of members of the security forces, the judiciary and the public service at large in the avoidance of racial discrimination.
208. While the wide autonomy enjoyed by the Autonomous Communities in Spain in the field of education is welcomed, it is noted with concern that in Catalonia and in the Basque Country it may be difficult for the children of the Castilian-speaking minority to receive education in their mother tongue.
209. Serious concern is also expressed with regard to the status of neo-Nazi and other extreme-right organizations which spread racist ideas. It is regretted

that it was not made clear during the discussion whether such organizations could be registered and, if so, whether they could be dissolved on the sole ground that they spread racist ideas, or whether they were secret and, in this case, what the attitude of the authorities towards them is. It is doubtful whether Spain fully implements article 4 (b) of the Convention.

210. It is noted that, while efforts to relocate members of the Gypsy community in the Madrid area through the resettlement plan of the Madrid Municipal Corporation are welcomed, more attention should be paid by the authorities to ensuring that the implementation of the plan does not lead to the segregation of this community.
211. It is also noted that the lack of information on the implementation of article 5 of the Convention makes it difficult for the Committee to evaluate the actual situation with regard to the enjoyment of civil, political, economic, social and cultural rights by foreigners and members of the various ethnic groups in Spain.
212. Doubts were expressed whether victims of racial discrimination have effective remedies at their disposal for seeking just and adequate reparation from competent tribunals.

### **E. Suggestions and recommendations**

213. The Committee recommends that the Spanish authorities urgently adopt more effective measures to contain and punish racist actions and xenophobia in all their forms, in particular through the training of members of the security forces, of the judiciary and other officials and through a close surveillance of extreme-right organizations. With regard to the latter, the Committee recommends the reinforcement of measures aiming at the full implementation of article 4 of the Convention.
214. The Committee recommends that the enjoyment by everyone, without discrimination, of the rights listed in article 5 of the Convention be ensured. In that regard, the Committee particularly recommends that strengthened attention be given to the equal enjoyment by members of the Gypsy community of the rights to housing, to education, to work and to protection in the event of unemployment.
215. The Committee recommends that the next report contain detailed information on complaints and sentences relating to acts of racial or ethnic discrimination.

216. The Committee recommends that measures be taken by the authorities to ensure that Castilian-speaking children have the possibility of receiving education in Castilian in Catalonia and in the Basque Country.
217. The Committee recommends that information be provided in the State Party's next periodic report on the results of the implementation of the laws and amendments recently adopted and mentioned above and on the obstacles encountered in their implementation, as well as on the implementation of article 5 of the Convention. Similarly, the Committee stresses the necessity for complete and up-to-date statistical data to be included in the next report on the exact ethnic composition of the Spanish population and on the socio-economic characteristics of each ethnic group.
218. The Committee recommends that the State Party's next periodic report, due on 5 January 1998, be a comprehensive report in accordance with the reporting guidelines.

## UNITED KINGDOM OF GREAT BRITAIN & NORTHERN IRELAND

219. The Committee considered the thirteenth periodic report of the United Kingdom of Great Britain and Northern Ireland (CERD/C/263/Add.7 and CERD/C/263/Add.7, Part II) at its 1139th, 1140th and 1141st meetings (see CERD/C/SR.1139-1141), held on 4 and 5 March 1996, and, at its 1154th meeting, held on 14 March 1996, adopted the following concluding observations.

### A. Introduction

220. The Committee welcomes the thirteenth periodic report of the United Kingdom of Great Britain and Northern Ireland and one of its dependent territories (Hong Kong). It notes with satisfaction the State Party's timely submission of the report, as well as the detailed answers provided to the questions posed at the present session and to the issues raised by the Committee in its concluding observations in connection with the twelfth periodic report. The Committee recognizes that since the United Kingdom became a party to the Convention many legislative and other measures have been taken to implement the provisions of the Convention.
221. The Committee notes with regret that Part II of the report deals with

the implementation of the Convention in only one dependent territory (Hong Kong) and that no information has been submitted with respect to the other dependent territories. It nonetheless expressed appreciation for the Government's engagement in a frank and constructive dialogue with the Committee, including on the legal issues about which the Government is, much to the regret of the Committee, in disagreement with the Committee.

222. The Committee expresses appreciation for the specific information received from non-governmental organizations based in the State Party, which helped it to clarify the situation and contributed to the quality of the dialogue.

223. It is noted that the State Party does not envisage making the declaration provided for in article 14 of the Convention, and that a number of members of the Committee requested the State Party to reconsider its position on this matter.

## **B. Factors and difficulties impeding the implementation of the Convention**

224. The Committee notes that a large number of manifestations of racism and racially motivated attacks and incidents directed against members of ethnic minorities continue to occur in the territory of the State Party.

## **C. Positive factors**

225. The legislative proposal to allow the Commission on Racial Equality to accept legally binding undertakings and the introduction of new legislative provisions to address the issue of persistent harassment are welcome developments. The special effort made by the Government to increase the representation of ethnic minorities in the police force is also noted with satisfaction, as is the attention being paid in recent years to collecting data on and investigating racially motivated crimes, deaths in detention and complaints of police brutality.

226. The new grants for education support and training, which are intended to increase the English skills of students from ethnic minority groups, are viewed as a constructive way to raise the standards of academic achievement of these students.

227. The commitment to enact a race relations law for Northern Ireland, although much belated, is also welcome.

228. With respect to Hong Kong, the study on racial discrimination proposed to begin by the end of the present year is viewed as a constructive means of determining the extent of problems in the area of racial discrimination and reviewing all laws that may in a discriminatory manner confer exclusive benefits on members of a particular race. Where discrimination is found to exist, the study could serve as an important basis for the development of solutions.

#### **D. Principal subjects of concern**

229. Note is taken of the fact that the 1976 Race Relations Act, by which many of the provisions of the Convention are given effect in domestic law, is subordinate to a wide range of rules and may be superseded by new rules or laws. The legal framework prohibiting racial discrimination is further weakened by the non-incorporation of the Convention in domestic legislation, the absence of a bill of rights espousing the principle of equality before the law and non-discrimination, and the lack of recourse of individuals to petition an international body such as the Committee. In addition, concern is expressed that the laws relevant to the implementation of the Convention do not appear to be uniformly applied throughout the territory of the United Kingdom; specifically, the Race Relations Act does not extend to Northern Ireland and some provisions of the Criminal Justice Act do not apply to Scotland.

230. Special concern is expressed over the issue of religious discrimination, connection with anti-Muslim sentiment. Discrimination against Muslims may be closely related to questions of race and ethnicity, but no legislation is in place to deal effectively with this type of discrimination.

231. Concern is expressed over the interpretation of article 4 as presented in the State's Party interpretative statement regarding this article and reaffirmed in the thirteenth periodic report. Such an interpretation is not only in conflict with the established view of the Committee, as elaborated in its General Recommendation XV (42), but also amounts to a negation of the State Party's obligation under article 4 (b) of the Convention to outlaw and prohibit organizations which promote and incite racial discrimination.

232. In connection with article 5 of the Convention, it is noted with serious concern that among the victims of death in custody are a disproportionate number of members of minority groups, that police brutality appears to affect members of minority groups disproportionately, that

allegations of police brutality and harassment are reportedly not vigorously investigated and perpetrators, once guilt is established, not appropriately punished. Persons belonging to ethnic minority groups are underrepresented in political and public life, as reflected in their representation among the voting public, the police and armed forces and holders of public office. Deep concern is expressed about reports that they suffer significantly higher levels of unemployment relative to the rest of the population and that disproportionate numbers of black children are being excluded from schools.

233. Special concern is also expressed for the Irish Traveller community, whose situation affects their right to public health care and social services under article 5 (e). It is noted that the policy of designating land for the use of Travellers has contributed to their lower standard of living and has curtailed their freedom of movement by limiting the places which they might inhabit.
234. Serious concern is expressed at the absence of comprehensive race relations legislation in Northern Ireland. Equally, concern is expressed at the lack of positive efforts to bridge the cultural gaps in Northern Ireland between mainstream society and minority groups, particularly the Chinese and Irish Traveller communities. This has resulted in a disturbing reluctance by many members of these groups to make use of health and other social services.
235. Concerning the treatment of foreigners, serious concern is expressed that the proposed Asylum and Immigration Bill, published on 30 November 1995, would alter the status of many persons living in the United Kingdom in an adverse and discriminatory manner. This bill, if enacted, would, inter alia, prohibit employers from employing persons who are in the process of appealing a decision which rejected their petition to remain. It would also deny a number of social services to persons who have been granted permission to remain in the United Kingdom, including asylum-seekers, and others who have been granted permanent leave to stay but have not been naturalized. It is a matter of deep concern that most of the affected persons would be persons belonging to ethnic minorities.
236. With respect to Hong Kong, concern is expressed at the failure to include in the 1991 Population Census questions which would help determine the ethnic and racial composition of the population. The identification of minority groups and subsequent analysis of their political, economic and social status is a precondition for determining the



difficulties that minority groups may be facing and whether and how any such difficulties may be due to discrimination.

237. It is noted with concern that the adoption of the Bill of Rights Ordinance, while a welcome measure, does not protect persons in Hong Kong from racial discrimination to which they may be subjected by private persons, groups or organizations, as provided for in article 2, paragraph 1 (d) of the Convention.
238. The Government's statement that South Asian residents of Hong Kong are granted some form of British nationality, whether that of a British National Overseas (BNO) or a British Overseas Citizen (BOC), so that no resident of Hong Kong would be left stateless following the transfer of sovereignty is noted with interest. It is, however, a matter of concern that such status does not grant the bearer the right of abode in the United Kingdom and contrasts with the full citizenship status conferred upon a predominantly white population living in another dependent territory. It is noted that most of the persons holding BNO or BOC status are Asians and that judgements on applications for citizenship appear to vary according to the country of origin, which leads to the assumption that this practice reveals elements of racial discrimination.
239. Concern is also expressed about the "two-week rule", which prohibits foreign workers from seeking employment or remaining in Hong Kong more than two weeks after the expiration of their employment contracts. In view of the fact that the overwhelming majority of the persons affected by this rule are female Filipino foreign domestic workers, this rule appears to have discriminatory aspects under the terms of the Convention, which may leave workers vulnerable to abusive employers.
240. In connection with Vietnamese asylum-seekers in Hong Kong, there are serious indications that the conditions to which these persons are subjected during their often prolonged detention in refugee centres constitute a violation of their human rights and require urgent attention. Of principal concern is the absence of educational facilities for the children in these centres.

#### **E. Suggestions and recommendations**

241. The Committee recommends that the State Party submit information on why anti-discrimination legislation, specifically the 1976 Race Relations Act and the 1994 Criminal Justice and Public Order Act, is not applied

equally throughout the territory of the United Kingdom. Further, the Committee recommends that the Race Relations Act be re-examined with a view to elevating its status in domestic law so that it may not be superseded by new rules or laws. The Committee also recommends that the United Kingdom reconsider its interpretation of article 4.

242. The Committee recommends, with respect to articles 5 and 6, that the adequacy of legal aid available to alleged victims of racial discrimination be reviewed and that all complaints of police brutality be vigorously and independently investigated and the perpetrators punished. It recommends that investigations into deaths in custody be carried out expeditiously by independent inquiry mechanisms. The Committee further recommends that comprehensive, action-oriented studies be undertaken to ascertain the reasons behind the low participation of persons belonging to ethnic minority groups in elections, both as voters and as candidates for public office, the reason for their low representation in the police and armed forces, and the reason for their disproportionately high level of unemployment.
243. Noting with satisfaction the willingness of the State Party to inform the Committee in a more comprehensive manner about the role and the functioning of industrial tribunals dealing with complaints relating to discrimination in employment, the Committee recommends that in the next periodic report special attention be given to such aspects as accessibility, procedures and types of redress.
244. The Committee recommends that the next report of the State Party contain detailed information on complaints and sentences relating to acts of racial or ethnic discrimination.
245. The Committee recommends that, during the further consideration of the 1995 Asylum and Immigration Bill, published on 30 November 1995, full consideration be taken of the provisions of the Convention. Detailed information about its application and the ethnic composition of potentially affected persons is requested in the fourteenth periodic report.
246. The Committee recommends that effective programmes be established to care for the health and educational needs of the Irish Traveller community in Great Britain and Northern Ireland.
247. The Committee takes note of the establishment of the Ethnic Minorities Advisory Committee (EMAC) in 1991 to assist the Judicial

Studies Board in addressing racial and multicultural issues in courts. The Committee requests that information be submitted in the fourteenth periodic report indicating whether training from EMAC is obligatory for all judges and how many judges have actually received training by the date of submission of that report.

248. In view of the fact that many of the persons found not to be entitled to remain in the United Kingdom are members of minority groups, the Committee reiterates its position that States are obligated under the Convention not only to enact appropriate legislation but also to ensure its effective implementation.
249. The Committee recommends that the provisions of the Convention be taken into full account in the drafting of comprehensive race relations legislation for Northern Ireland. The Committee recommends that an effort be made to make available in the principal minority languages important public information, particularly concerning basic health care.
250. With respect to article 5 (e) and 7 of the Convention, the Committee repeats its recommendation that in the next report information be included regarding the development of plans to improve the economic and social conditions of minority groups through various measures in the field of employment and training, housing, social services, health and education, and in particular that the fourteenth periodic report include specific information on the number of persons from minority groups assisted through the programmes in place or to be introduced. The report should also address the manner in which such persons were assisted and the effect of the programmes on their overall welfare. Among the programmes discussed should be the Single Regeneration Budget, the Equal Opportunities Ten-Point Plan for Employers and the various educational grants for minority students.
251. Noting with concern the absence of legislation in Northern Ireland to outlaw racial discrimination and the Government's statement that close consideration is being given to this issue, the Committee recommends that a bill be promulgated as soon as possible.
252. The Committee notes with interest that action is taken to address the needs of children from the Black and other minority communities who are excluded from schools and recommends that the Government regularly collect and analyse data relating to the academic progress of children, broken down by ethnicity, to develop policies and programmes with a view to eliminating disadvantages based on race.

253. With respect to Hong Kong, the Committee recommends that efforts be made to determine the ethnic and racial composition of the population. The Committee recommends that the Bill of Rights Ordinance be amended to extend the prohibition of discrimination to acts committed by private persons, groups or organizations, as provided for in article 2, paragraph 1 (d), of the Convention. The Committee recommends that the "two-week rule" be modified to allow foreign workers to seek new employment in Hong Kong when their employment contracts are terminated.
254. The Committee recommends that the question of the citizenship status of Hong Kong residents belonging to ethnic minorities of Asian origin be reviewed to ensure that their human rights are protected and that they are not discriminated against as compared with residents of other former colonies of the United Kingdom.
255. The Committee recommends that the fourteenth periodic report, due on 5 April 1996, be an updating report, that it contain information on the metropolitan territory as well as on the dependent territories, including Hong Kong, and that it address all the points raised in these observations.

## GUINEA

256. At its 1154th meeting, held on 14 March 1996 (see CERD/C/SR.1154), the Committee reviewed the implementation of the Convention by Guinea based upon its previous report (CERD/C/15/Add.1) and the Committee's consideration thereof (see CERD/C/SR.369). The Committee noted with regret that no report had been submitted to the Committee since 1977.
257. The Committee regretted that Guinea had not responded to its invitation to participate in the meeting and to furnish relevant information. The Committee decided that a communication should be sent to the Government of Guinea setting out its reporting obligations under the Convention and urging that the dialogue with the Committee should be resumed as soon as possible.
258. The Committee suggested that the Government of Guinea avail itself of the technical assistance offered under the advisory services and technical assistance programme of the Centre for Human Rights, with the aim of drawing up and submitting as soon as possible an updated report drafted in accordance with the reporting guidelines.

## GAMBIA

259. At its 1154th meeting, held on 14 March 1996 (see CERD/C/SR.1154), the Committee reviewed the implementation of the Convention by Gambia based upon its previous report (CERD/C/61/Add.3) and the Committee's consideration thereof (see CERD/C/SR.550). The Committee noted with regret that no report had been submitted to the Committee since 1980.
260. The Committee regretted that Gambia had not responded to its invitation to participate in the meeting and to furnish relevant information. The Committee decided that a communication should be sent to the Government of the reporting State setting out its reporting obligations under the Convention and urging that the dialogue with the Committee should be resumed as soon as possible.
261. The Committee suggested that the Government of Gambia avail itself of the technical assistance offered under the advisory services and technical assistance programme of the Centre for Human Rights, with the aim of drawing up and submitting as soon as possible an updated report drafted in accordance with the reporting guidelines.

## CÔTE D'IVOIRE

262. At its 1154th meeting, held on 14 March 1996 (see CERD/C/SR.1154), the Committee reviewed the implementation of the Convention by Côte d'Ivoire based upon its previous report (CERD/C/64/Add.2) and the Committee's consideration thereof (see CERD/C/SR.510, 511 and 922). The Committee noted with regret that no report had been submitted to the Committee since 1980.
263. The Committee regretted that Côte d'Ivoire had not responded to its invitation to participate in the meeting and to furnish relevant information. The Committee decided that a communication should be sent to the Government of Côte d'Ivoire setting out its reporting obligations under the Convention and urging that the dialogue with the Committee should be resumed as soon as possible.
264. The Committee suggested that the Government of Côte d'Ivoire avail itself of the technical assistance offered under the advisory services and technical assistance programme of the Centre for Human Rights, with the aim of drawing up and submitting as soon as possible an updated report drafted in accordance with the reporting guidelines.

## BOLIVIA

265. The Committee examined the eighth, ninth, tenth, eleventh, twelfth and thirteenth periodic reports of Bolivia, which were submitted in a single document (CERD/C/281/Add.1), at its 1157th and 1160th meetings, held on 5 and 7 August 1996 (see CERD/C/SR.1157 and 1160). In the light of the examination of the report and the observations made by the members of the Committee, the Committee, at its 1176th meeting, on 19 August 1996, adopted the following concluding observations.<sup>8</sup>

**A. Introduction**

266. While the Committee regrets the long period, since 1983, during which no reports were submitted by the State Party, it welcomes the submission of the combined eighth, ninth, tenth, eleventh, twelfth and thirteenth periodic reports. The Committee expresses appreciation for the frank manner in which the report addresses the actual situation in Bolivia. It also expresses its appreciation for the additional information provided by members of the State Party's delegation and for their willingness to engage in a constructive dialogue with the Committee. The information contained in the report and in the oral answers to its questions allowed the Committee to obtain a clearer view of the overall human rights situation in the State Party with respect to racial discrimination.

267. The Committee notes that the State Party has not made the declaration provided for by article 14 of the Convention; some members of the Committee requested the State Party to consider the possibility of making such a declaration.

**B. Factors and difficulties affecting the implementation of the Convention**

268. Note is taken, with concern, of the conditions of extreme poverty principally affecting members of the indigenous population. Poverty is evident in the lack of access to some basic services, such as provision of clean water, medical care, education and electricity.

269. The high rate of illiteracy and the fact that the national language, Spanish, is spoken by only 44 per cent of the population, and the large number of languages and dialects spoken in the country are noted with concern, as they make communication difficult between the various

ethnic groups and, in many cases, place indigenous persons at a disadvantage in the defence of their human rights.

270. Concern is also expressed about the complex problem of drug trafficking and, in the rural areas, drug production, principally affecting members of the indigenous population, which the Government, faced with economic problems and violations of the law, as well as external pressures, is struggling to eradicate.

### **C. Positive aspects**

271. The progress made in stabilizing the national economy is welcomed, as are the Government's efforts to reduce the great disparities between the level of development of the capital and other urban areas relative to the remote rural areas of Bolivia.

272. In addition, the Law on Popular Participation of 1994 is welcomed for its recognition of indigenous communities as juridical persons and granting to such communities the power to engage in certain activities independently of the central authorities. These include the capacity to contract public projects and to receive international assistance for local development.

273. The abolition of the practice of debt imprisonment is welcomed. This practice by definition has affected the poorer sectors of society and consequently has had important racial implications.

274. The new measures to provide maternity care and medical care for infants until the age of five years, under Supreme Decree 24,303, are welcomed and considered to be in conformity with article 5 (e) of the Convention.

275. The protection of the indigenous population should be improved by the planned adoption of legal provisions for the establishment of various institutions with specific areas of responsibility in the protection of human rights, including the National Organ for Minors, Women and the Family and the Sub-Secretariat on Human Rights in the Ministry of Justice. The post of a national human rights ombudsman envisioned in the constitutional reforms of 1994 is also welcomed.

### **D. Principal subjects of concern**

276. Deep concern is expressed over the lack of legislative provisions

classifying as an offence punishable by law the dissemination of ideas based on racial superiority or hatred, acts of violence or incitement to violence against any race or group of persons of another colour or ethnic origin and the provision of assistance to racist activities, as required under article 4. In this connection, attention is drawn to the fact that failure to take such action impairs implementation of article 6 on the right to effective protection and remedy.

277. Attention is drawn to article 5 (c), in accordance with which all persons have the right to have equal access to the public service. In this regard, regret is expressed that the law on the public service, adopted in 1992, does not expressly prohibit racial discrimination in the selection of public servants.
278. Note is taken of the disparities in the access to economic, social and cultural benefits by different ethnic groups. While the difficulties in providing such benefits to regions far removed from the capital are appreciated, the disproportionate effects that may hinder the relative development of different communities are of deep concern, as they can perpetuate racial discrimination towards disadvantaged groups.
279. With respect to article 7, it is considered that insufficient information was made available concerning efforts in teaching and education to combat prejudices which lead to racial discrimination and to promote understanding, tolerance and friendship, as required under this article.
280. It is noted with regret that quantitative information regarding the ethnic composition of the population, the geographic areas where minority communities are concentrated, the level of their standard of living and other educational and social indices was not provided in the present report. Such information is essential for the Government itself to detect possible patterns of discrimination and for the Committee to monitor effectively the implementation of the Convention.

### **E. Suggestions and recommendations**

281. The Committee urges the Government to consider its obligations to make all forms of racial discrimination, as specified in article 4 of the Convention, punishable by law. In this respect, it notes with satisfaction the indication that the Government would welcome technical assistance towards this end. The Committee recommends that the Government avail itself of the technical cooperation services of the Centre for Human Rights of the United Nations.



282. The Committee recommends that information regarding the ethnic composition of the population, the geographic areas where minority communities are concentrated, the level of their standard of living and other educational and social indices be provided in the next report, which should be an updating report focused on those questions and subjects of concern raised by the Committee during the examination of the present report. It also requests that the next report include data on the indigenous communities that are affected by drug trafficking and how the Government's policies and programmes are affecting those groups. It will be appreciated if that information includes the amount of land withdrawn from coca production, the amount of land continuing to produce coca, the number of persons affected and the ethnic origin of those persons, as well as the effects of the Government's programmes on their living standards. If it is considered that assistance in this area would be helpful, the Committee recommends that the Government request technical assistance from the Centre for Human Rights with respect to the collection and analysis of data.
283. The Committee recommends that the next periodic report contain detailed information concerning the draft bill on land reform. It requests that the report explain how demands for sustainable development, for the promotion of agriculture and for protection of the rights of the indigenous and peasant communities will be reconciled in the draft bill.
284. The Committee urges that immediate attention be paid to the development of rural areas where many indigenous communities are situated. It encourages the Government to consider expansion of the economic and social infrastructure to enable those communities to be provided with access to clean water, energy, medical care, education, and other essential services and, in this regard, it calls special attention to the situation of the Guaraní people. The Committee encourages the Government to seek international assistance towards this end.
285. The Committee strongly recommends that the next periodic report include information regarding any measures taken to remedy the problems outlined in the report concerning judicial sentencing. In particular, the Committee requests information concerning the number of complaints of racial discrimination which have been made and examples of sentencing to be included in the next periodic report to gain a better understanding of the way in which the judicial system implements the obligations of the State under the Convention.
286. The Committee recommends that the next periodic report include

information on how the Law on University Reform and other related measures will affect minority students and communities.

287. The Committee recommends that the State Party consider how it may implement the working provisions of article 7 and incorporate in the school curricula and the training of persons in the public service appropriate instruction to effectively combat prejudice and promote tolerance.
288. The Committee recommends that the State Party ratify at its earliest convenience the amendments to article 8, paragraph 6, of the Convention, adopted by the 14th meeting of States Parties.
289. The Committee recommends that the next periodic report of the State Party due on 22 October 1997, be updating in character and that it address all the points raised in the present concluding observations.

## BRAZIL

290. The Committee considered the tenth, eleventh, twelfth and thirteenth periodic reports of Brazil submitted in a single document (CERD/C/263/Add.10), at its 1157th, 1158th and 1159th meetings (CERD/C/SR.1157-1159), on 5 August and 6 August 1996. At its 1177th meeting, on 19 August 1996, it adopted the following concluding observations.

### A. Introduction

291. The Committee welcomes the resumption of the dialogue with the Government of Brazil after a nine-year break. It expresses its satisfaction to the State Party for the frankness of its report and the explanations provided by the delegation. However, it regrets that the report submitted contains little specific information on the implementation of the Convention in practice. In this connection, the Committee takes note of the delegation's statement that the State Party is ready to continue the dialogue in the near future and to provide it with fuller information on the measures taken to give effect to the Convention.
292. The Committee notes that the State Party has not made the declaration provided for by article 14 of the Convention; some members of the Committee requested that it should consider the possibility of doing so.

## **B. Factors and difficulties impeding the implementation of the Convention**

293. The Committee recognizes that Brazil is a country with a very sizeable geographical area and population and that, during the past decade, it has undergone far-reaching political, economic and social changes. In spite of numerous structural, political, economic and social reforms, the authorities have not managed to control endemic poverty, thus exacerbating the social inequalities affecting the black, indigenous and mestizo populations in particular, and encouraging the emergence of a culture of violence.

## **C. Positive aspects**

294. The recent legislative and institutional measures taken by the Government of Brazil to bring national legislation more into line with the Convention and to improve protection of the fundamental rights of the most vulnerable communities are welcomed. In this connection, the Committee takes particular note of the adoption of the new Constitution in 1988 and the recent establishment of a human rights commission, an inter-ministerial working group for the promotion of the black population and a ministry of agrarian reform and the promulgation of a national human rights plan. The creation, on an experimental basis, of a police station to deal specially with cases of racial discrimination should also be highlighted.

295. The determination expressed by the delegation to ratify shortly ILO Convention No. 169 concerning indigenous and Tribal Peoples in Independent Countries is a step forward which the Committee hopes Brazil will take as soon as possible.

296. Active participation by members of society at large in drafting the State Party's report is a welcome development, as is the determination expressed by the Brazilian authorities to disseminate widely the report and the Committee's concluding observations.

## **D. Principal subjects of concern**

297. The statistical and qualitative information on the demographic composition of Brazil's population and on the enjoyment of political, economic, social and cultural rights provided in the State Party's report

clearly show that the indigenous, black and mestizo communities suffer from deep structural inequalities and that the measures taken by the Government effectively to combat those disparities are still insufficient.

298. The Committee notes that the report contains no information on the “indicators” of the particular social difficulties encountered by the most vulnerable populations, especially the indigenous, black and mestizo populations.
299. A number of sources of information concur that discriminatory attitudes towards the indigenous, black and mestizo populations persist within Brazilian society and are apparent at a number of levels in the political, economic and social life of the country. These discriminatory attitudes concern, *inter alia*, the right to life and security of person, political participation, access to education and employment, access to basic public services, the right to health, the right to decent housing, land ownership, land use and law enforcement.
300. Special concern is expressed about the fate of the most vulnerable populations, in particular indigenous people, blacks and mestizos.
301. Regarding the implementation of article 2 of the Convention, the Committee notes with concern the slow pace of certain legislative reforms, in particular the reform of the Criminal Code. The Committee notes with concern the maintenance of article 6 of the 1916 Civil Code of Brazil, containing a discriminatory restriction on the exercise of civil rights by the indigenous populations which is contrary to the 1988 Constitution of Brazil, although according to the explanations of the representative of Brazil this provision has become obsolete.
302. The fact that illiterate citizens, who are found especially among the indigenous, black or mestizo populations, or other vulnerable groups, cannot be elected in political elections is contrary to the spirit of article 5 (c) of the Convention.
303. Particular note is taken of the fact that the indigenous populations encounter serious discrimination in regard to enjoyment of their civil, political, economic, social and cultural rights. Special concern is expressed about the unfair treatment of the indigenous populations during land demarcation and distribution, the violent and unlawful means used to settle numerous land disputes and the violence and intimidation used against them by private militias and even occasionally by members of the military police. Concern is also expressed

about their social protection and the discrimination they suffer in the spheres of health, education, culture, employment, access to public office and housing.

304. Regarding the implementation of article 6 of the Convention, the Committee notes with regret that the information provided on cases in which judicial remedies were exercised by the victims of acts of racial discrimination was insufficient and did not allow a proper assessment to be made.

### **E. Suggestions and recommendations**

305. The Committee hopes that the State Party will continue and strengthen its efforts to improve the effectiveness of measures and programmes designed to ensure that all groups of the population fully enjoy their political, economic, social and cultural rights. The Committee also recommends that the State Party devote due attention to developing programmes to foster awareness of human rights and of the need for tolerance, in order to prevent social and racial discrimination and prejudice.
306. The Committee requests the Government of Brazil to provide, in its next periodic report, precise information and “indicators” on the social difficulties encountered by the indigenous black and mestizo populations, and in particular on rates of unemployment, imprisonment, alcoholism, drug use, delinquency and suicide. The Committee also draws the State Party’s attention to the need to devise “indicators” to assess policies and programmes for protecting and promoting the rights of the vulnerable populations.
307. The Committee recommends that the State Party should do everything possible to speed up the current legislative reforms and, more specifically, to amend article 6 of the 1916 Civil Code of Brazil, which is contrary to its 1988 Constitution. The State Party should also take measures to allow illiterate citizens from the most underprivileged population groups to be elected in political elections.
308. The Committee recommends that the Government of Brazil put more vigorously into practice its determination to defend the fundamental rights of indigenous people, blacks, mestizos and members of other vulnerable groups, who are regularly the victims of serious intimidation and violence, sometimes leading to their death. It hopes that the

- authorities concerned will systematically prosecute those guilty of such crimes, whether they are members of private militias or State officials, and will take effective preventive measures, especially through training for the members of the military police. In addition, the State Party should ensure that the victims of such acts receive compensation and are rehabilitated.
309. The Committee strongly recommends that the State Party should adopt fair and equitable solutions for the demarcation, distribution and restitution of land. To that end, where land disputes are concerned, everything possible should be done to prevent discrimination against indigenous people, blacks or mestizos by the big landowners.
310. The Committee encourages the State Party to ratify ILO Convention No.169 concerning Indigenous and Tribal Peoples in Independent Countries.
311. The Committee recommends that the next periodic report of Brazil contain detailed information on complaints filed by the victims of acts of racial discrimination and on how they were dealt with by the courts.
312. The Committee recommends that the State Party give nationwide publicity to its thirteenth periodic report and the Committee's concluding observations thereon.
313. The Committee recommends that the State Party ratify at its earliest convenience the amendments to article 8, paragraph 6, of the Convention which were adopted by the 14th meeting of States Parties.
314. The Committee recommends that the State Party's next periodic report, which is due on 4 January 1998, contain an update of the previous report and focus on all the points raised in the present concluding observations.

#### REPUBLIC OF KOREA

315. The Committee on the Elimination of Racial Discrimination considered the eighth periodic report of the Republic of Korea (CERD/C/258/Add.2) at its 1159th and 1160th meetings, held on 6 and 7 August 1996 (see CERD/C/SR.1159-1160), and adopted the following concluding observations at its 1176th meeting, held on 19 August 1996.

## A. Introduction

316. The Committee welcomes the eighth periodic report of the Republic of Korea and is pleased by the regularity with which the State Party submits its reports. It takes note of the detailed supplementary information provided by the delegation, which includes replies to some of the suggestions and recommendations adopted by the Committee during its consideration of the seventh periodic report of the State Party. The Committee also appreciates the open dialogue initiated with the delegation and the delegation's oral replies to the questions raised during the discussion.

## B. Factors and difficulties impeding the implementation of the Convention

317. The Committee notes that the Republic of Korea, of which the population has historically been ethnically homogeneous, has for several years been experiencing a rapid growth of its foreign population. In particular, the Committee notes that many of those foreigners are in an irregular situation, a fact which makes it difficult to implement the provisions of the Convention on their behalf because they have no legal status in the country.

## C. Positive aspects

318. The Committee views with interest the Government's wish to establish an independent national human rights commission. It notes with appreciation that the Republic of Korea is among the States Parties which have accepted the amendments to article 8, paragraph 6, of the Convention, adopted at the 14th meeting of States Parties.

319. The adoption of administrative guidelines on the protection of foreign industrial trainees in order to ensure them protection on an equal basis with national and legally registered foreign workers is in the spirit of article 5 of the Convention.

320. In that regard, the Committee notes that the Government of the Republic of Korea is considering creating a work permit for illegal foreign workers that would place them under the aegis of the Labour Standards Act, which, *inter alia*, prohibits discrimination on the basis of nationality and ensures minimum protection against poor working conditions and low wages.

321. The Committee welcomes the setting up of complaint centres in all immigration control centres, where foreign workers can file complaints in cases where their rights have been violated.
322. The Committee notes the existence of many possibilities for seeking remedies with the governmental and legal authorities and for suing individuals, the State or its representatives for compensation in cases of violations of fundamental human rights.
323. The Committee appreciates the Government's implementation of the Committee's recommendation, made during its consideration of the State Party's previous report, that human rights awareness sessions should be organized for law enforcement officials as a contribution to the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination. The Ministry of Justice's translation into Korean of the texts of the international human rights conventions is also likely to enhance the general public's familiarity with those instruments.
324. The Committee notes with satisfaction that, according to the explanations provided by the delegation of the Republic of Korea, the provisions of the Convention may be invoked by individuals before the courts, which may apply them directly on the same basis as domestic law.
325. The Committee welcomes the statement by the delegation that the State Party is planning to accept soon the competence of the Committee under article 14, paragraph 1, of the Convention.

#### **D. Principal subjects of concern**

326. The Committee notes with concern that neither the Constitution nor the law of the Republic of Korea explicitly prohibits discrimination on the basis of race, colour, descent, or national or ethnic origin, despite the provisions of article 2 of the Convention and the Committee's previous recommendations on the matter.
327. The Committee also notes with concern that article 4 of the Convention has not yet been fully implemented, since the law of the Republic of Korea contains no provisions explicitly punishing acts of racial discrimination and prohibiting organizations which promote and encourage racial discrimination.



328. The Committee notes with concern that there is discrimination against people of foreign origin who were born and have settled in the Republic of Korea, particularly Chinese, in relation to people of Korean origin, with regard to certain matters - for example, the impossibility of acquiring citizenship of the Republic of Korea and the difficulty in obtaining employment in some large companies.
329. The Committee also notes that, although the Government recognizes the existence of a problem of discrimination against Amerasian children, no information has been provided on any steps taken by the Government to remedy that situation.
330. The Committee regrets the fact that insufficient information has been provided with regard to article 5 of the Convention. As a result, the Committee has been unable to form an opinion on the actual situation regarding the equal enjoyment by all, without distinction as to racial, national or ethnic origin, of the various rights set forth in article 5 of the Convention.
331. The large number of foreigners who are being employed in ever-increasing numbers by businesses in the Republic of Korea, who live and work clandestinely in the country, usually under difficult and precarious conditions, and who are the victims of discrimination under the provisions of article 5 (a), (b), (d), (e) and (f) of the Convention, is a source of concern for the Committee. The same concern has been expressed with regard to the situation of foreign trainees who are allegedly subjected to various forms of discrimination and forced labour.

### **E. Suggestions and recommendations**

332. The Committee recommends that constitutional and legislative measures should be taken to remedy the omission of race as a ground for discrimination in the law of the Republic of Korea and, in that regard, notes the compulsory nature of the provisions of article 2 of the Convention.
333. The Committee also underlines the compulsory nature of the provisions of article 4 of the Convention and recommends that the State Party adopt appropriate legislation to give effect to those provisions, particularly by enacting a law explicitly prohibiting and punishing acts of racial discrimination and organizations which promote and encourage racial discrimination. In that regard, the Committee recommends that the State Party should take account of the Committee's General Recommendation XV.

334. The Committee also recommends that measures be taken to ensure that persons of foreign origin who were born and have settled in the Republic of Korea are no longer subject to discrimination based on ethnic origin. The Committee would like the next report to provide further information on the situation of such foreigners, the current situation of the children of mixed marriages, particularly Amerasian children, and any measures taken to improve that situation.
335. The Committee recommends that the next report of the State Party should include detailed information on legislative and practical measures taken by the authorities to ensure respect for the provisions of article 5 of the Convention.
336. The Committee also recommends that measures be taken to improve the situation of migrant workers, particularly foreigners with irregular status in the Republic of Korea; in particular, it recommends that, as envisaged by the authorities, a work permit be introduced for such persons, in order to legalize their situation.
337. The Committee requests the State Party to include in its next report information on complaints received, and cases tried, concerning matters of racial discrimination.
338. The Committee recommends that the next periodic report of the State Party, which was due on 4 January 1996, be a full report dealing with all the points raised during the present discussion.

## INDIA<sup>9</sup>

339. At its 1161st, 1162nd and 1163rd meetings, held on 7 and 8 August 1996 (see CERD/C/SR.1161-1163), the Committee on the Elimination of Racial Discrimination considered the tenth to fourteenth periodic reports of India (CERD/C/299/Add.3) and adopted, at its 1182nd meeting, held on 22 August 1996, the following concluding observations.

### A. Introduction

340. The Committee expresses its appreciation for the opportunity to resume its dialogue with the State Party on the basis of its tenth to fourteenth periodic reports. It regrets the brevity of the report, all the more

so since 10 years have passed since the previous report was submitted. It also regrets that the report does not provide concrete information on the implementation of the Convention in practice; it furthermore regrets that the report and the delegation claim that the situation of the scheduled castes and scheduled tribes does not fall within the scope of the Convention.

341. The Committee notes that the State Party has not made the declaration provided for in article 14 of the Convention. Some of the members of the Committee requested that the possibility of making such a declaration be considered.

## **B. Factors and difficulties impeding the implementation of the Convention**

342. It is noted that India is a large multi-ethnic and multicultural society. It is also noted that the extreme poverty of certain groups in the population, the system of castes and the climate of violence in certain parts of the country are among the factors which impede the full implementation of the Convention by the State Party.

## **C. Positive aspects**

343. The leading role played by India in the struggle against racial discrimination and apartheid at the international level is welcomed by the Committee. The Committee also acknowledges the far-reaching measures adopted by the Government to combat discrimination against members of scheduled castes and scheduled tribes.

344. The demographic data on the composition of the population and on the representation of various communities in the public service at the central and state level of government provided by the delegation during the meetings are welcomed.

345. The broad functions and powers of the recently established National Commission on Human Rights, as defined by the Protection of Human Rights Act (1993), which include the capacity to inquire into complaints of violations of human rights, to intervene in any proceeding involving allegations of violation of human rights pending before a court, to review constitutional and legal safeguards, to study treaties and other international instruments on human rights, to recommend

measures for their effective implementation and to spread human rights literacy among the population, are welcomed by the Committee. It is noted with interest that the Commission encourages the states within the federation to create human rights commissions, as well as tribunals dealing specifically with human rights.

346. The Committee takes note of the plurality of newspapers and the mass media, and their awareness of human rights problems. The Committee holds that they play an important role in the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination.
347. Note is also taken of the procedure of public interest litigation adopted by the Supreme Court, which affords the possibility to anyone, and not only to the victims of human rights violations, to seek redress from the court by any means, even by means of a postcard.
348. Articles 15 (i) and 15 (ii) of the Constitution of India, prohibiting all forms of discrimination by the State and its agents, or between individuals, including discrimination based on race and castes, as well as article 153, paragraphs (a) and (b), and article 505 of the Penal Code, which prohibit actions that promote disharmony, hatred, feelings of enmity and ill-will on grounds of race or religion, are found to be mainly in conformity with article 2, paragraph 1, of the Convention.
349. The Committee welcomes the statement in the State Party's report to the effect that no organization which promotes and incites racial discrimination can legally exist in India and that the Constitution and the laws in this regard make it clear that the State Party will take all necessary measures within the law to prevent activities and propaganda which promote and incite racial discrimination.
350. The lapse of the Terrorist and Disruptive Activities (Prevention) Act (TADA), which applied in parts of the north-eastern part of the country and in Jammu and Kashmir, under which the right to personal security of some members of ethnic and religious minorities living in those areas was often reported to be violated by security forces, is welcomed.
351. The importance accorded by the authorities to education as a means to spread awareness of human rights and literacy among the population and to struggle against all forms of discrimination, in particular racial discrimination, as well as the activities of the National Commission on Human Rights and the inclusion of human rights in the training of law enforcement officials, are welcomed.

#### D. Principal subjects of concern

352. Noting the declaration in paragraph 7 of the report, reiterated in the oral presentation, the Committee states that the term “descent” mentioned in article 1 of the Convention does not solely refer to race. The Committee affirms that the situation of the scheduled castes and scheduled tribes falls within the scope of the Convention. It emphasizes its great concern that within the discussion of the report, there was no inclination on the side of the State Party to reconsider its position.
353. The Committee is seriously concerned that the Kashmiris, as well as other groups, are frequently treated, on account of their ethnic or national origin, in ways contrary to the basic provisions of the Convention.
354. Clause 19 of the Protection of Human Rights Act prevents the National Commission on Human Rights from directly investigating allegations of abuse involving the armed forces. This is a too broad restriction on its powers and contributes to a climate of impunity for members of the armed forces. Moreover, it is regretted that the Commission is debarred from investigating cases of human rights violation that occurred more than a year before the making of the complaint.
355. The absence of information on the functions, powers and activities of the National Commission on Scheduled Castes and Scheduled Tribes and of the National Commission on Minorities makes it impossible to assess whether these Commissions have a positive impact upon the enjoyment of human rights and fundamental freedoms by members of the groups in question.
356. It is regretted that no information has been provided to the Committee on the effective implementation of the penal provisions referred to in paragraph 348 above. In this regard, concern is expressed at numerous reports of acts of discrimination based on race, colour, descent or national or ethnic origin, although it was stated that no such case has yet been brought before the courts; this leads the Committee to wonder whether individuals are sufficiently informed about their rights.
357. The lack of concrete information on the legal provisions in force to prohibit organizations which incite and promote racial discrimination and hatred, and to punish members of such organizations in accordance with article 4 of the Convention, as well as on their application in practice, including eventual court decisions, is regretted. This is most serious in

view of widespread violence against certain minorities actively sponsored by extremist organizations that have not been declared illegal.

358. The lack of information on the text of the Directive Principles of State Policy of the Constitution relating to the promotion of social, economic and cultural rights, and on measures to give them effect, makes any evaluation of the implementation of article 5 of the Convention more difficult.
359. Regrets are expressed that the National Security Act and, in some areas of India, the Public Safety Act, remain in force.
360. It is noted with concern that the denial of the equal enjoyment of political rights, as provided for in article 5 (c) of the Convention, has led to an increase of violence, in particular in Jammu and Kashmir.
361. It is noted that although constitutional provisions and legal texts exist to abolish untouchability and to protect the members of the scheduled castes and tribes, and although social and educational policies have been adopted to improve the situation of members of scheduled castes and tribes and to protect them from abuses, widespread discrimination against them and the relative impunity of those who abuse them point to the limited effect of these measures. The Committee is particularly concerned at reports that people belonging to the scheduled castes and tribes are often prevented from using public wells or from entering cafés or restaurants and that their children are sometimes separated from other children in schools, in violation of article 5 (f) of the Convention.
362. The Committee regrets that certain communities do not enjoy representation in proportion to their size.
363. Although it is noted that the Supreme Court and the high courts have the jurisdiction to award compensation to victims of human rights violations, including in the field of racial discrimination, concern is expressed that there exists no specific statute providing for the right of individuals to seek from the courts just and adequate reparation or satisfaction for any damage suffered as a result of acts of racial discrimination, as required by article 6 of the Convention.

#### **E. Suggestions and recommendations**

364. The Committee recommends that the State Party continue and strengthen its efforts to improve the effectiveness of measures aimed at

guaranteeing to all groups of the population, and especially to the members of the scheduled castes and scheduled tribes, the full enjoyment of their civil, cultural, economic, political and social rights, as mentioned in article 5 of the Convention. In this regard, the Committee recommends that the next report to be submitted by the State Party contain full and detailed information on the legislative aspects and the concrete implementation of the Directive Principles of the State Policy of the Constitution.

365. The Committee recommends that special measures be taken by the authorities to prevent acts of discrimination towards persons belonging to the scheduled castes and scheduled tribes, and, in cases where such acts have been committed, to conduct thorough investigations, to punish those found responsible and to provide just and adequate reparation to the victims. In this regard, the Committee particularly stresses the importance of the equal enjoyment by members of these groups of the rights to access to health care, education, work and public places and services, including wells, cafés or restaurants.
366. The Committee recommends that clause 19 of the Protection of Human Rights Act be repealed to allow inquiries of alleged abuses committed by members of the armed and security forces to be conducted by the National Commission on Human Rights, and that the Commission be enabled to look into complaints of acts of racial discrimination that occurred more than a year before the filing of the complaint.
367. The Committee recommends that the next periodic report of the State Party include information on the powers and functions, as well as on their effective implementation, of the National Commission on Scheduled Castes and Scheduled Tribes and of the National Commission on Minorities.
368. The Committee also recommends that the Government provide in its next periodic report information, including the number of complaints lodged and sentences passed, about the implementation in practice of the legal provisions prohibiting acts of racial discrimination and organizations which promote and incite racial discrimination, in accordance with articles 2 and 4 of the Convention.
369. The Committee recommends a continuing campaign to educate the Indian population on human rights, in line with the Constitution of India and with universal human rights instruments, including the International Convention on the Elimination of All Forms of Racial

Discrimination. This should be aimed at eliminating the institutionalized thinking of the high-caste and low-caste mentality.

370. The Committee reaffirms that the provisions of article 6 of the Convention are mandatory and that the Government of India should adopt legal provisions making it easier for individuals to seek from the courts just and adequate reparation or satisfaction for any damage suffered as a result of acts of racial discrimination, including acts of discrimination based on belonging to a caste or a tribe.
371. The Committee suggests that the State Party ensure wide publicity, as far as possible in the official and state languages, to its tenth to fourteenth reports and to the present concluding observations.
372. The Committee recommends that the State Party ratify at its earliest convenience the amendments to article 8, paragraph 6, of the Convention, adopted by the fourteenth meeting of States Parties.
373. The Committee recommends that the State Party's next periodic report, due on 4 January 1998, be a comprehensive report and that it address all the points raised in these concluding observations.

## MALTA

374. The Committee considered the eleventh and twelfth periodic reports of Malta (CERD/C/262/Add.4) at its 1161st and 1162nd meetings, on 7 and 8 August 1996 (see CERD/C/SR.1161-1162) and at its 1176th meeting, on 19 August 1996, adopted the following concluding observations.

### A. Introduction

375. The Committee welcomes the report presented by the Government of Malta, which contains information about changes and developments that have occurred since the consideration of the previous periodic report. The Committee also welcomes the detailed answers to questions raised and concerns expressed during the consideration of the report. It expresses its appreciation for the dialogue with the delegation and for the answers given orally to the questions raised by members.
376. It is noted that the State Party has not made the declaration provided for in article 14 of the Convention. Some members of the Committee requested that the possibility of making such a declaration be considered.



**B. Positive aspects**

377. The fact that the State Party states in its report that it has been actively studying the possibility of enacting new ad hoc legislation to cover all forms of discrimination is an encouraging step towards the future implementation of article 4 of the Convention.
378. The willingness affirmed by the State Party during the oral dialogue to consider making a declaration under article 14 of the Convention is welcomed.
379. The recent establishment of the office of the Ombudsman, whose mandate includes the consideration of complaints submitted by individuals relating to all forms of racial discrimination, is also welcomed.
380. The recent organization by the State Party of various media campaigns against the negative effects of racial discrimination because of an increase in tourism and in the number of foreign students and refugees is a positive action.

**C. Principal subjects of concern**

381. The Committee is concerned that the Government of Malta maintains in its report its official position that it does not need to enact new ad hoc legislation to cover all forms of racial discrimination.
382. The Committee acknowledges that although certain provisions of existing legislation could be utilized to punish racial discrimination, nevertheless the Government of Malta has not implemented article 4 of the Convention. Nor has the declaration relating to this article made upon ratification been withdrawn. The Committee reaffirms its opinion that no social system can fully guarantee the absence of racial discrimination.
383. It is regretted that not enough information has been provided by the State Party on certain economic and social rights under article 5 of the Convention or on recent measures taken to implement the provisions of article 7 of the Convention.

**D. Suggestions and recommendations**

384. The Committee recommends that the State Party comply fully with its obligations under article 4 of the Convention and take all necessary

steps to amend the Criminal Code in that respect. Due account should be taken of the Committee's General Recommendation XV.

385. In connection with article 7 of the Convention, the Committee would welcome information on the effectiveness of teaching and public campaigns intended to prevent the spread of racial interpretations of social and political problems.
386. The Committee suggests that the Government continue its action taken to publicize the provisions of the Convention. In addition, the State Party should ensure the wide dissemination of its report and of the present concluding observations of the Committee, in both the English and Maltese languages.
387. The Committee also recommends that the next periodic report contain complete information on any complaints of racial or ethnic discrimination and judicial action subsequently taken.
388. The Committee recommends that the State Party comply fully with its obligations under the Convention and enact specific legislation to cover all forms of racial discrimination.
389. The Committee recommends that the State Party ratify at its earliest convenience the amendments to article 8, paragraph 6, of the Convention, adopted by the fourteenth meeting of States Parties.
390. The Committee recommends that the State Party's next periodic report, which was due on 8 January 1996, be updating in character and that it address all the points raised in these concluding observations.

#### PEOPLE'S REPUBLIC OF CHINA

391. The Committee examined the fifth, sixth and seventh periodic reports of the People's Republic of China, which were submitted in a single document (CERD/C/275/Add.2), at its 1163rd and 1164th meetings, held on 8 and 9 August 1996 (see CERD/C/SR.1163-1164). In the light of the examination of the report and the observations made by the members of the Committee, the Committee, at its 1179th meeting, on 20 August 1996, adopted the following concluding observations.

## **A. Introduction**

392. The Committee welcomes the submission of the combined periodic report of the State Party and the resumption of dialogue. The Committee regrets that the report contained insufficient data on health, education, welfare and other social and economic conditions of life of the different minority groups, which made it difficult to assess properly the implementation of the Convention in the State Party. However, it expresses its satisfaction with the additional oral and written information provided by the delegation representing the State Party and with the constructive nature of the dialogue between the delegation and the Committee which, due to a restrictive timetable, could unfortunately not be prolonged.

393. The Committee notes that the State Party has not made the declaration provided for in article 14 of the Convention; some members requested the State Party to consider the possibility of making such a declaration.

## **B. Factors and difficulties affecting the implementation of the Convention**

394. Note is taken of the large number of minorities which, according to the State Party, include 55 nationalities. Since a significant percentage of these nationalities do not reside in the autonomous minority areas, it is difficult to assess their living conditions with precision. Note is also taken of the difficulties in standardizing essential services throughout the vast territory of China.

## **C. Positive aspects**

395. The strong economic growth experienced in recent years by the State Party is a positive factor and should provide greater possibilities for public investment in areas that require urgent attention. In particular, indications by the State Party that minority areas are granted public investment on a priority basis are viewed with great satisfaction.

396. Satisfaction is expressed that the living standards of minority peoples have improved in recent years, particularly with respect to preferential treatment with regard to marriages, family planning, university admissions, employment, etc.

397. Satisfaction is expressed at the efforts to preserve the linguistic heritage of the minority nationalities. Such efforts include the provision of textbooks, the development of school curricula and the publication of newspapers and literary works in the minority languages.
398. The State's policy of largely exempting members of minority nationalities from the birth control regulations which generally apply in China is welcomed.
399. The promulgation of laws and regulations at the various administrative levels covering many aspects of the lives of members of minorities is an indication that a policy of promoting the status of minorities is being pursued.
400. With respect to the autonomous areas, it is noted with appreciation that the law on regional autonomy for minority nationalities guarantees that a proportion of local government officials is drawn from local nationalities.

#### **D. Principal subjects of concern**

401. Concern is expressed at the lack of protective legal provisions for minority groups that are scattered throughout China. The absence of information regarding these minorities' enjoyment of rights enumerated in the Convention is noted with regret.
402. Further information regarding the ban on domestic organizations that propagate racial discrimination or the superiority of any people would be necessary to make a proper assessment of the implementation of article 4.
403. Concern is expressed with respect to reports concerning incentives granted to members of the Han nationality to settle in autonomous areas, as this may result in substantial changes in the demographic composition and in the character of the local society of those areas.
404. Taking into consideration that a distinctive religion is essential to the identity of several minority nationalities, concern is expressed with regard to the actual enjoyment of the right to freedom of religion in the State, particularly in the Muslim parts of Xinjiang and in Tibet, including the preservation of places of worship and the exercise of religious rights by members of all ethnic groups.

405. Concern is expressed at reported cases of violation in the autonomous regions of Xinjiang and Tibet of the right to security of person and protection against violence or bodily harm, as contained in article 5 (b) of the Convention. With regard to prison facilities, it is regretted that limited information is contained in the report on the percentage of persons imprisoned who are of minority origin relative to the total prison population in the State as a whole, the types of violations they have been charged with and the prison conditions under which they serve their sentences.
406. Concern is expressed at the underrepresentation in business in some areas of persons of minority groups, which may be indicative of structural obstacles to their enjoyment of increases in economic prosperity. Concern is also expressed with regard to allegations that members of minority nationalities may not enjoy the same working conditions as persons of Han origin.
407. With respect to article 5 (e) (v) of the Convention, concern is expressed that at the secondary school and university levels children from minority nationalities are underrepresented. Moreover, concern is expressed that the instruction provided in the curricula on the history and culture of minority nationalities is not adequate as compared to the education provided concerning the history and culture of persons of the Han nationality.
408. Concern is expressed at the disparities in access to economic, social and cultural benefits by different ethnic groups. While the difficulties in providing such benefits to regions far removed from the capital and developed economic regions are appreciated, the effects of the differing levels of economic development of different regions and their impact on different communities are of concern, as they may generate racial discrimination towards disadvantaged groups. In addition, efforts with respect to economic development and national modernization should not deprive members of such ethnic groups of their right to their own culture, in particular their traditional ways of life.
409. With respect to article 7, concern is expressed about whether the efforts in teaching and education to combat prejudices which lead to racial discrimination are sufficient.
410. Concern is expressed about the content and implementation of the law of 1995 on mother and child health care and its impact on minority nationalities.

### **E. Suggestions and recommendations**

411. The Committee recommends that the Government make all acts of racial discrimination, as specified in article 4 of the Convention, punishable by law. In this respect, it notes with satisfaction indications that the Government would welcome technical assistance from the technical cooperation services of the Centre for Human Rights of the United Nations.
412. The Committee recommends that with respect to article 4 more detailed information regarding the ban on domestic organizations that propagate racial discrimination or the superiority of any people be submitted in the State Party's next report.
413. The Committee recommends that comprehensive information regarding the composition of the population, the geographic areas where minority nationalities are concentrated, their standard of living and other educational and social indices be included in the next report. Such information should be provided not only with respect to minority nationalities living in the autonomous areas, but also as far as possible with respect to those dispersed in various regions. With regard to the latter groups, the Committee would appreciate information regarding the legal protection available to dispersed minorities relative to the rights provided for in the Convention.
414. The Committee recommends that consideration be given to the inclusion of more members of minority nationalities in positions of leadership, not only in the Government but also in the Party and other institutions at both the national and local levels.
415. The Committee recommends that the elaboration and adoption of autonomy regulations for the five autonomous regions, which were envisioned in the 1984 Law on Autonomous Regions, be expedited.
416. The Committee recommends that any policies or practices that may result in a substantial alteration of the demographic composition of autonomous areas be reviewed.
417. The Committee recommends that information and clarification be provided in the next periodic report on allegations of destruction by the State of mosques, Buddhist and Lama temples and other places of worship of the minority nationalities. It encourages the Government to avoid any restriction on the exercise of religious rights of the members of minority nationalities.

418. The Committee recommends that in relation to respect for article 5 (b) *of the Convention information be provided in the next report concerning the number and percentage of persons detained who are of minority origin relative to the total prison population of the State Party and the types of violations with which they have been charged.*
419. The Committee recommends that further necessary legal, administrative or other appropriate measures be taken to ensure that there is no discrimination against members of minority nationalities, in either the public service or private employment, with respect to the right to just and favourable conditions of work and the right to just and favourable remuneration.
420. With respect to article 5 (e) (v) of the Convention concerning the right to education, the Committee recommends that the State Party ensure access by members of minority nationalities to education at all levels and that, in autonomous areas, instruction on the history and culture of the relevant minority nationalities be included in the school curricula.
421. The Committee recommends that special attention be paid to any adverse effect that economic development and national modernization may have on the enjoyment of the right to culture, particularly of minority nationalities.
422. With respect to article 6 of the Convention, the Committee recommends that the State Party provide in its next periodic report information and statistics on complaints filed and judgements passed on acts of racial discrimination.
423. The Committee recommends that the State Party consider how it may implement the provisions of article 7 and incorporate in the school curricula and the training of persons working in the public service, appropriate instruction effectively to combat prejudice and promote tolerance.
424. The Committee recommends that the text of the Convention, the State report and the present concluding observations of the Committee be widely disseminated and made available in national languages, particularly those spoken in autonomous areas.
425. The Committee recommends that the State Party ratify at its earliest convenience the amendments to article 8, paragraph 6, of the Convention, adopted by the fourteenth meeting of States Parties.

426. The Committee recommends that the State Party's next periodic report, due on 28 January 1997, be updating in character and that it address all the points raised in these concluding observations.

## FIJI

427. At its 1165th meeting, held on 9 August 1996 (see CERD/C/SR.1165), the Committee reviewed the implementation of the Convention by Fiji based upon its previous report (CERD/C/89/Add.3) and its consideration by the Committee (see CERD/C/SR.629 and 925-926). The Committee noted with regret that no report had been submitted to the Committee since 1982.

428. The Committee regretted also that Fiji had not responded to its invitation to participate in the meeting and to furnish relevant information.

429. The Committee expressed concern at reports of institutionalized forms of racial discrimination and of the potential for an increase in ethnic tension on the territory of the State Party. The Committee strongly recommends the submission of a comprehensive periodic report by the State Party to clarify these serious allegations and to re-establish a constructive dialogue.

430. The Committee suggested that the Government of Fiji avail itself of the technical assistance offered under the advisory services and technical assistance programme of the Centre for Human Rights, with the aim of preparing and submitting such a report drafted in accordance with the reporting guidelines.

## TOGO

431. At its 1165th meeting, held on 9 August 1996 (see CERD/C/SR.1165), the Committee reviewed the implementation of the Convention by Togo based upon its previous reports (CERD/C/75/Add.12) and its consideration by the Committee (see CERD/C/SR.924). The Committee noted with regret that no report had been submitted to the Committee since 1991.

432. The Committee regretted that Togo had not responded to its invitation to participate in the meeting and to furnish relevant information. The Committee decided that a communication should be sent to the



Government of the reporting State setting out its reporting obligations under the Convention and urging that the dialogue with the Committee should be resumed as soon as possible.

433. The Committee, taking into account the seminar organized by the Centre for Human Rights on the preparation of reports to be submitted to human rights treaty bodies, in April 1996 in Lomé, invites the Government of Togo to submit its report as soon as possible.

## SOMALIA

434. At its 1166th meeting, held on 12 August 1996 (see CERD/C/SR.1166), the Committee reviewed the implementation of the Convention by Somalia based upon its previous reports (CERD/C/88/Add.6) and its consideration by the Committee (see CERD/C/SR.728 and 1114). The Committee noted with regret that no report had been submitted to the Committee since 1984.
435. Noting that there is a complete breakdown of law and order and no effective government, the Committee decides that it will return to review the State Party's implementation of the International Convention once political stability has been re-established.
436. In the future the Government of Somalia may wish to avail itself of the technical assistance offered under the advisory services and technical assistance programme of the Centre for Human Rights, with the aim of preparing and submitting an updated report drafted in accordance with the reporting guidelines.

## CAPE VERDE

437. At its 1166th meeting, held on 12 August 1996 (see CERD/C/SR.1166), the Committee reviewed the implementation of the Convention by Cape Verde based upon its previous reports (CERD/C/86/Add.4) and its consideration by the Committee (see CERD/C/SR.662, 663, 949 and 952). The Committee noted with regret that no report had been submitted to the Committee since 1983.
438. The Committee regretted that Cape Verde had not responded to its invitation to participate in the meeting and to furnish relevant information. The Committee decided that a communication should be sent

to the Government of Cape Verde setting out its reporting obligations under the Convention and urging that the dialogue with the Committee should be resumed as soon as possible.

439. The Committee suggested that the Government of Cape Verde avail itself of the technical assistance offered under the advisory services and technical assistance programme of the Centre for Human Rights, with the aim of preparing and submitting as soon as possible an updated report drafted in accordance with the reporting guidelines.

## LESOTHO

440. At its 1166th meeting, held on 12 August 1996 (see CERD/C/SR.1166), the Committee reviewed the implementation of the Convention by Lesotho based upon its previous reports (CERD/C/90/Add.2) and its consideration by the Committee (see CERD/C/SR.608, 949 and 952). The Committee noted with regret that no report had been submitted to the Committee since 1982.

441. The Committee regretted that Lesotho had not responded to its invitation to participate in the meeting and to furnish relevant information. The Committee decided that a communication should be sent to the Government of Lesotho setting out its reporting obligations under the Convention and urging that the dialogue with the Committee should be resumed as soon as possible.

442. The Committee suggested that the Government of Lesotho avail itself of the technical assistance offered under the advisory services and technical assistance programme of the Centre for Human Rights, with the aim of preparing and submitting as soon as possible an updated report drafted in accordance with the reporting guidelines.

## SAINT VINCENT AND THE GRENADINES

443. At its 1166th meeting, held on 12 August 1996 (see CERD/C/SR.1166), the Committee reviewed the implementation of the Convention by Saint Vincent and the Grenadines based upon its previous reports (CERD/C/85/Add.1) and its consideration by the Committee (see CERD/C/SR.652, 949 and 952). The Committee noted with regret that no report had been submitted to the Committee since 1983, although it welcomed the submission by the State Party in 1993 of the initial part of its report (see HRI/CORE/1/Add.36).

444. The Committee regretted that Saint Vincent and the Grenadines had not responded to its invitation to participate in the meeting and to furnish relevant information. The Committee decided that a communication should be sent to the Government of Saint Vincent and the Grenadines setting out its reporting obligations under the Convention and urging that the dialogue with the Committee should be resumed as soon as possible.
445. The Committee suggested that the Government of Saint Vincent and the Grenadines avail itself of the technical assistance offered under the advisory services and technical assistance programme of the Centre for Human Rights, with the aim of preparing and submitting as soon as possible an updated report drafted in accordance with the reporting guidelines.

#### SOLOMON ISLANDS

446. At its 1166th meeting, held on 12 August 1996 (see CERD/C/SR.1166), the Committee reviewed the implementation of the Convention by the Solomon Islands based upon its previous report (CERD/C/101/Add.1) and its consideration by the Committee (see CERD/C/SR.635, 636, 949 and 952). The Committee noted with regret that no report had been submitted to the Committee since 1983.
447. The Committee regretted that the Solomon Islands had not responded to its invitation to participate in the meeting and to furnish relevant information. The Committee decided that a communication should be sent to the Government of the Solomon Islands setting out its reporting obligations under the Convention and urging that the dialogue with the Committee should be resumed as soon as possible.
448. The Committee suggested that the Government of the Solomon Islands avail itself of the technical assistance offered under the advisory services and technical assistance programme of the Centre for Human Rights, with the aim of preparing and submitting as soon as possible an updated report drafted in accordance with the reporting guidelines.

#### BOTSWANA

449. At its 1166th meeting, held on 12 August 1996 (see CERD/C/SR.1166), the Committee reviewed the implementation of the Convention by Botswana based upon its previous reports (CERD/C/105/Add.1) and

their consideration by the Committee (see CERD/C/SR.654, 949 and 952). Although the Committee noted with regret that no report had been submitted to the Committee since 1983, it welcomed the communication received from the State Party, indicating the commitment of the State Party to respect its obligations under the Convention and requesting the assistance of the Centre for Human Rights to prepare and submit a comprehensive periodic report.

450. The Committee decided that a communication should be sent to the Government of Botswana urging that the dialogue with the Committee should be resumed as soon as possible.
451. The Committee suggested that the Government of Botswana avail itself of the technical assistance offered under the advisory services and technical assistance programme of the Centre for Human Rights, with the aim of drawing up and submitting as soon as possible an updated report drafted in accordance with the reporting guidelines.

#### LAO PEOPLE'S DEMOCRATIC REPUBLIC

452. At its 1166th meeting, held on 12 August 1996 (see CERD/C/SR.1166), the Committee reviewed the implementation of the Convention by the Lao People's Democratic Republic based on that country's previous reports (CERD/C/105/Add.4) and the Committee's consideration thereof (see CERD/C/SR.707, 709, 949 and 952). The Committee noted with regret that no report had been submitted to it since 1984.
453. The Committee regretted that the Lao People's Democratic Republic had not responded to its invitation to participate in the meeting and to furnish relevant information. The Committee decided to send a letter to the Government of the Lao People's Democratic Republic setting out its reporting obligations under the Convention and urging it to resume the dialogue with the Committee as soon as possible.
454. The Committee suggested that the Government of the Lao People's Democratic Republic avail itself of the technical assistance offered under the advisory services and technical assistance programme of the Centre for Human Rights, with the aim of drawing up and submitting as soon as possible an updated report drafted in accordance with the reporting guidelines.
455. The Committee recommended that the next report from the Lao

People's Democratic Republic contain information constituting a detailed response to the concerns expressed by the Committee in 1992 when considering the situation in the country.<sup>10</sup>

## BURKINA FASO

456. At its 1166th meeting, held on 12 August 1996 (see CERD/C/SR.1166), the Committee reviewed the implementation of the Convention by Burkina Faso based upon its previous reports (CERD/C/105/Add.5) and its consideration by the Committee (see CERD/C/SR.711, 949 and 952). The Committee noted with regret that no report had been submitted to the Committee since 1984, although it welcomed the submission by the State Party in 1993 of the initial part of its report (see HRI/CORE/1/Add.30).

457. The Committee regretted that Burkina Faso had not responded to its invitation to participate in the meeting and to furnish relevant information. The Committee decided that a communication should be sent to the Government of Burkina Faso setting out its reporting obligations under the Convention and urging that the dialogue with the Committee should be resumed as soon as possible.

458. The Committee suggested that the Government of Burkina Faso avail itself of the technical assistance offered under the advisory services and technical assistance programme of the Centre for Human Rights, with the aim of drawing up and submitting as soon as possible an updated report drafted in accordance with the reporting guidelines.

459. The Committee recommends that the next periodic report to be submitted by Burkina Faso provide comprehensive information responding to the concerns expressed by the Committee when it reviewed the situation in the State Party in 1992.<sup>11</sup>

## VENEZUELA

460. The Committee considered the tenth, eleventh, twelfth and thirteenth periodic reports of Venezuela (CERD/C/263/Add.8/Rev.1) at its 1169th, 1170th and 1172nd meetings (see CERD/C/SR.1169, 1170 and 1172) held on 13, 14 and 15 August 1996 and, at its 1181st meeting, held on 21 August 1996, adopted the following concluding observations.

## **A. Introduction**

461. The Committee commends the State Party on its willingness and readiness to maintain a dialogue with the Committee through submission of its report and expresses its appreciation to the State Party's delegation for the wealth of additional information that it provided to the Committee orally. It also notes with satisfaction the submission of the core document of Venezuela (HRI/CORE/1/Add.3). The Committee regrets, however, that the submission of the tenth, eleventh, twelfth and thirteenth periodic reports was not timely and that the report under consideration combines the tenth to thirteenth reports and covers almost a 10-year period.

462. It is noted that the State Party has not made the declaration provided for in article 14 of the Convention; some members of the Committee requested that the possibility of making such a declaration be considered.

## **B. Factors and difficulties impeding the application of the Convention**

463. It is noted that Venezuela is undergoing an economic recession after a period of strong economic development in the 1980s, and that this may have a negative impact on the effective implementation of the Convention, especially with regard to the indigenous population and immigrants from neighbouring countries of the Andean region for which Venezuela, with its much more prosperous economy, has represented a pole of attraction during the past three decades.

## **C. Positive aspects**

464. The notable efforts made by the State Party to establish a comprehensive legal framework that provides for pluralism and tolerance in community life, based on the principles embodied in the Constitution, and provisions contained in the Convention in particular, are noted with satisfaction.

465. At the institutional level, the establishment of various organs, especially an agency for national indigenous policy, which has the title of the Office of Indigenous Affairs of the Ministry of Education, is welcomed.

466. The plan for intercultural bilingual education, contained in Presidential Decree No. 283, which aims to promote active participation by the

indigenous communities in the various fields of activities within Venezuelan society and to encourage full and comprehensive knowledge of the culture of existing ethnic groups among the rest of Venezuelan society, is noted with interest.

467. Satisfaction is expressed concerning the intention of the State Party to ratify International Labour Organization Convention No. 169 on the rights of indigenous peoples, which is now being considered by the national Parliament.

#### **D. Principal subjects of concern**

468. The non-compliance by the State Party with its obligations under article 4 of the Convention is a matter of serious concern, as is the fact that the State Party has not provided sufficient information on the implementation of the provisions contained in that article, which call for the adoption of specific legislation.

469. Doubts were expressed whether victims of racial discrimination have effective remedies at their disposal for seeking just and adequate reparation from the competent tribunals. It was noted, in particular, that Venezuela's legal system does not include any provisions for compensation of victims of racial discrimination, most of whom belong to various indigenous groups.

470. It was regretted that the report contains insufficient information on the practice with respect to the implementation of provisions of article 5 of the Convention dealing with economic, social and cultural rights, especially with respect to the enjoyment of those rights by the indigenous peoples.

471. Concern was expressed about the insufficient measures to ensure bilingual education of indigenous peoples and to prevent the destruction of their cultural heritage.

472. Concern is expressed that in practice there are separate prison facilities for persons of the indigenous population.

#### **E. Suggestions and recommendations**

473. The Committee strongly recommends that the necessary measures be taken to bring domestic legislation into full compliance with the provisions of article 4 of the Convention.

474. It further recommends that particular attention be given to the effective implementation of article 5 (e) and that relevant information be provided in the next periodic report on the measures taken in this regard, particularly as far as the indigenous population and migrant workers are concerned.
475. Further efforts should be made to strengthen the system of bilingual education in order to cover the whole of the indigenous population, 40 per cent of which remains illiterate, and to prevent the destruction of the indigenous cultural heritage.
476. The Committee recommends that appropriate measures be taken to provide health-care services for indigenous communities, particularly those located in remote regions of the country.
477. The Committee recommends that the State Party provide additional information on the reasons for maintaining the system of separate prison facilities for members of the indigenous population and welcomes the fact that the State Party has indicated that increased public expenditure on prisons, to alleviate overcrowding and resulting problems, has been given priority.
478. The Committee also recommends that the State Party, in its fourteenth periodic report, provide more detailed information on the system of human rights organs functioning in the country, on their respective mandates and on how those organs interact and coordinate their activities. Information on the extent to which the Government cooperates with non-governmental organizations in achieving the goals set out in the Convention would be most welcome.
479. The Committee would appreciate receiving information from the State Party on the implementation of the Agrarian Reform Law and how it has promoted distribution of land among indigenous populations.
480. Information on racially motivated violence against indigenous people following conflicts over land and extra-judicial execution of members of indigenous populations would be highly welcome.
481. The Committee also recommends that the State Party include in its next periodic report information on any complaints of racial or ethnic discrimination, in all its forms, and on judicial action subsequently taken.
482. The Committee suggests that the State Party ensure the wide dissemination of the text of the Convention, as well as of the report, the



summary records and the present concluding observations in Spanish and in indigenous languages.

483. The Committee recommends that the State Party ratify at its earliest convenience the amendments to article 8, paragraph 6, of the Convention, adopted by the 14th meeting of States Parties.
484. The Committee draws the State Party's attention to the reporting periodicity as determined by the Committee. It strongly recommends that the Government of Venezuela comply fully with its obligations under article 9 of the Convention and that the fourteenth report, which was due on 5 January 1996, be an updating report.

## NAMIBIA

485. The Committee considered the fourth, fifth, sixth and seventh periodic reports of Namibia, submitted in one document (CERD/C/275/Add.1), at its 1169th and 1170th meetings (CERD/C/SR.1169-1170), held on 13 and 14 August 1996. At its 1180th meeting, on 21 August 1996, the Committee adopted the following concluding observations.

### **A. Introduction**

486. The Committee particularly welcomes the opportunity to engage in a frank and fruitful dialogue with the Government of Namibia and expresses its satisfaction at the presence of an official of the Ministry of Justice. Although several reports were submitted in the past on behalf of Namibia by the Council for Namibia, the consideration of the present report - which may well be considered as an initial report - constitutes the first opportunity for the Committee to assess the implementation of the Convention in Namibia since its independence.
487. The Committee commends the State Party for the frankness of the report and notes with appreciation its general compliance with the guidelines for the preparation of State Party reports. Despite its brevity, the report contains useful information on legal and administrative measures taken to give effect to the Convention, as well as on some difficulties faced in the implementation process. Those difficulties were, however, described in broad terms without details of the concrete steps envisaged to overcome them. Furthermore, the report was lacking economic,

social and demographic indicators that would have assisted the Committee in the evaluation of the situation.

488. The Committee expresses its satisfaction with the additional information provided by the representative of the State Party in response to questions asked and observations made by Committee members in the course of the discussion. In that respect, the statement by the State Party's representative that the core document containing information referred to in the guidelines concerning the initial part of reports of States Parties would be submitted in the near future was particularly welcomed.

489. Some members of the Committee recommend that the State Party envisage the possibility of making the declaration provided for in article 14 of the Convention.

## **B. Factors and difficulties impeding the implementation of the Convention**

490. It is recognized that much remains to be done to overcome vestiges of a long period of subjection to colonialism and apartheid. The State Party's efforts towards full enforcement of the principles and provisions enshrined in the Convention have been seriously hampered by continuing resort to a number of out-of-date - although still in force - discriminatory laws of the former Government. It is also noted that some discriminatory social attitudes still prevalent and generally tolerated in certain parts of the population are not conducive to the promotion of the implementation of the Convention.

## **C. Positive aspects**

491. It is noted with particular satisfaction that, despite severe economic and social difficulties, important steps have been taken by the Government since independence to put an end to racial discrimination in all its forms, notably through a remarkable policy of national reconciliation.

492. It is noted with appreciation that the Constitution of Namibia includes a bill of rights which can be invoked before the Courts. Furthermore, the Racial Discrimination Prohibition Amendment Act was adopted in December 1991 and subsequent legislative measures were passed to reinforce it, such as the Land Redistribution Act and the Agricultural

Reform Act. Through these constitutional and legislative provisions, certain acts of discrimination and practices of apartheid have been made criminally punishable.

493. It is also appreciated that serious efforts are being undertaken by the Master of the High Court, the Law Reform and Development Commission and the Ministry of Justice to amend or repeal out-of-date or discriminatory legal provisions. Note is taken of the establishment under the Constitution of the office of the Ombudsman with a view to the promotion and protection of human rights.
494. The policy of affirmative action in areas such as education, training and employment is particularly welcomed.

#### **D. Principal subjects of concern**

495. Concern is expressed at the subsistence of out-of-date and discriminatory laws and the persistence of practices inherited from the apartheid regime.
496. Concern is expressed at the fact that, despite affirmative measures taken to eliminate social and economic disparities, black people and mixed race people (coloureds) who comprise 95 per cent of the population, still face serious discrimination in many areas, such as access to property, education, employment, health care or housing.
497. Concern is expressed over the persistence of a dual legal system regulating important aspects of personal status, such as marriage and succession. In that regard, it is noted with concern that there remain serious discrepancies in the system applicable to white, coloured and black people under the Administration of Estate Act.
498. Concern is expressed at the extent of persistent discriminatory attitudes still prevalent in certain parts of the population and the private sector, as well as at the *insufficient effectiveness of measures taken to overcome those difficulties*. It is further noted with concern that there seem to exist instances of discrimination in the public sector on the grounds of ethnic identity.
499. Concern is expressed at the lack of information in the report relating to the implementation in law and practice of article 5 of the Convention, as well as on the *situation of vulnerable groups, particularly the San/Bushmen*.

500. Concern is expressed about apparent delays in the process of desegregation in the field of education, as well as the persistence of serious difficulties faced by black children in their access to public and private education, particularly insofar as secondary and higher education are concerned.

### **E. Suggestions and recommendations**

501. The Committee invites the Government to include in its next periodic report information on the points raised in the present concluding observations, as well as on remaining questions posed and observations made by Committee members in the course of the discussion.

502. The Committee recommends that urgent measures be taken to eliminate all remaining discriminatory laws and practices. It encourages the State Party to strengthen measures taken to foster a culture that effectively protects human rights by disseminating as widely as possible information on the international human rights instruments to which it is party and on the outcome of the consideration of the present report, among the authorities responsible for the enforcement of the Convention's provisions, as well as among the general public.

503. The Committee recommends that additional steps be taken to combat racial discrimination in the fields of property, land distribution, education, housing, employment, health care and equitable distribution of resources. Affirmative measures should thus be adopted to overcome vestiges of the past that still hamper the possibilities for black people, including vulnerable groups among them, to have access to secondary and higher education and to enjoy just and favourable conditions of work in the private sector. Similarly, additional measures should be taken in the field of land redistribution.

504. The Committee encourages efforts currently under way by the Master of the High Court and the Law Reform and Development Commission to revise the dual system governing marriage and inheritance. More generally, a systematic study of the domestic law should be undertaken to ensure its full compliance with the provisions of the Convention.

505. The Committee recommends that the State Party provide, in its next periodic report, information on the number of complaints filed and judgements passed on acts of racism or racial discrimination.

506. The Committee suggests that publicity be given to the State Party's seventh periodic report, as well as to the present concluding observations.
507. The Committee recommends that the State Party ratify at its earliest convenience the amendments to article 8, paragraph 6, of the Convention, adopted by the fourteenth meeting of States Parties.
508. The Committee recommends that the State Party's next periodic report be an updating report and that it address all the points raised in these concluding observations.

## ZAIRE

509. At its 1171st and 1173rd meetings, held on 14 and 15 August 1996 (see CERD/C/SR.1171 and 1173), the Committee on the Elimination of Racial Discrimination considered the third to ninth, as well as the tenth, periodic reports of Zaire (CERD/C/237/Add.2 and CERD/C/278/Add.1) and adopted, at its 1181st meeting, held on 21 August 1996, the following concluding observations.

### A. Introduction

510. The Committee welcomes the opportunity to resume the dialogue with Zaire on the basis of its third to ninth and tenth periodic reports, after an interruption of 16 years. However, the Committee regrets that the reports contain no concrete information as regards the practical implementation of the provisions of the Convention, as requested in the general guidelines regarding the form and content of reports to be submitted by the States Parties under article 9, paragraph 1, of the Convention.
511. The Committee also welcomes the presence of a representative of the State Party, but would have appreciated experts from the capital being present in addition. The commitment that the questions which remained unanswered during the discussion would be the object of written answers from the capital in the near future is welcomed.
512. It is noted that the State Party has not made the declaration provided for in article 14 of the Convention. Some members requested the State Party to consider the possibility of making such a declaration.

## **B. Factors and difficulties impeding the implementation of the Convention**

513. It is noted that Zaire is experiencing a severe economic crisis, which has led to the general impoverishment of the country and the deterioration of social and economic conditions. Moreover, the ethnic tensions in the Great Lakes region and the very high number of refugees from neighbouring countries who have come to Zaire during the past two years have to be taken into account in assessing the implementation of the Convention by the State Party.

## **C. Positive aspects**

514. The transition towards democracy, inaugurated by a decision of the Head of State on 24 April 1990, and the abolition of the one-party system are welcome developments. Note has been taken by the Committee of the timetable set by the authorities after the postponement of the general elections of 9 July 1995, in accordance with which a referendum on the new Constitution would be held in March 1997 and general elections would be held in May 1997.

515. The adoption on 9 April 1994, by a national conference composed of the main organized political forces in the country, of the Transitional Constitutional Act ("Acte constitutionnel de la transition"), in which a number of fundamental rights are enshrined, as well as the establishment by decree of the National Commission for the Promotion of Human Rights on 8 May 1995, are noted with satisfaction, although more information on the powers and functions of the Commission is needed.

516. The adoption on 28 November 1995, by the Heads of States of the Great Lakes region, of the Cairo Declaration on the Great Lakes region, which condemns the ideology of exclusion which can result in fear, frustration, hatred and tendencies towards extermination and genocide, as well as their commitment to put an end to the activities of the former members of the Rwandan Armed Forces (FAR), who use refugee camps in Zaire as a "base" to conduct raids against civilians in Rwanda, are welcomed. However, more information on the concrete measures taken to implement these declarations is needed.

517. It is noted with appreciation that legislation exists in Zaire to prohibit the promotion of racial discrimination as required by article 4 of the

Convention, such as Ordinance-Laws No. 25/131 of 1960 and 66/342 of 1966 and the Decree of 13 June 1960, although it is noted that the provisions of article 4 are much broader than that of the present Zairian legislation, in particular with regard to article 4 (b) and (c).

518. It is also noted with appreciation that a number of the rights enumerated in article 5 of the Convention, namely the right to equal treatment before tribunals, to security of person, to vote and to stand for elections, to freedom of movement, thought, conscience and religion, and to peaceful assembly and association, as well as certain economic and social rights, are included in the Constitutional Act. The information provided in the report on the legal provisions relating to those rights is welcomed, although it is noted that there is a lack of information regarding practical instances of their implementation.
519. Taking into account the particularly serious situation in Zaire with regard to inter-ethnic, tribal and regional tensions, the Committee welcomes the signature of an agreement between the Zairian authorities and the Office of the High Commissioner for Human Rights to establish a United Nations human rights office in Kinshasa.

#### **D. Principal subjects of concern**

520. Grave concern is expressed at allegations of large-scale discrimination against the Pygmies (Barwa) and at reports of violent clashes in Kivu involving the Hunde, the Nyanga and the Nande ethnic groups (considered to be natives of Zaire), and the Banyarwanda and the Banaymulengue ethnic groups (considered to be non-natives of Zaire, although they have lived in the country for generations), causing thousands of deaths. Reports of alleged regional "ethnic cleansing" in Shaba against the Kasai ethnic group, which led to their massive displacement to other parts of the country, and of attacks and widespread discrimination against Rwandan and Burundian refugees, are also a subject of great concern for the Committee.
521. The lack of statistical data on the composition of the population and on the representation of the various communities at all economic, social and political levels and in the public service, including the police and the armed forces, is regretted.
522. It is also regretted that, although the constitutional and legislative provisions existing in Zaire to implement article 2 of the Convention were

described in the State Party's reports, no information was provided to the Committee on the effective implementation of these provisions by the authorities and on possible cases of discrimination brought before the courts.

523. With regard to article 3 of the Convention, the Committee draws the attention of the State Party to its General Recommendation XIX of 1995, which states that although the reference to apartheid may have been directed exclusively to South Africa in the past, article 3 prohibits all forms of racial segregation, whether institutional or non-institutional, in all countries.
524. It is noted with serious concern that, in violation of their obligations under article 5 (b) of the Convention and article 9 of the Constitutional Act, the authorities scarcely intervened to ease the tribal and ethnic conflicts in Shaba and Kivu and to protect the population. Concern is particularly expressed at reports alleging that in Shaba some local officials incited the Shaba population to hatred of the Kasai population. It is, however, duly noted that administrative and judicial measures have been taken by the authorities to punish some of the officials found responsible for such acts.
525. The provisions of Law No. 81-002 of 1981, amending Decree-Law No. 71-020 of 1971, to the effect that Zairian nationality would no longer be granted on a collective basis to the Banyarwanda, but only to those who could prove that their ancestors had lived in Zaire since 1885, are in violation of article 5 (d) (iii) of the Convention and are a major source of ethnic conflict.
526. With regard to the full and equal enjoyment of the right to education and training, as provided for in article 5 (e) and (v), of the Convention, reports indicate that only 2 per cent of the national budget was earmarked for education which affects the life and future of disadvantaged racial and ethnic sectors of the population.
527. The lack of comprehensive information on legal measures taken to fulfil the State Party's obligations under article 6 of the Convention and on instances where complaints have been lodged by individuals against acts of racial discrimination and reparation was made to victims of acts of racial discrimination, makes it difficult to assess the effective implementation of the provisions of this article in Zaire.
528. With regard to the implementation of article 7 of the Convention, it is



regretted that the information provided on the implementation of article 35 of the Constitutional Act and on the courses on human rights given in schools, universities and training programmes for the armed forces and the security forces did not allow a proper evaluation of the situation in practice.

## **E. Suggestions and recommendations**

529. The Committee recommends the State Party to provide in its next report information on the implementation of the various constitutional and legal provisions aimed at eliminating racial discrimination in all its forms, in accordance with article 2 of the Convention, with particular emphasis on the measures taken with regard to the conflicts in Kivu and Shaba and the situation of Rwandan and Burundian refugees.
530. The Committee recommends that the next periodic report include information on the powers, functions and activities of the National Commission for the Promotion of Human Rights, as well as comprehensive statistical data on the demographic composition of the population, as mentioned in paragraph 521 above.
531. The Committee also recommends that information be provided on the legal, administrative and practical measures taken to implement the Cairo Declaration on the Great Lakes region and the commitment undertaken to prevent raids by former members of FAR into Rwanda from Zaire.
532. Concerning article 4 of the Convention, the Committee reaffirms that the establishment of acts of racial discrimination and incitement to such acts as offences punishable by law in the States Parties' legislation is mandatory. In this regard, it draws the attention of the authorities to its General Recommendations VII and XV. The Committee also wishes to be provided with information, including statistics on complaints filed and sentences imposed, to have an idea of the implementation in practice of the legal provisions prohibiting propaganda of racial discrimination or hatred and organizations which promote and incite racial discrimination.
533. The Committee recommends that further information be provided by the State Party with regard to article 5 of the Convention, in particular on measures guaranteeing in practice the effective enjoyment by all persons without discrimination as to race or ethnic origin of the economic,

social, cultural, civil and political rights listed in this article, with particular reference to the right to security of person and the right to education and training.

534. The Committee stresses the importance of specific legal provisions providing for effective protection and remedies against acts of racial discrimination and for the right of individuals to seek adequate reparation for any damage suffered as a result of such discrimination, as provided for in article 6 of the Convention.
535. With regard to article 7 of the Convention, the Committee would welcome information on the various programmes described in the report aimed at spreading awareness of human rights among the population, and in particular among law enforcement officials, including members of the armed and security forces. In this regard, the Committee draws the attention of the State Party to its General Recommendation XIII.
536. The Committee suggests that the third to ninth and tenth reports of Zaire, as well as the present concluding observations, be widely disseminated among the public, as far as possible in the main languages spoken in the country.
537. The Committee recommends that the State Party ratify at its earliest convenience the amendments to article 8, paragraph 6, of the Convention, adopted by the fourteenth meeting of States Parties.
538. The Committee recommends that the State Party's next periodic report, due on 21 May 1997, be a comprehensive report and that it address all the points raised in these concluding observations.

## MAURITIUS

539. At its 1173rd and 1174th meetings, held on 15 and 16 August 1996 (see CERD/C/SR.1173-1174), the Committee on the Elimination of Racial Discrimination considered the eighth to twelfth periodic reports on Mauritius (CERD/C/280/Add.2) and adopted, at its 1180th meeting, held on 21 August 1996, the following concluding observations.

### A. Introduction

540. The Committee welcomes the eighth to twelfth periodic reports submitted by the Government of Mauritius and expresses its appreciation

for the opportunity to resume the dialogue with the State Party, after nine years of interruption. The Committee also welcomes the detailed information provided orally by the high-level delegation in answer to the wide range of questions asked by members of the Committee.

541. It is noted that the State Party has not made the declaration provided for in article 14 of the Convention; some members of the Committee requested the State Party to consider the possibility of making such a declaration.

## **B. Factors and difficulties impeding the implementation of the Convention**

542. It is noted that there are no significant factors or difficulties that prevent the effective implementation of the Convention in Mauritius.

## **C. Positive aspects**

543. The exemplary spirit of tolerance between the various racial and ethnic communities in Mauritius and the harmonious coexistence of their cultures are commended as they create a sound basis for the full and effective implementation of the Convention.

544. The establishment of a Human Rights Unit within the Ministry of Justice, to monitor the reporting procedures and to provide the various human rights treaty bodies with regular reports, is welcomed.

545. The proposed establishment of an equal opportunity commission, to compel employers in the private sector to afford equal opportunities to people of different origins, is also welcomed.

546. The possibility for judges to refer in their pronouncements to the provisions of the Convention and of any other human rights instrument, in addition to or in the absence of an existing provision of domestic law, is noted with satisfaction.

547. The system of the best losers, which provides for the nomination by the Electoral Commission of up to four members to the National Assembly from among the best losers in an election, with a view to balancing the representation of the various racial and ethnic communities within the National Assembly, is viewed with interest.

548. With regard to article 2 of the Convention, the adoption in July 1991 of section 282 of the Criminal Code, which makes it an offence to publish or distribute any threatening, abusive or insulting writings, to use in public any threatening, abusive or insulting gestures or to broadcast threatening, abusive or insulting matter, with intent to stir up contempt or hatred against any part of the population distinguished by race, caste, place of birth, colour or creed, is noted with appreciation.
549. It is noted with appreciation that the full and equal enjoyment by everyone of the rights enumerated in article 5 of the Convention, and in particular the right to security of person, to marriage, to property, to freedom of thought, conscience and religion, to housing, to health and social security, to education and to participate in cultural activities, is guaranteed and ensured in Mauritius.
550. The amendment of the Citizenship Act in August 1995 is a welcome development, since it also lifted the obligation for foreign women, married to Mauritian citizens, to renounce their nationality if they want to become Mauritian citizens.
551. Concerning article 7 of the Convention, the various activities undertaken with non-governmental organizations, such as the programme "Teaching for Freedom" launched by Amnesty International, or with United Nations agencies, such as the programme introduced by UNICEF together with the Ministry of Education to sensitize children to the ideas of peace, tolerance and interdependence, are welcomed. Moreover, the elaboration in 1991 of the Master Plan on Education for the Year 2000, which provides for the teaching in schools of subjects to foster understanding, tolerance and friendship among nations and racial or ethnic groups, is noted with satisfaction.

#### **D. Principal subjects of concern**

552. The lack of statistical data on the ethnic and racial composition of the population, and on the representation of ethnic and racial communities at all levels of the economic, social and political spheres, is regretted. In this regard, the statement in paragraph 4 of the report that censuses in Mauritius do not indicate the breakdown of the population on an ethnic or racial basis, "in line with the government policy to promote a Mauritian identity amongst its people" is accepted by the Committee as long as it is not aimed at forced assimilation of people with different origins.

553. Concern is expressed that section 16 of the Constitution, which prohibits laws that are discriminatory by their terms or in their effects, does not apply to laws with respect to marriage, adoption, divorce, succession or other matters regarding private law.
554. With regard to the implementation of article 4 of the Convention, it is noted with concern that the relevant provisions of Mauritian legislation do not prohibit organizations and organized propaganda activities which promote racial discrimination, as provided for in article 4 (b) of the Convention.
555. The lack of practical information on the implementation of the various constitutional and legal texts dealing with the prohibition of racial discrimination, on their possible violation and on measures taken in such cases, with particular reference to articles 4 and 6 of the Convention, is regretted.

#### **E. Suggestions and recommendations**

556. The Committee recommends that in its next periodic report the Government of Mauritius supply statistical data on the composition of the population and on the representation of all of the ethnic and racial communities in the political and economic sectors. The Committee would also welcome social and economic indicators on the Mauritian population.
557. The Committee underlines the importance of the explicit prohibition of discriminatory legislation. In this regard, the Committee recommends that the prohibition of such discriminatory legislation, found in section 16 of Constitution, be extended to all matters of private law.
558. The Committee emphasizes that the provisions of article 4 of the Convention are mandatory. It thus recommends that legislative measures be taken implement article 4 (b) of the Convention.
559. The Committee recommends that the next periodic report contain complete information on the implementation of the various provisions on the elimination of racial discrimination in practice and on possible complaints and sentences imposed for acts of racial or ethnic discrimination or in cases of incitement to racial discrimination.
560. The Committee suggests that the State Party's report and the Committee's concluding observations be widely publicized in Mauritius.

561. The Committee recommends that the State Party ratify at its earliest convenience the amendments to article 8, paragraph 6 of the Convention, adopted by the fourteenth meeting of States Parties.
562. The Committee recommends that the State Party's next periodic report be a comprehensive report and that it address all the points raised in the present observations.