

SUMMARY RECORD OF THE 467th MEETING
held on Tuesday, 1 April 1980, at 10.30 a.m.

Chairman: Mr. BAHNEV

The meeting was called to order at 10.35 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION (agenda item 6) (continued)

Fifth periodic report of Mongolia (CERD/C/20/Add.37)

1. At the invitation of the Chairman, Mr. Bayart (Mongolia) took a place at the Committee table.
2. Mr. BAYART (Mongolia) said that, in preparing its fifth periodic report (CERD/C/20/Add.37), the Government of Mongolia had taken into account the comments made at the time of the submission of its fourth periodic report (CERD/C/34) and had provided supplementary information, particularly regarding the implementation of the rights listed in article 5 of the Convention.
3. He stressed that the struggle against racism and apartheid and the aim of achieving friendly relations among nations were among the fundamentals of Mongolia's policy, stemming as they did from the very nature of its Constitution. In pursuit of that policy, Mongolia had ratified a whole series of human rights instruments concluded under United Nations auspices and was rigorously putting their provisions into practice. It was taking part in the Decade for Action to Combat Racism and Racial Discrimination and had participated actively in the World Conference against Apartheid, Racism and Colonialism in Southern Africa in June 1977 and in the World Conference to Combat Racism and Racial Discrimination in August 1978. The Government of Mongolia attached great importance to the documents which had been adopted at those meetings and, in particular, to the Declaration and Programme of Action adopted by the latter Conference. Incidentally, Mongolia had never had any relations with South Africa.
4. Turning to his Government's fifth periodic report, he confirmed that the provisions of the Convention were reflected in the legislation of the Republic of Mongolia and were strictly observed. Since the submission of Mongolia's previous report there had been no violation of the legislation against racism or any manifestation of racial discrimination.
5. Particular attention had been paid in the report to the civil, economic, social and cultural rights listed in article 5 of the Convention and, especially, the rights to public health and to education. He reminded the Committee that before the 1921 Revolution nearly all the population of Outer Mongolia had been illiterate and that there had been no system of education or health. At present, there were 22 doctors and 105 hospital beds for every 10,000 inhabitants and life

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expectancy had risen to 67 years, as against 25 years before the Revolution. Particular emphasis was being accorded to pre-school education, and a vast network of nursery schools and crèches had been established. One out of four persons in Mongolia was currently attending an educational institution of some kind.

6. With regard to the rights mentioned in articles 5 (d) (vii), (viii) and (ix) of the Convention, Mongolia had no legislative provision limiting the right to freedom of thought and religion. However, the rights concerned should not be exercised in such a way as to defame others or to undermine State security or public order, health or morality. Article 87 (3) of the Constitution granted the right to freedom of assembly and there were no legal provisions limiting or prohibiting the holding of meetings provided that they did not run counter to the security of the State and the maintenance of public order.

7. Mr. INGLES commended the Government of Mongolia on the report, which was the most comprehensive it had so far submitted to the Committee. The report conformed to the guidelines which had been laid down by the Committee and, together with Mongolia's earlier reports and the statement just made by its representative, provided a very complete picture of the implementation of the Convention by Mongolia. He had been particularly pleased to note that, from the day of its foundation, Mongolia had pursued a policy of refraining from all forms of racial discrimination and oppression and of adhering to the constitutional principle of the equality of citizens, a principle given practical effect by the legislation of the country.

8. He had one or two points to raise. First, regarding implementation of article 2, paragraph 1 (d) of the Convention, while noting that incitement to racial hostility was an offence under the Code of Criminal Procedure, he would like an explanation of the meaning of the word "nationalism" in article 83 of the Constitution, where it seemed to be equated with "chauvinism". He wondered what exactly was meant by forbidding the advocacy of nationalism, which in many countries was a sacred right of the individual.

9. With respect to the implementation of article 4 of the Convention, although article 53 of the Mongolian Code of Criminal Procedure provided for the punishment of various infringements of the provisions of that article, there were other activities which did not appear to be covered, such as incitement to racial discrimination, as well as all acts of violence or incitement to such acts and the provision of any assistance to racist activities, including the financing thereof. He acknowledged that the Constitution of Mongolia allowed no organized propaganda promoting or inciting racial hostility, but article 4 (b), nevertheless, placed an obligation on States parties to declare illegal and prohibit organizations which promoted and incited racial discrimination, and to recognize participation in such propaganda and organizations as an offence punishable by law. He wondered if there was any legislation to that effect in Mongolia.

10. Judging from the report, the situation regarding implementation of the rights enumerated in article 5 of the Convention appeared to be satisfactory. However, it was stated in section II, paragraph 4 of the report that citizens of the Mongolian People's Republic had the right to visit any country and to return to their

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country, but no reference was made to any law which guaranteed the exercise of that right. He was sure there must be some such law, since the paragraph in question appeared to qualify the right by subjecting it to "the authorization of the competent authorities". He would like information on the conditions, if any, which the authorities placed on the exercise of that right and what grounds, if any, were cited as justifying denial of that right to an individual.

11. In section III of the report, it was stated that citizens of other countries and stateless persons resident in the Mongolian People's Republic enjoyed civil legal capacity on an equal footing with citizens. Section IV of the report stated that the Mongolian People's Republic ensured representatives of all nationalities living in the territory of the Republic the opportunity to develop their national culture and to receive instruction and conduct business in their own native language. The only minority people referred to in the report, however, were the Kazakhs. He would therefore like to know what the other nationalities referred to in section IV were.

12. In connexion with the implementation of article 6 of the Convention, he had been interested to read the very comprehensive description of the powers of the Procurator of the Mongolian People's Republic, which would seem to provide the effective protection called for in the first part of article 6. However, he had seen no reference to any legislative provision which would ensure the right of a victim of discrimination to seek adequate reparation for damages suffered as a result of such discrimination.

13. While it was true that the last paragraph of Mongolia's fourth periodic report (CERD/C/34) stated that the harmful nature of racial and national prejudices and the salient features of racism, racial discrimination and chauvinism were explained as part of the training and education process at all levels, the current report gave no details of the implementation of other objectives of education to promote understanding, tolerance and friendship among nations and racial or ethnical groups, as provided for in article 7 of the Convention. He was sure the Committee would like to see such details.

14. Mr. PARTSCH commended the Government of Mongolia on its carefully drafted report which, in particular, explained the measures guaranteeing the rights listed in article 5 of the Convention. He agreed with most of the comments made by Mr. Ingles and particularly the remarks about article 4.

15. Notwithstanding what had been said by the representative of Mongolia, the provision cited in section II, paragraph 9, of the report appeared to place considerable limits on the exercise of the freedoms of speech, of the press and of assembly and the freedom to hold demonstrations and processions, for those freedoms were guaranteed only "in conformity with the interests of the working people" and "in order to strengthen the socialist State system". If an individual wished to express certain personal sentiments, it was difficult to see how they would strengthen the socialist States system and, hence, what protection would be afforded to him. He would like an explanation of that point.

16. Noting that section II, paragraph 10 of the report dealt with right to work, he inquired whether there was freedom of choice of work in Mongolia or whether assignment to occupations was largely decided by organs of the State. Section II, paragraph 11 of the report mentioned that the right of association in trade unions was guaranteed but then went on to refer to the fact that workers in one undertaking or establishment were associated in one trade union. Did that mean that there was no possibility of a plurality of labour unions?

17. He would like to have more information about the Kazakhs and their educational system and to know whether they were concentrated in certain regions of the country. It would also be interesting to learn to what extent they participated in the administration of the country and in the local and central representative bodies.

18. Mrs. SADIO ALI congratulated the Government of Mongolia on its informative and comprehensive report, which represented a serious effort to reply to the questions raised in connexion with Mongolia's fourth periodic report. Mr. Ingles and Mr. Partsch had touched upon most of the points on which she would like clarification. She had, however, one or two additional questions to ask. Section II, paragraph 5, of the report stated that Mongolian citizenship was granted "in the majority of cases" if one of the parents of a child was a citizen of the Mongolian People's Republic. She wondered what was the situation of a child who did not have one such parent. She also felt that the provisions relating to the right to own property were somewhat confused. If a person left only part of his property to a legal successor or other, might there not be some confusion about its ownership?

19. Further, prohibition of the advocacy of chauvinism or nationalism, to which Mr. Ingles had already referred, appeared to her to be in contradiction with the UNESCO Declaration on Race and Racial Prejudice, which referred to the right to retain one's separate identity. She would like clarification on that point. She agreed with Mr. Ingles that the right to freedom of movement in Mongolia seemed to be a qualified right.

20. With regard to section III of the report, she would like to know how many citizens of other countries and stateless persons were resident in Mongolia and what was their real status. Were practical measures taken to ensure their security or were they entirely assimilated into the nation? Were they in Mongolia on a long-term basis or were they merely a floating population? If they were long-term residents, did they enjoy freedom of residence and movement in Mongolia, the right to intermarry and the right to acquire Mongolian citizenship?

21. Mr. DECHEZELLES said that the report was extremely comprehensive and denoted a serious effort by the Mongolian Government to meet the wishes of the Committee. It must be considered in the light of Mongolia's past history: Outer Mongolia had been emancipated in 1911 and, since becoming the Mongolian People's Republic in 1924, it had progressed directly from feudalism to socialism, avoiding capitalism. In so doing it had met with considerable success. Particularly substantial progress had been made in the areas of public health and education.

22. In section I of the report it was stated that the social and economic system of Mongolia, by its very essence, excluded the possibility of the manifestation of any form of racism and racial discrimination. However, although racial discrimination could be caused by a social and economic system, it could also be caused by other factors such as religious fanaticism or political exclusivism.

23. Article 83 of the Constitution of the Mongolian People's Republic and article 53 of the Code of Criminal Procedure did not cover all the provisions of article 4 (a), (b) and (c) of the Convention. The Code did not penalize violations of rights such as that mentioned in article 5 (f) of the Convention, nor did it mention injury, defamation or violence, although he had noted that chapter III of the Special Section of the Code of Criminal Procedure referred to crimes against the life, health, freedom and dignity of the individual. In that connexion, he hoped that the sixth periodic report would contain the text of articles 69 to 96 of the Code of Criminal Procedure.

24. The report mentioned that persons committing crimes involving bodily harm or coercion were punished in accordance with socialist principles of justice. He agreed that when a judge pronounced sentence he must take into account the social danger of the crime committed, but consideration must also be given to the extent of the injury suffered. He had noted that the Procurator had the right to institute criminal proceedings, but should that official not do so, could the injured party bring the proceedings himself or could he refer the matter to the civil courts if he had been the victim of an irregularity committed by the public administration? Any citizen was entitled to submit to an organ of State power a complaint concerning illegal acts on the part of State bodies or individual officials and a reply must be given without delay, but if the reply was negative could the person concerned then submit his complaint to the administrative jurisdiction? He would also like to know how the independence of judges provided for in article 71 of the Constitution was guaranteed and how judges were appointed.

25. In connexion with section II, paragraph 4 of the report, he asked what conditions must be fulfilled in order to obtain authorization to travel abroad. With regard to the right to marry, he would like to know whether a citizen of the Mongolian People's Republic could freely enter into marriage with a foreign citizen. Section II, paragraph 9 of the report, mentioned certain freedoms granted to citizens, but the representative of Mongolia had stated that such liberties were limited by the need to maintain public security and morality. He asked exactly what limits were involved. Given that it was possible freely to indulge in anti-religious propaganda, was it also possible to practise religious proselytization unhindered? Noting that Mongolian Kazakhs could visit Soviet Kazakhs or invite them to Mongolia, he asked whether any limits were imposed on such travel.

26. Mr. VALENCIA RODRIGUEZ noted with satisfaction that the Mongolian People's Republic continued to pursue a policy of refraining from all forms of racial discrimination, as embodied in article 76 of the Constitution. He considered that, in the exercise of the rights mentioned under article 5 of the Convention, no practices of racial discrimination existed in Mongolia. He noted from section III of the report that foreign citizens enjoyed the same civil legal capacity as

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Mongolian citizens, but he wondered what was the position of citizens of countries that had not signed legal aid agreements with the Mongolian People's Republic who found themselves involved in civil, family or criminal cases. Were they denied legal assistance or did they receive it to a lesser degree? If their rights were the same as those of Mongolian citizens, what was the significance of such agreements? That matter had already been raised during the discussion of the fourth periodic report, but no reply had been received. He wished to have further information on the status of the Kazakhs and asked whether they benefited from any special régime. In conclusion, he said that there was a lack of information on measures taken to implement article 4 (b) of the Convention.

27. Mr. TENEKIDES said that the Mongolian People's Republic had clearly stated its opposition to racial discrimination and had implemented provisions against such discrimination. Article 76 of the Constitution set out the Government's policy on the matter. He had been particularly interested in the role of the Procurator and he wondered what were the responsibilities of that official in ensuring that no racial discrimination existed. The Procurator's powers were obviously considerable since it was stated that he had to verify the legality and soundness of judgements; could he, therefore, place himself above the courts and the judicial power? Noting that, according to section II, paragraph 9 of the report, certain freedoms granted under article 87 of the Constitution were guaranteed in order to strengthen the socialist State system, he asked whose responsibility it was to decide whether that condition had been fulfilled. Finally, he considered that the important question of educational measures in implementation of article 7 of the Convention had not been adequately covered. It was to be hoped that the sixth periodic report would give further information on that matter.

28. Mr. GOUNDIAM said that the report appeared to answer nearly all of the questions raised during the discussion of the fourth period report. However, he asked for clarification as to what was meant by the expression "with the exception of those found insane" referred to in section II, paragraph 3 of the report, because the concept of "insane" was open to many different interpretations. Furthermore, if a person were found insane, could his family ask for a second opinion? Referring to section II, paragraph 9, he wondered how the freedom of anti-religious propaganda could be reconciled with the freedom of conscience guaranteed in the Universal Declaration of Human Rights since in article 30 of the Declaration it was stated that no State, group or person had "any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein". In his view, the dissemination of anti-religious propaganda could destroy religious sentiment.

29. Mr. BRIN MARTINEZ said that there was a contradiction between article 76 of the Constitution, which proclaimed the equality of citizens irrespective of sex, race and nationality, religion or social origin and position, and article 86, which granted freedom of anti-religious propaganda. Such propaganda could lead to hatred and it was contrary to the principle of freedom of worship. The report contained no indication of the legal penalties applied in conformity with the provisions of article 4 (b) of the Convention. Consequently, he would like to know what sanctions could be applied if anti-religious propaganda led to discrimination.

30. Mr. BESSONOV said that the document under consideration was the most informative of the reports submitted by Mongolia and reflected Mongolia's desire both to implement the Convention and to enter into a constructive dialogue with the Committee. As shown by the report, legislation had been enacted in furtherance of article 5 of the Convention, and the implementation of that legislation was supervised by the Procurator of the Republic. The role of the Procurator was much greater in socialist countries than elsewhere, since it consisted in defending the interests not only of the State but also of ordinary citizens. Although he had no doubt that article 7 of the Convention was being implemented, he asked for more information to be supplied in that respect. Disparities between the provisions of the Convention and the provisions of Mongolian legislation continued to exist, but a serious effort was being made to eliminate such discrepancies and those efforts would no doubt be reflected in the next report. He welcomed the fact that Mongolia was fulfilling all its obligations under international agreements relating to the struggle against racism and apartheid.

31. Mr. NETTEL said the question arose whether the existence of bilateral agreements between one State and other countries could be deemed to jeopardize the rights of citizens of countries which had not concluded such agreements with that State. It was a problem which had repercussions on the rights of aliens as laid down in the Convention. He did not think that, in that situation, any discrimination was involved, since such agreements merely meant that additional rights had been conferred on the citizens of certain States. In any event, the problem should not be considered in a general context and, while in certain cases such agreements might be an indication of discrimination, each case needed to be judged separately.

32. Mr. BAYART (Mongolia), referring to a question raised by Mr. Ingles, said that in Mongolia chauvinism was considered an extreme form of nationalism, and both were regarded as reactionary bourgeois phenomena aimed at the domination of one country by another. Nationalism, chauvinism and racism were foreign to the goals of the international proletariat and to internationalism. With regard to the remedies available to victims of discrimination, any citizen considering his rights to have been violated was entitled to lodge a complaint with judicial, arbitral or public bodies. In accordance with a decree of the Presidium of the Great People's Khural and an order of the Council of Ministers issued in 1975, officials presented with such complaints were obliged to respond within one week. If an investigation proved necessary, that investigation must be completed within one month. If the officials in question failed to fulfil their obligations, the complainant could then turn to the courts or the Procurator and appeals could, if necessary, be lodged against court decisions.

33. With regard to the question of national minorities, and in particular the Cossacks, Mongolia was divided into 18 regions and the Cossacks lived in one of those regions. Cossack children received schooling in their own language, and Cossacks occupied posts in many State bodies. The Cossack population had its own radio programmes and newspapers.

34. The right to enter or leave Mongolia was not subject to any restrictions. Tourism in Mongolia by foreign citizens and outside Mongolia by Mongolian citizens

was developing rapidly. Within the country itself, the right to freedom of movement and the right to choose a place of residence were not subject to any restrictions whatsoever. With regard to aliens, the legal status of aliens residing permanently in Mongolia was governed by decisions of the Council of Ministers, whereas that of aliens residing temporarily in Mongolia was based on treaties between Mongolia and the relevant States. In general, aliens had the same rights and obligations as citizens, although they could not vote in elections to organs of State power, they could not serve as judges and they were not liable for military service. With regard to the question of bilateral agreements between Mongolia and other States and the implications of such agreements for the provision of legal aid, citizens of States with which Mongolia had not signed bilateral agreements were not subject to any discrimination; the purpose of such agreements was to improve relations between States, and citizens of a State with which Mongolia had signed an agreement of that kind might receive better treatment.

35. Questions had been raised with regard to freedom of expression and assembly, freedom of the press and religious freedom; he reaffirmed that all those freedoms were guaranteed by the Constitution and that no discrimination existed. With regard to religious propaganda, nothing in Mongolian law prohibited either religious or anti-religious propaganda. He assured the Committee that his Government would take due account of the comments and requests of the members of the Committee when preparing its next report.

36. Mr. Bayart withdrew.

Fifth periodic report of Finland (CERD/C/50/Add.3)

37. At the invitation of the Chairman, Mr. Ekblom (Finland) took a place at the Committee table.

38. Mr. EKBLÖM (Finland) said that, in the main, the implementation of the Convention in Finland continued to be based on legislative and administrative measures taken previously with a view to eliminating the social and economic roots of any racial discrimination that might still exist and protecting the rights of racial and ethnic minorities. Considerable progress had been achieved in the provision of housing and schooling to the Gipsy population, but as in other countries, certain difficulties had also been encountered. Efforts had similarly been made to help the Lapp population preserve its culture and its traditional means of livelihood. With regard to article 7 of the Convention, particular attention should be drawn to the curricula of the comprehensive school system.

39. Finland had always provided assistance to peoples subjected to racial discrimination, and it reaffirmed its readiness to co-operate with the Committee in securing the implementation of the Convention.

40. Mr. VALENCIA RODRIGUEZ said he was pleased to note the significant progress made with regard to the provisions of housing and education to Gipsies, and he hoped that future reports would continue to provide information on measures taken to assist that group. However, the report stated that the Lapps had shown a growing interest in the efforts taken to help them preserve their culture, and he

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wished to know whether the same was true in the case of the Gipsies. If not, he wished to know why and what could be done to remedy the situation. He welcomed the fact that a new Sailors' Act had been passed, and he asked for information on the background to the Act. It was also commendable that the curricula for the comprehensive school system has been prepared in the light of the Convention, but he would appreciate further information concerning the development of school programmes and other activities in the field of racial discrimination. With regard to the two court cases reported in annex 4, he was pleased to note that the relevant penal provisions had been applied and that the persons guilty of discriminatory acts had been punished.

41. Mr. BESSONOV said that the Sailors' Act of 1978 was to be welcomed, since it was directly related to article 5 (e) and (i) of the Convention. Measures in furtherance of article 1 (4) and article 2 (2) of the Convention had also been taken to assist Gipsies, and those measures were already producing positive results. The information furnished in connexion with article 7 of the Convention was extremely interesting, and the measures provided for under the programme of action against South Africa were commendable. However, in that connexion, he wished to know Finland's position in respect of trade with South Africa. The reports submitted by Finland had provided little information on the enactment of legislation in implementation of articles 5 (d) (ii)-(vi), 5 (e) and (i) and 4 (b) of the Convention, and he hoped that more information would be given in the next report.

42. Mr. GOUNDIAM said that he could not comment on the annexes referred to in the report since they had been provided in English only. With regard to the implementation of article 3 of the Convention in relation to South Africa, Finland appeared to take the view that measures could only be adopted against South Africa if the Security Council so decided. He therefore wished to know what importance Finland attached to General Assembly resolutions and whether Finland had voted in favour of General Assembly resolution 2784 (XXVI). In addition, he wished to know whether Finland had begun to implement the joint Nordic programme of action against South Africa.

The meeting rose at 1 p.m.