SUMMARY RECORD OF THE 442nd MEETING

Held on Friday, 3 August 1979, at 3.15 p.m.

Chairman: Mr. LAMPTEY

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

Fifth periodic report of India (CERD/C/20/Add.34) (concluded)

1. Mr. SVIRIDOV associated himself with members of the Committee who had expressed satisfaction at the exhaustive report submitted by the Government of India. Not only did the report provide information on measures adopted in implementation of the provisions of the Convention, but it also answered a number of questions raised when the Committee had considered the fourth periodic report. He commended the Government of India for the steps it had taken pursuant to article 3 of the Convention, details of which were set out in paragraphs 7 to 11 of the report. That Government was in the forefront of the struggle against the racist régimes of southern Africa, and was making a significant contribution in that field, particularly within the framework of the United Nations.

2. He welcomed the steps being taken, including in the social and economic spheres, to ensure the rights of members of the scheduled castes and scheduled tribes, and also to give them certain privileges, as permitted under article 1, paragraph 4, of the Convention. He requested information on the criteria used to define which castes and tribes were scheduled.

3. Mr. DAYAL observed that, although there was a good deal of new information, it was somewhat obscured by the repetition of information which had already been provided in previous reports. He shared Mr. Partsch's view that the report could have been a little more precise. Moreover, subheadings would have made it easier to read. The twenty-fourth report of the Commissioner for Scheduled Castes and Scheduled Tribes, mentioned in paragraph 22 of the report, provided some extremely interesting new information.

4. The fact that untouchability offences could be tried summarily did not mean that there was not a proper trial, only that certain requirements, such as a verbatim record of the proceedings and of the ruling, were waived. Clearly, that form of trial, which had been in use for a long time, had been adopted as an indication of the seriousness with which the Indian people and Government viewed discrimination against the scheduled castes and scheduled tribes. In considering the Government's motives for reintroducing the imposition of collective fines, a system which had given rise to public outrage when instituted by the British during the Second World War, account had to be taken of the difficulty of obtaining evidence against individuals in village communities, especially on social matters such as discrimination. He hoped that the day would soon dawn when summary punishments of that kind would prove unnecessary.

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5. The Committee had already had occasion to note the rather original provisions in the Indian constitution concerning the reservation of seats in state assemblies and in the Lok Sabha for members of the scheduled castes and scheduled tribes. The intention was clearly to allow members of those groups their due participation in the formulation of policies at the national and state level. Thousands of years of discrimination had prevented them from competing with the rest of the population and, because of that, the Constitution provided for employment to be reserved for them in the public services. The idea was not to provide them with permanent crutches, but to make them independent once they reached the same level as the rest of the population. The provisions were subject to review every 10 years. No such protection was necessary for religious and linguistic minorities. Indeed, some numerically small groups, such as Christians, Sikhs and Parsees, occupied very important positions in all spheres of Indian life.

6. In reply to the question raised by Mr. Partsch about the number of seats reserved for members of the scheduled castes and scheduled tribes, he confirmed that they could stand for election in general constituencies as well as to the special seats reserved for them.

7. The report of the Commissioner for Scheduled Castes and Scheduled Tribes was frank about the difficulties and intricacies of the problem of removing age-old prejudices, especially among the totally or partially illiterate. He welcomed the fact that the fifth periodic report of India did not seek to minimize the dimensions of the problem. He noted that the Commissioner had made 96 recommendations, and he hoped that the Committee would be informed as to how many of those recommendations had been accepted and implemented. Obviously, a great deal of work was being done to eliminate all forms of discrimination and he hoped that further progress would be apparent from the next periodic report.

8. Mrs. SIBAL (India), thanked the members of the Committee for their generous remarks about the report. Replying to questions from members of the Committee, she said that, as paragraph 46 of the report stated, the population of the scheduled castes had been estimated at 82,470,000 and that of the scheduled tribes at 41,100,000, together constituting nearly 22.55 per cent of the country's total population.

9. Some concern had been expressed at the restrictions placed on freedom of speech for reasons of public order, the imposition of collective fines, the institution of summary procedures, and the departure, for untouchability offences, from the normal legal principle that an accused was presumed innocent unless proved guilty. She pointed out that those measures responded to situations which were the result of social circumstances. As India was a signatory to the International Covenant on Civil and Political Rights, the Indian Government would obviously be repealing any domestic laws which were at variance with the provisions of that Covenant. She believed that she could, therefore, dispel any fears members of the Committee might have in that respect, although she would convey their comments to her Government.

10. With regard to the questions that had been asked about recourse procedures,

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she clarified that article 32 of the Constitution gave original jurisdiction to the Supreme Court in cases of violations of any of the rights set forth in part III of that Constitution. Under articles 32 and 226 of the Constitution (not 276 as incorrectly stated in para. 16 of the report) recourse could be had either directly to the Supreme Court, as the highest appellate court of the land, or to the High Courts, which were the highest appellate courts at the state level. No lower court had jurisdiction in cases of violation of the fundamental rights of individuals. If a case was rejected by a High Court, provision was made under article 136 of the Constitution for appeal to the Supreme Court. Some confusion seemed to have been caused by the wording of article 32A of the Constitution. It was intended to cover cases where an act adopted because of social circumstances in a particular state was reviewed by the Supreme Court. In such cases the Supreme Court acted as an appeal court, not as the court of original jurisdiction. She pointed out that paragraph 4 of the report said that no State legislature could enact laws prescribing punishment for offences related to untouchability.

11. Mr. Valencia Rodriguez had requested information on the outcome of cases based on the new principle which placed on the accused the onus of proving that an untouchability offence had not been committed and had inquired about the results of the work of the Commissioner for Scheduled Castes and Scheduled Tribes. The Commissioner's latest report would be submitted with the next periodic report, which would also provide any information available on untouchability cases. Mr. Dayal had already given some information about the question of members of the scheduled castes and scheduled tribes standing for constituencies not specifically reserved for them. If they won such seats, that would obviously increase the number of seats reserved for them in the state and central legislature. Elections in India operated on a system of single-member constituencies. A certain number of constituencies were reserved for scheduled castes and scheduled tribes as their minimum quota. She agreed that the words "unfair or unreasonable discrimination" in paragraph 12 of the report could cause confusion. Those words had not actually been used in article 14 of the Constitution, but, obviously, the author of the report had had in mind that the Convention and the Indian Constitution permitted "fair" (that was to say, positive) discrimination, as in article 15 (3) and (4). One member had also commented on the wording "shall not deny" in article 14. However, as could be seen, the actual principle of equality was expatiated upon and its guarantees made clear in subsequent provisions of the Constitution.

12. One member of the Committee had complained about the lack of sufficient information on the Indian definition of minorities. However, as members were well aware, there was no generally accepted definition of a minority. The Minorities Commission mentioned in paragraph 44 of the report was, of course, the Commission for Linguistic Minorities, set up pursuant to article 350 B of the Constitution. Its five members represented different linguistic minorities in India. As a secular State which recognized no religious majority, India obviously did not recognize any religious minorities. In response to a question from Mr. Goundiam about the criteria for the selection of the languages listed in the Constitution, she pointed out that there were 15 languages listed in the relevant Schedule. It would be totally impossible to include dialects, since there could be as many as 250 in one small area of the country. Although she was not familiar

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with the exact details of the constitutional revision to which Mr. Dechezelles had referred, she could assure the Committee that the basic provisions of the Convention would certainly not be affected. The next periodic report would doubtless contain information on any constitutional amendments which affected part III of the Constitution.

13. Attention had been drawn to an apparent contradiction between the provisions of the Protection of Civil Rights Act, 1955, mentioned in paragraph 35 of the report, and section 125 of the Representation of Peoples Act, 1951, which was quoted in paragraph 38. She explained that the scope of the two Acts was entirely different. Section 125 of the Representation of Peoples Act, 1951, referred specifically to acts committed by a candidate "in connection with an election".

14. With regard to the Tribes Advisory Councils, mentioned in paragraph 58 of the report, she explained that they had been set up under the Fifth Schedule of the Constitution, and consisted of 20 members, as many as three quarters of them representing the scheduled tribes. Their role was to advise the state Governors on matters concerning the welfare of such tribes. In addition, there was a Minister for Tribal Welfare in each of the state governments, and the activities of the Councils and Ministers were mutually supportive.

15. In response to a question from Mr. Brin Martinez, she pointed out that some account of the welfare development programme was contained in annex III to the report.

16. As Mr. Goundiam had rightly stated, there was a great deal of cross-fertilization between Indian and African cultures. India had signed several cultural co-operation agreements with African countries, most recently with Algeria. In addition, many Africans were studying at Indian universities, and courses in African studies were offered. In reply to Mr. Goundiam's question about article 335 of the Constitution, she stressed that it should be read in conjunction with article 16 (4). What it meant was that a member of a scheduled caste or scheduled tribe was required to meet a certain basic level of efficiency in order to be appointed to a post, even if it was one set aside for such groups.

17. She explained that the "laws of the community", mentioned in paragraph 13 in regard to the right to marriage, also governed inheritance and succession. There were three sets of personal laws that were applicable in this regard: the Hindu law, the Muslim law, and the general law.

18. Mr. Shahi's question concerning the wording immediately following paragraph 44 of the report had arisen from a misreading, which might have been due to the layout. In fact, what he had read out as a function of the Minorities Commission was the title of the next section, and had nothing whatever to do with that Commission.

19. Mr. Shahi had mentioned the danger that could arise in a democratic and federated State if the ruling party preached racial superiority. However, as members would see from paragraph 40 of the report, there was no organization in India wedded to the philosophy of racial superiority. Moreover, under the

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Representation of Peoples Act, 1951, mentioned in paragraph 38, any appeal to voters on the basis of religion, race, caste, community or language would make a candidate liable to a punishment of imprisonment for a term which might extend to three years, or a fine, or both. In addition, under the same Act, such an appeal would be declared a corrupt practice, and if any candidate did succeed in getting elected on such a platform his election would be declared null and void. Under the existing structure of the laws therefore, the fears expressed by Mr. Shahi were unjustified, as no candidate preaching a philosophy of racial superiority could ever achieve political power in India. Mr. Shahi had also made reference to the importance of the implementation of the Convention in the interests of stability, peace and friendly relations, and to the need for minorities to have a sense of security, as their problems could spill across national frontiers.

20. While, in relation to a country that was party to an international convention, it might be permissible for a United Nations committee to be concerned with tensions resulting from the feelings of insecurity that minority groups might experience in that country, it would not be acceptable for any particular country to take a decided interest in minority group problems in any other individual country. It was pertinent at the international level but not at the bilateral level. She wondered whether members of the Committee would support a thesis which would violate a basic principle of the United Nations, that of non-interference in the internal affairs of a State.

21. Her Government would be happy to attach a copy of the criteria governing the registration of scheduled castes and scheduled tribes to its next periodic report, in response to the request made by Mr. Sviridov.

22. She regretted that she was unable to answer the questions which were of a highly technical legal nature, but assured members of the Committee that she would refer them to her Government.

23. The CHAIRMAN thanked the representative of India and asked her to convey the Committee's appreciation to her Government.

24. Mrs. Sibal (India) withdrew.

Fourth periodic report of the United Republic of Cameroon (CERD/C/18/Add.4)

25. At the invitation of the Chairman, Mr. Towo Atangana (United Republic of Cameroon) took a place at the Committee table.

26. Mr. TOWO ATANGANA (United Republic of Cameroon) said that the fourth periodic report of the United Republic of Cameroon (CERD/C/18/Add.4) contained little new information; rather, it confirmed what was stated in previous reports, particularly the initial report (CERD/C/R.33/Add.10) and the second periodic report (CERD/C/R.65/Add.3). The all-round development and advancement of the individual continued to be the primary goal of the policies of the Cameroonian Government. That policy found expression in the preamble to the Constitution, of which several extracts had been reproduced in the second periodic report. That report had also

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listed a number of legal instruments which had been drawn up by the United Republic of Cameroon well before it had ratified the Convention in order to assure to all citizens the effective enjoyment of all their fundamental rights.

27. He recalled that, during the discussion of the third periodic report (CERD/C/R.88/Add.3), several members of the Committee had requested copies of the texts of the legislative provisions mentioned in the report. Some of those texts were extremely concise; for example, the equality of foreigners and Cameroonian nationals before the law was expressly provided for in the preamble to the Constitution, and in article 1 of the Penal Code. Other texts of laws and presidential decrees would be provided to the Committee at a later stage. Since 20 May 1972, when following a national referendum the federal State had been replaced by a unitary State, the Government had had to carry out a vast operation of unifying all the political, administrative and legislative structures. That constituted a far-reaching peaceful revolution, which was a long process but which would create even better conditions for the full development of the Cameroonian individual, taking into account the country's unique cultural identity, in the context of autonomous development. A number of government commissions had been engaged in that work for several years. Nevertheless, the basic provisions of the relevant texts, which would be communicated to the Committee at a later stage, faithfully reflected the provisions of articles 4, 5, 6 and 7 of the Convention.

28. On the question raised during the consideration of the third periodic report regarding the right of workers to form trade unions, he referred to Act. No. 74/14, of 27 November 1974, instituting the Labour Code, which had replaced Act. No. 67/LF/6, of 12 June 1967, referred to in the second periodic report. He quoted the provisions of articles 3, 4 and 5 of that Act, and noted that the provisions of article 4, paragraph 2, of the 1967 Act, which had appeared to imply a possible limitation of trade union freedom, were not reflected in the new Act. The Committee had also asked what measures had been adopted by the United Republic of Cameroon to implement the provisions of international conventions such as the ILO Convention concerning discrimination in respect of employment and occupation and the International Covenants on Human Rights. It would be recalled that the Cameroonian laws ensured equality for all citizens, and that no discrimination of any kind on the basis of race, tribe, religion or sex existed in the country. Once international conventions were signed and ratified by the competent authorities, their provisions automatically became part of Cameroonian law and were applicable throughout the territory. A provision to that effect was contained in article 2 of the Penal Code.

29. At the international level, the United Republic of Cameroon was associated with all activities designed to safeguard human dignity, liberty and the independence of peoples. It was participating actively in the international dialogue to establish a new and more just international order which would respect all the fundamental human rights and all political, economic, social and cultural rights. The United Republic of Cameroon had always unequivocally condemned the odious policy of apartheid and racial discrimination applied in South Africa, Southern Rhodesia and Namibia. It was its consistent policy to provide all-round assistance to all peoples struggling against racism and discrimination. The

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United Republic of Cameroon scrupulously respected the resolutions of the United Nations and of the Organization of African Unity and maintained no relations of any kind with the minority régimes of southern Africa. It was complying with the decrees prohibiting any air or maritime traffic and any communications or transactions with Southern Rhodesia and South Africa. Since 1978, the United Republic of Cameroon had been an active member of the United Nations Council for Namibia, and it had always strictly implemented Decree No. 1 of the Council concerning the protection of the natural resources of Namibia. In 1971, it had acted as host to a seminar on racial discrimination, and it had taken part in all the conferences organized by the United Nations on the same subject. The records of the conferences had been broadly disseminated in his country.

30. On the question that had been raised during the consideration of the previous report as to whether it was possible for an individual to invoke the provisions contained in the preamble to the Constitution as grounds for legal proceedings, he said that Cameroonian legal experts had not yet established whether the preamble was an integral part of the Constitution, or merely a legal framework. Nevertheless, in practice the Supreme Court had already referred to the provisions of the preamble in a number of cases, which had been mentioned in the first periodic report. There had also been Supreme Court judgement No. 45 of 22 February 1973. Efforts would be made to secure texts of those judgements for the Committee as soon as possible.

31. Mr. Brin Martínez took the Chair.

32. Mr. PARTSCH said that under article 9 of the Convention States parties were required to provide written reports to the Committee, and, during the consideration of those reports, it was the practice to invite representatives of the States concerned to illustrate the reports and reply to any questions which were asked. The United Republic of Cameroon, however, was following another system. He recalled that during the consideration of the third periodic report, the Committee had requested the Government of the United Republic of Cameroon to provide the text of article 152 of the Penal Code and other legal provisions relating to the Convention, and to provide information on the implementation of articles 4 (b), 5, 6 and 7 of the Convention; the representative of the United Republic of Cameroon had promised to provide the information requested. At the current meeting the representative of the United Republic of Cameroon had supplied a considerable amount of oral information which could have been included in the fourth periodic report. The latter merely indicated that the relevant legislative texts would be communicated to the Committee as soon as possible. That approach did not accord with the provisions of article 9 of the Convention. The Committee needed to see the texts in written form, since it was difficult for it to take a position on the basis of texts which were presented orally, and he hoped that the Government of the United Republic of Cameroon would co-operate with it.

33. Mr. GOUNDIAM said it was true that under article 9 of the Convention States parties had the obligation to provide full information on the implementation of the provisions of the Convention, and particularly all relevant administrative and legislative texts. The United Republic of Cameroon was able to do that. The

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country had acquired a stability which was envied by other States, particularly in Africa. That stability had been achieved after a persistent and methodical struggle. The policy of the President was based on two priorities: progress towards national integration, and the desire to restore the cultural identity of the Cameroonian people. Under the Constitution of the United Republic of Cameroon, the building of national unity was fully compatible with the acceptance of a degree of cultural pluralism. The Constitution established two official languages in the country, French and English. As a bilingual and pluricultural country, the United Republic of Cameroon sought friendly relations with all countries. Cameroonian cultural policy aimed at transcending tribalism in order to achieve national unity. There were a number of institutions which were working to implement those policies, including the Federal Linguistic and Cultural Centre, established in 1962, which in 1966 had been responsible for the preparations for the first world festival of the black arts, held at Dakar; and the Office of Cultural Affairs, attached to the Ministry of Information and Culture, which sponsored public and private cultural organizations in the country. The President had stated in 1977 that, under the Government's cultural policy, the national and cultural diversity of the country, far from undermining national unity, enriched cultural life and contributed to the cohesion and uniqueness of the national entity. Thus the United Republic of Cameroon possessed the basic judicial and legislative institutions to comply with the provisions of the Convention, and he therefore felt that the Government should provide full information on all penal and other measures, in accordance with articles 4 and 7 of the Convention. There were a number of relevant texts concerning, for example, the right to work and social legislation; Cameroonian social legislation on the advancement, training and employment of nationals was of particular interest. It would also be helpful to have details of the demographic composition of the United Republic of Cameroon.

34. Mr. VALENCIA RODRIGUEZ said that if, as the fourth periodic report indicated, the substance of the previous report submitted to the Committee remained valid, the observations made during the consideration of that report also continued to be relevant. The Committee should be given the texts of the legislation into which the substance of the various international conventions relating to the fight against racial discrimination had been incorporated, in order to study those texts and make any necessary observations. The valuable information provided by the representative of the United Republic of Cameroon, which had met many of the Committee's concerns and responded to many of the observations made, should have been an integral part of the fourth periodic report. The next report should expand further on that information. The Committee believed that the United Republic of Cameroon was strictly implementing the provisions of the Convention and that there was no racial discrimination in the country, but it required written details of the measures taken in order to make an informed judgement.

35. Mr. Lamptey resumed the Chair.

36. Mr. NABAVI said that he could not discuss the fourth periodic report of the United Republic of Cameroon, since there was no substance in it. He recalled that the Committee had felt that the initial report was incomplete and failed to comply with the requirements of the Convention. The second periodic report had been confined to statements of a general nature on the non-existence of racial

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discrimination, and references to certain legal provisions which in the Committee's judgement bore very little relation to the provisions of the Convention. The third periodic report had referred back to the second periodic report, and the fourth periodic report now referred back to the third periodic report. Thus it could be said that no satisfactory reports had been received from the United Republic of Cameroon. Under article 9, paragraph 2, of the Convention, the Committee's report to the General Assembly must be based on its examination of the reports and information received from States parties, and if there were no reports it could not carry out its work. The Committee's practice had been to limit its observations as far as possible to the periodic reports received from States. Since the Committee was pressed for time, and since it could do no more than repeat the observations that it had made about the third periodic report from the United Republic of Cameroon, it should take an objective decision on the subject.

37. Mr. DECHEZELLES said that, without taking as harsh an attitude as Mr. Nabavi, he did feel that the Government of the United Republic of Cameroon had left the Committee unsatisfied.

38. The experience of the United Republic of Cameroon was in many ways unique; it was a country which had received cultural influences from Germany, France and the United Kingdom, and had been first a federal State and then a unified State. He read out a passage concerning the United Republic of Cameroon from the Revue juridique et politique of the Institut international de droit d'expression française.

39. Mr. PARTSCH speaking on a point of order, said that, in accordance with article 9 of the Convention, the Committee must limit its discussions to the periodic reports and information received from States parties. Members of the Committee were entitled to use all official material published by States parties and information from intergovernmental and international organizations, but they could not refer to articles published in the press or even scholarly journals.

40. Mr. SHAHI asked whether, if a statement of questionable veracity was made in the report of a State party, it was out of order for a member of the Committee to draw attention to it and refer to authoritative factual statements. It would otherwise be impossible for the Committee to discharge its duty conscientiously. The Committee clearly had to be careful about quoting from newspaper reports, but he felt that it should be able to refer to objective or factual reports, since otherwise it would have no means of deriving the information it required to carry out its work.

41. The CHAIRMAN said that the point of order was perfectly valid. Moreover, if items were quoted from articles in newspapers or periodicals, which often contained inaccurate information, the Committee could find itself in a very difficult situation. If a member of the Committee felt that a statement in a report was not correct, he could always request clarification.

42. Mr. TOWO ATANGANA (United Republic of Cameroon) thanked the members of the Committee for their comments and assured them that the texts of the relevant instruments would be supplied with the next report.

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43. The CHAIRMAN suggested that the Permanent Mission of the United Republic of Cameroon might consult reports submitted by other Governments to see how they had been prepared. He expressed appreciation for the Government's willingness to co-operate with the Committee.

44. Mr. Towo Atangana (United Republic of Cameroon) withdrew.

Fourth periodic report of Denmark (CERD/C/48/Add.2)

45. At the invitation of the Chairman, Mr. Helskov (Denmark) took a place at the Committee table.

46. Mr. HELSKOV (Denmark), introducing the fourth periodic report of Denmark (CERD/C/48/Add.2), expressed his Government's appreciation for the work of the Committee. Account had been taken, in the preparation of the report, of the questions raised during the Committee's consideration of the third periodic report and supplementary information had been included. The relevant provisions of the Marketing Act of 1974 were given in part II of the report; that Act added to the already existing legal protection in the field of racial discrimination.

47. He informed the Committee that the referendum on local autonomy for Greenland had been held in January 1979 with the following result: 63.3 per cent of the persons eligible to vote had taken part in the referendum; 70.1 per cent had voted for and 25.8 per cent had voted against local autonomy. Accordingly, on 1 May 1979, the local autonomy system for Greenland had come into effect.

48. Mr. NABAVI paid tribute to the Danish Government's exemplary efforts to comply with the Convention. The report supplied very full information on the various provisions adopted for the implementation of the Convention and was excellent in both form and substance.

49. He considered that the Danish Government had, in so far as was possible, complied with its obligations under article 4 (a) and (b) of the Convention. However, the legal situation in Denmark was rather complex and did not fully meet the requirements for the implementation of article 4 (b), as interpreted by the majority of the members of the Committee. The report raised certain questions to which it did not provide an answer and he asked for further information on the definition of the words "lawful purpose" as used in article 78 of the Danish Constitution, and on the dissolution of associations constituted for unlawful purposes.

50. The information supplied on local autonomy for Greenland did not seem to him to fall entirely within the scope of the provisions of the Convention. The situation with regard to migrant workers was most satisfactory. However, the contents of the report were not entirely satisfactory with regard to the measures to combat racial prejudice to be taken under article 7 in the fields of teaching, education, culture and information.

51. Mr. VALENCIA RODRIGUEZ said that the information supplied in the report on the cases which had been brought before the courts revealed the vigilance of the Danish

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authorities in applying the law and implementing the Convention, and he hoped that the Government would supply the Committee with details of any future cases. He had been interested in the information provided on the implementation of the Marketing Act and hoped that the Government would continue to provide such information. Part III of the report contained very useful information and he believed that the legal machinery for the application of the Convention in Denmark was quite satisfactory.

52. With regard to the application of article 4 (b) of the Convention, he said that it was clear from the report that, although Danish legislation did not fully conform to the terms of the Convention, associations promoting racial discrimination were prohibited. While it would be ideal if the Government could bring the relevant provisions into strict accordance with article 4 (b), it should be borne in mind that each State had the right to apply the provisions of the Convention in accordance with its own legal system and economic and social reality. The Committee should concern itself with the final results.

53. He welcomed the information concerning local autonomy for Greenland, which represented a positive step towards the reaffirmation of the political rights of the people of Greenland. It was clear, from part VI of the report, that migrant workers enjoyed the same rights as nationals of Denmark and that efforts were made to improve their situation through bilateral agreements. With regard to migrant workers' entitlement to certain benefits, referred to in the third paragraph of part VI, he suggested that the Government should indicate in its next report those countries with which bilateral agreements in that respect existed. Further, he recommended that the Government should consider the possibility of extending the benefits concerned to all foreigners to ensure that there were no privileged categories of foreign workers. Finally, he recommended that, wherever possible, the Government should take additional measures to implement article 7 of the Convention.

54. Mr. PARTSCH said that the interpretative method described in part III of the report no doubt served to close many of the gaps that might exist between domestic and international law. However, if there really was a divergence in substance between Denmark's international obligations and its domestic law, it was possible that even the most intelligent judge might be unable to find a solution that was entirely in conformity with international law. It was true that no rule of international law obliged States to implement international obligations in a specific way; the method of implementation came within the sovereign will of the individual States. He commended the thoroughness of the Danish Government's approach to the ratification of instruments of international law.

55. He believed that under article 4 (b) of the Convention, a State had two obligations: first, to declare illegal all organizations promoting and inciting racial discrimination and, secondly, to draw the logical consequences and to prohibit such organizations. The Government had fulfilled the former obligation through the Racial Discrimination Act and, with regard to the latter obligation, only where violence was involved was the Government obliged to take action. In other cases it had discretionary powers, as was confirmed in part IV of the report.

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56. Finally, with regard to the situation of migrant workers, he asked whether such persons were entitled to benefits in respect of injuries sustained outside their place of work.

57. Mr. NETTEL said that it would be helpful if the Government could supply the text of the operative parts of decisions taken by the courts under the Racial Discrimination Act and said that he would be particularly interested to know on what precise grounds two of the cases had been dismissed. He wondered whether discrimination was really involved in the cases under the Marketing Act described in the last paragraph of part II of the report. He asked whether the rule of presumption, referred to on page 7 of the report, was presumptio iuris or presumptio iuris et de iure and if the former was the case, whether the Government itself or a higher authority was empowered to rebut the presumption. He had been very interested in the information supplied in respect of the application of article 4 of the Convention. However, the Committee had repeatedly indicated that it did not consider that Danish legislation, or that of certain other countries, complied entirely with article 4 of the Convention; he hoped that, eventually, the countries in question would pass legislation that conformed with that article.

58. Mr. TENEKIDES paid tribute to the Danish Government for its rigorous implementation of human rights at the national and international levels. He recalled that Denmark was one of the countries that had taken action before the Commission of Human Rights of the Council of Europe with regard to the oppressive military régime in Greece and had thus contributed to the restoration of human rights in that country. He expressed satisfaction with the information supplied on local autonomy for Greenland and on the Marketing Act, which contained very interesting provisions. With regard to part III of the report, he had been disappointed to learn that international treaties were not automatically incorporated into domestic law in Denmark and pointed out that there was a binding obligation on States to recognize the primacy of international law. That was not the case with other treaties, such as EEC treaties. He pointed out that legal literature did not create an obligation that was binding upon a judge. For those reasons, part III of the report had caused him some concern.

59. With regard to the situation of migrant workers, he inquired as to the meaning and implications of the words "are normally granted", in the fifth paragraph of part VI. He asked whether, as part VII of the report seemed to indicate, no special provision was made for the education of the children of migrant workers in Denmark. He pointed out that the tables annexed to the report indicated the numbers of foreign nationals resident in Denmark rather than the numbers of the country's ethnic minorities.

60. Finally, he appealed to the Government to accede to article 14 of the Convention.

The meeting rose at 6 p.m.

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