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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Thirty-seventh session

PROVISIONAL SUMMARY RECORD OF THE 843rd MEETING

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on Wednesday, 16 August 1989, at 10 a.m.

Chairman: Mr. LAMPTEY

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CONTENTS

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

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The meeting was called to order at 10.15 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 4) (continued)

Eighth, ninth and tenth periodic reports of the Philippines (CERD/C/172/Add.17) (continued)

At the invitation of the Chairman, Mr. Villaroel and Ms. Quisumbing (Philippines) took places at the Committee table.

Mr. SONG Shuhua said the Philippine Government was to be commended on its comprehensive report and on the work done since the enactment of Presidential Decree No. 1350-A.

With regard to the three offices set up to meet the needs of the cultural communities (CERD/C/172/Add.17, para. 31), he asked whether the aid provided by the Government was simply financial or material or whether it was designed to help the communities develop their economies through their own efforts. He also asked what measures had been taken in favour of minority groups in remote areas to guarantee the equal access to opportunities for public service mentioned in article II, section 26, of the 1987 Constitution and what effect the Government's measures had had on the 4.5 million people who lived in mountain areas and had a low level of education.

He welcomed the statement in paragraph 17 of the report that there had been no complaints about racial discrimination since the enactment of Presidential Decree No. 1350-A, but asked whether such cases might have occurred and been dealt with as common offences. In some cases people in urban areas held those from rural areas in low esteem. When people all belonged to the same cultural group, differences tended to be social and economic; backward ethnic groups normally lived in remote villages.

Noting that, according to paragraph 58, the electoral and appointive government positions held by minority groups had mainly gone to Muslims, he asked what was the situation of ethnic groups. With so much progress in the past few years, he hoped that the next report of the Philippines would describe the effects of the decrees and regulations enacted by the Government.

Mr. SHERIFIS, referring to the representation of minority groups in government positions, asked whether there was any legal guarantee that a certain percentage of such positions would always be held by minorities, or whether it was simply by chance that at present there were a large number of Muslims who had been appointed to government positions by virtue of their abilities.

The CHAIRMAN invited the representatives of the Philippines to reply to points raised by the Committee during its discussion.

Mr. VILLAROEL (Philippines) said that, in introducing the report, the Philippine delegation had stressed the country's commitment to the Convention in terms of solidarity with the international community. It had done so because the existence of racial discrimination or discrimination-like practices was barely conceivable in the Philippines. That was not to say that such practices could not occur, but until they did, the Philippine Government preferred to believe they could not. It recognized, however, that a society utterly devoid of all forms and manifestations of racial discrimination did not exist.

He invited Ms. Quisumbing, the Assistant Secretary for Human Rights and Humanitarian Affairs of the Philippines, to reply to the Committee's questions.

Ms. QUISUMBING (Philippines) said that Mr. Yutzis had put forward the interesting theory that possessions and prestige were the two bases for power, and had asked if that was so in the Philippines. She agreed that that theory did much to explain the differential status of groups of people in the Philippines, particularly in the economic and political fields. The explanation went back to the colonial period, when the economic power of the conquistadores was equated with political power. In countries with an industrialized economy those two bases of power were vested in different groups, but in the Philippines and some other countries economic power still coincided with political power. The problems arising from that situation were now being dealt with through the 1987 Constitution.

Vestiges of the colonial bases of power were evident in Filipino culture. When the Spaniards had conquered the Philippines, the land had been declared the property of the King, and the doctrine whereby all lands and mineral and other natural resources belonged to the State, which had replaced the King, still underlay the present law. Private ownership of those natural resources existed only by State mandate: land might be owned by private individuals under the Constitution, but the theory remained that it was the State which owned the patrimony of the nation and which had alienated a natural resource to private individuals. However, private ownership under the Constitution was a basic principle in the Philippines and private property had been institutionalized in the Constitution.

With regard to the linking of political and economic power to skin colour, which had existed under the Spanish and American rulers, she said that, until recently, some foreign-owned companies in the Philippines had pursued recruitment practices that gave preference to people of Spanish descent, even distinguishing between peninsulares, i.e., people coming from Spain, and mestizos. That policy had existed until the 1970s but was now outlawed. Discriminatory recruitment practices had been exacerbated by sometimes large differentials in pay; oil and mining companies in the Philippines had, for example, employed expatriate whites at a higher rate of pay even where better qualified local candidates were available. Those practices, which had caused several strikes, had been rampant until recently, but had now been dealt with by the labour laws. Unfortunately, modern advertising for products to promote a fair skin or increase height had not helped to eradicate the idea of the superiority of certain physical attributes.

While she agreed with Mr. Yutzis that such vestiges of colonialism existed, legally and officially, the Philippine Government did not countenance racial discrimination, as described and defined under the Convention. On the contrary, the 1987 Constitution for the first time reflected a concern for the specific interests of the indigenous populations of the Philippines and those of the cultural communities. The Aquino administration was working on practical programmes to implement the constitutional provisions on social justice, equality, human rights and the attainment of a just and humane society.

Some examples of such programmes were the Comprehensive Agrarian Reform Programme, the linchpin of the Aquino administration's effort to promote equality and the elimination of poverty, and the introduction for the first time of free high school education for all. The third example had been announced by the President in her State of the Nation address: for the next 1,000 days her administration would concentrate the Government's limited resources on alleviating the lot of the lowest 30 per cent of the population in terms of income. That sector of the population was to be found in the rural areas and hinterland, and included some indigenous and ethnic communities.

In reply to Mr. Yutzis' question regarding the status of Presidential Decree No. 1350-A, she said that the Decree was law in the Philippines and needed no ratification, since all presidential decrees, unless expressly

repealed or by implication superseded as being inconsistent with the 1987 Constitution or more recent legislation, were deemed to be in effect. Presidential Decree No. 1350-A implemented the Convention as well as all other conventions against discrimination to which the Philippines was a party. Decree No. 1350-A in particular declared illegal, and provided a penalty for, all organizations and organized activities which promoted, and incited to discrimination.

With regard to demographic information on the status and life of different tribes, she said that the available information on indigenous populations unfortunately dated from 1980, because a national census was taken only every 10 years. It was hoped that the next national census in 1990 would include information on the conditions of life of the indigenous and ethnic populations. More emphasis would be placed on the hill tribes because of the new provisions of the Constitution in that respect. The Philippines would be glad to provide the Committee with that information.

Replying to questions on the offices established to protect and promote the interests of cultural communities (mentioned in paragraph 13 of the report), she said that the three offices were all under the direct supervision of the Office of the President. Their history showed the trend of Philippine policy towards its indigenous populations and cultural communities. Until 1987 there had been just one office looking after the interests of all cultural minorities; it had been significantly called the Office of National Integration and its chief had usually been appointed from the Muslim community. Because of the rising awareness of other cultural communities, a request had been made for those communities and ethnic groups to have their own offices. In response, President Aquino had created three separate offices. The Office of Northern Cultural Communities catered to hill tribes and ethnic communities, mainly on the island of Luzon. The Office of Southern Cultural Communities was concerned with all communities other than the Muslim community, which was concentrated in the south, in about five provinces of Mindanao. The idea was that that office would look after non-Muslim cultural communities and ethnic groups found in Mindanao and in the Visayan Islands. The officials and staff of the offices came from the communities themselves.

The change in policy had been very significant. When there had been just one office for all ethnic, indigenous and cultural communities, the Government had followed the policy of assimilation inherited from colonial Governments, which sought to eradicate cultural boundaries and blend all communities into

a Filipino culture. Recently, dissent from that policy of assimilation had become very strong, and the acceptance of a change of policy came with the implementation of the policy of integration, which was in harmony with article 2, paragraph 1 (e), of the Convention.

With regard to the languages of indigenous populations, anthropologists had said that the Philippines, composed of 7,100 islands, had a rich linguistic culture, with some 80 identifiable languages falling into 20 language groups. At least two cultural and linguistic groups were represented in her own parentage: her father and mother had come from provinces which were geographically close, but they could not possibly have understood each other except through a common language; their own languages had two different alphabets. Theirs were just two of the numerous major languages in Luzon, and there were many others in Mindanao and the Visayans; the Muslim communities in the south also had their own languages and the hill tribes, in addition to their own languages, had adopted what they considered to be their dominant regional language or dialect. For example, in the Cordilleras, a mountain range in Luzon, several tribes and linguistic and ethnic communities, all speaking their own language or dialect, also all spoke Ilocano, basically a lowland language, and also Filipino. There was thus a common language while the regional languages and those of different groups had been preserved. The principle was now accepted that national identity could only be enriched by preserving and developing the languages and cultures of different groups.

The question of ancestral land was one of the major points dealt with in the 1987 Constitution. Article 12, section 5, of the Constitution provided that the State should protect the rights of indigenous communities to their ancestral lands in order to ensure their economic, social and cultural well-being. Article 13, section 6, provided that the State should apply the principles of agrarian reform, whenever applicable and in accordance with the law, in the distribution or utilization of other natural resources, including land, subject to prior rights, the homestead rights of small settlers, and the rights of indigenous communities to their ancestral lands. It was therefore clear that the Government had to implement those constitutional provisions at the present time and the administration of President Aquino was awaiting the relevant legislation. In that connection, she said that two bills before the Senate dealt with the matter of protecting the rights of national cultural communities to their ancestral lands.

The guidelines for determining the distribution and identification of ancestral lands were being considered at the present time in the legislature body. However, there were some areas which were already identifiable as ancestral lands, for example, the burial grounds and sacred grounds of indigenous populations.

The existing legislation had caused some problems, since it imposed what was known as the parent title, a system under which deeds were given to individuals, rather than to groups or communities. In fact, no system in the Philippines recognized communal ownership of land. Therefore, there was a need for implementing legislation with regard to the relevant provisions of the 1987 Constitution.

Referring to the impact of the insurgency and anti-insurgency campaigns, she said that one of the results of the armed conflict on the population in general was the displacement of persons because of voluntary evacuation. The general practice was to warn civilians in advance that counter-insurgency activities were to be undertaken. The civilians then left the area voluntarily and were put up in temporary camps. They generally returned to their homes following the cessation of the counter-insurgency activities.

Attention should also be drawn to the economic effect, since access to livelihood sources became very difficult for some tribes. For example, pottery makers found it difficult to obtain clay in mountainous areas occupied by insurgents. Ratan furniture makers and woodcarvers were similarly unable to obtain the material they required in the forests. Illegal taxation by insurgents caused the hill tribes and ethnic groups to stay away from areas where they generally gathered material for their livelihood. Many ethnic groups were frequently caught up in the struggle for political dominance in a particular village.

The Philippines had always had a unitarian form of government, in other words, a very strong central government. The provinces were divided into municipalities, which in turn were divided into villages. They were political and administrative units of the Government, which controlled and supervised them.

The 1987 Constitution provided for the establishment of two autonomous regions, one in Muslim Mindanao and the other in the Cordilleras. During the previous administration of President Marcos, a rebellion in the two areas had become very pronounced.

Prior to 1988, the Cordilleras had been divided into two separate administrative regions and complaints had been made by the Cordilleras people that their representation was virtually non-existent, since the regions were dominated by lowlanders. One manifestation of their dissatisfaction had been armed rebellion. As a result of peace talks, President Aquino had signed an executive order creating a separate Cordilleras region under the leadership of the people of the Cordilleras themselves. That form of administrative mechanism was a transitional stage leading to eventual regional autonomy in accordance with the Constitution. A similar process had taken place with representatives of Muslim Mindanao, but it had not been as successful as in the case of the Cordilleras.

The armed insurgency in the Philippines had started in 1969 with the founding of a Maoist group advocating armed rebellion against the Government. Guerilla tactics were used by the armed insurgents. Recently, they had moved from rural areas to urban centres.

A recent example of the ruthlessness of the insurgents had been the massacre of 30 persons worshipping in a church. The New People's Army had claimed responsibility for that deed and had rationalized it as being justified. The campaign was losing its appeal in the countryside for several reasons, including the discovery of mass graves of persons considered to be defectors from the New People's Army, and rampant killing by units operating in urban areas.

The insurgents operated on two fronts. Their political arm consisted of an umbrella organization, the National Democratic Front (NDF), which operated through some legitimate groups and infiltrated labour and political organizations. The NDF was currently soliciting support in Europe which would be channelled to the armed component of the insurgency, the New People's Army.

The preparation of a Shariah code was a project of the Office of Muslim Affairs undertaken in co-operation with the Government and the University of the Philippines. During a period of about two years, various Muslim groups, Imams and Muslim scholars in the Philippines and Arab countries had been consulted and had prepared a Shariah code for the Philippines. It had been enacted into law in the late 1970s and was applicable to all Muslims in the Philippines. In a sense, it was an exception to the Civil Code of the Philippines, inherited from the Civil Code of Spain. Shariah courts had

been established to implement and interpret the code and were currently found in Mindanao. There was a Muslim Justice in the Supreme Court of the Philippines.

With regard to the question concerning the impact of colonialism, she agreed that the Philippines was at present free to choose its path of development and that it must make that choice. However, there were serious constraints on the exercise of that choice, such as the existence of a huge foreign debt amounting to some \$30 billion. In that connection, she said that, of that amount, \$28 billion constituted the legacy of the former Marcos administration. Forty per cent of the national budget was earmarked to service the debt. In addition, the policy of international financial institutions, coupled with pressure from private lending institutions, placed serious constraints on the path of development chosen by the Philippine people. It could not be denied that the foreign debt was the result of colonial policies of the past and, possibly, of neo-colonialism at the present time.

Her Government maintained no diplomatic relations with the Government of South Africa, which was consistent with its policy of supporting the principles of equality of all men and respect for human rights.

The Constitution guaranteed the right to work, to organize and to enter into collective bargaining. Free enterprise was institutionalized in the Constitution. Unfortunately, her country was facing the problem of unemployment and underemployment. The plight of labour in the Philippines was a phenomenon that had caused some problems with regard to the human rights of Filipinos abroad. It was ironic that Filipinos were economic refugees whereas the Philippines was a haven for refugees from other countries. She recalled that at a recent conference on refugees, held at Geneva, her country had offered part of its territory as a refuge for refugees from other countries.

With regard to the question whether the Philippines had established special schools for the purpose of educating minorities, she said that no special schools as such existed for her country's cultural communities. The Government had, however, recognized the need to promote and develop the cultural heritage of the various ethnic groups and had therefore made regional educational offices responsible for devising regionally relevant curricula to supplement the national core curriculum. The first three years of schooling were in Filipino and regional languages, with English being introduced in the

fourth year. It was thus hoped to protect the regional languages and encourage the development of regional cultures. She highlighted the "tent school" project which had been launched in region I and had recently received a UNESCO award. That project provided schooling for children in nomadic tribal groups and there were plans for its extension to other regions. She also drew attention to the Madrasah schools referred to in paragraph 33 (a) of the report.

She thought that Mr. Aboul-Nasr's question on the meaning of ruthless insurgency had already been answered but she wished to emphasize the impact of that insurgency on the indigenous populations, who were frequently caught in the cross-fire and also suffered economic hardship.

The Tripoli Agreement between the Government of the Philippines and the Muslim Liberation Front called for the establishment of an autonomous Muslim region within the framework of the Philippine Constitution. The Agreement had been implemented by a very recent law, pursuant to article 10 of the Constitution, providing for the creation of an autonomous region in Muslim Mindanao, which would include 30 provinces, cities, municipalities and geographic areas sharing a common and distinctive cultural heritage and common social and economic structures. In accordance with the Constitution, that law would not enter into force until it had received majority approval in a plebiscite held in the proposed autonomous region and the organization of such a plebiscite was currently underway. The government of Muslim Mindanao would be empowered to legislate, inter alia, on administrative organization, revenue sources, planning development, natural resources and protection of the region's cultural heritage. The national Government would remain responsible for the maintenance of law and order, defence and security, fiscal and monetary policy and foreign affairs. She expressed her hope that the forthcoming plebiscite would accurately reflect the political will of the people in the region.

Mr. Reshetov had compared the situation in the Philippines with that in his own country and had inquired as to the meaning of the phrase "cultural communities". That term was used in the Constitution of the Philippines, although no precise definition was given. In attempting to define the phrase, she referred to the description of an autonomous region, and said that a "cultural community" was one which shared a common and distinctive heritage as well as common social and economic structures. The Philippines contained

several distinct communities, such as lowlanders, highlanders and various religious and cultural groups. The physical differences between those groups were very slight and they shared cultural rather than racial features, hence the term "cultural community" was particularly apt. She thought that it might be of use to other societies in a similar situation.

In response to the question on the projects and programmes described in paragraph 32 of the report, she said that they had been launched very recently and it was too early to attempt to assess their impact.

Replying to the question on paragraphs 15 to 18 of the report, she said that while no complaints of racial discrimination had been brought before the courts in the past, the heightened awareness of their rights among the indigenous communities had increased the likelihood of such complaints being lodged. Indeed, the Tasaday tribe had recently petitioned the Supreme Court to prevent publication of claims by two professors from the University of the Philippines that the Tasadays were not authentic cave-dwellers.

In reply to the question by Mr. Song Shuhua on paragraph 13 of the report, she said that the offices mentioned received government funding, although an increased level of budgetary support was needed. The offices championed the interests of their respective communities, identified practical projects requiring governmental assistance and undertook relevant research. They were currently involved in attempts to solve problems relating to the ownership of ancestral lands.

She emphasized that the government programme to promote equality of opportunity was of very recent origin. Some measures had been taken to facilitate access to the civil service and regional administrations. In response to a demand from representatives of various cultural communities, the requirement to pass written examinations for admission to the civil service had been waived in some cases.

She acknowledged that the highlanders had been held in low esteem in the past but it was anticipated that the establishment of new economic and social structures in the country would eradicate any vestiges of that attitude.

Referring to questions on paragraph 58 of the report, she said that Muslims were the dominant minority group in the Philippines and held many electoral and governmental positions. None the less, various cultural communities, notably the Cordilleras, were represented in Congress and their representation was expected to increase. The Constitution called for

"sectoral representation" of disadvantaged groups such as women, disabled persons and cultural minorities and the Supreme Court was currently deciding on the most appropriate procedure for the appointment of sectoral representatives. There were no legal provisions specifically guaranteeing a certain level of representation for the various cultural communities but efforts were made to ensure that members of those groups sat in the Supreme Court and on the various Constitutional Commissions. The degree of participation was not yet satisfactory but it was hoped that members of cultural minorities would assert their rights both legally and politically in future.

Mr. SHAHI thanked the representative of the Philippines for her exhaustive answers to the Committee's questions. He hoped that the following report of the Philippines would contain updated population statistics, as the census figures given in table 1 of the report were many years out of date. He also drew attention to the apparent contradiction between paragraph 11, which stated that Filipinos belonged to "about 110 ethnic tribes" and paragraph 6, which said that they were "from a single racial stock". Furthermore, the population figures given in tables 2 and 3 added up to approximately 7 million while the country's total population was 8 million; he hoped the following report would clarify the situation.

Mr. SHERIFIS said that he fully endorsed Mr. Partsch's tribute to Judge Ingles, who had made a valuable contribution to the Committee's work.

Ms. QUISUMBING (Philippines) said that the following report would attempt to answer outstanding questions and would provide updated statistics. The anomaly between the population figures in tables 2 and 3 and the figure given in paragraph 11 might be due to the fact that the Muslim community was not always regarded as an indigenous population. She thanked the Committee for bringing the point to her attention and said that the Government of the Philippines would attempt to clarify the terms used in future reports. She hoped that the eleventh report could supply more precise information. She thanked Mr. Partsch and Mr. Sherifis for the tribute they had paid to Judge Ingles. The judge remained deeply committed to the cause of human rights and she called on Committee members to support him in his continuing endeavours. In conclusion, she said that she would convey the compliments and encouragement of the Committee to the President and Government of the Philippines.

The CHAIRMAN congratulated the Philippines on an exceptionally interesting report and thanked Ms. Quisumbing for her outstanding contribution, from which they had all learned a great deal. The whole Committee shared the sentiments expressed by Mr. Partsch with regard to Judge Ingles. The Committee had thus concluded its consideration of the eighth, ninth and tenth periodic reports of the Philippines (CERD/C/172/Add.17).

Mr. Villaroel and Ms. Quisumbing (Philippines) withdrew.
Eighth periodic report of Senegal (CERD/C/158/Add.3)

At the invitation of the Chairman, Mr. Sene and Mr. Fofana (Senegal) took places at the Committee table.

Mr. SENE (Senegal) said that Senegal was a West African country which had long-standing links with Europe and the Arab world. The Senegalese people were endeavouring to construct a progressive, modern society based on respect for human dignity. They were deeply committed to the principle of the freedom of the individual and opposed all forms of prejudice and discrimination. In 1789, when Senegal was under French administration, a list of grievances (cahier de doléances) had been sent from the then capital, St. Louis, to the Estates General in France, the body which had drafted the Universal Declaration of the Rights of Man and had proclaimed the principles of liberty, fraternity and equality. In the bicentenary year of that event, Senegal wished to reiterate its commitment to the rule of law and respect for human rights in Africa and throughout the world and to contribute to the establishment of a fair system of international law.

Mr. FOFANA (Senegal) said that his country's commitment to the fundamental principles of equality, human rights and freedoms enshrined in all international human rights instruments had been reflected in the establishment by Senegal, on its accession to independence, of a democratic State based on the rule of law and recognition of human rights. Those rights were incorporated in the very body of the Constitution of Senegal, not merely as principles but as rules for daily application.

Article 4 and articles 6 to 20 of the Constitution provided specific guarantees in respect of political freedom, trade union freedom, the fundamental rights and freedoms of the human person, freedoms of opinion and religion, the right to own property alone and in association with others, economic, cultural and social rights, and the right of everyone, without distinction as to sex, race or other consideration, to equality before the law.

The independence of the judiciary was ensured, and any cases involving human rights violations could be brought before all tribunals, including the Higher Council of the Magistrature and the Supreme Court. The fact that the State was subject to the rule of law was reflected in the provisions of article 79 of the Constitution recognizing the precedence of international treaties and agreements over national laws, and indeed in Senegal's accession to the Convention and adoption of measures to ensure its implementation. There was in fact no form of racial, ethnic or religious discrimination in Senegal.

Implementation of article 2 of the Convention was ensured by articles 1 and 7 of the Constitution, which stressed in particular the equality of everyone before the law, without distinction as to origin or race, and article 4, which unreservedly condemned racial, ethnic or religious discrimination, considered a criminal offence punishable by the law; and also by article 283 bis of the Penal Code with wording identical to that of the Convention. Regarding the protection of racial groups, there was no group or individual in Senegal requiring such protection. All persons of both sexes enjoyed full and equal rights and status before the law.

With regard to the implementation of article 3 of the Convention, since Senegal's accession to the community of nations as a sovereign State, it had played a leading role in the struggle against apartheid and the South African régime, as was attested by its active and prominent participation in international, including United Nations, conferences on South Africa and Namibia since 1963 and by the hosting of the meeting between African National Congress and South African leaders in 1987. Senegal had consistently condemned and combated racial segregation, had adopted an official declaration in 1963 vigorously condemning apartheid, and was a party to the International Convention on the Suppression and Punishment of the Crime of Apartheid.

Senegal was also a party to the Convention against Discrimination in Education, the Slavery Convention, the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, the Convention on the Elimination of All Forms of Discrimination against Women, and the Convention on the Prevention and Punishment of the Crime of Genocide. In 1963 his country had moreover recognized itself as being bound by all conventions previously ratified by France, the former colonial Power.

Since 1963 Senegal had terminated all economic and other relations with South Africa. Three decrees adopted in 1963 and amended in 1975 prohibited the import of any goods from South Africa, the use of Senegalese air space or landing rights by South African aircraft, and the entry into Senegal or sojourn on its territory by South African citizens.

On becoming a party to the Convention, Senegal had adopted a series of measures to bring its legislation fully into line with article 4 of the Convention. They had been incorporated into Act No. 81.77 of 10 December 1981 amending the Penal Code. Incitement to racial discrimination was covered by articles 256 bis to 278 of the amended Penal Code, and acts of physical violence based on racial discrimination by articles 295, 296 and 281. Offences under those articles were punishable by severe sentences of terms of imprisonment of from 5 to 20 years and even the death sentence in the case of murder on racial grounds. Media publishing or propagating such incitement were seized and confiscated. Organizations engaged in any activities promoting and inciting racial discrimination were declared illegal and prohibited under articles 3 and 9 of the Constitution, Act No. 79.02 of 4 January 1979 and Act No. 65.40 of 22 May 1965, as amended by Act No. 81.77. Any incitement to racial discrimination by the public authorities was an offence under the amended Penal Code and punishable by a prison sentence and fine.

A whole body of legal provisions protected rights under article 5 of the Convention. Articles 5 (a) and (b) were covered by articles 1, 6 and 7 of the Constitution, supplemented, in the case of prejudice to individual rights by government officials, by articles 106 to 178 of the Penal Code, which contained provisions for severe penalties. Article 2 of the Constitution guaranteed political rights and the principle of universal, secret suffrage. Article 3 of the Constitution dealt with political parties, which could be formed freely, enabling all citizens to take part in public life. There were currently 17 legally constituted political parties in Senegal. The Electoral Code, contained in Act No. 76.96 of 21 August 1976, as amended, provided that all Senegalese citizens of both sexes aged 21 years, exercising their civil and political rights and subject to no case of incapacity provided for by the law, were entitled to vote.

The right to freedom of movement and residence was covered by article 11 of the Constitution, subject only to the provisions of the law. Under article 4 of Act No. 68.27 of 24 July 1968, as amended, refugees could not

be expelled except for reasons of national security or public order.

Act No. 65.11 of 4 February 1965, as amended by Act No. 81.19 of 6 May 1981 had removed all restrictions on the right to leave the country. The right to nationality, by birth and by affiliation, was guaranteed in Senegal, and was extended to include naturalization, the case of foreign women marrying Senegalese citizens and that of infants of unknown parentage found in Senegal. The right to marriage and choice of spouse was guaranteed by the Family Code under Act No. 72.61 of 1972, the law providing for the requirements of free will and consent by both parties. The Family Code also permitted divorce by mutual consent.

The right to own property alone as well as in association with others was recognized and guaranteed by article 12 of the Constitution, the system under the ordinary law being for spouses to administer their own estates, and the right to inherit was recognized and guaranteed by the Family Code, as prescribed by articles 399 and 515. The Family Code was very broad in scope with regard to inheritance, applying two systems, the one provided under the ordinary law and the Muslim system. The right to freedom of thought, conscience and religion was guaranteed by articles 1 and 19 of the Constitution, and articles 230 to 233 bis of the Penal Code, providing for repressive measures in the event of violations. Articles 8 and 10 of the Constitution recognized and guaranteed the right to freedom of opinion and expression, and article 9 the right to freedom of peaceful assembly and association. Furthermore, article 812 of Act No. 68.08 of 26 March 1968, as amended, provided for the free formation of associations; any refusal to accept the registration of an association must be justified and could be the subject of an appeal to the Supreme Court. Freedom of association was also guaranteed by Act No. 78.02 of 29 January 1978 and, with regard to political parties, by Act No. 81.17 of 6 May 1981.

Rights under article 5 (e) (i) of the Convention were recognized by article 20 of the Constitution and were covered in detail by the Labour Code contained in Act No. 61.34 of 15 June 1961, as amended, which included the banning of forced labour, provisions concerning employer-employee relations and wage issues. The Constitution also guaranteed the right to form and join trade unions, and to strike; its provisions were supplemented in detail by articles 5, 24, 29 and 85 of the Labour Code.

The right to housing was one of the priorities of the Senegalese Government, which had adopted a series of measures on the matter, including Act No. 61.34, articles 105 and 109, on workers' accommodation, and Decree No. 80.467 of 8 May 1980, as amended, concerning subsidized housing. The right to health, medical care, social security and social services was recognized by article 14 of the Constitution. The Social Security Code in Act No. 73.37 of 31 July 1973 provided for a system of health and social protection for Senegalese families, including a number of family benefits. The population also benefited from a wide range of medical and social services established and maintained by the State.

Education was amply provided for by the Constitution, which provided for recognition of religious and private schools and by Act No. 71.36 of 3 June 1971, which laid down the basic principles of a national education system consistent with the sociological, social and economic conditions of Senegal. That system included formal pre-school, school and university education, continuing vocational education and literacy instruction, was of a democratic and continuing nature and was directed towards mass general education and training for skilled personnel and producers. Senegal had ratified the Convention against Discrimination in Education. The constitutional right to equal participation in cultural activities was given practical effect in Decree No. 71.573 of 24 May 1971, with the establishment of a standing committee for the organization of cultural events, and in Decree No. 83.1267 of 10 December 1983 establishing the commission responsible for the drafting of the cultural charter of Senegal. Since independence, Senegal had engaged in extensive international cultural co-operation, having signed co-operation agreements with some 60 countries. Its policy of cultural openness was conducive to fostering attitudes of receptiveness to others and so avoiding the mistrust which led to racial, ethnic, or religious discrimination. Finally, there was no specific legislation on the right of access to public places, since the question did not arise in Senegal.

With regard to the implementation of article 6 of the Convention, various provisions of the Code of Criminal Procedure supplemented constitutional guarantees by providing effective protection and remedies. Article 76 of that Code gave all persons deeming themselves to be victims of a violation the right to institute legal proceedings and seek just and adequate reparation for damage suffered. Such requests for reparation could be made to a police

officer, an examining magistrate or the tribunal of the Court of Appeal. The plaintiff also had the right to appeal against the decision of the first court examining his case and take it to another court, as provided for by articles 483 and 484 of the Code of Criminal Procedure. In accordance with the fundamental law on the Supreme Court, the latter represented the ultimate recourse in appeals referred to it.

The CHAIRMAN requested the representative of Senegal to continue his statement at the following meeting.

The meeting rose at 1.10 p.m.