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Friday, 22 October 1971, at 11 a.m.

NEW YORK

Chairman: Mrs. Helvi SIPILÄ (Finland).

AGENDA ITEM 54

Elimination of all forms of racial discrimination *(continued)* (A/8367, A/8403, chap. XVII, sects. B and F; A/8418, A/8439);
***(a)* International Year for Action to Combat Racism and Racial Discrimination: report of the Secretary-General;**
***(b)* Report of the Committee on the Elimination of Racial Discrimination;**
***(c)* Status of the International Convention on the Elimination of All Forms of Racial Discrimination: report of the Secretary-General**

GENERAL DEBATE *(continued)*

1. Mr. SCOTT (New Zealand) said that the fight against racial discrimination was only one aspect, although a highly important one, of the broader problem of the defence and promotion of human rights, since racial discrimination in all its forms, including the institutionalized form called *apartheid,* deprived large numbers of human beings of the enjoyment of their human rights and fundamental freedoms. It was also a flagrant contradiction of the spirit and the letter of the Charter of the United Nations and the Universal Declaration of Human Rights.

2. There was no doubt that progress was slow, but at least the conscience of the world had finally been aroused to the injustice of racism, racial discrimination and racial prejudice, and that was an encouraging sign.

3. During the current International Year for Action to Combat Racism and Racial Discrimination, public interest on that subject in New Zealand had led the Government to undertake an extensive programme of activities. Comprehensive information about the programme was set out in the report of the Secretary-General (see A/8367, chap. II). The New Zealand Government's major contribution to the International Year was its decision to ratify the International Convention on the Elimination of All Forms of Racial Discrimination.

4. In spite of objections on the grounds that the relative harmony among the races making up society in New Zealand made ratification irrelevant, the Government had considered that the gesture would demonstrate at the international level its support for the principle of racial equality. With a view to fulfilling its obligations under the Convention, a Race Relations Bill had been introduced into the New Zealand Parliament on 9 July 1971. The enactment of the Bill would reaffirm New Zealand's commitment to racial equality and constitute a rejection of all doctrines or political systems based on the concept of racial superiority. It was anticipated that the Bill would be passed and the Convention ratified by New Zealand before the end of 1971.

5. The principles of racial harmony and racial equality had been proclaimed in New Zealand as long ago as 1840 in the Treaty of Waitangi, under which the Maori people were granted the rights and privileges of British subjects. The Treaty established New Zealand as a bi-racial community. Recently, the Government had invited the New Zealand Maori Council, a statutory body representing the Maori people in all parts of the country, to take part in discussions on the way in which the Treaty of Waitangi had been and was being applied.

6. The policy of the New Zealand Government was one of integration, which was not the same thing as assimilation or absorption. In other words, the Government's aim was to bring together different peoples enjoying complete equality in the eyes of the law and with equal opportunities in the social, economic, political and cultural fields. Each of the peoples would maintain its own cultural and social heritage, and many of the younger Maoris were greatly in favour of that principle, seeking what President Kennedy had called "equality in diversity".

7. Towards the end of the nineteenth century the Maori people had appeared to be dying out, but today, together with New Zealanders with Maori ancestry, they formed a rapidly increasing proportion of the population of New Zealand. In addition, there were in New Zealand growing numbers of Polynesians from various islands in the South Pacific with which New Zealand had been closely associated, and the peoples of the Cook Islands, Niue and Tokelau Islands were New Zealand citizens. The rate of inter-marriage between Maoris and New Zealanders was very high, which indicated a lack of significant racial tension.

8. Any shortcomings in racial harmony could not be ascribed to the usual causes of racial discrimination, namely slavery, the desire for cheap labour or for political or economic domination on the part of the majority race. The disabilities suffered by the racial minority arose from honest mistakes in the educational system, which had not paid sufficient regard to the cultural and social differences between the two races.

9. In recent times, the drift to the cities by large numbers of Maoris and other Polynesians had brought about difficulties of adaptation and great efforts had been made to overcome them.

10. Experience had indicated to the New Zealand Government that legislative measures alone could not maintain racial harmony but that political measures were necessary if complete equality of opportunity was to be achieved. Thus in New Zealand, through the Department of Maori and Island Affairs and the Department of Education, Labour and Social Security, the Government was providing help in education, vocational training and housing, and in all aspects of social welfare.

11. Experience had also shown that education was the key to racial equality and harmony. For that reason, education gave increasing recognition to the importance of the cultural heritage and to the Maori language, so as to make Maori children proud of their culture, and to help non-Maoris towards a better understanding of the Maoris. Many publications likewise endeavoured to develop an understanding between the races, and during the current year the Department of Education was preparing a special bulletin designed to encourage young people to investigate the nature of racial prejudice and racial discrimination and to study New Zealand as a multi-racial society.

12. New Zealand did not pretend to have solved all the problems arising when peoples of different races and cultures lived side by side; it had nevertheless advanced sufficiently to realize that *apartheid* was not the answer but that the real answer was a non-racial State.

13. The Declaration of Commonwealth Principles, adopted at the meeting of the Commonwealth Heads of Government at Singapore in January 1971, had reaffirmed the attitude of all the members of the Commonwealth on the issues of racial prejudice and racial discrimination. It had underlined the fact that each country must endeavour to root out the causes of intolerance, prejudice and inequality.

14. In conclusion, he referred to the United Nations seminar on racial discrimination held at Yaoundé, Cameroon, which had given the participants from a large number of countries an opportunity to discuss the serious problem of racial discrimination in a practical manner. On the subject of the International Convention on the Elimination of All Forms of Racial Discrimination, he said that it was one of the few United Nations conventions in the human rights field which provided specific machinery for verifying whether States were fulfilling the obligations they assumed when they became parties to such instruments. The Committee on the Elimination of Racial Discrimination had an important role to play in that direction, and its members should bear constantly in mind the need for exercising the utmost objectivity and impartiality. The Committee appeared recently to have departed from that attitude in the course of its activities. The New Zealand delegation hoped that the Committee would be able to devise working procedures which would allow it to concentrate on the mandate entrusted to it and avoid encroaching on the functions and responsibilities of other United Nations organs. New Zealand would be pleased to co-operate with the Committee to the best of its ability.

15. Mr. EL-FATTAL (Syrian Arab Republic) said that in view of the importance of the report of the Committee on the Elimination of Racial Discrimination he would refer only to part *(a)* of the agenda item under discussion, although he might wish to revert to parts *(b)* and *(c)* at a later stage.

16. The report of the Committee on the Elimination of Racial Discrimination (A/8418) submitted at the current session represented a considerable advance in the field of human rights, since unlike that of the preceding year it was a substantive report analysing the phenomenon of racial discrimination and the way in which it was practised. His delegation was nevertheless obliged to point out that the report did not contain general suggestions and recommendations based on an examination of reports and information received from the parties, since the Committee had not strictly made any during its third and fourth sessions. The report merely noted the decision taken by the Committee to ensure that all the parties would transmit their reports, and those concerning requests for additional information from certain States. It was to be hoped that the next report would contain suggestions and recommendations of a general nature based on the report submitted by the parties. Apart from that, the report was extremely useful and should enable the General Assembly to evaluate the work of the Committee.

17. His delegation would confine its remarks to questions of substance and to the observations and conclusions contained in the report, based on article 9, paragraphs 1 and 2, of the International Convention on the Elimination of All Forms of Racial Discrimination.

18. It considered that the parts of the Committee's report relating to the Committee's consideration of the reports submitted by two States parties, Panama and the Syrian Arab Republic (see A/8418, paras. 61 to 83), were particularly important. The Committee had been forced to conclude that there was a certain similarity between the situation in the Panama Canal Zone and the situation in the Golan heights, which had been occupied by the Israelis since 1967. In both cases the countries concerned found it impossible to carry out their obligations under the Convention in the part of their national territory which was under foreign domination. In both cases the Committee had decided that it was not empowered to request the relevant information from the United States or from Israel–which were not parties to the Convention–but that it could nevertheless examine the reports submitted and draw the attention of the General Assembly to those situations. It could therefore be concluded that an international convention in conformity with the purposes and principles of the Charter did not exempt the States which were not parties to it from their human rights obligations under the Charter. In the opinion of the Syrian Arab Republic, the obligations of States in that field was set forth primarily in the Charter, which, like the Universal Declaration of Human Rights, emphasized the obligations of all States in respect of all peoples and condemned racial discrimination in peace and war, in occupied territories and in sovereign territories, whether or not the States concerned were parties to the International Convention on the Elimination of all forms of Racial discrimination. The Committee had therefore acted in accordance with the general principles of the Charter and other international instruments in considering the report submitted to it on the situation in the Panama Canal Zone and in the Golan heights.

19. The second conclusion to be drawn from the report was that under the terms of the Charter, the sovereignty of States over their national territory was inalienable, as reaffirmed at the previous session by the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, under the terms of which the territory of a State could not be the object of military occupation resulting from the use of force in contravention of the provisions of the Charter or the object of acquisition by another State resulting from the threat or use of force. The Declaration also stated that no territorial acquisition resulting from the threat or use of force would be recognized as legal. It could therefore be concluded, as far as the Golan territories occupied by Israel since June 1967 were concerned, that the Syrian Arab Republic's sovereignty over those territories was incontestable.

20. In reporting on the situation in the Golan heights, the Syrian Arab Republic was dealing with questions under its own jurisdiction. The occupation of those territories prevented it from exercising sovereignty fully but did not affect its rights as stipulated under international law. Israel had annexed the Golan heights but that did not give it the right to decide which conventions were or were not applicable to the territory. That was clear from the comments published by the International Committee of the Red Cross on the fourth Geneva Convention referred to in the report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories.[1] Consequently the Syrian Arab Republic had not submitted a complaint disguised as a report. It had placed before the Committee a matter which came within its jurisdiction.

21. The third conclusion emerging from the report was that a State party to the Convention was entitled to report on racial discrimination practised on its own territory when such discrimination was engaged in by a third State which was not a party to the Convention. After discussing the nature of the report submitted by the Syrian Arab Republic and its own competence in the matter, the Committee had decided at its third session that the report in question was not complete and had asked that country, through the Secretary-General, to provide further information, in particular regarding the situation in the Golan heights. That request showed that the Committee had noted the report and considered itself competent to receive information from a State party on racial discrimination measures taken on the territory of that State by a third State which was not a party to the Convention.

22. There was a fourth conclusion to be drawn, namely that the Israeli measures and practices amounted to racial discrimination within the meaning of article 1 of the Convention. The Government of the Syrian Arab Republic had submitted the question of the situation in the Golan heights as a case of racial discrimination within its own territory because Israel had taken measures in that territory which came within the scope of the Convention. The policy pursued by the Israeli authorities in the Golan heights was in effect annexation: the application of Israel's civil and penal law to the occupied territories, the setting up of Israeli tribunals, and so forth. Those measures showed clearly that Israel intended to colonize that territory as it had colonized Palestine.

23. Some people argued that Israel was guilty only of violating the rules of war in the Golan territory and that consequently its actions did not fall within the scope of the Convention. A careful reading of article 1 of the Convention and its application to Israeli practices would show that that argument had no validity. Jewish sectarianism and the resulting measures of exclusion were even clearer in the Zionist definition of the word "Jew": Israel embodied ideas of religion and nationality in the same concept and determined the religion of Israeli citizens in accordance with the mother's religion. That law, which was applied in the Syrian territories under Israeli occupation, came within the scope of article 1 of the Convention.

24. The actions of the occupying Power should be judged in the light of its motives and objectives. Everyone knew that Israel's policy was designed to create a more extensive Jewish State in which an Arab minority would play only a minor role. The policy of exclusion and restriction applied to the population in the Golan heights might be explained by security considerations. But that would not justify the expulsion of whole groups or the destruction of their property in violation of numerous Security Council resolutions. The expulsion of Syrian Arabs from the Golan heights and the settling of colonists was undoubtedly an act of racial discrimination within the meaning of article 1 of the Convention.

25. It was those measures of exclusion and sectarianism by Israel—illustrated yet again at the preceding meeting by the Israeli representative's statement—which had forced the Syrian Arab Republic to report to the Committee on the Elimination of Racial Discrimination. At a press conference in September the Secretary-General, replying to a question on the problem of Soviet Jews, had stated that in his view the Universal Declaration of Human Rights embodied two inseparable rights: the right of everyone to leave his own country and to return to it and live there. He had also said that the Palestinians had been deprived of the right to return to their country for 23 years. The Secretary-General could not be accused of violating the Charter by denouncing that form of discrimination. The Committee was therefore competent to consider the situation in the Golan heights and to bring the matter to the attention of the General Assembly. It was to be hoped that the General Assembly would adopt the Committee's decisions and conclusions and would request the Committee to carry out a new study on the subject and submit recommendations and suggestions in accordance with article 9 of the Convention.

26. Lord GOWRIE (United Kingdom) said that the sincerity of people's condemnation of racial discrimination and racial tension must be judged by the effectiveness with which they combat them, and not by the degree of eloquence displayed or the number of resolutions adopted.

27. The United Kingdom, during the past 25 years, had handed back to domestic political control the responsibilities it had been exercising in respect of a large number of territories. It had nevertheless maintained close relations

[1] See document A/8389 and Corr.1, para. 45.

with most of them–a fact on which it prided itself and which explained why immigrants were coming to the United Kingdom in very large numbers. Immigration on that scale inevitably involved difficulties, but it was a matter of pride that the United Kingdom Government had always stressed the importance of racial harmony and the principle of absolute equality of all citizens before the law. It had always striven to handle the question with sense, justice and good humour and believed above all in compromise and conciliation. This approach had been given legislative backing by two Race Relations Acts which proscribed any incitement to racial hatred and any discrimination on grounds of race, colour or ethnic or national origin. If compromise and conciliation failed, the Race Relations Board set up by Parliament had the power to take court proceedings to put an end to discrimination and obtain damages for its victims.

28. His delegation recognized, however, that neither goodwill nor legislation was sufficient to eliminate the difficulties caused by racial intolerance. The problem was a global one, and it was proper that the United Nations should be concerned with the question. It would be helpful, in that connexion, if the Third Committee were less intent on drafting resolutions than on co-ordinating information and ideas of a practical and precise nature. Narrow political considerations should not be allowed to divert countries from their common objective of eliminating racial discrimination. The present need was to adopt a practical stance and seek appropriate remedies.

29. The Committee on the Elimination of Racial Discrimination set up for that purpose had embarked on its task. Regrettably it had in many ways fallen short of what had been expected of it. In the first place, the quality of the reports submitted under article 9 of the Convention often failed to meet the Convention's requirements: many of the reports were neither full nor frank. He therefore applauded the Committee's efforts to lay down guidelines on the information to be included by States parties to the Convention in their reports.

30. For the Committee members to be able to decide whether the laws and administrative procedures of States were sufficient to secure the elimination of racial discrimination, it was essential that they should be experts and exercise objective judgement in their consideration of the reports of the States parties. It was for that reason that article 8 of the Convention specified that Committee members should be experts of high moral standing and acknowledged impartiality elected by States parties from amongst their nationals who would serve in their personal capacity, consideration being given to equitable geographical distribution and to the representation of the different forms of civilization as well as of the principal legal systems. Should it transpire that Committee members were not, in fact, fulfilling those requirements, the Committee's authority would be gravely impaired. The number of States parties to the Convention at the time the Committee was set up was relatively small, which explained the unbalanced geographical composition. With the passage of time, the increasing number of ratifications had further upset the geographical balance. It was to be hoped that that could be rectified at the elections in January 1972.

31. His delegation was sorry to see that the Committee had not yet established its basic criteria for examining the reports submitted to it, and it was to be hoped that that omission would be rectified at the next session. The Committee had reported to the General Assembly that some of the reports of the States parties had been "satisfactory" when in fact it had not even discussed the substance of them but had merely considered how far they conformed to the set of guidelines issued. Furthermore, some of the reports which manifestly failed to comply with those guidelines had been classified as "satisfactory". His delegation hoped that the Committee would in future pay greater attention to the substance as well as the form of reports and that it would reach no conclusions before they had been fully examined by reference to objective criteria.

32. The Committee was also enjoined to examine petitions and reports relating to dependent territories. Opposed though his Government was in principle to that provision in the Convention, it had decided to co-operate with the Committee and would answer its questions on the British territories concerned. He felt, however, that the Committee should approach States parties directly without passing through the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples or the Trusteeship Council. In that connexion, the section of the report dealing with the Committee's findings on the dependent territories showed a frequent lack of consistency. The Committee's opinions were often based on inadequate information and were influenced by political considerations. The Committee had not confined itself to an investigation of whether or not racial discrimination existed in the territories; in dealing with certain territories, it had recognized its lack of information upon which to form an opinion, whereas in the case of others it had seen fit to criticize the activities of States not even parties to the Convention. That approach could not but detract from the reputation for objectivity and impartiality which the Committee needed to establish.

33. His Government was concerned by the fact that the Committee had reported to the General Assembly on allegations about States not parties to the Convention while specifically denying those States the opportunity of being heard. In so acting, the Committee had exceeded its authority. He trusted that those shortcomings on the part of the Committee were due to its inexperience, and would disappear before long.

34. In conclusion, he stressed the relationship which existed between racial intolerance and the social situation. It was in the light of that consideration that his Government was trying to develop social services in areas with high immigrant concentrations.

35. Mrs. ESHEL-SHOHAM (Israel), speaking in exercise of the right of reply, said that the Committee on the Elimination of Racial Discrimination set up under the Convention was obviously bound by the latter's provisions. Thus, when the Syrian Arab Republic included complaints against Israel in its report to the Committee, the Committee should have informed it that lodging complaints against States not parties to the Convention was out of order. Her Government had intervened with the Committee at that

juncture and had asked to be represented and to be heard during the discussion. The Committee had categorically refused and had gone on examining the Syrian Arab Republic's complaints. Those complaints quite clearly had had nothing to do with racial discrimination or human rights, but the Syrian Arab Republic was trying, as was its wont, to inject the question of the Israeli-Arab conflict into the point at issue. The truth was that the inhabitants of the Golan heights had not been expelled, as the Syrian Arab Republic had alleged in its report: they had fled in order to escape from the war, and those who had remained enjoyed the full exercise of all fundamental rights and freedoms.

36. Israel was prepared to try all means available to solve the Middle Eastern problem. The Syrian Arab Republic thus seemed to be displaying particular cynicism in raising that question while refusing to assist in any efforts in that direction. For example, it refused to accept Security Council resolution 242 (1967), to co-operate with Ambassador Jarring's mission and to do anything whatsoever to restore peace and normality in the region.

37. Mr. SAYEGH (Kuwait), replying to the United Kingdom representative, suggested that some of the latter's remarks concerning the report of the Committee on the Elimination of Racial Discrimination were liable to create confusion. In the first place, the Committee members had not been elected, in the proper sense of the word. Only 17 candidatures had been submitted at the first meeting of the States parties to the Convention. Thus the unbalanced geographical distribution was solely due to the fact that some countries had not submitted candidates: for example, the Latin American countries had submitted only two.

38. Reports received by the Committee from States parties were not always prepared on the lines suggested by the Committee; some of them were much too short or did not provide the information requested. Consequently, the Committee had to devote a great deal of its time to checking that the reports which reached it really contained all the information requested, so that if necessary additional information could be requested from the States concerned. The Committee's decision that certain reports were "satisfactory" referred only to their form and not their content. The United Kingdom representative had stated that some reports had been classified as "satisfactory" when in fact they were not. He would like to know which reports those were; there too, in any case, the word "satisfactory" referred only to their form.

39. The United Kingdom representative had regretted that the Committee did not approach the Administering Authorities directly to obtain information on the dependent territories rather than going through the intermediary of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples or the Trusteeship Council. Article 15 of the Convention, however, did not authorize the Committee to approach the Administering Authorities directly.

40. Mr. EL-FATTAL (Syrian Arab Republic), exercising his right of reply, said that at the previous meeting the Israeli representative had reproved the Soviet Union for not observing article 1 of the Convention. He wondered if Israel was sincere when it invoked an article of the Convention against another country without having itself acceded to the Convention. If Israel was really concerned about racial discrimination, it should accede to the Convention. It would then be at liberty to lodge complaints against other States parties.

41. He noted that Israel had seen fit to quote only Security Council resolution 242 (1967) although a great number of other resolutions relating to the Middle East condemned Israel and its policies.

42. As for the Jarring mission, one had only to read the Secretary-General's report on the work of the Organization to see that Israel had always refused to co-operate with it.

43. Finally, despite the Israeli representative's statement to the contrary, the Syrian delegation was not deviating from the item under discussion when it spoke of the Middle East situation. If Israeli aggression had reached such proportions that it was justifiable to speak of it in connexion with almost every item on the agenda, Israel had only itself to blame.

44. Mr. MOUSSA (Egypt) said that, despite the Israeli delegation's assertions to the contrary, Israel had failed completely to respect Security Council resolution 242 (1967). As for the Jarring mission, the Israeli Government, far from trying to co-operate with it, had tried to ensure its failure: it was sufficient to read the appropriate passage of the Secretary-General's report on the work of the Organization (see A/8401 and Corr.1, chap. I) to be convinced of that fact.

45. Lord GOWRIE (United Kingdom), replying to the representative of Kuwait, recognized the important role that representative had played in the Committee on the Elimination of Racial Discrimination, but Lord Gowrie's previous comments both on the composition of the Committee and on the criteria which had guided the examination of the reports remained valid. He had criticized the geographical distribution of the members of the Committee not because he was unaware of the circumstances in which the elections had taken place, but because he hoped that efforts would be made in the future to resolve that question in a more satisfactory manner.

46. With reference to the reports of the States parties, the representative of Kuwait had confirmed that they were indeed classified according to purely formal criteria, without touching on the heart of the problem. There too it was to be hoped that, in the light of further experience, the Committee would be able to establish more satisfactory criteria.

The meeting rose at 1.05 p.m.