



# International Convention on the Elimination of All Forms of Racial Discrimination

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## Committee on the Elimination of Racial Discrimination 110th session

### Summary record of the 2999th meeting

Held at the Palais Wilson, Geneva, on Thursday, 17 August 2023, at 3 p.m.

*Chair:* Ms. Shepherd

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*Combined nineteenth to twenty-third periodic reports of Senegal*

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*The meeting was called to order at 3.05 p.m.*

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

*Combined nineteenth to twenty-third periodic reports of Senegal (CERD/C/SEN/19-23; CERD/C/SEN/Q/19-23)*

1. *At the invitation of the Chair, the delegation of Senegal joined the meeting.*
2. **Mr. Ndiaye** (Senegal), introducing his country's nineteenth to twenty-third periodic reports (CERD/C/SEN/19-23), said that the process of drafting the reports had been participative and had involved both government institutions and civil society.
3. Senegal was committed to promoting and respecting human rights. Its efforts to that end included the 2016 constitutional amendments which had strengthened political rights and recognized the right to a healthy environment, natural resources and land rights. Progress had been made towards combating discrimination, in particular through the adoption of Act No. 2022-03 of 14 April 2022, which amended certain provisions of the Labour Code relating to workplace discrimination. Under that Act, a new definition of discrimination had been added to the Labour Code with a wide range of prohibited grounds, including race, colour, religion, national origin and ethnicity. The Act also provided for the establishment of a National Observatory on Workplace Discrimination, which was responsible for coordinating national policies and programmes to combat in employment. In 2021, a decree had been issued to protect pregnant women against workplace discrimination. In 2022, a legislative reform had been undertaken to better guarantee the rights of refugees and stateless persons, including through the adoption of a law that provided for the establishment of an administrative body to ensure legal and administrative protections for them. The new legislation also provided for their rights to appeal decisions taken regarding their refugee status, to be reunited with their families and to obtain citizenship, in line with the applicable laws and regulations.
4. Several programmes had been implemented with a view to preventing and eradicating all forms of discrimination. In Casamance, a development project with a budget of 23 billion CFA francs (CFAF) had significantly improved agricultural production and transport links, which had also had a positive impact on access to social services. An economic development project in the same region focused on the most vulnerable communities and aimed to improve access to drinking water and infrastructure and to ensure good governance, with the participation of civil society.
5. Public consultations were undertaken with populations affected by the extraction of natural resources. An interministerial committee ensured that the compensation provided for under the Mining Code was actually paid to beneficiaries.
6. With regard to women's rights, action plans and strategies had been adopted to combat gender-based violence, improve gender equality, eradicate female genital mutilation and fight child marriage. Legislation had been adopted to more effectively fight gender-based violence and rape.
7. In the education sector, a national *daara* day had been introduced through a decree issued in 2023 and a national policy for inclusive education had been approved. Progress had also been made in the health sector. Free health care was provided for children under the age of 5 and pregnant women.
8. Significant efforts had been made to eliminate discrimination against persons with albinism, including by means of awareness-raising in the media. Associations of persons with albinism received distributions of sunscreen free of charge. Persons affected by albinism were entitled to an equal opportunities card with which they could gain access to a range of benefits, including in health care, employment, education and transport.
9. Steps were being taken to fight prison overpopulation and reduce the length of pretrial detention, including through the introduction of monitoring using an electronic tag as an alternative to prison. The criminal justice system had been reformed in 2016 to increase the efficiency of proceedings, including appeals, thus avoiding long periods of pretrial detention

for accused persons. The budget of the National Observatory of Places of Deprivation of Liberty had been almost doubled with a view to improving its effectiveness and independence. A reform was under way to strengthen the criminal legislation against human trafficking and improve witness protection. Another ongoing reform was aimed at bringing the Senegalese Human Rights Committee into line with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).

10. Under the Emerging Senegal Plan, a range of programmes had been developed to improve social protection, access to basic social services and social relations in rural and urban areas. His country was working and would continue to work to achieve a society without discrimination in which all people were able to participate.

11. **Ms. Stavrinaki** (Country Rapporteur) said that she would like the delegation to provide recent statistics on the ethnic makeup of the State party's population, as well as on socioeconomic indicators in fields such as housing, employment, education, health and social security, disaggregated by ethnic origin, sex and gender, age, language and place of residence, whether rural or urban. The delegation was invited to include statistical data on migrants, refugees, asylum-seekers and stateless persons.

12. She wished to know whether direct and indirect discrimination was prohibited under the State party's legislation, in line with article 1 of the Convention. It would be useful to learn whether the State party was working to identify or implement the measures necessary to enable ethnic groups to request the adoption of concrete and special measures by the authorities to ensure that they could exercise their human rights on an equal footing, in accordance with article 2 of the Convention. Given the absence of provisions or policies enabling the adoption of special measures for that purpose, she wondered how the State party guaranteed the equal enjoyment of rights for individuals and ethnic groups who were more affected by problems such as the climate crisis.

13. The delegation was invited to provide information on any recent cases in which article 166 bis of the Criminal Code, which provided for penalties for public officials who discriminated on the grounds of race, ethnicity or religion, had been invoked, including the number of proceedings initiated and their outcomes.

14. The Committee's general recommendation No. 36 on preventing and combating racial profiling by law enforcement officials recommended the adoption of administrative and legislative measures to prohibit racial profiling. She wished to know whether the State party had taken any such measures. The Committee would appreciate a clarification of whether all the grounds for racial discrimination prohibited under the Convention, including descent, were provided for in the Criminal Code and if such grounds constituted aggravating circumstances. She would like to know whether the State party collected and could provide data or information on the application of legislation relating to racially motivated crimes and hate speech. She would like to know if the penalty of 10 to 20 years of hard labour for certain crimes with the aggravating circumstance of being racially motivated was still applicable and whether it had ever been imposed.

15. She noted that Act No. 65-40 of 22 May 1965 on seditious organizations provided for the dissolution by decree of organizations whose activities involved racial, ethnic or religious discrimination or incitement to such discrimination. She would appreciate data on the application of that law and clarification as to whether it provided for the punishment of persons who participated in such organizations. In addition, she would be grateful to know who could lodge complaints under Act No. 2008-11 of 25 January 2008 on cybercrime, how many such complaints had been received, whether those complaints had been investigated and what the outcomes had been.

16. She was concerned about reports that hate speech against lesbian, gay, bisexual, transgender, queer and intersex persons was being propagated on social networks in the Wolof language. She would be interested to know what measures the State party was taking to prevent hate speech on social networks and to disseminate and implement general recommendation No. 35 on combating racist hate speech. She would also welcome information on the recent suspension of access to certain applications and social networks, which was liable to restrict freedom of expression.

17. Given the State party's assertion that the Convention formed an integral part of its domestic legislation, it would be useful to have examples of cases in which the provisions of the Convention had been invoked or directly applied by the national courts. She wondered whether legislation or judicial and administrative practice provided for the involvement of civil society organizations and human rights defenders in proceedings related to racial discrimination so as to facilitate victims' access to justice. She also wondered what measures had been taken to encourage the participation of civil society organizations, including those representing migrants and refugees, in the implementation of the Convention.

18. The State party had cited the absence of complaints and court decisions on racial discrimination as evidence that such discrimination did not occur in Senegal. However, according to a 2018 survey of migrants in Dakar, around a quarter of those migrants had reportedly been victims of discrimination, assault or robbery, and most of those victims had subsequently received no social, financial or medical assistance. Against that backdrop, she would like to know what steps the State party had taken to raise awareness of available legal remedies for non-citizens who had been subjected to discrimination and whether it had implemented any programmes to promote access to such remedies. If so, she wished to know how many persons those programmes had targeted, disaggregated by gender, age and religion, and whether they had provided information on the competence of the Committee to receive and consider communications from individuals claiming to be victims of violations of the Convention by the State Party. She encouraged the State party to provide up-to-date information on the number of complaints submitted, investigations and prosecutions launched and sanctions handed down for racial discrimination. She would be grateful to know what measures the State party had taken to improve judicial officials' and law enforcement officers' knowledge of the Convention and general recommendation No. 36 on preventing and combating racial profiling by law enforcement officials. Lastly, she was eager to know whether the State party had taken any measures, including the enactment of specific laws, to abolish all traces of the caste system in the country and to combat the prejudice and stereotypes perpetuated by that system.

19. **Ms. Tebie** (Country Task Force) said that, in view of the downgrading of the Senegalese Human Rights Committee from A to B status by the Global Alliance of National Human Rights Institutions in 2007, she would like to know what measures the State party had taken to bring that Committee into full compliance with the Paris Principles and to provide it with adequate human and financial resources, as recommended by the Committee in its concluding observations on the sixteenth to eighteenth periodic reports of Senegal (CERD/C/SEN/CO/16-18). She wondered what was being done to prevent the Senegalese Human Rights Committee from being downgraded again; when the bill amending and replacing Act No. 97-04 of 10 March 1997, which addressed the status of the national Committee, would be enacted; and what action the national Committee had taken to protect human rights in accordance with its remit, particularly in the area of eliminating racial discrimination. It would be useful to know how many complaints of racial discrimination the national Committee had received, how many of those complaints had led to legal action and convictions and what sentences had been handed down. She would be grateful if the delegation could explain why it had not submitted a report as part of the current review of the State party's report.

20. The delegation might wish to provide more detailed information on the Office of the Ombudsman, including on its efforts to combat racial discrimination, its human and financial resources and its relationship with the Senegalese Human Rights Committee and other human rights institutions. She was eager to know how the Senegalese Human Rights Committee, the Office of the Ombudsman, the Human Rights Directorate of the Ministry of Justice and the National Advisory Council on Human Rights and International Humanitarian Law coordinated their activities to avoid the duplication of work and whether all those institutions had contributed to drafting the State party's report.

21. Although the State party had taken positive steps to improve the management of natural resources in the extractive industries, the Committee had received reports that the extraction of phosphates, gold, oil and gas in various regions could adversely affect the environment and the health and lives of persons living nearby. She wished to know which ethnic groups were most likely to be affected by such activities and what measures the State

party had taken to mitigate their negative impacts – in particular radiation and mercury and cyanide contamination – on the environment and local populations. In that regard, she would be grateful to know what progress had been made in the construction of mercury-free gold processing units in the mining areas of Kédougou. The Committee would be interested to know what consultation mechanisms the State party had put in place for communities that were likely to be affected by the extraction of natural resources and what steps it had taken to increase the transparency of mining projects and ensure that equalization funds benefited local communities. The delegation was encouraged to provide statistics on any compensation awarded for damages, disaggregated by area and mining site. Had the State party made any particular efforts to resolve tensions between mining companies and local communities?

22. In the light of reports that the effects of climate change – in particular rising sea levels, coastal erosion, desertification and drought – were having serious social and economic impacts in certain parts of the country, she would like to know what actions the State party was taking to protect the livelihoods, traditions and ways of life of persons living in the areas most affected by such phenomena. In particular, the Committee would like to find out what strategies had been put in place to protect the coastal city of Saint-Louis and neighbouring towns against coastal erosion and to mitigate desertification in the Fouta region and its impact on the livelihoods of the people who lived there. The delegation might wish to explain what the outcome of those strategies had been.

23. She would be grateful for statistical information on the number of persons with albinism in the State party and on the ethnic groups most affected by that condition. Given claims that persons with albinism were subjected to discrimination, physical and sexual abuse, abduction and mutilation, including the amputation of their body parts for use in occult rituals, she wished to know what the State party was doing to combat the torture and cruel, inhuman and degrading treatment of such persons. In addition, it would be helpful to know what was being done to facilitate the access of persons with albinism to health care, particularly given their susceptibility to vision loss and skin cancer; to education, including literacy courses; and to employment. She was eager to know whether the State party had introduced a specific law on the protection of persons with albinism, how many crimes against such persons had been reported, how many had been investigated and prosecuted, how many convictions had been handed down and whether the victims had received adequate redress.

24. Against the backdrop of reports that women in the State party faced multiple discrimination both in law and in practice, she would be interested to know what measures were being taken to combat intersectional forms of discrimination, the double social stigmatization of women who were irregular migrants and the self-stigmatization of migrant women who returned to Senegal. It would be useful to know how many migrants had returned home and what systems the State party had put in place to promote their well-being and facilitate their social reintegration. The Committee would welcome information on the steps taken to eliminate practices such as forced marriage, early marriage and female genital mutilation and to promote women's access to land, especially in the context of inheritance. Did the State party plan to strengthen women's rights under the Family Code, as recommended by the Committee on the Elimination of Discrimination against Women?

25. **Mr. Kut** (Follow-up Coordinator), noting that the State party had failed to provide information as a follow-up to the previous concluding observations issued by the Committee, said that he hoped the State party would provide information, within a year, on its follow-up to the recommendations that would be highlighted by the Committee in its forthcoming concluding observations. He wished to know why the State party was taking so long to bring the Senegalese Human Rights Committee into full compliance with the Paris Principles and to provide it with adequate human and financial resources.

26. **Mr. Yeung Sik Yuen** said that he welcomed the replacement of the assize courts with permanent criminal courts in the State party. He would be grateful to know whether the assize courts had been composed of a judge and jury; how many cases they had heard per year; how many criminal cases had been awaiting trial when the assize courts had been abolished; which courts had subsequently heard such cases; what the outcome of those hearings had been; and how many criminal cases were currently awaiting trial. In addition, he would like to know

whether legal aid was provided in both civil and criminal proceedings, and who was eligible to receive it.

27. **Ms. Esseneme** said that she wished to know whether the sentences envisaged in the Criminal Code for rape took into account the characteristics of the victim, such as age, socioeconomic status and physical and mental capacity. She welcomed the State party's use of electronic monitoring as an alternative sentence to prison but would be interested to know how the monitoring worked in practice and how many persons had received such sentences. Lastly, she would like to know how the State party, in its efforts to combat begging, distinguished between beggars and itinerant poets and musicians, who generally asked for money as recognition for their performances.

28. **Mr. Diaby** said that, while Senegal had one of the oldest national human rights institutions in Africa, in the past decade its status had waned. The Committee would be grateful if the delegation could explain why progress towards implementing the Paris Principles had stalled over the preceding decade and why the Senegalese Human Rights Committee reportedly received less resources than equivalent organizations in neighbouring countries. The Committee had received reports that the national Committee was run by sitting politicians. It would thus like to find out precisely who was in charge of running the national Committee. It would be useful to know whether civil society had been consulted, especially with regard to racial discrimination issues, during the drafting of the new law regulating the national Committee. He wondered how many civil society organizations in Senegal were working to tackle racial discrimination and whether any had been involved in the drafting of the State party's periodic report.

29. He would like to know whether any investigations had been conducted into the reported deaths of more than 30 human rights defenders at the hands of law enforcement officials in recent months, what internal investigation mechanisms existed within the law enforcement and security services and whether any laws were in place to grant protections to human rights defenders.

30. **Ms. Tlakula** said that the Committee had received reports that several ethnic minority communities and small-scale fishing communities had lost their livelihoods as a result of oil and gas projects. Noting that migrants seeking to leave Senegal by boat often faced life-threatening conditions, she would like to know whether the Government had investigated the reasons why individuals undertook such risky forms of migration and whether the loss of livelihood as a result of oil and gas projects was a driver.

31. **Mr. Amir** said that he wished to pay tribute to the first president of Senegal, Léopold Sédar Senghor, who had done much to increase appreciation of black identity.

*The meeting was suspended at 4.35 p.m. and resumed at 4.50 p.m.*

32. **Mr. Ndiaye** (Senegal) said that, thanks to the work of Léopold Sédar Senghor and the continued efforts of the Government, discrimination had been eradicated in Senegal, and the various ethnic groups lived in symbiosis throughout the country.

33. The first national census had been conducted in 2013 and the second in 2023. The data from the second census had been used as the basis for the State party's report. The Government planned to conduct a housing census in 2024. Unfortunately, no civil society organizations had been able to submit their own reports.

34. The Senegalese Human Rights Committee was a source of national pride. Although it had lost its A status in 2012 as a result of problems related to financial independence and the composition of its membership, the Government had been working to restore the Committee to its full standing. Lengthy consultations had been held with civil society on the new law regulating it. Under the new law, which had been drafted taking into consideration the Paris Principles, its president would hold a non-renewable six-year term and there would be 12 members, all of whom would benefit from legal protection. In addition, the name of the national Committee would be changed to the Senegalese National Human Rights Commission. While the bill was awaiting approval by the legislature, the Committee continued to function, in accordance with the current law. In 2023, the resources allocated to the national Committee had doubled, to CFAF 100 million. Premises had also been allocated for its use.

35. The Senegalese Human Rights Committee, the Human Rights Directorate of the Ministry of Justice and the National Advisory Council on Human Rights and International Humanitarian Law worked in cooperation. The National Advisory Council was a tripartite body, including members from the Prime Minister's Office, from government ministries and from civil society. It was responsible for drafting the State party's periodic reports, in which it adopted a participatory approach.

36. The State ensured that all local populations affected by natural resource extraction projects benefited from support, including educational and health programmes. Environmental impact assessments were also conducted at the site of all projects. The communities affected by such projects were not of any one specific ethnicity. To promote transparency in the extractive industry, the revenue of all affected sectors was made public. The Public Delegation for Social Protection and National Solidarity within the Office of the Presidency ensured that all low-income groups received support, including financial aid.

37. The former system of assize courts had been replaced by a system of criminal courts because the backlog of cases under the former system had become unmanageable. The new system worked much better; waiting times for sentencing hearings had become much shorter. With regard to legal aid, he confirmed that all persons charged with a crime were assigned a lawyer. Many coastal residents in Senegal lived off fishing; they were not of any specific ethnicity and were linked only by their profession. The Government acknowledged that some methods of migration were unsafe. However, everyone had the right to leave the country.

38. The Government had no record of 30 deaths of human rights defenders at the hands of the security forces. All citizens had the right of recourse to the courts in the event of problems with the security forces. Rape had been criminalized and the sentence had been increased to a minimum of 10 years in prison. Electronic bracelets could be used as an alternative to incarceration only with the agreement of both the magistrate and the detainee. The scheme had seen positive take-up by magistrates and detainees and had successfully reduced prison overcrowding. Convicted persons sentenced to more than 3 years in prison could be placed under house arrest, and persons sentenced to less than 3 years could be placed under monitoring.

39. Government programmes were in place to reduce child begging. Begging was an offence and carried a penalty of 5 years in prison. Forcing a child into begging was considered an aggravating circumstance.

40. From 2020 to 2022, the Ministry of Labour and Social Dialogue had created more than 8,000 jobs a year at between 1,600 and 1,800 establishments. Some 3.7 million children were in education, including more than 1.9 million girls, and about 9,000 children with disabilities were in school. All traditional Qur'anic schools were subject to government inspection. In 2022, 12 female child migrants had entered Senegal. All had been placed in specialist units within reception centres.

41. **A representative of Senegal** said that there was no clear link between migration and the exploitation of natural resources. If necessary, the Government could provide information on the compensation offered to persons engaged in fishing who had been displaced by oil and gas projects. Senegal was currently developing a migration action plan to help tackle the issue of migration. An interministerial committee was also in place with a mandate to examine the drivers of emigration.

42. The Human Rights Directorate was a technical organization within the Ministry of Justice and was responsible for implementing government policies for the protection and promotion of human rights. The National Advisory Council on Human Rights and International Humanitarian Law was the national mechanism for drafting national reports and for following up on the implementation of recommendations made by international human rights bodies. The Senegalese Human Rights Committee was represented on the National Advisory Council. In addition, all reports drafted by the Council were transmitted to the Committee after drafting.

43. **Mr. Ndiaye** (Senegal) said that, in response to recommendations received by the State party, the Government had drafted a bill that would grant protection to foreign nationals who became victims of crime. The bill was currently under consideration.

44. **Ms. Stavrinaki** said she noted that the delegation claimed that there was no racial discrimination in the State party and that all ethnic groups were treated equally. There might be no discrimination in legal terms, but the situation could be quite different in practice. There was a lack of adequate resources to ascertain whether racial discrimination existed in practice.

45. She appreciated the fact that Senegal was deemed to be the Land of Teraanga, meaning the land of hospitality. However, the Convention was an international legal instrument that imposed specific obligations in terms of legislation, monitoring procedures, practical measures and policies. Data concerning the State party were available from diverse sources, such as the European Union-Senegal Joint Strategy Document. She wished to know how such data were compiled and how the State party ensured that all sectors of the population had equal access to rights. It was her understanding that the State party was unwilling to recognize the existence of a caste system. However, issues related to the caste system had been addressed by the International Dalit Solidarity Network, the Committee on the Rights of the Child and the Universal Periodic Review Working Group.

46. She commended the recent amendments to the Labour Code, which included an all-encompassing definition of discrimination in employment. It was regrettable, however, that there was no reference to discrimination based on descent.

47. **Mr. Ndiaye** (Senegal) said that the Constitution prohibited all forms of discrimination. Moreover, the authorities and the judiciary had investigated the possibility of discrimination in practice and had not found any such cases. If they had identified cases of discrimination, they would have taken the necessary action to eliminate such conduct. Senegal was called the Land of Teraanga because its communities were mutually hospitable. No cases of discrimination based on descent had appeared in the media. Furthermore, the Ministry of Culture implemented a policy of social harmony and promoted interaction between different ethnic groups. The country had a unique tradition of what was known as “cousinhood”, which would hopefully be maintained.

48. **The Chair** said that she had never found any post-colonial society in which discrimination was non-existent. For example, certain children were denied access to quality education in many societies. There was direct discrimination, but also structural and indirect discrimination.

49. **Ms. Stavrinaki** said that the World Bank had referred to structural inequalities. With regard to the caste system, she underscored the fact that the distinction between people of noble ancestry and others persisted in the State party. The Committee attached great importance to the provision of statistics and other indicators because the lack of such data impeded its work.

50. **Mr. Ndiaye** (Senegal) said that the judiciary and the administrative authorities would certainly take all necessary steps to prevent discrimination on the grounds of a person’s ancestry. In practice, however, such issues were never brought to their attention. He reassured the Committee that the authorities would look into the matter and address any problems that were detected.

51. **Ms. Tebie** said that the Committee had not received a report from the Senegalese Human Rights Committee. She asked whether action was being taken to prevent early or forced marriage and to facilitate women’s access to land as a source of income.

52. **Ms. Esseneme** said that the Committee wished to hear about legal aid provided to victims of offences who lacked the financial means to hire a lawyer and institute proceedings, particularly when the offences in question involved acts of discrimination. Noting that child begging was currently recognized as an aggravating circumstance in legal proceedings, she wished to know whether the children or their parents were prosecuted in such cases. She would like to know whether the rape of minors, persons with albinism or other vulnerable persons was an aggravating circumstance entailing harsher penalties. Electronic bracelets could be used either to limit pretrial detention or to replace a prison sentence of less than 3 years. She wished to know whether suspects were released under supervision or placed under house arrest.

53. **Mr. Diaby** said that the Committee welcomed the establishment of the new National Human Rights Commission, which was about to assume its functions. He would like to



receive information on campaigns to raise awareness of the Convention and of the grounds for discrimination specified in article 1 of the Convention. It was possible that people hesitated to submit complaints of discrimination if they lacked confidence in the national system to deal with such complaints.

54. **Ms. Stavrinaki** said that she would like to know whether civil society organizations had sufficient means to express their opinions, given the restrictions imposed on access to the Internet and other social media. The delegation might wish to comment on the fact that a study by the National Agency for Statistics and Demography and the International Organization for Migration had reported that migrants in Dakar were denied assistance for access to justice.

55. **Mr. Ndiaye** (Senegal) said that restrictions had recently been imposed for a brief period on TikTok because it had been linked to a brutal attack by seven individuals who had thrown Molotov cocktails at civilians in a vehicle, killing and injuring the passengers. The population had been deeply shocked by that incident, and when the images had begun to circulate on social media, the restrictions had briefly been imposed in order to maintain law and order. Restrictions had also been imposed briefly on access to the Internet in response to criminal demonstrators who had caused several fatalities and who were using the Internet to coordinate their terrorist activities.

56. With regard to rape, aggravating circumstances were recognized when the victim was a minor and the perpetrator had authority over the victim. The minimum sentence in such cases was a 10-year term of imprisonment. Awareness-raising campaigns were conducted for all treaties to which Senegal had acceded. Legal aid was provided to victims of all types of offences who lacked the financial means required for their defence. The current budget for such assistance was CFAF 800 million.

*The meeting rose at 6.05 p.m.*