

AFGHANISTAN

CERD A/40/18 (1985)

349. The initial report of Afghanistan (CERD/C/111/Add.3) was considered by the Committee at its 718th and 719th meetings, on 18 March 1985 (CERD/C/SR.718 and SR.719).

350. The report was introduced by the representative of Afghanistan, who informed the Committee of the basic objectives of his Government in the political, economic and social spheres. He pointed out that over 350 new laws had been promulgated since 1978 to give effect to those objectives.

351. Some members of the Committee pointed out that Afghanistan's initial report as such was welcomed, since it opened a dialogue between the reporting State and the Committee. They regretted, however, that the report failed to comply with the Committee's general guidelines (CERD/C/70/Rev.1), did not deal with the articles of the Convention sequentially and lacked information regarding most of the articles of the Convention. Other members pointed out that the reality in Afghanistan was in glaring contrast to the idyllic picture depicted in the report. Seven years after the April 1978 Revolution, people were still fighting against it and 4 million Afghan refugees had fled to neighbouring countries. They stressed that the reporting State had the right to draw the Committee's attention to any factors and difficulties which it felt were impeding the implementation of the Convention, whether as a result of internal or external forces, or as a result of the intervention of other States. Members expressed the hope that the next report would follow the Committee's guidelines and provide more detailed information.

352. Members noted that a series of measures had been adopted or were about to be adopted to implement the provisions of the Convention. It was pointed out that the establishment of a new legal system in a new State was a long process, and that the adoption of over 350 legal instruments showed how far that process had gone in Afghanistan despite the obvious difficulties. A number of those instruments reflected the idea and principles of the Convention. The Fundamental Principles had served as the basis of the Government's approach to the implementation of the Convention. However, the reference to an interim constitution indicated that Afghanistan had not yet returned to normal conditions and was in an interim stage of radical change. The concept of racial discrimination as defined in the Convention might be taken into account when the final constitution was drafted. Members stated that until the full text of the Fundamental Principles was available to the Committee, it would be impossible to say whether the rights set forth in the Convention were in fact guaranteed. They were also interested in receiving the texts of the decrees designed to nullify the discriminatory provisions contained in 350 legal instruments relevant to the Convention adopted since the Revolution.

353. The Committee requested that information on the ethnic and linguistic composition of the population be provided in Afghanistan's second periodic report.

354. In relation to article 2 of the Convention, the statement in paragraph 10 of the report that racial discrimination no longer existed in Afghanistan was welcomed. It was, however, asked how such discrimination, which had existed before the Revolution, had been eradicated, since it was not

possible to eliminate discrimination by fiat alone. It was noted that the National Fatherland Front ensured full and equal participation of Afghan nationals in State affairs, and further information was requested on who could become a member of the Front, whether it was affiliated with other organizations and how it functioned.

355. With regard to article 3 of the Convention, members of the Committee commended the Afghan Government on its inclusion of a clause in the Fundamental Principles which supported the struggle against racial discrimination and apartheid. More detailed information, however, was needed with regard to Afghanistan's implementation of article 3.

356. In connection with article 4 of the Convention, members of the Committee asked how the problem of racial discrimination, which had existed before the Revolution, had been dealt with. They indicated that the provisions of that article were not adequately met since they required certain behaviour to be legislatively penalized.

357. Regarding article 5 of the Convention, members of the Committee noted that all Afghan nationals were equal before the law and asked for clarification as to whether non-nationals residing in Afghanistan were also considered to be equal before the law. They requested further information concerning article 7 of the Fundamental Principles which guaranteed equality among all Afghan nationals indifferent aspects of life. They wished to know how land reform had benefited the poorer groups and how the gap between agricultural and nomadic populations had been bridged. They pointed out that the reforms needed to be spelt out in so far as they related to the various ethnic groups so that the Committee could assess how, in actual practice, the full and equal enjoyment of human rights was guaranteed to all social groups. In that context, members requested data on income levels, trade-union activities, employment and public health for the various ethnic groups of Afghanistan. Members also wished to know more about steps taken to ensure that the children of the nomadic population had access to education and literacy programmes. The Committee also needed information relating to the implementation of the right to freedom of opinion and expression and the right to freedom of peaceful assembly and association.

358. Several members of the Committee sought clarification regarding the human rights situation in Afghanistan since the Revolution of 1978 and foreign intervention of December 1979. They expressed their profound concern over the statement in the report on the situation of human rights in Afghanistan, prepared by the Special Rapporteur of the Commission on Human Rights (E/CN.4/1985/21), that massive violations of human rights, including torture, bombing and crop destruction, were taking place in the context of the continuing armed conflict in Afghanistan. They regretted that the Afghan authorities had not permitted the Special Rapporteur to visit the country. The view was also expressed that in accordance with international law, a State had a right to assist a neighbouring State in countering aggression in its territory.

359. Members noted that there were more than 4 million refugees from Afghanistan in Pakistan and the Islamic Republic of Iran and asked whether conditions were being created for those refugees to return home in honour and safety. They expressed the hope that the Government would do its utmost to implement article 5 of the Convention and to humanize the armed conflict while efforts to find a political solution continued.

360. As far as article 6 of the Convention was concerned, the Committee was interested in receiving information about the Civil Code, recourse procedures and reparation for acts of racial discrimination, as well as when the organization of the courts would be implemented. Members noted that the right of persons to defend themselves in court in their mother tongue was guaranteed by the law and asked what provisions were made for providing interpretation.

361. The Committee requested that the next report of Afghanistan should contain detailed information on article 7 of the Convention.

362. Replying to the members of the Committee, the representative of Afghanistan assured them that all the questions raised and concerns expressed would be faithfully transmitted to his Government and that his country would endeavour to follow the Committee's guidelines in its next periodic report and would provide detailed information on measures to implement articles 2, 4, 5, 6 and 7 of the Convention. There were difficulties in implementing the Convention due to a wide variety of factors relating, for example, to tradition and illiteracy, but there were also outside obstacles as a result of the activities of counter-revolutionaries supported from abroad, who were trying to sabotage the reforms being carried out. Some of the questions asked during the consideration of Afghanistan's report, such as the one regarding the continuing conflict in Afghanistan, were in no way relevant to the work of the Committee.

363. There were certain problems in establishing the breakdown of the population by ethnic group, since no proper census had been taken. That, however, was one of the major tasks facing the Government under its national development plans, and every effort would be made to provide the statistics in the next report.

364. Regarding the question about the functions and composition of the National Fatherland Front, he read out the names of the founding members and an excerpt from the statute of the National Fatherland Front, which emphasized the determination of the Front to consolidate the unity of the country in a manner ensuring the equality of rights of all nationalities, without discrimination. He indicated that many of the 350 laws passed since the April Revolution related to racial discrimination.

365. In connection with his country's position vis-a`-vis South Africa, he said that his Government strongly condemned the abhorrent apartheid regime and participated in the world-wide struggle against it. Afghanistan maintained no relations whatsoever with the racist authorities of South Africa.

366. As to Afghanistan's obligations under article 4 of the Convention, he informed the Committee that his Government had begun an intensive campaign to educate all the people about the dangers of discrimination, which was categorically prohibited by the decree of May 1978. Subsequent laws would provide detailed provisions in that regard. There was no organization established in Afghanistan on the basis of ethnicity or race. While it was true that discrimination continued to some extent at the local level, the Government was endeavouring to put an end to all acts of discrimination committed by individuals of government officials.

367. He informed the Committee that detailed information on the rights enumerated in article 5 of

the Convention was contained in the report submitted by his Government with regard to the implementation of the International Covenant on Civil and Political Rights (CCPR/C/31/Add.1). Future reports to the Committee would provide more details on the matter. Everyone in Afghanistan was guaranteed the right to vote and stand for election. The absence of a reference to foreigners could be attributed to the fact that there were not very many of them in his country. Foreign tourists and businessman were protected by a special provision attached to passport and visa regulations. The authorities might consider promulgating legislation governing such persons once their numbers increased. In relation to the adoption of the Labour Law, he said that the texts of proposed legislation were drawn up by experts after they had studied the laws of Afghanistan and other countries with similar social systems. The texts were then published in the papers and comments were submitted to the National Revolutionary Council, which produced the final draft in the light of the comments received. The Law of the Organization and Authorities of the Courts had been in existence since 4 April 1981. Several problems had been encountered in the process of land reform because of deep-rooted tribal customs. However, the Government was convinced that unless it implemented democratic land reform, it would not achieve the establishment of a just society. Such reform would not be achieved by force, but rather through education programmes and by making the people part of the process. It was true that the nomads of Afghanistan were the largest such population in the world, totaling some 2.2 million. There were tremendous difficulties in carrying out democratic reforms to assist them. The authorities had created mobile schools where instruction was provided by the nomads themselves. Health facilities had also been provided for them through mobile clinics. The Government was aware of the difficulties of nomadic life and encouraged the nomads to acquire land and settle down. However, age-old traditions made it hard for some of them to accept change. Regarding the cultural rights of ethnic groups, he said that there were radio and television programmes aimed at ensuring the preservation of all cultures. The measures taken in that regard would be extended to all minorities and all languages. However, illiteracy made that a difficult undertaking.

368. Members of the Committee had indicated that there were more than 4 million Afghan refugees in Pakistan and the Islamic Republic of Iran, and had commented on their right to return to their own country. That inflated figure could be attributed to various factors: it was difficult to distinguish between Afghan refugees and Pashto tribes living in Pakistan, refugee camp leaders fraudulently inflated the number of refugees in order to receive additional aid, refugees were registered more than once, members of the local population were registered as refugees and large numbers of Afghan nomads who travelled seasonally to Pakistan had been forced to register as refugees. On 18 June 1981, the Afghan Government had issued a declaration of amnesty, which had been accepted by the National Fatherland Front and other organizations, as well as by the Government of Pakistan. The declaration granted full amnesty to all Afghan nationals living abroad. Even before then, in January and May 1980, the Afghan Government had offered amnesty to refugees in Pakistan and had called on other countries to facilitate their return. Refugees who did not wish to return would be covered by bilateral arrangements.

369. In relation to the implementation of articles 6 of the Convention, the representative of Afghanistan pointed out that no legislation had yet been adopted regarding preparation for damages caused by violations of the rights set forth in the Convention. There were bodies to which violations of the Convention could be reported, the main such body being the National Fatherland Front. The courts could also receive complaints of violations of the Convention. Every facility was made

available to the defendant including the use of translators and interpreters, to follow the proceedings of the court.

370. Several members had raised a number of points which were unrelated to the work of the Committee; they had referred to the report on the situation of human rights in Afghanistan (E/CN.4/1985/21), a document which was not officially before the Committee for consideration. Since the Afghan Government had strong doubts about the credibility of the Special Rapporteur who had prepared that document, he did not intend to respond to the comments regarding it. Nor did he wish to enter into a polemical discussion concerning the reference to the "foreign intervention of December 1979". He had hoped that discussions of Afghanistan's report would be void of politically-charged questions that hampered the smooth functioning of the Committee.

CERD A/49/18 (1994)

566. At its 1042nd meeting, on 1 August 1994, the Committee took note of a request from the Government of Afghanistan that it postpone its consideration of the implementation of the Convention in that State, but decided to keep the matter on its agenda.

567. At its 1060th meeting, on 12 August 1994, the Committee heard from its country rapporteur and from other members about the situation in Afghanistan, in the absence of a representative of the State party. The Committee decided to defer consideration.

568. Members of the Committee noted that the State party had submitted only an initial report since it acceded to the Convention in 1983. That report had not followed the reporting guidelines and, in the view of members, had failed to acknowledge some of the unfavourable features of the situation then prevailing in the country.

569. Members noted the statement on Afghanistan made by the President of the Security Council on 24 January 1994 and expressed their deep concern about the tragic circumstances prevailing in Afghanistan, which include conflicts based upon descent.

Concluding observations

570. At its 1068th meeting, on 18 August 1994, the Committee adopted the following concluding observations.

571. The Committee expresses its deep concern about the tragic circumstances prevailing in Afghanistan, which include conflicts based upon descent.

572. The Committee nevertheless expresses regret that Afghanistan has not yet submitted its second and subsequent reports, due on 5 August 1986 and thereafter, and was unable to respond to the invitation to participate in the meeting and to provide relevant information. However, it notes the difficulties arising from the continuing conflict. The Committee wishes to draw the attention of the State party to the availability of technical assistance from the Centre for Human Rights once it is ready to prepare a further report.

CERD A/52/18 (1997)

52. At its 1189th meeting, held on 5 March 1997 (see CERD/C/SR.1189), the Committee reviewed the implementation of the Convention by Afghanistan based upon its previous report (CERD/C/111/Add.3) and its consideration by the Committee (see CERD/C/SR.718-719). The Committee noted with regret that no report had been submitted to the Committee since 1984.

53. The Committee regretted that Afghanistan had not responded to its invitation to participate in the meeting and to furnish relevant information.

54. The Committee expressed concern that the lack of an effective central authority impedes the implementation of the Convention.

55. The Committee decided that a communication should be sent to the Government of Afghanistan setting out its reporting obligations under the Convention and urging that the dialogue with the Committee should be resumed as soon as possible.

56. The Committee suggested that the Government of Afghanistan avail itself of the technical assistance offered under the advisory services and technical assistance programme of the United Nations High Commissioner for Human Rights/ Centre for Human Rights, with the aim of drawing up and submitting as soon as possible an updated report drafted in accordance with the reporting guidelines.