

BANGLADESH

CERD A/36/18 (1981)

348. The initial report of Bangladesh (CERD/C/61/Add.4) was considered by the Committee together with the introductory statement made by the representative of the reporting State, who referred briefly to a number of constitutional provisions in his country providing equality before the law as well as legal remedies for the defence of that equality without discrimination on account of religion, race, caste, sex or place of birth.

349. Members of the Committee expressed satisfaction that so soon after the formation of the State of Bangladesh the Government had ratified the Convention and had managed to submit its initial report. The report contained useful basic information regarding the Constitution, which reflected the country's non-racist orientation and laid down the obligation to support oppressed peoples in the world struggling against apartheid and racism. It was pointed out, however, that the report did not satisfy the requirements of article 9 of the Convention and did not follow the revised guidelines drawn up by the Committee (CERD/C/70) for the preparation of reports, so that the Committee was not able to discharge its responsibility under the Convention. Moreover, instead of merely citing the relevant constitutional provisions, the Government of Bangladesh should have submitted their full text and given any details concerning implementation of legal measures provided by the Constitution. Such information was important if the Committee were to be able to determine whether additional measures were necessary to comply with the requirements of the Convention.

350. As regards article 2 of the Convention, it was noted that Bangladesh was a pluralistic society with a rich cultural heritage and it would be helpful if information were provided regarding the very complex problems it faced and the ways in which the Government was trying to ensure the dignity and equal rights of all its citizens. Information was sought on questions concerning the national minorities and their status in society, in particular persons who might have become stateless or had applied for Pakistani citizenship but had not been repatriated; whether Bangladesh and Pakistan had entered into any agreement to tackle their common human problems jointly, including the solution of questions relating to the property of persons who left Bangladesh between 1965 and 1971; and what the Government's policy was towards refugees and persons seeking asylum. Members of the Committee also inquired as to how the rights of the tribal population were protected; what special measures were taken to improve their condition; what major development projects had been undertaken or were planned in the area in which tribal people lived; how the laws relating to the ownership of land affected the status of tribal people; and whether the Government had taken any steps to assist the tribal population to preserve its identity.

351. In connection with article 4 of the Convention, the Government stated in the report that separate legislative and judicial measures were not necessary because Bangladesh had no serious racial problems. However, the Committee pointed out that it was wise for all Governments to take every precaution and to devise preventive judicial and other measures for the suppression and punishment of racial discrimination.

352. As regards article 5 of the Convention, it was noted that the Constitution seemed to provide guarantees covering subparagraphs (c) and (f) of this article but no specific information had been

provided with regard to the rights set forth in subparagraphs (d) and (e).

353. With respect to article 6 of the Convention, it was asked whether complaints of racial discrimination could be brought before the High Court Division of the Supreme Court by the victim of discrimination himself or whether the initiative in such cases lay with the authorities; and whether, if the authorities failed or refused to act, the victim had any other resource. With reference to article 7 of the Convention, information was required on the various organizations in Bangladesh which protected human rights through the provisions of legal aid to the indigents. It was also asked whether the Government informed the people concerning other cultures and civilizations and whether there are any organizations encouraging social, cultural and intercommunal activities.

354. The representative of Bangladesh stated that questions raised during the consideration of the initial report would be transmitted to his Government for a formal reply.

CERD A/45/18 (1990)

69. The second, third and fourth periodic reports of Bangladesh, submitted in one consolidated document (CERD/C/144/Add.3), were considered by the Committee at its 866th meeting, held on 8 August 1990 (CERD/C/SR.866).

70. The report was introduced by the representative of the reporting State, who said that Bangladesh was totally committed to the eradication of racism in all its forms and gave unswerving support to all oppressed people in their struggle against racial discrimination. The Constitution encompassed the fundamental principles of human rights, which were enforceable under the law.

71. Members of the Committee thanked the representative for his presentation of the report. They expressed concern, however, at the brevity of the report, noting that the sparsity of the information provided made it difficult for them to fulfil their responsibilities under the Convention. Members requested, therefore, that the next periodic report of Bangladesh should be prepared in accordance with article 9 of the Convention and the Committee's guidelines.

72. Members wished to know what legal measures had been adopted to guarantee the implementation of the Convention under domestic law, particularly since paragraph 7 of the report stated that it could not be invoked before or directly enforced by the courts. It was asked whether sanctions existed, under domestic legislation, covering violations of article 28 of the Constitution. Noting from paragraph 9 of the report that the Constitution had been suspended during the period of martial law from 1982 to 1986, members wished to know whether the Constitution had been suspended again since that date. If so, they wished to know what laws were applicable in such circumstances.

73. With reference to article 1 of the Convention, members requested that the next periodic report of Bangladesh should contain demographic statistics, particularly concerning minorities. In that same connection, members wished to know what percentage of the population was regarded as falling within the so-called backward section of society; whether that section was composed primarily of indigenous people; whether they were given preference in major development programmes; and how the Government was ensuring that they continued to live according to their original customs.

74. In connection with article 2 of the Convention, it was asked whether the alleged practice of reprisals by the security forces against the tribal people of the Chittagong Hill Tracts had diminished, whether such tribal people participated in the election of the President and Parliament; whether they were allocated seats in Parliament; whether local authorities had been established for them; and whether the Government had succeeded in discouraging settlers from moving into the region. Members also wished to know whether the Biharis, or "stranded Pakistanis", remaining in Bangladesh pending resettlement in Pakistan, could apply for Bangladesh citizenship; what status was given to persons who had applied unsuccessfully for Pakistani citizenship, what specific steps the Government had taken to create conditions for the Chakma refugees to return to Bangladesh from India; whether a solution had been reached to the problems created by the illegal immigrants from Bangladesh to India; and whether a legal framework had been formulated to implement a decision regarding the vested properties of Hindus who had migrated to India.

75. With reference to article 3 of the Convention, it was noted that, although Bangladesh's abhorrence of apartheid was well known, the report had not provided specific information on that issue. A request was made that the next periodic report should rectify that omission.

76. With regard to article 4 of the Convention, it was asked whether domestic legislation provided for the punishment of the crime of racial discrimination.

77. Turning to article 5 of the Convention, members requested further information on the Penal Code, particularly since the report indicated that the Code provided protection against religious intolerance but not racial discrimination. Information was also sought on the results of government investigations into isolated incidents of harassment and acts of vandalism against minority religious groups and about paragraph 6 of the report, referring to customary and personal laws. In addition, clarification was requested of government control of the press, including formal and informal censorship, temporary closure of newspapers and the arrest and intimidation of journalists, which were prohibited under article 5 (d) (viii) of the Convention.

78. With reference to article 6 of the Convention, members congratulated Bangladesh for having amended the Constitution in 1988 to establish permanent benches of the High Court division in six regions, affording better service to the majority of the population, and expressed satisfaction that a training programme for lawyers had been established by a human rights group. They requested that the next periodic report should contain details of any cases of human rights violations brought before those courts.

79. In response to questions raised by members of the Committee, the representative stated that all the issues raised would be transmitted to his Government, and any information he was unable to supply would be provided in his country's next periodic report.

80. With reference to the status of the Convention in domestic legislation, the representative explained that international law, as such, could not be invoked in the courts but had to be incorporated into national law before it became legally enforceable. However, the laws of Bangladesh were in conformity with the Convention and there was no conflict concerning that issue. Laws prohibiting racial discrimination remained in force even during abnormal situations such as martial law.

81. With regard to questions raised under article 1 of the Convention, the representative said that the reference in the report to provisions for backward sections of society related to economically disadvantaged groups within the country. Such provisions included special employment quotas for women. The Government had established a five-year plan to decentralize industrial activities in order to provide the same opportunity for economic wealth to all sections of the population.

82. In response to questions raised under article 2 of the Convention, the representative stated that information on the situation of the tribal people of the Chittagong Hill Tracts had been provided to the Sub-Commission on Prevention of Discrimination and Protection of Minorities and visits had been made to the region by Amnesty International and other interested non-governmental organizations. In its decision 1989/109, the Sub-Commission had expressed its satisfaction with the progress made in respect of the treatment by his country of its tribal population. New laws had

adopted by Parliament in February 1989 specifically directed towards self-government by the tribal peoples of the Chittagong Hill Tracts. Details of the laws had been provided to the Sub-Commission and the Centre for Human Rights. Following free and fair elections in May 1989, witnessed by the international media, three District Councils had been established in the area. Those Councils have been functioning since July 1989. The Chairmen of the Councils, who had the status of Deputy Ministers of the Government, and the majority of its members were tribal people.

83. On the question of the Biharis, the representative said that those people had chosen not to be Bangladesh citizens when, following independence in 1972, they had been given the option to become citizens of either Bangladesh or Pakistan. The repatriation of that group, numbering some 200,000 people, was currently under discussion between the two Governments. An office of the United Nations High Commissioner for Refugees had been established in Bangladesh with a mandate covering the repatriation of the Biharis. Matters relating to the vested properties of Hindus were regulated by law. No hindrance existed to the reclaiming of such property, provided such claims were in conformity with the law.

84. With regard to the persons who had migrated from Bangladesh to India, the representative emphasized that such persons could not be considered as refugees, in the usual sense of the word. They had been lured into India by extremist elements and were often intimidated in their attempts to return to Bangladesh. The Governments of Bangladesh and India were at present in dialogue to resolve that problem. On returning to Bangladesh, all displaced persons were given land, a house, an initial sum of 1,500 rupees, and 21 kilos of rice per week for six months, to assist in their resettlement.

85. With reference to the question raised under article 4 of the Convention, the representative said that, as provided in article 102 of the Constitution, any aggrieved person could go to court to claim a remedy against an aggressor.

86. Responding to questions raised under article 5 of the Convention, the representative said that, of the Bangladeshi populations of 110 million, 87 per cent were Muslims, 12.1 per cent were Hindus, 0.6 per cent were Buddhists and 0.3 per cent were Christians, mainly Roman Catholics. Except for the approximately half a million people of the Chittagong Hill Tracts, they were homogeneous. The Government had established trust funds for each of the four religious denominations, allocating 10 million rupees to each group to restore and renovate religious buildings. The four main religious communities regulated such aspects of their lives as marriage, inheritance and succession according to their own religious laws. Such laws were the customary, or personal laws, referred to in the report and they were applied by the courts in the same way as civil laws.

CERD A/47/18 (1992)

115. The Committee considered the fifth and sixth periodic reports of Bangladesh (CERD/C192/Add.3) at its 942nd, 943rd and 951st meetings, on 5 and 11 August 1992 (see CERD/C/SR.942, 943 and 951).

116. The report was introduced by the representative of the State party, who declared that there was no racial discrimination in Bangladesh, which had a completely homogeneous population. Bangladesh condemned the racist regime in South Africa and maintained no relation with it. There was in Bangladesh a tribal population of 0.5 per cent, divided into 36 tribes. There were some residual problems of socio-political integration, as well as marginal problems of tribal terrorism. Bangladesh was fully committed to condemning and opposing racism and racial discrimination.

117. Members of the Committee welcomed the progress made in Bangladesh towards restoring democracy. They also expressed their appreciation for the fact that the report submitted by Bangladesh largely followed the Committee's guidelines for the preparation of reports. They acknowledged that Bangladesh was facing many problems as a result of difficult socio-economic and climatic conditions. Members of the Committee nevertheless expressed regret that the report did not provide sufficient information on practical measures taken in the country to implement the Convention. They noted that the statement in the report that "Bangladesh does not recognize any form of social discrimination" seemed to be in contradiction with the reference to "backward sections of people of different areas and races". They wished to receive demographic data on the various ethnic minorities, as well as specific information on their educational level and representation in the administration and Parliament. Members referred to the statement in the report that the Convention could always be invoked before the Courts and asked why its provisions could not be applied directly.

118. Members of the Committee requested more precise information on the current situation of ethnic minority groups in Bangladesh, in particular those living in the Chittagong Hill Tracts, who, according to reports from a variety of intergovernmental and non-governmental sources, have been submitted to gradual encirclement and dispossession. According to those sources, the policy of large-scale settlement by Bangalis from the plains had led to the further impoverishment and marginalization of the indigenous peoples, and had resulted in an armed uprising. There were said to be an estimated 35,000 or more security troops operating in the Chittagong Hill Tracts, and widespread torture and other human rights violations, including summary executions, the murder of children and rape of women, curfews and other restrictions on freedom of movement, had been reported. It was alleged that houses had been destroyed and Buddhist temples desecrated. Information was requested on the current Government policy and on the implementation of Chittagong Hill Tracts Regulation 1900 protecting tribal interests. According to certain sources, that Regulation, which afforded the tribal peoples some measure of protection, was not really being applied. Members asked whether it was true that Act No. 89 on district councils, which guaranteed ethnic groups some representation, had no constitutional basis and, in that event, could be repealed. It was also asked what the Government's policy was with regard to population transfers, whether the populations inhabiting the areas to which others had moved had been consulted and whether they were in any way recompensed for any deterioration in their circumstances that might result.

119. With regard to article 2 of the Convention, the members of the Committee asked what measures had been taken to punish persons who had taken advantage of members of the backward sectors of the population.

120. In connection with the implementation of article 3 of the Convention, members of the Committee sought clarification of the statement in the report that the provisions of that article were not applicable. They also understood from some sources that there were cluster camps in areas inhabited by indigenous peoples, and that people in those camps were subject to various restrictions, being unable to travel without permission. Members requested clarification on that subject.

121. Concerning article 4 of the Convention and recalling the obligatory nature of its provisions, members of the Committee expressed disagreement with the Government's view that specific legislative, judicial, administrative or other measures were not necessary. It was asked whether there had been any public pressure to introduce measures to implement the provisions of article 4.

122. With regard to the implementation of article 5 of the Convention, members of the Committee sought clarification of the meaning of article 29 of the Constitution and asked whether the provisions of that article could be interpreted as meaning that discrimination might be admissible under certain conditions. They also requested clarification on the information that there were cases of very long-term arbitrary detention affecting members of minority groups and asked whether the rule of habeas corpus applied to persons who had been arrested. Information was also requested on the repeated incidents in which the army was said to have tortured and beaten civilians belonging to ethnic minorities and on the measures the new Government intended to take in order to protect the inhabitants of the Chittagong Hill Tracts and to guarantee respect for their holy places, their heritage and their culture. Explanations of conditions needed for acquiring Bangladeshi nationality were requested. With regard to the right to own property, in which connection attention had been drawn to cases of allegedly unlawful expropriation without compensation or resettlement of the persons affected, members of the Committee asked about the new Government's policy and, in particular, about the 1974 Vested and Non-Resident Property Act, under which land belonging to tribal peoples and Hindus had been seized.

123. As to freedom of religion, further information was requested on the different religions practiced in Bangladesh, the relationship between them, whether there was a State religion and what the Government's attitude was towards the different religions. In that connection, it was asked whether it was the Government's policy to convert the members of the Jumma ethnic group to the Islamic faith as alleged by some sources. In connection with freedom of opinion and expression, information was required on the assertion that the dissemination of an official report published following a mission of inquiry to the Chittagong Hill Tracts and the reporting of related human rights violations had been prohibited by the authorities. With regard to the exercise of economic, social and cultural rights, it was asked whether the system of crop sharing, under which half the crop went to the landowner, was going to be repealed and whether agrarian reform was to undertaken. It was also asked what the Government's policy was with regard to child labour and how many administrative posts were held by persons originating from Chittagong Hill Tracts.

124. Turning to article 6, members of the Committee wished to know how the legal provisions for seeking remedies against acts of racial discrimination were being implemented in practice. They

inquired about the access of Adivasis to courts when they sought to bring suits in the case of land disputes and about a five-year project, run by Caritas Bangladesh to provide legal assistance to Adivasis, which allegedly had been halted by the Government. If the Government did not permit a charitable body to provide legal advice, perhaps the Government should appoint an ombudsman.

125. In the context of article 7 of the Convention, members of the Committee requested clarification of the various parties, institutions and associations working to combat racial prejudice and of the practical measures taken by the Government to that end.

Concluding observations*

126. While recognizing the economic difficulties of Bangladesh, the Committee required better demographic data to understand the position of the ethnic minorities.

127. The Committee expressed grave concern at reports on the human rights of the ethnic minorities in the Chittagong Hill Tracts, including the forced transfer of population. Since the State representative was not in a position to respond to questions, the Committee looked forward to receiving further information.

* Subsequently, the Committee received a communication from the Permanent Mission of Bangladesh in which a number of allegations made during the consideration of its report were denied.

CERD A/56/18 (2001)

63. The Committee considered the seventh, eighth, ninth, tenth and eleventh periodic reports of Bangladesh, which were due on 11 July 1992, 1994, 1996, 1998 and 2000, respectively, at its 1457th and 1458th meetings (CERD/C/SR.1457 and 1458), on 19 and 20 March 2001. At its 1462nd meeting (CERD/C/SR.1462), on 22 March 2001, it adopted the following concluding observations.

A. Introduction

64. The Committee welcomes the opportunity to resume the dialogue with the State party and appreciates the report submitted by the State party, prepared largely in accordance with the guidelines for the preparation of reports. It is noted that the report is significantly more elaborate and informative than the previous reports of the State party. The Committee further appreciates the additional information provided orally by the delegation in response to the wide range of questions asked by the Committee members.

B. Positive aspects

65. The Committee notes with interest the recent steps taken with a view to strengthening the institutional framework for the protection of human rights, i.e. the envisaged establishment of an independent National Human Rights Commission and an Office of the Ombudsman.

66. The Committee welcomes affirmative action programmes undertaken to ensure the enjoyment of the rights contained in article 5 (e) of the Convention by the socially and economically disadvantaged groups, in particular the tribal population of the Chittagong Hill Tracts.

67. The Committee appreciates the signing of the 1997 Chittagong Hill Tracts Peace Accord and the implementation of certain of its provisions, such as: (i) the creation of the Chittagong Hill Tracts Ministry; (ii) the establishment of the Chittagong Hill Tracts Regional Council; and (iii) the establishment of a Land Commission for settlement of land issues.

68. The Committee appreciates the importance accorded by the State party to the educational curriculum as a means to spread awareness of human rights among the population and, in particular, the emphasis given to the inclusion of human rights standards, as set out in the various United Nations conventions, including the International Convention on the Elimination of All Forms of Racial Discrimination.

C. Concerns and recommendations

69. Though information has been given on representation of ethnic minorities in Parliament, the Committee notes the lack of details in the report on the demographic composition of the population. The Committee reiterates its recommendation to the State party to provide in its next report information on the composition of the population. In particular, the Committee wishes to receive disaggregated information on the economic and social status of all ethnic, religious and tribal minorities, as well as their participation in public life. Information in respect of ethnic minorities

should cover not only the Chittagong Hill Tracts, but other areas of the country as well.

70. The Committee notes the information given about the constitutional prohibition of racial discrimination, but is concerned that racial discrimination as such is not explicitly and adequately prohibited and penalized in criminal law. The Committee recommends that the State party consider giving full effect to the provisions of article 4 of the Convention in its domestic legal order, to ensure penalization of acts of racial discrimination, as well as to ensure access to effective protection and remedies under article 6 of the Convention through competent national tribunals and other State institutions in addition to the High Court Division of the Supreme Court in respect of acts of racial discrimination.

71. The Committee is concerned about reports of human rights violations by security forces present in the Chittagong Hill Tracts affecting the tribal population, including reports of arbitrary arrests and detentions and ill-treatment. The Committee recommends that the State party implement effective measures to guarantee to all Bangladeshis, without distinction based on race, colour, descent, or national or ethnic origin, the right to security of person and protection by the State against violence or bodily harm.

72. Notwithstanding certain positive developments, the Committee is concerned about the slow progress in implementing the Chittagong Hill Tracts Peace Accord. The Committee urges the State party to intensify its efforts in this regard and recommends that the State party provide in its next report details regarding, *inter alia*, the work of the Chittagong Hill Tracts Regional Council; the effective results of the work of the Land Commission; the repatriation and rehabilitation of refugees and internally displaced persons in the Chittagong Hill Tracts; the work of the Special Task Force on Internally Displaced Persons; the resettlement of Bengali settlers outside the Chittagong Hill Tracts pursuant to deliberations of the Land Commission and the process of withdrawal of security forces from the Chittagong Hill Tracts.

73. With regard to the interpretation of the definition of racial discrimination contained in article 1 of the Convention, the Committee considers that the term “descent” does not refer solely to race or ethnic or national origin, and is of the view that the situation of castes falls within the scope of the Convention. The Committee therefore recommends that the State party include in its next report relevant information about the enjoyment of the rights contained in article 5 of the Convention by all groups, including castes.

74. The Committee is concerned about the poor living conditions in the refugee camps for Rohingyas, and recommends that the State party suitably address the situation pertaining to refugees.

75. In view of the increasing problem of trafficking in persons, particularly women and children, in South Asia, including Bangladesh, which may entail violations of the provisions of the Convention, the Committee requests the State party to provide in its next report information on efforts made in Bangladesh to address the ethnic dimensions of migration and trafficking in persons.

76. In connection with the implementation of article 7 of the Convention, the Committee encourages the State party to continue to take steps to strengthen awareness about human rights in general, and the Convention in particular, through education. It further recommends that the State party

undertake training in the provisions of the Convention in the training programmes of law enforcement officials.

77. The Committee requests the State party to provide in subsequent reports, inter alia, information about jurisprudence relating specifically to violations of the Convention, including the awarding by courts of adequate reparation for such violations.

78. The State party is also invited to provide in its next report further information on the steps towards establishing an independent national human rights commission and an office of the ombudsman.

79. It is noted that the State party has not made the optional declaration provided for in article 14 of the Convention, and the Committee recommends that the possibility of such a declaration be considered.

80. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention.

81. The Committee recommends that the State party's reports be made readily available to the public from the time they are submitted and that the Committee's observations on them be similarly publicized.

82. The Committee recommends that the State party's next periodic report, due on 11 July 2002, addresses all points raised in the present observations.