

## PAPUA NEW GUINEA

### CERD A/39/18 (1984)

278. The initial report of Papua New Guinea (CERD/C/101/Add.4) was introduced by the representative of the reporting State who drew the Committee's attention to certain passage of the report and explained his Government's position with regard to the implementation of articles 3 and 4 of the Convention.

279. The Committee commended Papua New Guinea for the substantial efforts it had made in the preparation of its initial report and for the quality of information it contained concerning the implementation of the various provisions of the Convention.

280. Members of the Committee pointed out that it would be useful to receive information regarding Papua New Guinea's demographic composition as well as more detailed information about the nationality of those described as Asians and Africans. It would be also interesting to know the ethnic composition of its work-force, and to receive data concerning the different groups in schools, universities and posts held in the Government. Clarification was requested with regard to the statement in the report that with the advent of independence, discrimination on grounds of race had virtually disappeared. In this connection, it was observed that discrimination could be based not only on race but on ethnic background. The Committee noted with interest the Government's philosophy that by encouraging people to take part in cultural activities they would become more aware of each other's culture and thereby create a harmonious society.

281. In relation to article 3, members of the Committee commended Papua New Guinea's record in the struggle against the racist regime in South Africa, and it was pointed out that the country had prohibited economic relations with South Africa at some economic sacrifice to itself. A clarification, however, was requested in connection with the Customs Law prohibiting trade with South Africa and a statement made by the Prime Minister in that respect.

282. With regard to article 4, clarification was requested concerning the statement in the report that no addition to or variation of existing laws was necessary to give effect to that article. The Committee underlined the importance of that article and pointed out that article 4 established an obligation for States parties to enact legislation even if a reservation had been made. Members recalled that several States parties had entered the same reservation (as Papua New Guinea) but a number of them had later come to accept the position taken by the Committee. Within this context, the attention of the State party was drawn to some inconsistencies in the report which Stated, on the one hand, that the provisions of the Convention were directly enforceable by the courts, and, on the other, that the Government's acceptance of the Convention did not imply the obligation to go beyond the Constitution. The Committee wished to know why the Government considered some of the provisions of its Constitution as being in conflict with article 4, and appealed to the Government of Papua New Guinea to reconsider the matter once again and to review its interpretation of the reservation with a view to adopting appropriate legislation.

283. Concerning the implementation of article 5, clarification was requested about the distinction drawn in the Constitution between rights guaranteed to all persons and additional rights guaranteed only to citizens, which seemed to be in conflict with that article. Information was requested with regard to education, whether it was free; what was the official language and what plans had the Government made for the use of other national languages. A query was made as to whether the Government had made any declaration of intent regarding the possible amendment of the law on adultery which had been considered to be discriminatory.

284. In reply to questions posed with regard to the demographic composition of Papua New Guinea, the representative of the reporting State indicated that over 90 per cent of the population was Melanesian. In addition, a large number were of Asian, African and European origin. Diversity was a feature of a free democratic society, and his Government considered that national legislation must ensure that all groups lived together in harmony. He stated that the practice of racial discrimination had been eliminated when the country attained its independence. However, the issue was more complex when one discussed people's attitudes, for indeed, discrimination of some sort existed in every society. As to the observation that ethnic groups must be protected, he pointed out that his Government was very cautious in this regard, since protection of one group might be considered discrimination against others.

285. With respect to article 4, he acknowledged the concern expressed by the Committee regarding the reservation his Government had made to that article and requested the Committee to bear in mind that his country was still adjusting to its new status as an independent nation. He pointed out that the Law Reform Commission responsible for reviewing the laws inherited from colonial times, some of which were in conflict with the Constitution, would endeavour to adapt the national legislation to reflect the view that racial discrimination must be totally eradicated from Papua New Guinea.

286. As to the question raised in connection with the implementation of article 5, he indicated that the traditional Western legal system did not apply with regard to the law on adultery. Where the customs of the parties applied, the matter was referred to village courts, which comprised elders familiar with traditions of the people. Education at the primary and secondary levels was essentially financed by the State, although a small contribution was made by parents. University education was subsidized by the Government. English was the language use for international communication and in schools, while Melanesian Pidgin and Hiri Motu were the official languages in Parliament and were used in the press as well as in schools. The preservation of all the country's languages was actively encouraged.

## **CERD A/47/18 (1992)**

261. At its 949<sup>th</sup> and 952<sup>nd</sup> meetings, on 10 and 12 August 1992 (see CERD/C/SR.949 and 952), the Committee reviewed the implementation of the Convention by Papua New Guinea, on the basis of its previous report (CERD/C/101/Add.4) and its consideration by the Committee (see CERD/C/SR.666). The Committee noted that no report had been received since 1983.

262. With regard to the previous report, which had been deemed satisfactory from the point of view of conformity with the Committee's reporting guidelines, members of the Committee recalled that the Government of Papua New Guinea had submitted detailed information according to which the Constitution provided for rights and freedoms without any distinction based on race, tribe, place of origin, political opinion, colour, creed or sex. The Constitution also contained provisions prohibiting the practice of racial discrimination against persons, groups or institutions by individuals, public authorities and public institutions. An Ombudsman Commission had been established to receive and investigate complaints by individuals against public authorities or companies. The Constitution provided for the development or protection of certain racial groups and individuals. Papua New Guinea had entered a reservation with regard to article 4 of the Convention. Procedures for obtaining remedial action were provided for under the Constitution and the Discriminatory Practices Act. Members of the Committee further recalled that, subsequent to consideration of that report, the Committee had asked for additional information on the country's exact demographic composition, and had inquired whether Papua New Guinea considered withdrawing its reservation. The Committee had also observed that the purpose of the Convention was not only to eliminate racial discrimination, and had expressed the hope that the Government might envisage adopting measures aimed at preventing racial discrimination.

263. Members of the Committee noted that while the Constitution of Papua New Guinea did not seem to have changed significantly since submission of the previous report, the current situation was giving rise to concern. On Bougainville, the Government faced armed opposition from the Bougainville Revolutionary Army (BRA). Both BRA and the government security forces were reported to have committed serious human rights violations. On 17 May 1990, the independence of Bougainville had been proclaimed by BRA and on 5 August 1990 the secessionist movement had concluded an "Endeavour Agreement".

264. Members of the Committee wished to receive information on the exact demographic composition of the country and on the violations of human rights which had occurred in connection with the attempted secession of Bougainville. They also requested additional information on the effect of mining activities on the local population in Bougainville and other parts of Papua New Guinea.

### Concluding observations

265. The Committee regretted that Papua New Guinea had not been able to respond to its invitation to participate in its meeting and to furnish relevant information. The Committee wished to draw the attention of the Government of the State party to the possibility of requesting technical assistance

from the Centre for Human Rights in the preparation of its reports. It hoped to receive a new report shortly. In drafting its report, the Government of Papua New Guinea should not only report upon the legal situation in respect of the prohibition of racial discrimination, but should also inform the Committee about social, economic and educational situation of the various ethnic groups and about the effect of mining upon the situation of the local population.

266. In accordance with article 9, paragraph 1, of the Convention, the Committee requested further information from the Government of Papua New Guinea on the situation in Bougainville.

## **CERD A/48/18 (1993)**

560. In its concluding observations adopted at its forty-first session <sup>7/</sup> the Committee had requested further information from the Government of Papua New Guinea on the situation in Bougainville, in accordance with article 9, paragraph 1, of the Convention. No information was received in response to that request.

561. The Committee considered the implementation of the Convention in Papua New Guinea, and, in particular, the situation in Bougainville, at its 1007 meeting held on 17 August 1993 (see CERD/C/SR.1007).

562. Members of the Committee focussed on the situation in Bougainville, which was one of the State party's most resource-rich areas and had the world's largest copper mine.

563. It was noted that, on 17 May 1990 the Bougainville Revolutionary Army had proclaimed the island a republic and established a new interim Government. The Government of Papua New Guinea had rejected that unilateral declaration of independence.

564. Members of the Committee expressed concern over statements by the self-proclaimed Government of Bougainville that numerous human rights violations, including the torture of civilians, had been committed by the forces of Papua New Guinea stationed in Bougainville. In that regard, there had been reports that those forces had abused unarmed Bougainvillains during the emergency which had been declared by the Government, and that there had been indiscriminate killings of civilians by members of the defence force, beatings of suspected rebel sympathizers and search and destroy operations in villages near the copper mine which had turned thousands of villagers into refugees.

565. Members of the Committee also noted with concern reports that there had been large-scale human rights violations by members of the Bougainville Revolutionary Army.

### Concluding observations

566. At its 1010<sup>th</sup> meeting, held on 19 August 1993, the Committee adopted the following concluding observations.

#### (a) Principal subjects of concern

567. The Committee regretted that the State party had not fulfilled its obligations under article 9, paragraph 1, of the Convention, to report regularly on the legislative, judicial, administrative and other measures which had been adopted to give effect to the provisions of the Convention. The

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<sup>7/</sup> See Official Records of the General Assembly, Forty-seventh Session, Supplement No. 18 (A/47/18), paras. 265 and 266.

Committee also regretted that no information had been received pursuant to the request made at its forty-first session for further information on the situation in Bougainville and that no representative was present to respond to the questions and comments of the Committee.

568. The Committee was concerned at reports of serious human rights violations in Bougainville, including summary executions and population transfers.

569. The Committee was also concerned about large-scale mining operations in Bougainville without due regard to the rights of the population and the adverse effects of environmental degradation.

(b) Suggestions and recommendations

570. The Committee strongly recommended that the Government of Papua New Guinea should resume its dialogue with the Committee by fulfilling its reporting obligations under the Convention. In that regard, the Committee reiterated its request for information on the ethnic composition of the population and economic, social and cultural indicators pertaining to the situation of the various ethnic groups; on legislative and other measures taken under article 2 of the Convention to prohibit racial discrimination; and, in particular, on developments in Bougainville. The Committee suggested that the State party should avail itself of the services of the Centre for Human Rights in the preparation of its report.

571. The Committee suggested that the State party should cooperate with international fact-finding missions that were seeking to assist Papua New Guinea in the resolution of the conflict in Bougainville. In that connection, the Committee stressed that due consideration should be given to the principles contained in the Convention.

(c) Further action

572. The Committee expressed concern over reports on the human rights situation prevailing in Bougainville and requested that information concerning the human rights situation in the whole territory of Papua New Guinea that was available to the Secretary-General should be shared with the Committee.

573. The Committee expressed its willingness to accept any request which might be made by Papua New Guinea to provide technical assistance with a view to re-establishing a dialogue between the Government and the groups currently controlling Bougainville.

## **CERD A/49/18 (1994)**

92. In its concluding observations adopted at its forty-first session 11/ and at its forty-third session 12/ the Committee requested further information from the Government of Papua New Guinea on the situation in Bougainville, in accordance with article 9, paragraph 1, of the Convention. No information was received in response to those requests.

93. The Committee considered the implementation of the Convention in Papua New Guinea at its 1060<sup>th</sup> meeting, on 12 August 1994 (see CERD/C/SR.1060).

94. Members of the Committee focussed on the situation in Bougainville, which was one of the State party's most resource-rich areas and had the world's largest copper mine.

95. Members of the Committee expressed concern over statements that numerous human rights violations, including summary executions and population transfers, had been committed. They also expressed deep concern about the large-scale mining operations in Bougainville.

96. Members emphasized that the situation of human rights in Papua New Guinea was not solely an internal matter and that the continued refusal to cooperate with and to report to the Committee constituted a violation of an international obligation.

97. Members noted that a national commission for human rights had been set up by the Government of the State party, which could be a useful contact for the Centre for Human Rights and for the Committee.

### Concluding observations

98. At its 1067<sup>th</sup> meeting, on 18 August 1994, the Committee adopted the following concluding observations.

#### (a) Principal subjects of concern

99. The Committee regrets that the State party has not fulfilled its obligation under article 9, paragraph 1, of the Convention to report regularly on the legislative, judicial, administrative and other measures which have been adopted to give effect to the provisions of the Convention. The Committee also deeply regrets that no information has been received pursuant to the requests made at its forty-first and forty-third sessions. The Committee reiterates that, in accordance with the Convention, the Government is under an international obligation to cooperate with the Committee.

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11/ Official Records of the General Assembly, Forty-seventh Session, Supplement No. 18 (A/47/18), paras. 265-266.

12/ Ibid., Forty-eighth Session, Supplement No. 18 (A/48/18), paras. 566-573.

100. The Committee is gravely concerned at reports of serious human rights violations, including summary executions and population transfers in Bougainville, where the population is ethnically distinct.

101. The Committee continues to be concerned about the possible resumption of large-scale mining operations in Bougainville without due regard to the rights of the population and the effects of environmental degradation.

(b) Suggestions and recommendations

102. The Committee strongly urges that the Government of Papua New Guinea resume its dialogue with the Committee and thus fulfil its obligation under the Convention. In that regard, the Committee reiterates its request for information about the implementation of the Convention in general and the situation prevailing in Bougainville in particular. The Committee suggests that the State party avail itself of the services of the Centre for Human Rights in the preparation of its reports.

103. The Committee suggests that the Government of Papua New Guinea cooperate with the Secretary-General of the United Nations and with the United Nations High Commissioner for Human Rights.

104. The Committee again requests that information concerning the human rights situation in the whole territory of Papua New Guinea that is available to the Secretary-General be shared with the Committee.

105. The Committee again expresses its willingness to accept any request which may be made by the Government of Papua New Guinea to provide technical assistance with a view to re-establishing a dialogue between the Government and the group controlling Bougainville or any part thereof.



## **CERD A/57/18 (2002)**

1. At its 1506th meeting, on 11 March 2002 (see CERD/C/SR.1506), the Committee reviewed again the implementation of the Convention by Papua New Guinea under the early warning procedure.
2. Despite the Committee's repeated requests, Papua New Guinea has not resumed its dialogue with the Committee. It has submitted neither its periodic report nor the additional information requested about the situation in Bougainville. In fact, the dialogue between Papua New Guinea and the Committee has been interrupted since 1984. The State party has not fulfilled its obligation under article 9, paragraph 1, of the Convention.
3. The Committee reiterates its decisions 2 (52) of 19 March 1998, 4 (51) of 21 August 1997, 3 (47) of 16 August 1995 and 8 (46) of 16 March 1995 on Papua New Guinea, in which it requested the State party to comply with its obligation under article 9, paragraph 1, of the Convention, mainly to provide information on the situation in Bougainville.
4. The Committee urges the State party to submit its report under article 9, paragraph 1, of the Convention, as well as to supply information specifically on the present situation in Bougainville. In particular, the report should provide information on the demographic composition of the population, as well as the economic, social and cultural situation of the various ethnic groups. In this connection, the Committee wishes again to draw the State party's attention to the possibility of availing itself of the technical assistance offered under the advisory services and technical assistance programme of the Office of the United Nations High Commissioner for Human Rights.
5. The Committee draws the attention of the State party to the provisions of the Declaration and Programme of Action of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, according to which the International Convention on the Elimination of All Forms of Racial Discrimination is the principal international instrument for the elimination of racism, racial discrimination, xenophobia and related intolerance and States are urged to cooperate with the Committee in order to promote the effective implementation of the Convention.
6. The Committee hopes that the State party will also consider withdrawing its reservation to article 4 of the Convention.
7. The Committee decides that, in the absence of any indication on the part of the State party that it will comply with its obligation under article 9, paragraph 1, of the Convention, it will consider the implementation of the Convention in Papua New Guinea at its sixty-second session, in March 2003.

### **CERD A/58/18 (2003)**

287. At its 1561st meeting, on 7 March 2003 (CERD/C/SR.1561), the Committee reviewed the implementation of the Convention by Papua New Guinea and adopted the following decision on 14 March, at its 1571st meeting (CERD/C/SR.1571).

288. Despite the Committee's repeated requests, Papua New Guinea has not fulfilled its obligations under article 9, paragraph 1, of the Convention. It has submitted neither its periodic report nor the additional information requested concerning the situation in Bougainville. No dialogue between Papua New Guinea and the Committee has taken place since 1984.

289. The Committee reiterates its decisions 8 (46) of 16 March 1995, 3 (47) of 16 August 1995, 4 (51) of 21 August 1997, 2 (52) of 19 March 1998, and 1 (60) of 21 May 2002 on Papua New Guinea, in which it requested the State party to comply with the reporting obligations under the Convention and to provide information, primarily on the situation in Bougainville.

290. The Committee reiterates its requests to the State party to provide information, in particular, on the demographic composition of the population and on the implementation of economic, social and cultural rights of the various ethnic groups, and incidents of racial discrimination.

291. The Committee recommends that the State party consider withdrawing its reservation to article 4 of the Convention.

292. The Committee draws the attention of the State party to the provisions of the Declaration and Programme of Action of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, according to which the International Convention on the Elimination of All Forms of Racial Discrimination is the principal international instrument for the elimination of racism, racial discrimination, xenophobia and related intolerance, and urging States to cooperate with the Committee in order to promote the effective implementation of the Convention.

293. The Committee wishes to make a strong appeal to the authorities of Papua New Guinea to resume the dialogue with the Committee, and to that end submit a report in accordance with article 9 of the Convention. In that connection, once again, the Committee wishes to draw the State party's attention to the possibility of availing itself of the technical assistance offered under the advisory services and technical assistance programme of the Office of the United Nations High Commissioner for Human Rights.

294. The Committee decides that, in the absence of any indication on the part of the State party that it will comply with its obligation under article 9, paragraph 1, of the Convention, it will consider the implementation of the Convention in Papua New Guinea at its sixty-fourth session, in March 2004.