

## PHILIPPINES

### **CERD 26<sup>th</sup> No. 18 (A/8418) (1971)**

28. From its 56<sup>th</sup> to its 58<sup>th</sup> meetings, the Committee proceeded to determine formally its view as a Committee (as distinct from the views expressed at previous meetings, which were those of the individual members) as to which reports were “satisfactory”, in the sense that they furnished all or most of the required information, and which reports were “unsatisfactory” or “incomplete” and therefore needed to be supplemented by further information. The initial report (and supplementary report, if any) of each State Party was put before the Committee separately by the Chairman. Where there was no consensus, the question whether a State Party’s report (or reports) was “satisfactory” or whether, failing that, the Committee wished to request additional information from that State Party, was decided by vote.

29. The Committee expressed itself as satisfied with the completeness of the reports submitted by the following 15 States Parties, from which no additional information was requested: ...Philippines...

**CERD 28<sup>TH</sup> No.18 (A/9018) (1973)**

224. The initial report of the Philippines, submitted on 24 March 1970, was considered by the Committee at its third session and deemed satisfactory. The second periodic report, dated 10 February 1972, was considered - together with a supplementary report submitted on 31 January 1973 in response to general recommendation III - at the seventh session (140<sup>th</sup> meeting).

225. Members recalled that the initial report of the Philippines was one of the few initial reports which had followed the guidelines laid down by the Committee and noted that the second periodic report stated that no new relevant bills or resolutions were adopted since the submission of the initial report. Note was taken of the information, contained in the supplementary report under consideration, that the Philippine Government maintained no diplomatic relations with South Africa or Southern Rhodesia, and that it had provided for sanctions aimed at making South Africa abandon its racist policy of apartheid and its illegal régime in Namibia as well as sanctions aimed against the illegal régime of Southern Rhodesia.

226. It was recalled that the initial report of the Philippines had referred to the establishment of a Commission on National Integration; and the hope was expressed that the third periodic report of that country would contain information about the results achieved by that Commission.

227. The representative of the Philippines assured the Committee that he would convey the desire for information on the accomplishments of the Commission on National Integration to his Government. He noted that, as a member of the Special Committee on Apartheid, the Philippines had actively espoused the struggle of the peoples of southern Africa against the racist régimes in their countries, in both words and deeds.

228. The Committee decided to consider the reports satisfactory and expressed the hope that the Government of the Philippines would continue to co-operate with the Committee as it had done in the past.

**CERD 29<sup>TH</sup> No.18 (A/9618) (1974)**

153. The information contained in the third periodic report of the Philippines showed that, under the new Constitution of 1973, most of the rights enumerated in article 5 of the Convention were safeguarded. The Committee welcomed the information that aliens were granted protection under Philippine law and enjoyed rights on an equal footing with nationals.

154. Questions were raised as to whether any measures had been adopted to implement article 7, or article 2, paragraph 1 (c) of the Convention. Some members affirmed, and others denied, that article II, section 7, of the Constitution fulfilled the requirements of article 4, paragraph (b) of the Convention; and it was asked whether the Government had reached a final decision on the questions of the necessity for adopting special measures to give effect to the provisions of article 4 of the Convention (to which, according to its initial report, the Government of the reporting State had planned to give careful consideration). Questions were asked about the effects which Proclamation No. 1081 of 12 September 1972, placing the country under martial law, may have had upon the rights guaranteed to citizens, including the rights safeguarded under the Convention. Interest was expressed in the Commission on National Integration, and information on its composition, functions and activities was asked for. Information on the ethnic composition of the population was also requested.

155. The representative of the Government of the Philippines stated that his Government had not found it necessary to adopt legislation to give effect to provisions of article 4 of the Convention. He informed the Committee that, despite the proclamation of martial law, the human rights provided for in the Constitutions of 1934 and 1973 had been afforded to all citizens and non-citizens in the country. He referred members of the Committee to a report prepared by the Commission on National Integration, extracts from which had been transmitted to the Secretary-General and would be made available to the Committee. And he gave the Committee some information on the ethnic composition of the population.

## **CERD A/32/18 (1977)**

88. The fourth periodic report of the Philippines was found to contain useful information, supplementing the information supplied in earlier reports.

89. Recalling that, at its ninth session, while considering the third periodic report of the Philippines, the Committee had been informed by the representative of the Government of the Philippines that his Government had not found it necessary to adopt special legislation to give effect to the provisions of article 4 of the Convention [A/9618, para. 155], members of the Committee welcomed the information in the report under consideration that a draft decree to implement article 4 of the Convention had been submitted to the President of the Philippines for approval on 23 May 1976. They expressed the hope that the full text of the proposed new legislation would be made available to the Committee after it was enacted.

90. Inquiries were made about the implementation of article 5 of the Convention. Although an earlier report from the Government of the Philippines had supplied information on that question, it was recalled that, since then, a new Constitution had been promulgated in 1973 and therefore a new situation had been created. It was observed that, although article II, section 9, of the Constitution of 1973 contained a clause prohibiting discrimination on the grounds of sex, race or creed, that provision related only to labour relations; in order to comply with article 5 of the Convention, a general guarantee affirming the rights of everyone to equality before the law and a special clause prohibiting discrimination on the ground of race, colour, descent or national or ethnic origin would have to be inserted in the Constitution.

91. Concerning the implementation of article 6 of the Convention, it was asked whether the right of effective recourse to the courts by persons who had been subjected to racial discrimination was based on any legal texts, whether specific cases of that kind had been heard by the courts and, if so, what the verdicts had been.

92. Several members recalled the importance and the mandatory character of the provisions of article 7 of the Convention, and inquired about the implementation of those provisions by the reporting State. It was observed that the large number of ethnic groups in the Philippines emphasized the importance of the implementation of that article, and that the State control of education which prevailed in the country should be a means of facilitating that implementation.

93. Some members asked whether the Constitution of 1973 was still in full effect or whether any of its provisions had been suspended. They also wished to know whether the régime of martial law in the Philippines still prevailed and what effect it had had upon the enjoyment of human rights in the country, and particularly on the prevention of racial discrimination.

94. Much of the information contained in the report was in response to the Committee's general recommendation III and decision 2 (XI). Members of the Committee noted the multifaceted struggle of the reporting State against racism in southern Africa. They took note of its contributions to relevant United Nations funds. Noting that the International Softball Association had censured and suspended the Softball Association of the Philippines as a consequence of its refusal to participate

in the world softball championship held in New Zealand in January 1976 because of the participation of South Africa, it was observed that it was the International Softball Association that deserved censure. Members took note also of the information that the competent authorities in the reporting State had cancelled the importation of 150,000 cases of sardines marked as if they had come from a third country, because they were found to be South African sardines; they saw as this as a manifestation of the vigilance of the Government of the Philippines in its application of its principled policy towards South Africa, and suggested that it would be useful for the Committee to know the name of the third country involved.

95. The detailed annex to the report, providing a breakdown of the population of the Philippines on the basis of the 1970 census, as envisaged in general recommendation IV of the Committee, was welcomed. Several members noted, however, that the population groups were identified by mother tongue and not on the basis of ethnic or racial considerations. Some members wondered to what extent the breakdown of the population by mother tongue was in fact a breakdown by ethnic origin, and how much importance was attached to linguistic differences in efforts to prevent racial discrimination. They inquired whether any special measures had been taken to assist minorities in integrating into Philippine society in accordance with article 1, paragraph 4, and article 2, paragraph 2, of the Convention.

96. The representative of the Government of the Philippines assured the Committee that the text of the draft decree to implement article 4 of the Convention would be made available to the Committee once it had become law. Concerning article 5 of the Convention, he stated that, in addition to the anti-discrimination provision of article II, section 9, of the Philippine Constitution, which related only to labour relations, there were relevant provisions in the Bill of Rights. His Government would submit further information concerning measures taken to comply with article 7 of the Convention, but he could already cite one example: the educational curriculum in the Philippines required a study of the United Nations Charter in secondary schools. The Constitution of 1973 remained in force, except for some amendments which had been approved by referendum in 1975; martial law was still in force. He would convey to his Government the comments and questions of members of the Committee so that they could be taken into account in the next report.

## **CERD A/34/18 (1979)**

57. The fifth periodic report of the Philippines consisted of two documents: one mainly concerned with the policy followed by the Government of the Philippines with respect to the racist régimes of southern Africa (CERD/C/20/Add.9), and the other introducing the Presidential Decree No. 1350-A, declaring violation of all forms of racial discrimination to be unlawful and providing penalties therefor (CERD/C/20/Add.30).

58. As regards the first part of the report (CERD/C/20/Add.9) concerning the application of article 3 of the Convention and decision 2 (XI), adopted by the Committee at its 233<sup>rd</sup> meeting, on 7 April 1975, the international stance of the Government of the Philippines with respect to the policies and practices of the racist régimes in southern Africa was highly praised by the Committee members. The Committee considered that the policy of the Philippines was consistent with decisions of the United Nations bodies concerning the attitude to be adopted by the international community with respect to the apartheid policies of the Government of South Africa. The Government of the Philippines was commended for the steps it was taking at the international level to further the aims of the Convention and to supply financial assistance to the African people who were victims of colonialism and racial discrimination.

59. The Committee discussed in detail the Presidential Decree No. 1350-A (CERD/C/20/Add.30) and noted with satisfaction its promulgation by the Government giving effect to article 4 of the Convention. It was most important that States parties to the Convention should take the necessary steps to bring municipal laws into line with the provisions of the Convention. The Decree was praised for not only reproducing in large measure the language of article 4 of the Convention but also for defining specific offences and for setting out penalties for each of them. A member stated in particular that it was noteworthy that under section 3 (b) of the Decree the maximum penalty was applicable to government officials or employees found guilty of racial discrimination, for the official policy of a Government might not always be reflected in the behavior of each and every one of its officials.

60. Some members were of the opinion that the maximum penalty of 30 days imprisonment seemed too lenient for the serious crimes referred to in section 3 (a). Another member pointed out that the Decree did not indicate the nature of the court competent to deal with the cases it intended to cover. It was also stated that the Decree mentioned only offences against a race or group of persons and did not refer to offences against an individual member of another race or group. It was hoped that the next report from the Philippines would give details concerning the application of the Decree.

61. One member pointed out that Decree No. 1350-A referred to the powers vested in the President of the Philippines by the Constitution, which, however, had been partially superseded by martial law. He wondered, therefore, to what extent the Decree was compatible with the provisions of the Constitution and whether it might not lapse when the Constitution again came into full force. This view was not shared by another member who stated that that view was based on an interpretation of article 4 as being restrictive of freedom of speech and freedom of association. He did not believe that the Decree restricted such freedom in any way and should therefore be capable of application on a permanent basis.

62. Some deficiencies in the report were also noted by members. A member, supported by some others, noted with regret that the report did not reply to the questions raised during the debate at the fifteenth session on the fourth (previous) periodic report submitted by the Philippines. It had been asked at that time whether or not the 1973 Constitution was still fully in force in that country; and the information which had been requested about the possible effect of the régime of martial law on the observance of human rights and the prevention of racial discrimination in the Philippines had not been supplied. It was also noted that further details about the demographic composition of the Philippines, in particular the correlation between linguistic and ethnic minorities, which had been requested during the examination of the third and fourth reports, were not supplied.

63. Members of the Committee discussed in some detail article 6 of the Convention, in particular in the context of the martial law situation prevailing in the Philippines. A member pointed out the crucial importance of this article in regard to the guaranteeing of remedies to the individuals against violations of their rights under the Convention, stating that no legislation could help unless the individual was in a position to take action. He wondered whether a citizen of the Philippines could sue for damages if, for instance, he were denied employment as a government official on grounds of race, and asked for more information on the precise provisions governing the implementation of article 6. The views expressed regarding the importance of article 6 were endorsed by a number of other members. Additional information was requested by some members concerning the application of article 7 of the Convention, as well as on the progress made towards the social, political and cultural integration of ethnic and linguistic minorities in the Philippines.

64. The representative of the Philippines, replying to some of the questions raised by members of the Committee, stated that the Constitution of the Philippines had never in fact been suspended and was still effective. The powers being exercised by the President under the régime of martial law currently in force were fully in accordance with the provisions of the Constitution. Nor was it the case that the normal processes of the judiciary had been suspended; they were fully operative. On the question of the treatment of ethnic groups, he said that there was in fact no distinction on racial or ethnic grounds between different population groups in the Philippines. There were three official languages - English, Filipino and Spanish - the first of which was in use throughout the country. Similarly, there was no question of any differentiation on such grounds in the field of social, cultural and economic development.

65. The Committee expressed the hope that the remaining questions would be answered in the Philippine Government's next periodic report.

## **CERD A/35/18 (1980)**

355. The sixth periodic report of the Philippines consisted of two documents: one mainly concerned with the policy followed by the Government of the Philippines with respect to the implementation of the provisions of articles 6 and 7 of the Convention (CERD/C/66/Add.12), and the other introducing the composition of the Philippine population in accordance with mother tongue (CERD/C/66/Add.19). Before the consideration of the Philippine report by the Committee the representative of the Philippines made available to members of the Committee a booklet on regional autonomy in the southern Philippines, intended to supplement the information furnished in the report.

356. The members of the Committee noted with appreciation the frankness of the report which drew attention to major problems facing the Philippine Government and to steps which had been taken with respect to all strata of society. It was also stressed that the report had answered most of the questions raised at the previous session of the Committee and reflected a positive dialogue between the reporting State and the Committee.

357. Much of discussion revolved around the Government's policy and practical measures on the implementation of articles 1 (4), 2 (2), 4 and 5 of the Convention concerning the minorities and other ethnic groups of the population. Some members of the Committee noted that the granting of autonomy to the southern Philippines, the creation of the Office of the Presidential Assistant on National Minorities and the founding of the Agency for the Development and Welfare of Muslims were steps forward in the protection of the rights of minorities. Nevertheless, they pointed out that the precise nature of the powers of the regional autonomous assemblies was not clear from the report, nor their relationship with the central Government. With reference to information that national laws were superior to regional laws and that the President of the Philippines had powers of control over the autonomous regions, it was remarked that the relationship between the central Government and the regions should be spelled out more clearly, particularly how that relationship affected the political and civil rights of the inhabitants in the region. It was asked whether the granting of autonomy worked against the interests of any groups; and whether there was any institution which dealt exclusively with promoting regional harmony among the different groups in order to help the minorities become an integral part of the country.

358. It was recognized that Presidential Decree No. 1083 of 4 February 1977 was praiseworthy, in that it established the rights of citizens in keeping with the Convention. Further details of the Decree, its precise effort on Muslims, the position of a Grand Mufti and certain religious tribunals were required.

359. Noting the statement in the report that more funds were now invested in the southern Philippines for infrastructure projects than in the other regions, specific information was requested illustrating that statement. More details were also requested on similar programmes and on the steps taken in Mindanao and other southern islands to promote the economic and social welfare of the inhabitants and to improve their standard of living.

360. As concerns the linguistic composition table, a member of the Committee observed that the



figures it contained did not agree with those in the fourth periodic report. It was asked what was the basis for the later figures and how ethnic groups had been defined by the Government. For example, if a group was considered as linguistic, would it enjoy political rights? Turning to languages spoken by minority ethnic groups, other members of the Committee inquired whether Negrito had a written form. If it did not, it was quite possible that the indigenous culture was doomed to extinction.

361. Concerning the implementation of article 4 of the Convention, more clarification was asked for on whether the Philippine President's power to issue presidential decrees binding on the legislature was absolute or subject to any form of checks and control; whether any cases of racial discrimination had been brought to the courts following the enactment of the Presidential Decree No. 1350-A of 1978, which declared as unlawful any violations of the Convention. The Committee should also be told whether the autonomous regions could enact legislation that was not liable to revision or revocation by the President for, if they could not, their autonomy seemed questionable.

362. Referring to article XVII, section 3 (2), of the 1973 Constitution, it was asked whether martial law was still in effect in the Philippines and, if so, what constitutional provisions had been suspended. That was important for the implementation of article 5 of the Convention, which guaranteed the right of everyone to vote and to stand for election. It was also asked whether all Philippine citizens were entitled in fact to participate in the Government and in public affairs.

363. Concerning article XIII, section 5, of the Constitution, a member of the Committee observed that the Interim National Assembly was to establish a special court to deal with cases of corruption on the part of public officials as well as other abuses which might have their roots in racial discrimination or prejudice, while under section 6 of the same article, the Assembly was to establish an ombudsman's office to investigate complaints against public officials. He wondered whether the court and the office had been established; whether the court had heard any criminal or civil cases relating to racial discrimination; and whether the ombudsman had received any complaints about racial discrimination on the part of a person in public office.

364. With regard to article 6 of the Convention, the members of the Committee noted that the Philippines had a legal system condemning all racial discrimination to which citizens might be subject. As the three cases of racial discrimination cited in the report were concerned with transnational corporations, it was asked whether there was any case on record in which the defendant had been a Filipino.

365. So far as the implementation of article 7 of the Convention was concerned, the Committee was pleased to note the measures being taken in the fields of teaching, culture and information with a view to combating prejudice which led to racial discrimination. The Committee requested more details on programmes concerning the promotion of understanding and tolerance, particularly with regard to ethnic cultures, and on programmes of cultural exchanges within the country.

366. The representative of the reporting State answered some of the questions raised by members of the Committee. As to questions concerning the regional autonomy, he stated that it had been the constant policy of the Philippine Government to promote regional autonomy, based on geographical rather than ethnic divisions, throughout the country. The State was divided into 12 regions, with the majority of Muslims concentrated in regions 9 and 12 in the south. Each region had its own

executive council and a regional legislative assembly, but he was unable to say what position they occupied vis-à-vis the Central Government. As for the referendum held in April 1977 on the autonomy issue, he could not say whether it had been so organized as to deny participation to many Muslims - but the vast majority of the electorate in regions 9 and 12 had opted for autonomy in any case.

367. Turning to questions asked concerning martial law he stated that the belief that the Philippines was under martial law was mistaken. The country was being ruled under a state of crisis Government proclaimed by the President in 1971 under the terms of the 1935 Constitution then in force. Military tribunals had been set up to deal with certain offences against peace and the State, but the Penal Code had not been suspended, and civilian authority was still recognized to take precedence over military authority. The President had suspended the legislature and assumed both executive and legislative powers; but four years later, the country had acquired a new legislative body in the form of the Interim National Assembly, elected, for the most part, by popular vote. Meanwhile, the drafting of a new constitution had been completed and the new Constitution, having been submitted to the populace for approval by referendum, had taken effect in January 1973. The freedom of the individual was nothing foreign to the Philippines; nor were civil and political rights.

368. In reply to questions raised in connection with Presidential Decree No. 1350-A, the representative explained that under this Decree violations of the Convention were unlawful and penalties were provided for infringements. Concerning the status of that Decree, he drew attention to article XVII, section 3 (2) of the 1973 Constitution under which Presidential Decree would continue to hold good even after the abolition of crisis Government, until amended or repealed.

369. Touching upon the special court and the office of the ombudsman, he said that both of them had been set up to deal with abuses by public officials. As the system worked in practice, the ombudsman could bring complaints concerning the racial discrimination practised by public officials to the attention of the court. He was not in a position to say whether the court had actually heard such cases: the information would be provided in the seventh periodic report. He also stated that the seventh periodic report of the Philippines would contain the texts of the relevant provisions of the 1973 Constitution, and the presidential decrees relating especially to the Muslim population, such as those on Muslim personal laws and the provision of amnesty for secessionists.

## **CERD A/37/18 (1982)**

288. The seventh periodic report of the Philippines (CERD/C/91/Add.7 and Add.12) was considered by the Committee together with the introductory statement of the representative of the reporting State who elaborating on certain points of the report, stated that the Philippines participated actively in the international efforts to eliminate apartheid and had offered to host the Second World Conference to Combat Racism and Racial Discrimination in 1983. He also referred to the 1973 Constitution and to several Decrees which provided the legislative foundation for the application of the Convention as well as to measures that had been taken for the protection and promotion of minorities. He finally pointed out to the statement in the report on the lifting of martial law in the Philippines on 17 July 1981.

289. Members of the Committee expressed their satisfaction at the invitation of the Philippines to host the Second World Conference to Combat Racism and Racial Discrimination and commended the Government for being in the forefront in the fight against apartheid. It was pointed out that, although the situation in that country was very complex, the Philippine Government was taking a number of measures in various fields to implement the Convention. Welcoming the lifting of martial law, a member asked whether the Philippine Government was considering the ratification of the International Covenant on Civil and Political Rights, which was closely connected to the Convention.

290. Many questions were asked about minorities in the Philippines and in this connection members referred to articles 2 and 5 of the Convention. Noting a contradiction in the report, a member pointed out to the assertion that there was no racial discrimination in the Philippines and to the reference that certain measures had been taken regarding minorities: he wondered, therefore, for what reasons such measures and provisions had come into being if no discrimination against those minorities existed. Members inquired about the legal definition of linguistic and ethnic groups and the difference between a cultural and a linguistic minority and requested information about the ethnic component of the Moslem population. It was asked what concrete results had been produced by the various presidential decrees, particularly with regard to the development of the linguistic and cultural identities of various ethnic groups; whether the presidential decrees had been implemented concerning, among other things, the acknowledgment of Moslem holidays and the establishment of a centre for Islamic research; and whether the trading rights of Muslim traders were limited in any way because they belonged to a minority group. Further information was requested on the composition and effectiveness of the Commission on National Integration; on the operation of the Presidential Assistance on National Minorities and of the Ministry of Moslem Affairs; and on the results that had been achieved by measures aimed at integrating the various cultural and other minorities into Philippine society. Referring to the statement in the report that the autonomous regions, in addition to the special appropriations, were entitled to a yearly income of at least one thirteenth of 1 per cent of the total national internal revenue collections, a member wondered whether that amount was considered adequate.

291. Concerning the implementation of article 3 of the Convention, the Committee expressed its satisfaction with the measures taken by the Government in the struggle against apartheid.

292. Much of the discussion focused on the implementation of article 4 of the Convention. Referring to the statement in the report that there was no need to declare punishable any act, practice, organization or institution which had as their basis racial discrimination since they did not exist, several members of the Committee pointed out that this statement contradicted the information contained in the fifth periodic report of the Philippines regarding Presidential Decree 1350-A which fully implemented article 4 of the Convention; the Decree stated that any violation of its provisions as well as of article 4, paragraphs (a), (b), and (c), of the Convention was thereby declared contrary to law and the violator would, on conviction, suffer severe penalty. In this connection, it was asked, whether Presidential Decree 1350-A had actually been implemented and whether it remained in force after the lifting of martial law. With regard to the statement in the report that the provisions of the Convention would be implemented by way of internal laws or administrative regulations only in those instances where existing constitution or penal safeguards became inadequate or non-existent, a member pointed out that specific legislation had to be enacted to prevent cases of racial discrimination in the future. With reference to another statement in the report to the effect that Nazism, fascism, neo-fascism and related ideologies were not practised nor did they overtly exist in the Philippines, clarification was requested regarding the meaning of the word "overtly," and it was asked whether that implied that such ideologies existed covertly in that country.

293. As to article 5 of the Convention, information was requested on whether general elections had been scheduled to be held since the lifting of martial law. Moreover, the Government was again asked to provide information on cases which had been brought to the attention of the office of the ombudsman.

294. The representative of the Philippines replied to a number of questions raised by the Committee and with regard to a possible ratification by the Philippines of the International Covenant on Civil and Political Rights, he stated that now that martial law, which had suspended the work of the legislature, had been lifted, the question of ratification of that Covenant would come before the legislature. In reply to questions raised concerning article 2 of the Convention, he said that the Commission on National Integration had originally been established for Moslems, while the Presidential Assistance on National Minorities (PANAMIN) dealt with other minorities which did not share the same beliefs and cultural practices as the majority of the population. With regard to the autonomous regions, he explained that Metropolitan Manila was autonomous in that it was entitled to pass certain resolutions applicable to it, while regions IX and XIII included provinces where Filipinos of Moslem faith lived. With regard to comments made in connection with the small amount of  $\frac{1}{13}$ <sup>th</sup> of one per cent of the total national internal revenue which is granted to the autonomous regions, he explained that the Government also appropriated one per cent of its own resources to each of the 13 regions. Moreover, he drew attention to the significant increase in the contributions by the national service agencies to Regions IX and XII. As to how the distinction was made between the different ethnic and linguistic groups, he pointed out that the difficulty in answering that question stemmed from the fact that it was the Filipinos themselves who had historically been the victims of racial discrimination. Moreover, the Filipino people was the product of many races, and no distinction was made between them; there was no racially pure Filipinos, almost all of whom were of Malayo-Polynesian stock. With respect to cultural minorities, he said that since 88 per cent of Filipinos were Catholic and 5 per cent Moslems, it could be said that the Moslems represented a cultural minority, while the Christians were the cultural majority. However, he pointed out that the law prohibited anyone from being questioned about their religion. The

expression “cultural minority” also reflected the level of education of the people concerned. As to Moslem traders, he said that they benefitted from the special provisions of Presidential Decree No. 93. In fact, the Filipinos of the Sulu Sea, who were Moslems, traditionally traded freely with other peoples of the area, who were also Moslems, without being subject to any taxation.

295. With regard to the implementation of article 3 of the Convention, he stressed that his country faithfully applied United Nations resolutions concerning South Africa, had no relations, whether political or commercial with South Africa and no South African national could obtain a Philippine visa unless that person renounced the policy of apartheid in writing. Responding to comments made in connection with article 4 of the Convention, he pointed out that Presidential Decree No. 1350-A had been enacted to strengthen existing safeguards and to make explicit to the public that racial discrimination was a crime in the Philippines; it had been adopted, following ratification of the Convention, to punish any instance of possible racial discrimination. Therefore, there was no contradiction between the enactment of the Decree and the fact that there was no racial discrimination in the Philippines. Replying to the question as to what happened to the Decree after martial law had been lifted, he explained that the decree suspending martial law indicated that all laws and decrees would continue to be enforced unless provision was made to the contrary. In reply to another question, he said that fascism, neo-fascism and related ideologies based on religious intolerance, hatred and terror did not overly exist in the Philippines, Presidential Decree 1350-A was intended to serve as a preventive measure to prohibit any covert organization of which the Government was not aware. Referring to the question concerning elections, he pointed out that elections had been held approximately one month earlier for the regional legislative bodies, presidential and provincial elections had been held approximately two years earlier, village-level legislative elections had been held in recent weeks and national legislative elections were planned for 1984. As to questions concerning the functions of an ombudsman, he drew attention to the two institutions, the Sandiganbayan and Tanodbayan, which together fulfilled those functions. Although that matter did not actually concern racial discrimination, those bodies helped to ensure protection of civil and political rights, for example by offering remedies in the event of failure of justice and by helping to deter the Government from any abuse of power.

## **CERD A/44/18 (1989)**

268. The eight, ninth and tenth periodic reports of the Philippines, presented in a single document (CERD/C/172/Add.17), were considered by the Committee at its 842<sup>nd</sup> and 843<sup>rd</sup> meetings, held on 15 and 16 August 1989 (CERD/C/SR.842 and 843).

269. The report was introduced by the representative of the State party, who highlighted the process of restoration of democracy in the Philippines, which had led to the freeing of political prisoners, the establishment of the Commission on Human Rights as a body completely independent of the Government, and the ratification of several international instruments on human rights. However, she added, the Government was facing a brutal insurgency that was determined to overthrow it. She emphasized that racial discrimination was totally alien to the Philippine soul and culture, and that the low level of socio-economic development among the indigenous peoples was the result of colonialism, economic exploitation and four centuries of neglect on the part of the authorities. Measures recently adopted to remedy the situation included the establishment of autonomous regions and the setting up of three offices to deal with the affairs of the various cultural communities.

270. Concerning article 4 of the Convention, she said that there had been no reports of breaches of Decree No. 1350-A, which declared all violations of the Convention illegal, and that in addition to the legal machinery established for that purpose, alleged victims could bring their cases to the Ombudsman and the Commission on Human Rights.

271. Members of the Committee took note with satisfaction of the report of the Philippines and congratulated the representative of the State party on her introduction. Members also welcomed the statement by the representative of the reporting State on the restoration of democracy in the Philippines and expressed their satisfaction over the important political changes that had taken place and had created conditions for the observance of, and greater respect for, human rights. They also noted that the Government had not hesitated to raise the problems it was encountering in the implementation of the Convention, which bore witness to its determination to observe the Convention. Members were, however, surprised at the Philippine authorities' assertion that there was a complete absence of racial discrimination in the country and asked whether racial prejudices persisted in practical terms, in particular as a result of the country's colonial past. They also sought more information on the insurgency, the movements that made it up, the circumstances of the conflict and its consequence for the implementation of the Convention and, in particular, for the situation of the indigenous populations and communities living in the affected areas.

272. Members of the Committee welcomed the Philippines' position regarding the struggle against the apartheid régime and asked whether relations of any kind were still maintained with South Africa.

273. Members sought additional information concerning the implementation of article 4 of the Convention, especially in connection with the application of Decree No. 1350-A.

274. Concerning article 5 of the Convention, members of the Committee sought additional information, notably statistics, on the ethnic composition of the country. Noting that, according to

the report, 110 ethnic groups lived in the Philippines, they asked how that could be reconciled with the statement that Filipinos were all descended from a single racial stock. They also asked what were the living conditions of the members of the indigenous communities, notably those in the islands of Luzon, what measures had been taken by the Government for their benefit, what area of ancestral lands was in the process of being restored to them, what land tenure arrangements applied in that respect, whether educational establishments offering instruction in their languages had been established and whether legal aid was granted to them. Clarifications were also requested regarding the various autonomous regions, including Mindanao, and the offices responsible for the interests of the cultural communities, particularly as regards their composition and functions, the exact meaning of the terms "cultural communities," the programme relating to the Shariah mentioned in the report and the guaranteeing of the right to work. Lastly, it was asked what measures had been taken to guarantee the equal access of minority groups to public service and to increase their representation in governmental positions.

275. Additional information was requested concerning the application of article 7 of the Convention, particularly as regards educational projects described in the report as promoting peace.

276. In reply to questions raised by members of the Committee, the representative of the State party referred to vestiges of colonialism that still existed in practice and explained that until recently discriminatory recruitment practices had been pursued by some foreign companies. Furthermore, those practices had been exacerbated by sometimes large differentials in remuneration. Those practices which had caused several strikes had now been dealt with by the labour laws. Moreover, the Government was working on practical programmes to implement the constitutional provisions on social justice, equality, human rights and the attainment of a just and humane society. A comprehensive Agrarian Reform Programme had therefore been adopted to promote equality and the elimination of poverty, free high school education had been granted for all and resources had been allocated to alleviate the lot of the lowest 30 per cent of the population in terms of income. She emphasized, however, that the huge foreign debt impaired the pattern of development chosen by the Philippines.

277. With reference to specific questions concerning the insurgency, the representative explained that one of the results of the armed conflict was the displacement of persons due to voluntary evacuations. She drew attention to the economic effects of insurgency and counter-insurgency activities and stated, *inter alia*, that access to livelihood sources had become very difficult for some tribes. The insurgency was losing its appeal in the countryside for several reasons, including the discovery of mass graves of persons considered to be defectors from the New People's Army, and killings by units operating in urban areas. Referring to the Tripoli Agreement between the Government of the Philippines and the Muslim Liberation Front, she explained that it had recently been implemented by a law providing for the creation of an autonomous region in Mindanao. That law would, however, not enter into force until it had received majority approval in a plebiscite to be held in the proposed autonomous region. She added that the Government of Muslim Mindanao would be empowered to legislate on administrative organization, revenue sources, planning development, national resources and protection of the region's cultural heritage and that, as a result of peace talks, an executive order creating a separate Cordilleras region under the leadership of the people of the Cordilleras themselves had been signed.

278. With reference to article 3 of the Convention, the representative of the State party underlined that her Government maintained no diplomatic relations with the Government of South Africa.

279. With regard to article 4 of the Convention, the representative explained that Decree No. 1350-A declared illegal, and provided a penalty for, all organizations and organized activities that promoted and incited discrimination. While no complaints of racial discrimination had been brought before the courts in the past, the heightened awareness of their rights among the indigenous communities had increased the likelihood of such complaints being lodged.

280. Regarding questions raised in relation to article 5 of the Convention, the representative explained that the Philippines, composed of 7,100 islands, had a rich linguistic culture, with some 80 identifiable languages falling into 20 groups, and that the principle was now accepted that national identity could only be enriched by preserving and developing the languages and cultures of different groups. Although no special schools for the purpose of educating minorities existed, the need to promote and develop the cultural heritage of the various ethnic groups had been recognized by the Government. Regional educational offices had therefore been made responsible for devising regionally relevant curricula to supplement the national core curriculum. The first three years of schooling were in Filipino and regional languages, with English being introduced in the fourth year. Furthermore, a "tent school" project, which provided schooling for children in nomadic tribal groups, had been launched. Referring to other questions, she emphasized that according to article 12 of the Constitution, the State should protect the rights of indigenous communities to their ancestral lands in order to ensure their economic, social and cultural well-being. She added that the guidelines for determining the distribution and identification of these lands were currently being considered in the legislature, and that burial grounds and sacred grounds of indigenous populations had already been identified as ancestral lands.

281. Replying to questions on the offices established to protect and promote the interests of cultural communities, the representative explained that until 1987, there had been only one office, called the Office of National Integration, and that its chief had usually been appointed from the Muslim community. Because of the rising awareness of other cultural communities, three separate agencies had been created: the Office of Muslim Affairs, the Office of Northern Cultural Communities concerned with hill tribes and ethnic communities, mainly in the land of Luzon, and the Office of Southern Cultural Communities, concerned with all communities other than the Muslim community. She added that a cultural community was one which shared a common and distinctive heritage as well as common social and economic structures, that the physical differences between those groups were very slight and that they shared cultural rather than racial features.

282. Responding to other questions, the representative stated that during a period of about two years, various Muslim groups, Imams and Muslim scholars in the Philippines and Arab countries had been consulted and had prepared a Shariah Code for the Philippines, that it had been enacted into law, that it was applicable to all Muslims in the Philippines and that Shariah courts had been established to implement and interpret the Code.

283. The representative added that the Constitution guaranteed the rights to work, to organize and to enter into collective bargaining, even though their implementation was endangered by the problem of unemployment and underemployment faced by the country. Lastly, she emphasized that



measures had been taken to facilitate access to civil service and regional administrations, that Muslims, being the dominant minority group, held many electoral and government positions, that various cultural communities were represented in the Congress and that the Supreme Court was currently deciding on the most appropriate procedure for the appointment of sectoral representatives.

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409. At its 1218<sup>th</sup> and 1219<sup>th</sup> meetings, held on 5 and 6 August 1997, the Committee considered the eleventh to fourteenth periodic reports of the Philippines (CERD/C/299/Add.12) and at its 1231<sup>st</sup> meeting, held on 14 August 1997, adopted the following concluding observations.

### **A. Introduction**

410. After a lapse of eight years, the Committee welcomes the opportunity to resume the dialogue with the State party, on the basis of its eleventh to fourteenth periodic reports. While a number of important questions raised and recommendations made during the consideration of the tenth report of the State party have not been addressed in the present report, the Committee expresses its appreciation for the answers provided by the delegation to the many questions asked in the course of the discussion, which enabled it to obtain a clearer picture of the actual situation in the country with respect to the implementation of the Convention.

### **B. Factors and difficulties impeding the implementation of the Convention**

411. It is noted that, although the State party has recently undergone important reforms at the political, economic and social levels, the authorities have not yet been able to control endemic poverty, which exacerbates social inequalities and disparities in development, affecting in particular vulnerable groups, including the indigenous cultural communities and Muslim Filipinos.

### **C. Positive aspects**

412. The Committee welcomes the proclamation of the National Decade for Filipino Indigenous People (1995-2005) and the presentation to the President, in compliance with Memorandum Order No. 335 of 26 January 1996, of the Philippines Human Rights Plan, comprising the sectoral action plans for human rights protection of indigenous cultural communities and Muslim communities.

413. The Committee expresses its satisfaction at the adoption of various measures aimed, directly or indirectly, at preventing and combating disparities between various ethnic groups, in particular, the adoption of the Social Reform Agenda under the Medium-Term Development Plan, aimed at fighting poverty and attaining social justice; the promulgation of the Rules and Regulations on Children of Indigenous Cultural Communities, seeking to provide those children with basic health, nutrition and other social services; the adoption of measures by the Department of Labour and Employment for the prevention of discrimination against workers from minority groups; and the granting of scholarships to children and youths from the indigenous cultural communities through the National Integration Study Grant Programme and the Special Ethnic Groups Educational Assistance Programme.

414. The Committee notes with appreciation that a number of steps have been taken towards the peaceful settlement of the conflict between the Government and the Muslim Filipino community in the southern part of the country, such as the negotiation of a cease-fire in 1990 and the signing of a peace agreement in 1996 between the Government and the Moro National Liberation Front; the issuance of Executive Order No. 371 of 2 October 1996 establishing the Special Zone of Peace and

Development, the Southern Council for Peace and Development, and the Consultative Assembly; and the adoption on 15 October 1996 of Administrative Order No. 297, on the implementation of the provision in the peace agreement for members of the Moro National Liberation Front to join the National Police.

415. The Committee notes with satisfaction, with respect to article 5 (d) (v) of the Convention, the launching of the Comprehensive Agrarian Reform Programme to improve the tenure of indigenous cultural communities in their ancestral lands, and the issuance of Administrative Order No. 02, Series of 1993, providing for the issuance of certificates of ancestral land and domain claims to individuals, families or clans, and indigenous communities, even though those certificates do not constitute titles of property in land.

416. With respect to article 7 of the Convention, the Committee welcomes the adoption of measures, such as the issuance of Executive Order No. 27 of 1986, instructing the Department of Education, Culture and Sports to include the study of human rights in the curricula at all levels of education; the creation by the Department of Education, Culture and Sports of "writeshops" on peace education in which members of indigenous cultural communities participated; and the setting up by the Department of Education, Culture and Sports and the Commission on Human Rights of training programmes on human rights for supervisors, who will in turn train teachers on ways to introduce human rights education in schools.

417. The Committee is encouraged by the several bills pending before Congress specifically dealing with the solution of the fundamental issue of the restoration of the indigenous cultural communities' rights to their ancestral domains/lands (House Bill No. 33 and Senate Bill No. 1728), with equal employment opportunities for members of the indigenous cultural communities and Muslim Filipinos (Senate Bills Nos. 153, 212 and 1057) and with improvement of the economic and social situation of the cultural communities (Senate Bill No. 1476). The Committee is further encouraged by the action of President Ramos in requesting Congress to enact those bills into law by November 1997.

418. The Committee welcomes the establishment of the Commission on Human Rights and of the Tanodbayan (ombudsman).

#### D. Principal subjects of concern

419. In connection with the statement in paragraph 4 of the report, that "racial discrimination, as defined under article 1, paragraph 1, of the Convention, is alien to the prevailing mores and culture of the Filipino people. The type of racial discrimination, similar to what was practiced in South Africa when the policy of apartheid was not yet dismantled, has never officially or factually existed in the Philippines, neither in a systemic nor formal nor intermittent nor isolated manner. Hence, there have never been any references to the existence of a discriminatory policy on racial grounds nor have there been any allegations of instances of racial discrimination as a specific kind of human rights violation in the Philippines, even before or immediately after the Philippines adopted and ratified the Convention on 21 December 1965 and 15 September 1967, respectively" (CERD/C/299/Add.12). The Committee emphasizes that the scope of article 1, paragraph 1, of the Convention is broader. It covers any distinction, exclusion, restriction or preference that has either

the purpose or the effect of nullifying or impairing the recognition, enjoyment or exercise of human rights and fundamental freedoms on an equal basis in the political, social, cultural or any other field of public life. Moreover, the report and the information received show that important parts of the population are living in conditions which do not guarantee the exercise of human rights on equal terms.

420. It is noted with concern that there is no specific legislation prohibiting racial discrimination. The Constitution incorporates a comprehensive catalogue of human rights, but legislative, judicial and administrative measures to implement those provisions are still lacking. In this respect, reference is made in particular to articles 2, 4 and 7 of the Convention, which explicitly require States parties to adopt specific measures to give full effect to the rights in question.

421. There has been no clarification of whether Presidential Decree 1350-A of 1978, declaring violations of the Convention unlawful and providing penalties for such violations, is in full conformity with the provisions of article 4 of the Convention, which require that legislative provisions be adopted to classify as an offence the dissemination of ideas based on racial superiority or hatred, acts of violence or incitement to violence against any race or group of persons of another color or ethnic origin and the provision of assistance to racist activities.

422. The lack of specific disaggregated data concerning the economic and social situation of and existing disparities between various indigenous communities and ethnic tribes living in the country makes it difficult to assess the extent to which they enjoy the rights listed in the Convention.

423. There is no information in the report on the specific laws and practice with respect to the implementation of article 5 of the Convention, especially with respect to the enjoyment of those rights by members of the indigenous cultural communities and the Muslim Filipinos.

424. With respect to article 5, paragraphs (a) and (b), of the Convention, there is concern that many reported cases of disappearances, including members of indigenous peoples and Muslim Filipinos, have not yet been fully investigated and brought before the courts.

425. In connection with article 5 (d) (i) and (v) of the Convention, concern is expressed at reports of forced evictions and displacements of indigenous populations in development zones, as well as at reports that specific groups of indigenous peoples have been denied by force the right to return to some of their ancestral lands.

426. With respect to article 6 of the Convention, there is concern at the lack of legislative provisions to implement the right to just and adequate reparation or satisfaction for any damage suffered as a result of acts of racial discrimination. Moreover, the absence of reported violations of Presidential Decree 1350-A and of complaints against acts of racial discrimination to the courts, raises doubts as to the extent of the publicity given to and the effectiveness of available remedies for victims of racial discrimination.

427. The information concerning the 1990 population census does not clarify sufficiently the questions and comments raised and made during the consideration of the tenth report, particularly in respect of indigenous cultural communities and ethnic tribes.

#### E. Suggestions and recommendations

428. The Committee recommends that priority attention be given to the enactment of the bills related to indigenous cultural communities and Muslim Filipinos pending before Congress, that enabling laws be adopted to give full effect to constitutional provisions dealing with the promotion and protection of human rights in general and to the rights protected by the Convention in particular, and that domestic legislation be amended so that it prohibits, as appropriate, racial discrimination as defined in article 1, paragraph 1, of the Convention.

429. The Committee recommends that in its next periodic report the State party deal with measures promoting the interests and welfare of the indigenous cultural communities and Muslim Filipinos as an integral part of its implementation of the provisions of the Convention rather than as a separate chapter.

430. The Committee also recommends that the next periodic report contain comprehensive information on the powers, functions and activities of the Commission on Human Rights and the Ombudsman, especially on the number and the substance of complaints received, and the action taken as a result.

431. The Committee recommends that information on the ethnic composition of the population and the standard of living of each group, as well as other educational and social indicators, analyzed and summarized on the basis of the 1990 population census, be provided in the next periodic report, with particular emphasis on indigenous ethnic communities and tribes.

432. The Committee reaffirms that the provisions of article 4 of the Convention are mandatory, as stated in its General Recommendation VII (32), and recommends that Presidential Decree 1350-A of 1978 be reviewed in the light of that recommendation. The Committee stresses in this regard that the State party should fulfil all its obligations under this article and that, in doing so, it take fully into account General Recommendation XV (42).

433. The Committee recommends that action be taken at the legislative, administrative and judicial levels to protect the right of everyone, without discrimination, to enjoy their rights under article 5 of the Convention, especially the rights to equal treatment before the courts and all other organs administering justice, to security of person and protection by the State against violence or bodily harm, and to freedom of movement and residence.

434. The Committee recommends that the State party ensure protection against any acts of racial discrimination through the competent courts, in accordance with article 6 of the Convention, by, inter alia, strengthening the court system, the independence of the judiciary and the confidence of the population therein. It further recommends that the right to seek just and adequate reparation for victims of acts of racial discrimination be fully guaranteed under the law and in practice.

435. The Committee recommends that further action be taken to ensure that the provisions of the Convention are more widely disseminated, particularly among members of minority groups and among the judiciary, the police and government officials. In this respect, the Committee

recommends that special emphasis be put on the dissemination of information about remedies available in case of racial discrimination.

436. 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.

437. It is noted that the State party has not made the declaration provided in article 14 of the Convention, and some members of the Committee requested that the possibility of making the declaration be considered.

438. The Committee recommends that the State party's next periodic report, due on 4 January 1998, be a comprehensive report and that it address all the points raised in the present observations.