

485th meeting

Friday, 8 August 1980,  
at 10.30 a.m.

Chairman: Mr. BAHNEV

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES  
UNDER ARTICLE 9 OF THE CONVENTION (agenda item 2) (continued)

Sixth periodic report of Tunisia (CERD/C/66/Add.11) (concluded)

1. Mr. OUNAIES (Tunisia) said that his Government's fundamental approach to the preparation of its periodic reports was to strive, above all, for concision. All too often young countries succumbed to the temptation to present long lists of their achievements in order to make themselves better known or present themselves in a favourable light. The result was often quite the opposite: they brought suspicion on themselves for belabouring matters and often taxed the patience of their audience. His Government's primary aim was that its report should be read. It was essential, however, for a concise report to be accompanied by such supporting documents as were necessary to enable the Committee to evaluate the information presented in it. That his Government had failed to do, but it would not repeat the same mistake in submitting its future reports. It was clear, moreover, that the officials who had drafted the sixth periodic report had consulted the preceding periodic reports, but not the summary records of the meetings at which they had been considered by the Committee. That omission was the result of a lack of co-ordination, which would also be remedied in the preparation of the next report.

2. In the light of the scope of the Convention, as defined in article 1, his Government had refrained from including in its report any information on its general efforts to promote the social, political, cultural or other advancement of the population; such efforts were not directly related to racial discrimination in the strict sense of the term. Both the past and the present of the country were evidence of the absence of any racial discrimination.

3. Even before the entry into force of the Convention, Tunisian legislation had been up to date with regard to protection of rights and liberties and, given the traditional stability of Tunisian society, there had been little reason for amending the existing laws or enacting new ones for the purpose of preventing racial discrimination. The social tranquillity which characterized the country explained why the law-makers had deemed it unnecessary to act, and accounted for the complacency which Mr. Tenekides seemed to detect in the sixth periodic report.

4. The Press Code, concerning which Mr. Valencia Rodriguez had requested further information, was readily accessible to the public. His Government could, if the Committee so wished, make a copy available to the Secretariat.

5. The Electoral Code had been amended prior to the last legislative elections in November 1979. The amended Code required organizations to present twice as many candidates as there were seats to be filled. That change in electoral procedure had been welcomed by voters and political organizations in the country, and constituted a major step forward.

6. Tunisia had distinguished itself in its region for its firm policy with regard to refugees. Article 17 of the Tunisian Constitution provided that political

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refugees could not be extradited, and the Government had never compromised on that principle. Tunisia took an active interest in the problem of refugees and was a member of the Executive Committee of the Programme of the High Commissioner for Refugees. It recognized the validity of international travel documents for refugees and stateless persons.

7. Freedom of movement was guaranteed by the Constitution. Passports were freely issued and only recently a streamlined procedure for applying for passports had been instituted which would empower the neighbourhood commissions (commissariats de quartier) to issue travel documents. The only restriction on the freedom of movement was the requirement that young men under the age of 30 had to carry a certificate proving that they had a military deferment or had completed their compulsory military service.

8. With regard to disadvantaged groups, while there were laws to promote the welfare of war veterans, the handicapped and women, inter alia, there were none intended to benefit the members of any ethnic, national or religious group.

9. Religious affairs were the responsibility of the Department of Worship in the Office of the Prime Minister. The Moslem, Christian and Jewish faiths were represented in the country. The overwhelming majority (approximately 90 per cent) of the population were Moslems. The Department of Worship appointed the Grand Mufti of the Republic, usually from among the ranks of the Malikite Sunnites, the sect to which virtually all Tunisian Moslems belonged. The Shia sect was virtually non-existent. The Jewish minority numbered fewer than 50,000 according to 1975 census figures. There was no legislation restricting the practice of the Jewish religion and Jewish places of worship were protected. The Jewish faith was governed by a Council, the President of which was also appointed by the Department of Worship. As to the Catholic Church, since the Pope himself accredited an Apostolic Nuncio to Tunisia, who was responsible for the Catholic hierarchy and clergy, the Government did not take part in the management of the affairs of this church, whose property was regulated by an agreement concluded between the Holy See and Tunisia following the latter's independence.

10. The problem of the democratic representation of students had existed in Tunisia for some time. The General Union of Tunisian Students, which for 20 years had represented the students of the country, had for the past seven years been experiencing a crisis of leadership. As a result, its functions had been taken over by councils elected by the students of each university faculty to represent them in the university councils. A significant development in the situation had occurred in July 1980, as the Prime Minister and the Minister of Higher Education and Scientific Research had both issued statements affirming their desire to ensure the democratic representation of students in discussions aimed at solving problems affecting university life and the place of students in national society. The ruling party, for its part, had recently decided to disband its National Bureau of Students and to set up a committee to make preparations for a congress to settle the question of student representation.

11. The Personal Status Code of 1956 had introduced innovations that were bold for an Arab and Moslem country with regard to the status of women, by prohibiting polygamy, authorizing divorce by judicial decision and defining the rights of women as mothers, wives and heirs. In 1977 the Government had decided to allow women to serve in the armed forces and the police. At the World Conference of the

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United Nations Decade for Women: Equality, Development and Peace, held in Copenhagen in July 1980, Tunisia had announced its intention to accede to the Convention on the Elimination of All Forms of Discrimination against Women.

12. More ample information on the matters raised by Mr. Ingles would be provided in subsequent reports. He assured the Committee that, although Tunisian legislation might seem inadequate on the basis of the information provided in the sixth report, it was in fact more than satisfactory to ensure the observance of articles 4 to 7 of the Convention.

13. He agreed with the comments made concerning xenophobia. Tunisia, 200,000 of whose nationals worked abroad in industrialized countries, knew full well what it was to fear xenophobic outbursts. The driving principle of its revolution was the recovery of human dignity, and its abiding faith in the Committee was based on the latter's role in upholding the primacy of the ideals of the Convention over reactions of chauvinism or economic protectionism.

14. The Tunisian League of Human Rights, about which Mr. Goundian had inquired, had been founded on the initiative of private citizens and had received Government authorization in May 1977. The League had opened regional offices throughout the country and was active in the field of human rights. It was not for the Government to report on the activities of the League, which functioned without Government interference.

15. The existence of such independent institutions in the country was proof of the adequacy of controls and safeguards to protect individuals against any possible violations of their individual rights and freedoms. The general climate in the country and the existence of free institutions constituted much surer safeguards against racial discrimination than mere book legislation. That consideration had dictated the choice of issues dealt with in his country's sixth report.

16. The CHAIRMAN said that it was usually the wish of the Committee that information provided in oral statements be confirmed and included in the next periodic report. It was to be hoped that the seventh periodic report of Tunisia would be somewhat more comprehensive and that the revised general guidelines would be taken into account in its preparation.

Mr. Ouanies withdrew.

Sixth periodic report of the Philippines (CERD/C/66/Add.12 and CERD/C/66/Add.19)

At the invitation of the Chairman, Mr. Yango (Philippines) took a place at the Committee table.

17. Mr. YANGO (Philippines) noted that he had distributed a booklet on regional autonomy in the southern Philippines which was intended to supplement the report before the Committee. He drew attention to the addendum to the sixth periodic report of the Philippines (CERD/C/66/Add.19) which, in response to the request made by the Committee at an earlier session, gave the demographic composition of the Philippines. In that addendum the population was classified according to ethnic and linguistic group. The majority of the population belonged to the Malayo-Polynesian ethnic group; however, within that group there were a number of different linguistic groups. The only indigenous dialect was Negrito, which was

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spoken by the Nclanesian ethnic group. Finally, in connection with article 7 of the Convention, he drew attention to the statement in the sixth report (CERD/C/66/Add.12) which referred to the creation of the Office of Director-General for Islamic Affairs.

18. Mrs. SADIQ ALI said that the booklet submitted by the Philippine Government showed the seriousness with which the Government was tackling the major problems facing it, and noted with appreciation the steps which had been taken with respect to the Moslem minority. She had been particularly impressed to hear of the referendum in the southern Philippines to enable the people to determine how they wished to organize themselves administratively. More information was required concerning the powers delegated to the autonomous regional governments; according to the booklet, they were similar to those of the autonomous governments of Aceh in Indonesia, of the south of Sudan and of Kurdistan in Iraq. However, there were considerable differences between those three governments.

19. With reference to the statement in the same booklet to the effect that national laws were superior to regional laws and that the President of the Philippines had powers of control over the autonomous regions, she felt that the relationship between the central Government and the regions should be spelled out more clearly in the next report, particularly in terms of article 5 of the Convention. It would be interesting to know, inter alia, how that relationship affected the political and civil rights of the inhabitants in the region.

20. Noting the statement in the sixth report to the effect that, comparatively speaking, more funds were now invested in the southern Philippines for infrastructure projects than in the other regions, she said that it would be interesting to have specific information to illustrate that statement.

21. She asked whether there was any institution which dealt exclusively with promoting regional harmony among the different groups in order to help the minorities achieve full social integration, and whether any cases of racial discrimination had been brought to the courts following the enactment of Presidential Decree No. 1350-A, which declared as unlawful any violations of the Convention.

22. The information concerning article 7 of the Convention was good. While legislation was important, in the longer term racial discrimination could be tackled by promoting public awareness of the activities of the Committee and by familiarizing students in different schools with each other's cultures. In that connection she wondered whether the Government encouraged cultural exchanges within the country.

23. Mr. VALENCIA RODRIGUEZ noted that the Supreme Court decisions cited in the sixth periodic report of the Philippines in connection with article 6 of the Convention had been handed down before the Philippines ratified the Convention and had been based on the Civil Code. Now that Presidential Decree No. 1350-A declaring violations of the Convention to be unlawful had been enacted and now that the Philippines had ratified other international instruments on human rights, the Government had sufficient international legal mechanisms to give effect to article 6.

24. He 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

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discrimination, and that the Government's goal was "not uniformity but unity in diversity". He welcomed the creation of the Agency for the Development and Welfare of Muslims and the steps taken to develop socio-economic conditions in the southern Philippines.

25. The breakdown of the population of the Philippines according to mother tongue and ethnic origin was of particular interest since it showed the Philippines to be a multiracial State; that fact highlighted the importance of the measures being taken by the Government to implement article 7 of the Convention.

26. Mr. TENEKIDES drew attention to the reference made in the report to a question raised at the Committee's previous session concerning the extent to which the Presidential Decree was compatible with the Philippine Constitution and whether it would lapse once martial law was lifted; in this connection, he said he was not quite clear whether martial law was still in effect and, if so, what constitutional provisions had been suspended. It was important to have that information in order to clarify the implementation of article 5 of the Convention, which guaranteed the right of everyone to vote and to stand for election. Were all Philippine citizens in fact entitled to participate in the Government and in public affairs?

27. Noting that in all three cases of racial discrimination cited in the report in connection with article 6 the defendant had been a foreigner, he asked whether there was any case on record in which the defendant in such a case had been a Filipino.

28. Mr. PARTSCH said that the report had answered most of the questions previously raised by the Committee. The cases quoted in the report demonstrated that there had been remedies available against racial discrimination prior to ratification of the Convention.

29. Referring to section 3 (2) of article XVII (Transitory Provisions) of the Philippine Constitution, he noted that the Constitution had been ratified together with the edicts referred to in that article, although those edicts had been intended to implement martial law. It would thus appear more appropriate to say that the edicts remained in force, to the extent that they were not incompatible with the Constitution. Martial law could not be in conformity with a constitution: it represented an extraordinary state not provided for by constitutional means.

30. The Philippines was the only country which had ratified the International Covenant on Economic, Social and Cultural Rights but not the International Covenant on Civil and Political Rights, which was of significance given the legal status obtaining in the Philippines.

31. The list of foreigners resident in the Philippines differed from that which had been included in the fourth periodic report (CERD/C/R.90/Add.20). The English-speaking population had declined, whilst the Italian-speaking population had increased. No indication had been provided of the census which had been used as a basis for the newer list.

32. The Government had created the Office of Presidential Assistant on National Minorities, with cabinet rank, but it was not clear whether that minister was without portfolio, or a kind of individual watchdog, or whether he had a staff. Clarification of that point would be welcome.

33. Mr. BESSONOV said that the report continued the positive dialogue between the Government of the Philippines and the Committee. Despite the limited range of topics covered by the report, it was extremely interesting and informative.

34. In discussing the implementation of article 6, the report revealed that the Philippines had a legal system condemning all racial discrimination to which citizens might be subject. The cases quoted were of interest, but limited in scope, as all of them were concerned with transnational corporations. It would have been more informative had there been details of other cases providing some indication of the general state of race relations within the country.

35. Nevertheless, the section of the report pertaining to article 6 was generally praiseworthy, and the measures taken to promote the development and welfare of the Muslim community, in accordance with article 4 of the Convention, were of particular interest.

36. Of note too were 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. Further details of those and similar programmes would be welcome.

37. Presidential Decree No. 1083 of 4 February 1977 was praiseworthy in that it set forth the rights of citizens in keeping with the Convention. Further details of the Decree and its precise effect on Muslims were required. For example, were Muslims alone subject to the Code it established?

38. There was evidence that many of the articles of the Convention, articles 3 and 7 for example, were reflected in the Constitution of the Philippines. Article 4 of the Convention, too, was comprehensively reflected in national legislation. That aspect was not emphasized in the sixth report, but taken in conjunction with earlier reports it revealed the concern of the Government to take account of the Convention in its legislation. Nevertheless, it was not clear how article 5, and to some extent article 6, were reflected in national legislation. More information on how various articles of the Constitution met the requirements of the Convention would be of interest to the Committee.

39. Mr. DEVETAK said that implementation of the Convention was a sensitive question in multiracial societies such as the Philippines, which encompassed more than 85 linguistic and cultural groups. The task of the Committee was to stimulate discussion on racial harmony in such States, and to help in finding ways in which the Convention might be implemented.

40. The granting of regional autonomy, as in the southern Philippines, was one possible way in which the culture of ethnic groups could be preserved and their equal development safeguarded. In the case in question, the autonomous region had been established by international agreement - the Tripoli Agreement. Unfortunately, the precise nature of the powers of the autonomous regional assemblies was not clear from the report, nor was their relationship with the central Government.

41. Referring to the linguistic composition table (CERD/C/66/Add.19), he observed that the figures it contained did not agree with those in the fourth report. What was the basis for the later figures? Furthermore, the text accompanying the table appeared to contain a contradiction, in that it stated that "the linguistic

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classification represents also the demographic composition", but went on to say that "linguistic groups ... do not represent the demographic composition ...". It was thus not clear how ethnic groups had been defined. The question was not merely academic; the status of a particular group could vary depending on how it was defined. For example, if a group was considered as linguistic, would it enjoy political rights?

42. Mr. GOUNDIAM said that the sixth periodic report indicated genuine progress in the Philippines. The report was excellent, in that it provided answers to all the points raised when considering the previous report, and abounded in legal detail.

43. It was encouraging that the Government had implemented Presidential Decree No. 1350-A of 1978, which represented progress in the matters covered by article 4 of the Convention. Remedies against racial discrimination had, of course, been available before under the Civil Code, but the penal provisions introduced were likely to be more effective.

44. More details were required of programmes instituted to implement the provisions of article 7, particularly with regard to ethnic cultures. The report referred to the celebration in educational establishments of Human Rights Day, but specific details were not provided.

45. With respect to the promotion of understanding, tolerance and friendship among racial groups, article XV, section 9 (2), of the Constitution provided that Filipino culture should be preserved and developed for national unity. Yet, it was impossible to define national character in a meaningful way. Further, the report referred to the multiplicity of cultures in the Philippines, which it might be difficult to reconcile with the emergence of a national culture. Was there not a conflict between the two?

46. The granting of autonomy to the southern Philippines was a step forward in the protection of the rights of minorities. Turning to the languages spoken by minority ethnic groups, he inquired whether Negrito had a written form. If it did not, it was quite possible that it would ultimately disappear, which would mean that the indigenous culture was doomed to extinction.

47. Mr. DECHEZELLES said that the Philippines had always co-operated with the Committee, and had begun the struggle against racial discrimination even before ratifying the Convention.

48. He requested further details of the autonomy movement in the Philippines, which had resulted in a significant degree of autonomy for two major regions. Autonomy seemed to have come about following a period of considerable unrest. Had the granting of autonomy worked against the interest of any groups? The report referred to Presidential Decree No. 1083, which had established the position of a Grand Mufti, and certain religious tribunals. He inquired what the competence of such tribunals was.

The meeting rose at 1 p.m.