

INTERNATIONAL
CONVENTION
ON THE ELIMINATION
OF ALL FORMS OF
RACIAL DISCRIMINATION



CERD

PROVISIONAL

For participants only

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ORIGINAL: ENGLISH

COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Ninth Session

PROVISIONAL SUMMARY RECORD OF THE ONE HUNDRED AND NINETY-FIRST MEETING

Held at Headquarters, New York,
on Monday, 8 April 1974, at 10.55 a.m.

Chairman:

Mr. HAASTRUP

Rapporteur:

Mr. SAYEGH

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under article 9 of the Convention (continued)

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CONSIDERATION OF REPORTS AND COMMENTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 9
OF THE CONVENTION (continued)

(g) THIRD PERIODIC REPORTS OF STATES PARTIES DUE IN 1974 (continued)

Philippines (CERD/C/R.70/Add.7 and Add.11)

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

The CHAIRMAN reminded members that copies of the Philippine Constitution had been circulated earlier and should be taken into account in the consideration of the third periodic report. He observed that the initial and second periodic reports had been considered satisfactory.

Mr. PARTSCH recalled that the initial report submitted by the Philippines (CERD/C/R.3/Add.13) had been one of the very few initial reports drafted according to the guidelines laid down by the Committee. He further recalled that it had stated that the Government would give careful consideration to the necessity for legislative and administrative measures to give effect to article 4 of the Convention; he would appreciate it, therefore, if the representative of the Philippines would report on the outcome of that consideration.

Mr. ABOUL-NASR said that the third report, like its predecessors, was satisfactory. However, he would like to know whether the proclamation of martial law in the Philippines in 1972 had affected any of the traditional rights and fundamental freedoms guaranteed under the Constitution. He would also like to receive further information on the activities of the Commission on National Integration referred to in the initial report.

Mr. VALENCIA RODRIGUEZ said that the most important piece of information in the third report was the summary of relevant articles of the new Constitution, which had taken effect on 17 January 1973. It was particularly gratifying to note the provisions of article II, section 9, and article IV, sections 1, 4, 8, 14, 16 and 17 of that instrument. In connexion with article IV, section 14, he asked whether voluntary servitude was prohibited. It was clear that by and large the rights referred to in article 5 of the Convention were safeguarded by those provisions. Article IV, section 7, of the Constitution appeared to fulfil the requirements of article 4 (b) of the Convention. It was also of interest to note that aliens were granted protection under Philippine law and enjoyed rights on an equal footing with nationals. Moreover, various measures had been adopted to look into the welfare of all foreign nationals with a view to protecting them against harassment or unauthorized investigations; he would be pleased to learn the actual content of those measures. He would also welcome more specific information concerning the final paragraph of the report and a breakdown of the ethnic composition of the population. He endorsed Mr. Aboul-Nasr's request for further particulars concerning the Commission on National Integration, including details of its composition, functions and activities. He had no hesitation in qualifying the report a comprehensive and satisfactory one.

Mr. MACDONALD asked whether there had been any occasion to set in motion the machinery for reviewing policies and laws for the prevention of racial discrimination. As the Committee had consistently stressed, there was a need for such a review even in the case of the Philippines, where, according to document CERD/C/R.70/Add.7, racial discrimination did not exist "in an appreciable degree". Even though the Government had not found it necessary to evolve any judicial practice in that regard, he wondered whether any administrative measures had been taken that the Committee might find relevant. He also wondered whether the Government had taken any steps to comply with the provisions of article 7 of the Convention since the submission of the second periodic report.

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Mr. CALOVSKI observed that, from the standpoint of the Convention, the most interesting provisions of the Constitution were those in article II, section 9, and article XV, section 11; he would appreciate more information on the latter provision in future reports, including details of how it was applied. He had also noted with interest article IV, sections 1, 7 and 9 of the Constitution; like Mr. Valencia Rodriguez, he felt that the provision in article IV, section 7, although worded differently, met the Philippines' obligation under article 4 (b) of the Convention. He would appreciate an explanation as to what constituted "a natural-born citizen" since that term was used in both article III, section 4, and article X, section 3, of the Constitution. He had been impressed to read that the Philippines adopted the generally accepted principles of international law as part of the law of the land. In short, he found the report satisfactory and full of interesting material.

Mr. KAPTEYN said that he was particularly impressed by the comprehensive protection afforded to human rights in article IV of the Constitution. He was only concerned to receive more information regarding the implementation of article 4 (a) and (b) and article 7 of the Convention and some details of the ethnic composition of the population. In other regards the report was entirely satisfactory.

Mr. DAYAL observed that the third periodic report, when considered in conjunction with previous reports, contained ample information on the legislative and judicial measures taken in the Philippines. With regard to the statement in document CERD/C/R.70/Add.7 that racial discrimination might not be said to exist in an appreciable degree in the Philippines, he stressed that racism sometimes manifested itself as a psychological phenomenon requiring the adoption of administrative and other measures for the combating of prejudice. He hoped that future reports would include some demographic information so that the Committee might be able to view the situation in a broader perspective.

With reference to document CERD/C/R.70/Add.11, he asked the representative of the Philippines to explain the reference in the first paragraph to a legal suit (Juvellans vs. The Executive Secretary). He also asked for a further amplification of the concept embodied in the sentence beginning "The international standard of justice is that which reasonable men in civilized States ..." on page 2

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of the same document. Like Mr. Aboul-Nasr, he wondered whether the rights guaranteed to citizens under the Constitution had been limited owing to the state of martial law.

He had been somewhat surprised by the omission from article IV of the Constitution of a clause guaranteeing citizens equality of treatment regardless of sex, race and so forth. He endorsed Mr. Partsch's request for information concerning any specific measures which had been taken to implement the mandatory provisions of article 4 (a) and (b) of the Convention.

In conclusion he said that the report was informative and bore witness to the fact that the Government was earnestly endeavouring to fulfil its responsibilities under the Convention.

Mr. INGLES said he wished to inquire of the representative of the Philippines whether the report prepared by the Commission on National Integration, which had been forwarded to the Philippine Mission by the Ministry of Foreign Affairs, had been received.

The CHAIRMAN, summing up the discussion, observed that the third periodic report had been found satisfactory. It had been asked whether any legislation had been drafted to implement article 4 of the Convention. Another question had related to the proclamation of martial law and whether it had affected the rights of citizens under the Constitution. The question of demographic composition had been raised and one member had referred to the need to combat psychological manifestations of racial discrimination. It had been pointed out that there was no specific clause in article IV of the Constitution guaranteeing equal treatment to all, regardless of race. One member had asked why reference had been made to a legal suit in the first paragraph of document CERD/C/R.70/Add.11. Several members had commented on the fact that no preventive measures of an administrative nature had been taken to combat racial discrimination in the Philippines.

Mr. VALDERRAMA (Philippines), replying to the question by Mr. Ingles, said that extracts of a report prepared by the Commission on National Integration of the Philippines had been forwarded to the Secretary-General in a note of 24 January 1974. He would revert to the substance of that report later.

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(Mr. Valderrama, Philippines)

With regard to Mr. Dayal's question regarding the reference to the book International Law and World Organization, he believed that the relevant paragraph, when read in its entirety, was self-explanatory.

He stressed 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 Philippines. Article IV, section 15, of the Constitution stated that the privilege of the writ of habeas corpus should not be suspended except in cases of invasion, insurrection, rebellion, or imminent danger thereof, when the public safety required it. Moreover, article VIII, section 15, empowered the National Assembly, in times of war or other national emergency, to authorize the Prime Minister, for a limited period and subject to such restrictions as it might prescribe, to exercise powers necessary and proper to carry out a declared national policy.

One member of the Committee had referred to the fact that the constitutional legislation of the Philippines did not specifically prohibit discrimination based on race. In that connexion, he drew attention to the provision in the Declaration of Principles and State Policies (article II, section 6, of the Constitution) that the State should promote social justice to ensure the dignity, welfare and security of all the people. Sections 7 and 9 of that Declaration were designed to guarantee the enjoyment by the people of a decent standard of living, promote full employment and equality in employment, ensure equal work opportunities regardless of sex, race or creed, and regulate the relations between workers and employers.

The Philippines was in the forefront of the struggle to promote the rights of all people at the national and international levels. It had concluded an arrangement with the ILO to provide for a system of full employment. It was carrying out a programme of agrarian reform which provided for the protection of the interests of all minority groups in the country. Many of the rights guaranteed under the Constitution were being implemented through administrative measures, proclamations, decrees and letters of instruction. Those rights were enforced by the various executive bodies which had been set up to protect the interests of all citizens, including the national cultural communities, which was the name given to minority groups in the Philippines.

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(Mr. Valderrama, Philippines)

It had been asked whether the Government had found it necessary to review its policies and legislation with a view to preventing any occurrence of racial discrimination. He drew attention to the statement in the report (CERD/C/R.70/Add.7) that racial discrimination did not exist in an appreciable degree in the Philippines. Nevertheless, the Government had taken every opportunity to review its policies relating to education, employment and the right of minorities to the uninhibited practice of religion, and had taken various measures in that regard. The penultimate paragraph of the report (CERD/C/R.70/Add.11) referred to measures taken to protect the welfare of foreign nationals in the country.

The Constitution of the Philippines was published in English and Filipino and provision was made for its translation into Arabic and the various dialects spoken in in the country, thereby ensuring that all citizens were made aware of their rights under the Constitution. Arabic was taught in schools in areas where it was spoken by a majority of Moslem Filipinos. The educational system was under constant review. In his recently published book entitled Notes on the New Society, the President of the Philippines had stated that the Philippines was committed to informing its citizens of their duties and rights of citizenship, to providing them with a humanist education that would meet the needs of all the people, and to carrying out the vocational measures necessary to ensure full employment. The process of social, cultural and economic reform was still going on and was designed to meet the needs and aspirations of the people as a whole, and the national cultural communities in particular.

Replying to the questions asked by Mr. Calovski, he said that the use of the phrase "natural-born citizens" in Filipino legislation was derived from the country's adaptation of the Roman jus sanguinis. He stressed the importance of the constitutional provision whereby the Philippines renounced war as an instrument of national policy, and adopted the generally accepted principles of international law as part of the law of the land (article II, section 3 of the Constitution).

As far as the implementation of article 4 of the Convention was concerned, he drew attention to the fact that his country's delegation had been a sponsor of the International Convention on the Suppression and Punishment of the Crime of Apartheid

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(Mr. Valderrama, Philippines)

in the United Nations and that it had also supported the concept of the Decade for Action to Combat Racism and Racial Discrimination. As could be inferred from the report, his Government had not found it necessary to adopt legislation condemning racial propaganda and organizations based on racist ideas. However, it had made every effort at both the national and international levels to combat the fallacious theories of racial superiority. Through the Special Committee of 24 and the Special Committee on Apartheid, the Philippines had endeavoured to promote the human rights of people throughout the world and to combat the institutionalized policy of apartheid in southern Africa. The Philippines was particularly sensitive to the problems of colonial territories, since it had itself undergone four centuries of colonization.

As far as the demographic composition of the population was concerned, he observed that the Philippines was a multiracial society. Most of its people were of Malay descent, but over the years there had been infusions of various racial strains, including Chinese, Indians, Arabs and Europeans, all of whom lived side by side with the Filipinos and had to a large extent been integrated into the society of the country. Many members of minority groups had held high office in the administrative, judicial and legislative branches of government.

According to an article by Alice Reyes in volume IV, No. 4 of the Philippine Quarterly, the national cultural communities of the Philippines were made up of 42 ethnic tribes. It was estimated that in 1970 there had been 6.5 million members of national cultural communities, out of a total population of 39 million, spread over the entire Philippine archipelago.

Specific measures had been taken to guarantee the economic, social and cultural rights of the national cultural communities, and in that connexion he referred members of the Committee to a report prepared by the Commission on National Integration of the Philippines on significant developments regarding the recognition, realization and protection of the economic, social and cultural rights of the national minorities of the Philippines covering the period 1 July 1969-30 June 1973, extracts from which had been transmitted to the Secretary-General of the United Nations in response to his note dated 31 October 1973 concerning periodic reports

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(Mr. Valderrama, Philippines)

on human rights and reports on freedom of information. The report of the Commission on National Integration referred, inter alia, to the constitutional guarantee under the new Constitution that the State should take into account the customs, traditions, beliefs and interests of national cultural communities in the formulation and implementation of State policies; the Government Reconstruction and Development Programme, covering the nine provinces in which a predominant number of Moslems were found; the extension of Civil Service eligibility privileges in favour of members of national cultural communities; the increase in appropriations for government scholarship grants to members of national cultural communities; the proclamation of seven new settlements for members of national cultural communities; the codification and study of Moslem customary laws for possible incorporation into the current laws of the country; the preferential appointment of qualified Moslems in the foreign service, judiciary and other high national government positions; the granting of financial assistance and loans without collateral to Moslems engaged in the fishing industry in the Sulu Archipelago islands, Basilan City and Zamboanga City and provinces; the granting of special amnesty to Moslem rebels; the establishment and organization of the SALAM programme (Special Assistance for Literacy and Advancement of Moslems); the establishment and organization of the SPARE programme (Special Programme for the Assistance and Rehabilitation of Evacuees) in Mindanao and Sulu; and the expansion of the Mindanao State University facilities to accommodate more Moslems in the Mindanao and Sulu areas.

Lastly, he said that his Government was earnest in its desire to co-operate with the Committee in the struggle against racial discrimination and would endeavour to furnish the Committee with any further material it might require.

Mr. ABOUL-NASR said it was important that the Committee should be provided with copies of the report prepared by the Commission on National Integration, to which the representative of the Philippines had referred. He suggested that the Committee should discuss that report during its consideration of the fourth periodic report from the Philippine Government.

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Mr. INGLES observed that the report submitted by the Philippines cited provisions that made any form of discrimination illegal. As a general issue, he wondered whether States parties were under any obligation to adopt specific provisions to prohibit racial discrimination if their legislation prohibited discrimination of all kinds. Moreover, although specific provisions might be needed in countries where racial discrimination was an acute problem, he wondered whether it was really necessary in other cases to have specific provisions in the constitution or fundamental law, or whether it was sufficient to prohibit discrimination by ordinary legislation. There was also the question whether the fact that a State party had ratified the Convention was sufficient indication that it had recognized the need to eliminate racial discrimination and therefore did not require additional provisions in national law.

The CHAIRMAN said it was not the first time that question had been raised in the Committee. When he had said that the Philippines report was satisfactory, he had borne in mind the fact that references to the Philippine Constitution could be construed as including a prohibition of racial discrimination. Nevertheless, the point raised by Mr. Ingles was an important one.

Mr. MACDONALD said that the point raised by Mr. Ingles was interesting; the Committee should devote some time to a general discussion of such matters.

The CHAIRMAN suggested that Mr. Macdonald should submit a formal proposal to that effect.

Mr. ABOUL-NASR said that Mr. Ancel had made a formal proposal at an earlier meeting that would cover the point made by Mr. Macdonald.

Mr. DAS (Assistant Director, Division of Human Rights) said that the communication referred to by the representative of the Philippines had been traced. It had been sent in connexion with the periodic reports on economic, social and cultural rights and had not been sent or mentioned in connexion with the International Convention on the Elimination of All Forms of Racial Discrimination and the reports submitted under article 9 of that instrument. The text of the communication would nevertheless be distributed to members of the Committee at the following meeting.

The CHAIRMAN said that the communication from the Philippines could be considered as part of that country's fourth periodic report, by which time the representative of the Philippines could provide definitions of some of the terms used in the communication.

Mr. Valderrama (Philippines) withdrew.

Pakistan (CERD/C/R.69/Add.3; CERD/C/R.70/Add.8)

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

The CHAIRMAN reminded members that they had received copies of the Constitution of the Islamic Republic of Pakistan, and of National Assembly Act VI of 1973.

Mr. AKHUND (Pakistan) said his Government had always attached the greatest importance to the Committee's work and had co-operated with it to the best of its ability. His country's third periodic report provided the answers and clarifications requested by the Committee. The text of Act VI clarified in an adequate manner the steps taken by Pakistan to counter racial discrimination.

Mr. ABUL-NASR asked for an assurance that it would be wrong to interpret the provision of article 26 of the Constitution, cited in section (ii) of document CERD/C/R.70/Add.8, as allowing different treatment for people of different religions in religious places. Such discrimination would be contrary to the tenets of Islam. He wished to know the meaning of the term "classes" used in the Public Order (Political Uniforms) Ordinance of 1958, which was mentioned in document CERD/C/R.69/Add.3. The reports submitted were highly satisfactory.

Mr. KAPTEYN said that the report was fully acceptable and in accordance with article 9 of the Convention. He welcomed the passage of Act VI, which struck a judicious balance between the need to ensure freedom of expression and the need to prevent and punish incitement to racial discrimination. There did not, however, seem to be any provisions designed to implement article 4 (b) of the Convention. He asked for information on that point. He wished to know whether the places of public entertainment or resort mentioned in article 26 of the

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(Mr. Kapteyn)

Constitution encompassed all the facilities mentioned in article 5 (f) of the Convention. He asked for further information on the legal remedies available to individuals who felt they had been victims of racial discrimination at the hands of other individuals or groups, in compliance with the provisions of article 6 of the Convention.

Mr. VALENCIA RODRIGUEZ said he had been very interested to see the distinction made in the Constitution between "persons" and "citizens", because the fundamental rights and freedoms were extended to all persons regardless of race or national origin. He had also been interested to see that racial origin was immaterial to the grant of citizenship. Articles 9 to 28 of the Constitution contained full and detailed provisions guaranteeing the enjoyment of all the rights enumerated in article 5 of the Convention. Article 26 of the Constitution contained a special provision covering the right referred to in article 5 (f) of the Convention. The Constitution contained provisions that implemented article 6 of the Convention. He noted the provisions cited in sections (iii) and (vi) of document CERD/C/R.70/Add.8; section (vii) contained provisions to implement article 7 of the Convention. He asked for information on steps taken to implement article 7 of the Convention other than those mentioned in the last paragraph of the report. He also asked for information on the results of the measures taken to prevent incitement to racial hostility and hatred, mentioned in Pakistan's second periodic report. The information provided in document CERD/C/R.69/Add.3 showed that paragraphs (a) and (b) of article 4 were being fully implemented. The third report was satisfactory.

Mr. SOLER said the report was satisfactory. He asked for information on the application of the principle that individuals could have recourse to the lower courts in many cases. He was rather puzzled by the statement contained in the last sentence of section (vi) of document CERD/C/R.70/Add.8, since it seemed that the report had been prepared after Act VI had been adopted.

Mr. PARTSCH said he doubted the efficacy of the remedy mentioned in the second paragraph of section (iii), because the outcome depended on the means of the public servant. It was in fact the State that should be responsible for providing remedy and reparation.

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Mr. ANCEL said that information on the demographic composition of Pakistan's population would facilitate his understanding of the last paragraph of document CERD/C/R.70/Add.8. The report was entirely satisfactory.

Mr. CALOVSKI said he too found the report satisfactory. He particularly welcomed the contents of section (vii) and hoped that future reports would contain further information on the matters mentioned therein.

Mr. DAYAL said that Pakistan's penal legislation, as amended by Act VI, met in full the requirements of article 4 (a) and (b) of the Convention. He noted the unique nature of the review mechanism mentioned in section (vi) of document CERD/C/R.70/Add.8, and said it would be interesting to be informed about the Pakistan Government's experience in that connexion. He asked how the expression "due representation" in article 36 of the Constitution was to be interpreted.

The report met the requirements of the Convention in full and indicated the serious approach adopted by the Government of Pakistan.

The meeting rose at 1.05 p.m.